

PROCEDURE

DUTY OF INFORMATION AND OBTAINING CONSENT FOR THE COLLECTION OF DATA RELATING TO FOOD ALLERGIES AND INTOLERANCES

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1 INTRODUCTION

REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, (hereinafter the "**GDPR**") sets out the requirements and obligations for companies in relation to the processing of personal data.

These requirements include the need to comply with the duty to inform data subjects about the processing of their data that is going to be carried out, as well as the need to obtain their consent when this is the form of legitimisation of the processing of personal data in accordance with current legislation. The duty to inform and the obligation to obtain consent must comply with certain requirements and, to this end, it is necessary for NH HOTELS, MINOR HOTELS and, OAKS HOTELS to check that these comply with the provisions of the GDPR, as well as to unify the way of proceeding in data processing.

2 SCOPE

This procedure applies to the companies belonging to the MINOR HOTELS, MINOR HOTELS EU&AM and, OAKS HOTELS which undertake to process said personal data solely and exclusively for the purposes indicated above.

3 OBJECT

The purpose of this procedure is to inform users of the services of the entities identified in the previous point that collect data of a specific nature relating to allergies and food intolerances, which are of special protection.

Likewise, the aim is to facilitate the way in which the data subjects must be provided with the information regarding the conditions of data processing by the entities identified above, in accordance with the requirements established in the GDPR.

In any case, the present procedure aims to establish a common procedure for the processing of special category data without presuming that the processing will be carried out jointly by all data controllers. In this regard, given the special nature of sensitive data, they will not be included in the common database, nor will they be processed jointly by the three entities listed above. In any case, this document aims to show the way in which the entities considered independently shall proceed to process this type of data.

This procedure also indicates the way in which consent must be obtained, when this is a necessary condition for carrying out such processing, as well as the consequences that would arise from the revocation of the same.

This procedure has been drawn up in accordance with the provisions of the GDPR.

4 DUTY TO INFORM INTERESTED PARTIES

Whenever MINOR HOTELS, MINOR HOTELS EU&AM or OAKS HOTELS are going to **collect personal data from a data subject**, it shall provide the data subject with at least the following information:

- 1) The purpose of the processing.
- 2) The identity and contact details.
- 3) The contact details of the Data Protection Officer.
- 4) The legal basis or legitimation for the processing (contract, consent of the data subject, legal provision, etc.).
- 5) The possibility of exercising the rights of access, rectification, deletion, limitation of processing, opposition and portability of data.
- 6) The possibility to withdraw consent at any time, where the processing is based on consent.
- 7) The recipients or categories of recipients of the information.
- 8) The time period or criteria for the retention of information.
- 9) The existence of automated decisions or profiling.
- 10) The right to lodge a complaint with the AEPD or the competent data protection authority.

5 INFORMATION TO DATA SUBJECTS

In case the data are obtained directly from the data subject, the information should be made available to the data subjects at the time the data are requested, prior to the registration of the data in the database.

It will not be necessary to inform when the data subject already has the information, when:

- 1) Communication is impossible or would involve a disproportionate effort.
- 2) The registration or communication is expressly provided for by Union or Member State law.
- 3) The data must remain confidential because of a legal duty of secrecy.

6 DUTY OF TRANSPARENCY IN THE INFORMATION PROVIDED TO DATA SUBJECTS

The information provided by MINOR HOTELS, MINOR HOTELS EU&AM or OAKS HOTELS to the data subjects must be provided in a **concise, transparent, intelligible** and **easily accessible** manner, using **clear and simple language**.

In this regard, MINOR HOTELS, MINOR HOTELS EU&AM and OAKS HOTELS shall consider the following elements when providing data subjects with the information required by data protection regulations:

- 1) Avoid particularly complex and unclear wording incorporating references to external legal texts.

- 2) Information clauses shall explain the content to which they immediately refer in a clear and accessible manner for interested parties, irrespective of their knowledge of the subject.
- 3) Information shall be provided in writing, including by electronic means where appropriate.

7 WAYS OF COMPLYING WITH THE DUTY TO INFORM DATA SUBJECTS

The procedures for collecting information can be different and, consequently, the ways of informing the data subjects must be adapted to the circumstances of each of the means used for collecting or recording the data.

