

## Website Terms of Use

### 1. Acceptance of Terms of Use

Please review the following terms and conditions carefully. This agreement (the "Terms of Use") is a legally binding contract between you ("You" or "Your") and Tonkawa Indian Casino ("Tonkawa Casino," "We," "Us," or "Our"). This agreement governs your use of any Web site or Web page operated by Tonkawa Indian Casino and its affiliate properties, including any site from which you access this agreement (collectively, the "Sites").

Through the Sites, Tonkawa Indian Casino offers access to certain Goods, such as merchandise, gifts and accessories (collectively, the "Goods"), as well as certain services, including, but not limited to, corporate and investor information, information regarding its resorts and casinos, reservation services for hotel accommodations, restaurants, and entertainment programs, enrollment in membership programs, Players Club registration, advertising and special promotional offerings, including for employment, sale of merchandise, an online magazine, online resources and registration for vendors and travel agents, and online applications for co-branded credit cards (collectively, the "Services").

You must read, agree with, and accept all of the terms and conditions contained in these Terms of Use governing the sale and delivery of any Goods and/or access to and use of the Services, and the **Privacy Policy** which include those terms and conditions expressly set out below and those incorporated by reference, before you may become a guest ("Guest") of the Tonkawa Casino Sites. By accessing the Sites and/or the Goods and/or the Services You agree to the terms and conditions as outlined in these Terms of Use. **If you do not agree to be bound by these Terms of Use, you are not authorized to use or access the Sites or the Services, or purchase the Goods.**

Two types of users may access the Sites – browsers on the Sites that do not upload or download any information on the Sites or access any password-restricted services (such as making reservations), and Guests. Our password-restricted services are only available to Guests. Without limiting the foregoing, our password-restricted services are not available to persons under 18 years of age, or to temporarily or indefinitely suspended Tonkawa Indian Casino Guests. **If you do not qualify, you are not authorized to use or access Our Sites or the Services or purchase the Goods.**

Tonkawa Indian Casino reserves the right to change these terms and conditions and/or the Goods and Services from time to time at its sole discretion by posting such revised terms and conditions, Goods and Services on the Sites. Your use of the Sites following any such change constitutes Your agreement to follow and be bound by the modified terms and conditions of these Terms of Use, if any. Any permission granted herein terminates automatically without further notice if You breach any of the terms of this Agreement. Upon such termination, You agree to immediately destroy any downloaded and/or printed materials. Any unauthorized use of any material contained on this site may violate domestic and/or international copyright laws, trademark laws, the laws of privacy and publicity, and communications regulations and statutes.

### 2. Passwords and Security

A Guest account is required to access certain portions of the Sites and/or Services and may be accessed and used only by those authorized individuals who are registered with Tonkawa Indian Casino. To open a user account, You must complete the registration process by providing Tonkawa Indian Casino with current, complete, and accurate information as prompted by the applicable registration form. In registering for the Services, You agree to submit accurate, current, and complete information about You and Your organization, if applicable, and promptly update such information, if applicable. Should Tonkawa Indian Casino suspect that such information is untrue, inaccurate, not current, or incomplete, Tonkawa Indian Casino has the right, but not the obligation, to

suspend or terminate Your access to the Sites or use of the Services and/or seek updated information from You.

Upon your initial log-in to the Services, You may be asked to choose a personal, non-transferable password; at that time, you may also be asked to provide confidential information of your choosing (such as mother's maiden name, pet's name, city of birth, etc.) to be used by Tonkawa Indian Casino to confirm Your identity in the event You make a request for Your lost or forgotten password. Such personal information is not shared with third parties except as provided in the Privacy Policy and is subject to the terms of the then-current **Privacy Policy** or the Sites.

We may use cookies to identify users when they register on the Sites. However, because user verification on the Internet is difficult, Tonkawa Indian Casino cannot and does not confirm each user's purported identity.

