



TOUR OPERATORS SOCIETY OF KENYA

SETTING THE PACE

The Mint Hub, 10th Floor Western Heights,
P.O BOX 2417-00606,
Karuna Road, Westlands, Nairobi.

Tour Operators Society of Kenya

Code of Conduct

Preamble

The Tour Operators Society of Kenya ("TOSK") is the official trade association that represents the interests of small medium enterprises and startups in tourism and other service providers in related businesses. TOSK is committed to building a prosperous industry that is based upon industry best practices, effective standards, and responsible leadership. A central mission of TOSK is to create an environment of trust between member service providers and consumers, the government, regulators, the community and within members inter-se. Members of TOSK seek to enhance the meaningful development of their fellow members, the industry, and their customers, and are committed to compliance with laws and regulations that govern the prevention of unfair, deceptive or misleading marketing practices and competitions, substandard services and non-compliance to regulatory frameworks.

TOSK members can and are able to handle any safari requests and our operational standards are designed to reflect members' commitment to the achievement of their major objectives, which are:

- a) To promote the Association as a non-political and non-profit making entity
- b) To promote Kenya and East Africa as a premier tour destination
- c) To promote the highest standards of professionalism amongst tour operators;
- d) To promote responsible tourism by encouraging environmental conservation, minimizing pollution, and promoting local culture
- e) To liaise, advise and serve as a link between the members of the Association and the relevant Government Authorities on matters pertaining to the tourism industry.
- f) To promote harmonious relations between the Association, relevant Government Departments and Travel Organizations both nationally and internationally
- g) To organize tourism sales promotions jointly with tourist enterprises and allied institutions at home and abroad
- h) To arbitrate on disputes amongst members of the Association
- i) To formulate rules to govern the activities of the Association and its members
- j) To organize diversified training courses workshops and seminars that are relevant to tourism in Kenya as a means of promoting human resource, economic and technological development and capacity building
- k) To participate in international tourism conventions, meetings and other activities sponsored by international tourism organizations

- l) To undertake feasibility studies, research, appraisal, managing and executing programs and projects aimed at promoting responsible tourism, ecotourism and related activities
- m) To grow the “small” member businesses amongst its membership roll from “briefcase” entities to established and reputable companies by encouraging professional standards, practices, and by upholding/enforcing a strict code of ethics.
- n) To build capacity for member tour operators through networking , workshops, trainings and seminars
- o) Represent member operators in formulation of policies concerning the tour industry

Code of Ethics and Conduct

This Code of Ethics is a cornerstone of the principles that will build TOSK. We strive to provide ethical leadership, and wish to hold our members to high standards which are integral to maintaining a quality reputation for both our organization, and its valued members

This Code of Ethics and Standards of Conduct for TOSK was officially updated on 05th July, 2018.

Therefore, members of TOSK strive to:

- Maintain the highest standards of business conduct, by using only legal and ethical means in their business activity;
- Observe all applicable laws, regulations, and rules pertaining to their operational practices;
- Actively promote and encourage the highest level of integrity within the industry;
- Cooperate in every reasonable and proper way with other members and work with them in the advancement of the industry;
- Lead by example and adhere to ethical standards that even may exceed those required by law; and
- Commit to the development and use of the most effective standards and practices to promote consumer protection.
- Commit to subject ourselves to our internal dispute resolution mechanisms on matters relating to the industry and affecting our members

As a result, TOSK members shall be expected to uphold and commit themselves:

- ✓ **Trust:** TOSK members are committed to engaging in practices and policies that promote an environment of trust between the service provider/member and the clients/tourists, regulatory authorities and with other members/service providers.
- ✓ **Integrity:** TOSK members pledge to comply with the requirements of applicable laws, regulations, and rules concerning the prevention of unfair, deceptive or misleading advertising and marketing practices. In particular, TOSK members promote honesty and transparency in their practices and methods, such that all forms of consumer manipulation are rejected. TOSK members therefore, shall engage in practices designed to enable a reasonable consumer acting rationally to make better informed purchasing decisions.
- ✓ **Respect:** TOSK members shall promote and abide by practices that focus on consumer and fellow members' welfare. TOSK shall therefore be expected to treat fellow members with dignity, respect and decorum. TOSK shall provide a mechanism for dispute resolution and arbitration for which members shall be bound and all disputes arising be referred to
- ✓ **Honesty:** TOSK members share the belief that clients and fellow members are free to form their own opinions and share them in their own words. Simply put, TOSK members do not support any efforts that tell others what to say or how to say it.
- ✓ **Responsibility:** TOSK members believe that working with minors in marketing programs requires sensitivity and care, given their particular vulnerability to manipulation and deception.
- ✓ **Privacy and confidentiality:** TOSK members respect the privacy of clients and fellow members, and encourages practices that promote the most effective means to promote privacy, such as opt-in and permission standards.
- ✓ **Transparency:** TOSK members should in their dealings with fellow members, regulatory authorities and clients be expected to uphold the highest tenets of transparency. They shall therefore include as much information as possible in their itineraries, advertisements and contracts including cancellation policies

Others:

- ✓ Member shall give a full service to the Principals they represent and shall conform to all lawful and reasonable instructions issued to them as agents of such Principals
- ✓ Members and their staff shall make themselves conversant with the tariffs, rules and regulations of the Principals with whom they have dealings and vice versa
- ✓ Members shall endeavor always to adhere to truthful statements and to good taste when called upon to express opinions about any other travel organization