8 LEGAL BASIS FOR THE PROCESSING OF PERSONAL DATA

MINOR HOTELS, MINOR HOTELS EU&AM and OAKS HOTELS must have a **legal basis** to carry out the processing of personal data. The possible causes to legitimize the processing of personal data are as follows:

- 1) With the **consent** of the data subject.
- 2) The processing is necessary for the performance of a **contract** to which the data subject is a party.
- 3) The processing is necessary for compliance with a **legal obligation** on the part of the controller.
- 4) The processing is necessary to protect the **vital interests** of the data subject or of another natural person.
- 5) The processing is necessary for the performance of a task carried out in the **public interest**.

9 CONSENT: TYPES AND REQUIREMENTS

Considering the types of processing of personal data carried out by MINOR HOTELS, MINOR HOTELS EU&AM and OAKS HOTELS, although in some cases it could legitimise its processing on the basis of different causes, this must normally be based on the consent of the data subject, as a means of guaranteeing the legal security of such processing and avoiding the possibility of disputes over the concurrence of the other possible legitimising causes.

9.1 CHARACTERISTICS OF CONSENT

The consent obtained by MINOR HOTELS, MINOR HOTELS EU&AM or OAKS HOTELS must be, in any case, **free, informed, specific and unequivocal**, and must be applied in all those processes in which personal data are obtained, or additional personal data are obtained to those initially obtained from the data subject.

For consent to be **unequivocal**, the existence of a declaration by the data subjects or a positive action indicating the data subject's agreement is necessary.

Therefore, consent given by the data subject will only be valid when it is given in **writing, by any other means admissible as evidence or even verbally, as well as by a clear and evident manifestation of his or her will or even by a verbal declaration**, but in any case, which requires an explicit and specific action on the part of the data subject.

Under no circumstances can be accepted forms of tacit consent or consent by omission, as they are based on inaction. Therefore, **silence, pre-ticked boxes or inaction shall not constitute valid consent** to legitimise the processing of the data subject's data.

Finally, in the case of the data to be accredited by means of this procedure, in order to collect them, it will be necessary to sign and accept the clause included in this procedure.

10 ACCREDITATION OF COMPLIANCE WITH THE DUTY OF INFORMATION AND CONSENT

The burden of proof regarding the duty to inform and the correct obtaining of consent falls, in any case, on MINOR HOTELS, MINOR HOTELS EU&AM or OAKS HOTELS, so it is the latter's obligation to prove that it has informed and obtained the consent of the data subject.

For this purpose, it shall keep proof of the informative clauses, provided, signed, accepted and/or shown, regardless of the means used by the entities identified above for this purpose.

In this way, it is necessary that the entities, depending on the channel through which the procedure has been carried out (in person), must have sufficient and legally valid evidence to prove that it has effectively fulfilled its obligation to inform and, where appropriate, obtain the free, informed, specific and unequivocal consent directly from the owner of the data.

For these purposes, the processing of this information will be done by each of the entities, keeping copies of the documents accepted and/or signed by the data subjects generated by the platforms through which the procedure was carried out.

Likewise, and taking into account that consent must be verifiable and that those who collect personal data must be able to prove that the data subject has given their consent MINOR HOTELS, MINOR HOTELS EU&AM and OAKS HOTELS have established the obligation to periodically review the systems for recording consent, so that, if required, it is possible to verify that it has informed the data subjects and obtained their consent.

In this regard, the necessary legal, technical and organisational measures must be implemented to ensure that consent is obtained correctly.

11 WITHDRAWAL OF CONSENT

MINOR HOTELS, MINOR HOTELS EU&AM AND OAKS HOTELS must ensure that it is as easy for the interested parties to give their consent as it is to withdraw it. In this regard, the entities shall provide and make available to users a **simple and free** means to withdrawal of consent.

Valid means for this purpose are the existence of an e-mail address created for this purpose, a postal address, a telephone number (free of charge or, at least, at no additional cost) or the existence of a website that allows the management of these procedures.

If a data subject withdraws consent for justified reasons, the entity receiving the request will communicate this by e-mail to the following e-mail addresses depending on the entity that processes the data:

- dataprotection@minor.com from **MINOR GROUP**.
- privacy.corporate@minor.com from **MINOR HOTELS**.
- dataprotection@nh-hotels.com from **MINOR HOTELS EU&AM**.
- Privacy.corporate@minorhotels.com.au from **OAKS HOTELS**.

The respective entity will subsequently cease processing the data.

12 DELETION OF DATA

MINOR HOTELS, MINOR HOTELS EU&AM and OAKS HOTELS must guarantee that the personal data will not be kept longer than necessary to fulfil the purpose for which they were collected, except in cases where the user expressly authorises the maintenance of this data for longer than necessary.