You are solely responsible for any and all activities that occur under Your account and for ensuring that You exit or log-off from Your account at the end of each session of use. If You are conducting this session on a public computer or are otherwise using a computer to which multiple people have potential access, be sure to follow all relevant instructions to ensure You are sufficiently disconnected and logged off the Sites *and* the computer system You are using to prevent unauthorized access to your account with Tonkawa Indian Casino.

You agree to notify Tonkawa Indian Casino immediately of any unauthorized use of Your password or account or any other breach of security that is known or suspected by You. Guest accounts cannot be "shared" or used by more than one individual, except among family members with permission by the primary account holder.

### **3. Restricted Rights**

The materials on the Sites are provided with "Restricted Rights." Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in applicable laws and regulations. Use of the materials by the U.S. Government constitutes acknowledgement of Tonkawa Indian Casino's proprietary rights in them. No other governments are authorized to use the materials appearing on the Sites without prior written permission from Tonkawa Indian Casino.

### **4. Product and Promotional Pricing and Availability and Employment Availability Information**

Tonkawa Indian Casino will not be responsible for typographical or other errors or omissions regarding prices or other information. All product sales and promotions are subject to these Terms of Use. Promotional offers and prices are for a limited time or as specified. Prices and promotions are subject to change without prior notice. Inventory and availability are subject to rapid change. In addition, employment opportunities on the Sites are subject to change without prior notice. Please consult with individual Tonkawa Indian Casino locations for up-to-the-minute information.

### **5. Your Conduct**

You agree not to:

a. upload, transmit, post, email or otherwise make available to the Sites or the Services, any content or other material in any format that: (i) is false, inaccurate, misleading, fraudulent, unlawful (including, but not limited to, laws governing consumer protection, unfair competition, antidiscrimination, or false advertising), harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, invasive of another's privacy, libelous and/or otherwise objectionable; (ii) infringes any third party's intellectual property, whether a copyright, patent, trademark, trade secret, or other proprietary right or rights of publicity or privacy; or (iii) contains viruses, worms, Trojan horses, time bombs, cancelbots, easter eggs, corrupted files, or any other

similar software or programs designed to interrupt, interfere, intercept, expropriate, destroy or limit the functionality of any data, personal information, computer software or hardware or telecommunications equipment;

b. alter, remove, or falsify any attributions or other proprietary designations of origin or source of any other content appearing on the Sites or via the Services or contained in a file that is uploaded to the Sites or the Services;

c. impersonate any person or entity, including, but not limited to, an Tonkawa Indian Casino official or falsely state or otherwise misrepresent Your affiliation with a person or entity;

d. attempt, through any means, to gain unauthorized access to the Sites or the Services, or another user's account on the Sites and/or the Services;

e. use any robot, scraper, spider, other automatic device, or manual process to monitor or copy any information or content contained in the Sites and/or the Services without Our prior express written permission. Systematic retrieval of data or other content from the Sites to create or compile, directly or indirectly, a collection, compilation, database or directory without Our prior written permission is prohibited;

f. take any action that imposes an unreasonable or disproportionately large load on the Sites' and/or Services' infrastructure;

g. create liability for Tonkawa Indian Casino or cause Tonkawa Indian Casino to lose (in whole or in part) the services of its information technology partners or other suppliers; or

h. consummate any transaction that was initiated using the Services that, by paying to Tonkawa Indian Casino a fee or other consideration, would cause Tonkawa Indian Casino to violate any applicable law, statute, ordinance or regulation, or that violate these Terms of Use or the **Privacy Policy**. The use of any device, software, or routine that interferes or attempts to interfere with the proper working of the Sites or the Services is expressly prohibited.