- ✓ Members will always settle supplier's accounts promptly and within the period specified for payments becoming due
- ✓ Whenever a complaint or grievance by a client involves any Principal, Members will give the Principal concerned every opportunity to make a full investigation before taking any action against the Principal or seeking to publicize the grievance
- ✓ Members shall deal fairly with one another and shall not damage the reputation of, nor disparage the business practices of or services offered by fellow members
- ✓ Members providing tourism transport services will not operate any services unless fully authorized so to do and unless permits for the conveyance of tourists, issued by the relevant Government ministry are held
- ✓ Members shall not allow non-licensed companies or individuals to utilize their motor carrier certificates with the object of circumventing the legal obligations
- ✓ Members shall not accept to carry on business on behalf of a client, agent or fellow member who is financially indebted to another member of the Association as a means of avoiding to settle the financial obligations without prior concurrence of all the members and on the promise that proceeds from such business shall be used to defray the financial indebtedness

Members shall only sub-contract to licensed operators and where in doubt shall consult the TOSK Secretariat for assistance

Conditions for Membership into TOSK

To qualify for and maintain a membership in TOSK, the applicant or Member shall:

- Share in these core values as set forth in the Code of Ethics and strictly abide by the "Standards of Conduct Required of TOSK Members;"
- Supply accurate and complete information on the nature of the applicant or member's business and background, including information concerning the company's principals and management personnel;
- Not having been convicted of a crime involving moral turpitude or fraud by a court of competent jurisdiction;
- Cooperate with and abide by TOSK's self-regulatory efforts, its complaint resolution programs, and other association rules;
- Promptly respond to all complaints forwarded by TOSK or from any official complaint resolution program, make a good faith and reasonable effort to resolve all such complaints in accordance with generally accepted and proper business practices, and to comply with the terms of any findings issued; and

- Meet its financial obligations, including, without limitation, financial obligations to TOSK.

Purpose of the code of Ethics

TOSK has adopted a Code of Ethics and Standards of Conduct as a requirement of membership into the association, with the hope that the Code and Standards reflect an attempt by industry members to "do the right thing" by engaging in responsible self-regulatory efforts concerning their conduct with fellow members, clients and industry regulators.

TOSK, however, is obviously not an agent or representative of any governmental regulator or law enforcement agency, and its views are not intended to represent any formal or informal interpretations of any laws or regulations.

Infringement and Enforcement

- a) Any Member becoming aware of unethical practices on the part of fellow Members should advise the TOSK committee, providing full information and evidence of the alleged malpractices.
- b) In the event of an infringement of this Code of Conduct, all facts pertaining to the alleged infringement will be full examined by the Association's committee.
- c) The Member against whom an allegation has been made shall provide, at the request of the committee, such further information or documentation as may be required within such period as may be specified.
- d) The Committee shall, before reaching any final conclusions, give the Member concerned the opportunity of making representations either personally or in writing in cases where disciplinary and/or, fine or expulsion has been recommended.
- e) The Committee's decision in regard to a reprimand, fine or expulsion shall be binding on the part of the member concerned.

Legal Liabilities

- i. The member is insured against legal liabilities from any injuries which might be received by passengers whilst in its vehicles.

The member and his agents act only as agents of the passenger in all matters relating to hotel accommodation, sightseeing, tours and transport whether by aircraft, road, motor coach, ship, boat, or any other means, and shall not be liable for injury, delay, loss or damage from any cause and in any manner howsoever except when the passenger is being carried in transport owned by the member.

iii. The member's liability to passengers carried in its own vehicles is governed by the laws of the Republic of Kenya and no other country and all claims are subject to the jurisdiction of the courts of the Republic of Kenya.

- iv. The member reserves the right to employ subcontractors to carry out all or any part of the services agreed to be supplied and in the event of the exercise of such right the terms of clause c) relating to the member's liability shall apply.
- v. Members should in as far as possible encourage their clients to have a travel insurance to cover any eventuality.
- vi. In the event that any claim is made against the Travel Agent or Tour Operator in respect of any loss of damage occasioned by the breach of contract, negligence or other fault of the member, the member shall be liable to indemnify the Travel Agent or the Tour Operator (as the case may be) only if such claim would have succeeded and only to the extent that damages would have been awarded against Travel Agent of the Tour Operator (as the case may be) in the courts of the Republic of Kenya if the Travel Agent or the Tour Operator (as the case may be) had submitted to the jurisdiction of the said courts.
- vii. In respect of any such claim as is mentioned in sub-clause (VI) of this clause the member shall be under no liability whatsoever of howsoever arising other than the liability expressly assumed in this clause.
- viii. For the purpose of this clause the member shall be deemed to include its servants and agents and shall be deemed to contract on its own behalf and on behalf of each such servant and agent.

General

Members and their staff shall familiarize themselves with the provisions of this Code of Conduct.

Members shall observe not only the letter but also the spirit of the Code of Conduct and its ethics and ideals, thus giving true significance to the aims and objectives of the Association

All advertising material and brochures produced by Members must indicate membership of the Association and carry the TOSK logo. Members should be encouraged to also display the TOSK logo emblem in a prominent position in their business premises.

The Ethics and Standards Sub-Committee

The Association shall establish the “Ethics and Standards Sub-Committee”, whose four members shall be elected by members of the Association in the first Annual General Meeting with fifth seat being occupied by a Licensing Officer from the Tourism Regulatory Authority (TRA) if needed and on consultation basis only. It is the body which has been set up for the purpose of initially monitoring and interpreting the conditions contained in the Code of Conduct, for inquiring into any alleged breach of these conditions and making recommendations accordingly to the Executive Committee. The Sub-Committee will also make recommendations to the Executive Committee in respect of additions to or deletions from these conditions in the light of experience gained from its deliberations



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Confirm signing by;

On behalf of the Ethics Committee:

Applicant Name (Company Name)

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Name of Director / Chairman

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STAMP HERE

Signature (Director / Chairman)

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Date Signed and Stamped

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