In any case, and unless there is a regulation with the status of law that obliges the conservation of personal data, or the express consent of the user has been granted, the entities identified above will delete the personal data.

In the specific case of the data affected by this procedure, namely data on food allergies and intolerances, the identified entities shall proceed to erase them once they no longer serve their purpose, in this case, the provision of services given to the users of the same by the entities affected by this procedure.

13 PENALTY SYSTEM

Failure to comply with the obligations regarding information and consent could lead to the imposition of penalties for MINOR HOTELS, MINOR HOTELS EU&AM or OAKS HOTELS considered as independent controllers in the processing of sensitive data.

In this regard, the penalties that may be imposed on MINOR HOTELS, MINOR HOTELS EU&AM or OAKS HOTELS for not informing data subjects and for not obtaining their consent, under the terms provided for in the GDPR, could amount to **20,000,000 Euros** or a **maximum of 4% of the total annual global turnover of** the previous financial year of the entity, for each infringement committed.

ANNEX I

A copy of the information contained in this Annex, signed by the customer who provides information on food allergies and/or tolerances, must be submitted to the hotel for subsequent storage.

D. (guest name)

I hereby state that at the present time, and for the provision of the service that I will receive, I hereby inform you of the following food allergies and/or intolerances.

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I hereby declare that I have read and accept the conditions indicated for the processing of the data provided herein, giving my free and voluntary consent to this processing.

S.D. (guest signature)

☐ I consent to the data relating to my allergies and/or intolerances being kept by the Data Controller for future stays.

For data protection purposes, we hereby inform you of the following:

1.- WHO IS DATA CONTROLLER FOR THE PROCESSING OF YOUR DATA?

- Identity: [Company Entity who managed the Hotel (Hotel name can be added too)].

- VAT NUMBER: [....]

- Address: [....]

- Data Protection Officer (DPO): you can contact our DPO by the following email: dataprotection@minor.com

(Or adapt according to the entity processing the data as data controller.

DPO@nhhotels.com/privacy.corporate@minor.com/Privacy.corporate@minorhotels.com.au), indicating "Data Protection Officer" in the reference.

2.- FOR WHAT PURPOSES WILL YOUR PERSONAL DATA BE PROCESSED?

[Company Entity who managed the Hotel (Hotel name can be added too)] will process your personal data for the following purposes:

- To be able to offer you services according to your needs.
- To meet specific requests for services to be provided, in accordance with the health-related information that has been provided.

3.- WHAT IS THE LEGAL BASIS OF THE PROCESSING?

The legal basis for the processing of your data is the consent given by signing this clause.

4.- WHO ARE THE RECIPIENTS OF YOUR DATA?

Your data will not be disclosed to third parties, unless required by law or court order.

5.- HOW LONG WILL WE KEEP THE DATA?

The data will be kept until the end of your stay on the hotel premises. After this time, this information will be deleted.

However, if you wish this data to be kept for future stays that you may make at our hotel, we need your express consent. To this end, we inform you that the processing of this information will be carried out by the same person responsible and under the same conditions indicated.

6.- WHAT ARE YOUR RIGHTS?

You have the right to:

- Access your personal data.
- Rectify inaccurate or incomplete data.
- Request the portability of your data.
- Claim before the Data Protection Agency or competent authority [...], when the interested party considers that MINOR HOTELS/ MINOR HOTELS EU&AM OAKS HOTELS has infringed the rights recognised by the applicable data protection regulations.
- To withdrawal consents given.
- Request the deletion of your data when, among other reasons, the data are no longer necessary for the purposes for which they were collected.
- Obtain the limitation of data processing when any of the conditions provided for in the data protection regulations are met.
- Contact the data protection officer by the following means:

Data Protection Officer Email: dataprotection@minor.com

(Or adapt according to the entity processing the data as data controller.

DPO@nhhotels.com/privacy.corporate@minor.com/Privacy.corporate@minorhotels.com.au), indicating "Data Protection Officer" in the reference.

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To exercise the aforementioned rights, you must send a written communication to the address of MINOR HOTELS/ MINOR HOTELS EU&AM/ OAKS HOTELS or by e-mail to email: dataprotection@minor.com

(Or adapt according to the entity processing the data as data controller.

DPO@nhhotels.com/privacy.corporate@minor.com/Privacy.corporate@minorhotels.com.au), indicating "Data Protection Officer" in the reference.