## **6. Proprietary Rights Restrictions**

a. All material on the Sites, including, without limitation, all informational text, design of and "look and feel," layout, photographs, graphics, audio, video, messages, interactive and instant messaging design and functions, files, documents, images or other materials (collectively, the "Materials"), whether publicly posted or privately transmitted, as well as all derivative works, are owned by Tonkawa Indian Casino or other parties that have licensed their material to Tonkawa Indian Casino, and are protected by copyright, trademark, and other intellectual property laws. Tonkawa Indian Casino disclaims any proprietary interest in copyrights, trademarks, service marks, logos, slogans, domain names and trade names other than its own. Trademarks, logos, images, audio, and service marks displayed on the Sites are the property of either Tonkawa Indian Casino or other third parties; You agree not to display or use such property without Tonkawa Indian Casino's prior written permission.

b. The Materials on the Sites may not be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way, including by e-mail or other electronic means, without the prior consent of Tonkawa Indian Casino. Any modification of the Materials, use of the Materials on any web site or networked computer environment, or use of the Materials for any purpose other than personal, non-commercial use, without the prior consent of Tonkawa Indian Casino, is a violation of the copyright, trademark, and other proprietary rights in the Materials and is expressly prohibited.

c. If You have accessed the Sites, Tonkawa Indian Casino grants to You a personal, non-exclusive, non-transferable license to use and display the audio and visual information, documents, products and software contained in or made available through the Services (the "Content") solely for Your own

personal use. All rights not expressly granted herein by Tonkawa Indian Casino to You are reserved by Tonkawa Indian Casino and/or its licensors.

d. Tonkawa Indian Casino alone shall own all right, title, and interest, including all related intellectual property rights, to any suggestions, ideas, feedback, recommendations, comments, posting, or other information provided by You relating to the Sites and/or the Services ("Submissions"), and You agree to assign such Submissions to Tonkawa Indian Casino free of charge. Tonkawa Indian Casino may use or not use such Submissions as it deems appropriate in its sole discretion.

## **7. Links with Other Web Sites**

The Sites contain links to third-party web sites as an accommodation to You. The Sites can also be accessed through links contained on third-party web sites. The third-party linked sites are not under the control of Tonkawa Indian Casino. Tonkawa Indian Casino does not endorse, adopt or undertake any responsibility for the content or privacy practices of any third-party site, including, but not limited to, information provided at third-party sites that may link the user to the Sites. If You have accessed the Sites through a third-party link, you are still bound by the terms and conditions of these Terms of Use. In no event shall Tonkawa Indian Casino be responsible for any content or other materials on or available on any third-party web sites.

## **8. Disclaimer of Warranties**

A. YOU EXPRESSLY AGREE THAT USE OF THE SITES AND THE SERVICES IS AT YOUR SOLE RISK. THE SITES, THE SERVICES AND ANY CONTENT CONTAINED THEREIN OR DOWNLOADABLE THEREFROM ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TONKAWA INDIAN CASINO EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, QUIET ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM TONKAWA INDIAN CASINO OR THROUGH THE SITES OR THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

B. TONKAWA INDIAN CASINO MAKES NO WARRANTY THAT THE SERVICES OR ANY CONTENT PROVIDED THROUGH THE SITES OR ANY CONTENT CONTAINED THEREIN OR DOWNLOADED THEREFROM WILL MEET YOUR REQUIREMENTS, BE ACCURATE, COMPLETE, CURRENT OR TIMELY, OR THAT THE SITES OR THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. IN THE EVENT THAT WEB SITE CONTENT IS INACCURATE, INCOMPLETE, OR OUT OF DATE, TONKAWA INDIAN CASINO DOES NOT INTENTIONALLY MAKE MATERIAL MISREPRESENTATIONS NOR DOES TONKAWA CASINO INTENTIONALLY PROVIDE INCORRECT INFORMATION.

C. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SITES OR THE SERVICES OR ANY CONTENT CONTAINED THEREIN OR DOWNLOADED THEREFROM IS AT YOUR OWN DISCRETION AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA.

D. TONKAWA INDIAN CASINO SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE CAUSED, OR ALLEGED TO HAVE BEEN CAUSED, DIRECTLY OR INDIRECTLY, BY THE INFORMATION OR IDEAS CONTAINED, SUGGESTED OR REFERENCED AT THE SITES, THROUGH THE SERVICES, OR ANY USE OF SAME BY YOU.

E. TONKAWA INDIAN CASINO AND ITS LICENSORS MAKE NO REPRESENTATION OR WARRANTIES THAT THE SITES, THE SERVICES, OR ANY CONTENT CONTAINED THEREIN OR DOWNLOADED THEREFROM IS APPROPRIATE OR AVAILABLE FOR USE IN

ALL GEOGRAPHIC LOCATIONS. IF YOU USE THE SERVICES FROM OUTSIDE THE UNITED STATES OF AMERICA, YOU ARE SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE LAWS, INCLUDING WITHOUT LIMITATION EXPORT AND IMPORT REGULATIONS OF OTHER COUNTRIES.

## **9. Limitation of Liability**

TONKAWA INDIAN CASINO AND ITS EMPLOYEES SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OR THE INABILITY TO USE THE SITES, THE SERVICES OR ANY CONTENT CONTAINED THEREIN OR DOWNLOADABLE THEREFROM, OR ANY INFORMATION OBTAINED AT THE SITES, THROUGH THE SERVICES, OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES OR RESULTING FROM UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES EVEN IF FORESEEABLE OR IF TONKAWA INDIAN CASINO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT TONKAWA INDIAN CASINO'S TOTAL LIABILITY HEREUNDER FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE ACTUAL TOTAL AMOUNT RECEIVED BY TONKAWA INDIAN CASINO FROM YOU TO ACCESS THE SITES AND/OR USE THE SERVICES.

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, so the exclusions set forth above may not apply to You.

## **10. Indemnification**

You agree to indemnify, hold harmless and release Tonkawa Indian Casino and its properties (and their respective employees, officers, directors, stockholders, agents, licensors and their respective successors and assigns), from and against any and all claims, damages, costs and expenses, including reasonable attorney's fees, arising from or related to Your use or misuse of the Sites, the Services and/or any content contained therein or provided thereby, including, but not limited to, information from third-party web sites linked to the Sites.

## **12. Changes to the Sites**

Tonkawa Indian Casino reserves the right to modify, suspend or discontinue all or any portion of the Sites and/or the Services at any time, without notice. Unless stated otherwise, any new features to the current Sites or Services shall be subject to these Terms of Use. The Sites are currently accessible to users without charge; however, Tonkawa Indian Casino reserves the right to charge users for access to or use of any portion of the Sites or Services in the future.

## **13. Failure to Abide by These Terms**

Tonkawa Indian Casino may, in its sole discretion, remove Your information from the Sites, warn Tonkawa Indian Casino's community of Your actions, issue a warning, suspend or terminate Your account and any current activities at the Sites immediately, without notice to You, and refuse to provide our Services to You if You breach these Terms of Use, or if We are unable to verify or authenticate any information that You provide to Us, or if we believe Your actions may cause financial loss or legal liability for You, Tonkawa Indian Casino's other Guests or users, or Us. Tonkawa Indian Casino reserves the right, in its sole discretion, to refuse access to any user at any time to those portions of the Sites that require registration. You agree that Tonkawa Indian Casino shall not be liable to You or any third party for any termination of Your access to any Material, Content, the Services, and/or the Sites.

#### **14. Tonkawa Indian Casino Privacy Policy**

Tonkawa Indian Casino is dedicated to providing a safe and secure environment for consumers. Although Tonkawa Indian Casino is not a “financial institution” that is governed by the Privacy of Consumer Financial Information Rule of the Gramm-Leach-Bliley Act, Tonkawa Indian Casino is committed to respecting the privacy rights of Guests and users of the Sites. For more information, please see our full **Privacy Policy**.

#### **15. Miscellaneous**

You and Tonkawa Indian Casino are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by these Terms of Use.

If any provision of these Terms of Use is found to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be severed from the remainder of these Terms of Use, which shall remain in full force and effect. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used herein are for convenience only.

BY ACCESSING THE SITES OR THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ THESE TERMS OF USE, UNDERSTAND THEM, AND AGREE TO BE BOUND BY THEIR TERMS AND CONDITIONS.

THIS POLICY IS INTENDED TO COMPLY FULLY WITH THE REQUIREMENTS OF THE ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION ACT AND THE DIGITAL MILLENNIUM COPYRIGHT ACT.

Adopted: December 14, 2006