

## **Tyddyn Llwyn WiFi Internet Access Terms and Conditions of use**

**Effective from 01/01/2011**

By registering for access to the Tyddyn Llwyn WiFi Internet access service you agree to the following Terms and Conditions.

The Customer's use of the Service (as defined below) and/or acceptance of these Terms and Conditions ("Conditions") constitute the Customer's agreement to be bound by these Conditions.

These Conditions explain the responsibilities of Tyddyn Llwyn to The Customer and The Customer's responsibilities to Tyddyn Llwyn and to other users of the Service ("Users"). If you are a Consumer, you must be 18 years or older to register for the Service.

### **1. Definitions**

1.1 "We", "Us", "Tyddyn Llwyn", "Our" means Mr A P and Mrs C D Wright T/A Tyddyn Llwyn Caravan Park

1.2 "Customer", "You" means the person registering to use The Service

1.3 "Service" means the WiFi Internet access product described on the appropriate page of Our website and printed brochures.

1.4 "Conditions" means these Terms and Conditions

1.5 "Agreement" means these Conditions together with the applicable Application Form

1.6 "Application Form" means the form you must fill in in order to register with Us to be given access to the Service.

1.7 "Network" means the system of wireless access points and other equipment used by Tyddyn Llwyn to distribute the Service.

1.8 "Device" means a computer, mobile phone, WiFi access point or other equipment used by the Customer to gain access to the Network and thereby the Service.

1.9 "Commencement Date" means the date the Customer first uses the username and password provided to them to successfully login and gain access to the Service.

1.10 "Carrier" means a third party entity responsible for providing Tyddyn Llwyn with access to the Internet.

### **2. Provision of the Service**

2.1 The Service is as described on the appropriate page of our web site and printed brochures.

2.2 The Customer agrees to receive the Service and pay the fees for the Service as specified in this Agreement.

2.3 Tyddyn Llwyn will provide the Service to the Customer in accordance with the Agreement and with reasonable skill and care. It is technically impracticable to provide the Service or the telecommunications services free of faults and We do not undertake to do so.

2.4 Tyddyn Llwyn will use its reasonable endeavours to provide a prompt and continuing Service but will not be liable for any loss of any kind resulting from delays, non-deliveries, missed deliveries, or service interruptions caused by events beyond Our control, or by errors or omissions of the Customer.

2.5 Tyddyn Llwyn exclude all and any warranties and conditions of any kind, whether express or implied, in respect of the Network, Service and any content or data obtained or downloaded from it or the accuracy of information received through it.

2.6 To use the Service, the Customer needs to supply Tyddyn Llwyn with certain details on the Customer's Application Form. Tyddyn Llwyn will respect the privacy of this information and will comply with applicable data protection legislation in respect of it. Customer details will be disclosed to law-enforcement agencies or other third parties if we are required to do so by law or court order.

2.7 The Customer must own suitable equipment that is compatible with Tyddyn Llwyn's Network in order to access the Service. Tyddyn Llwyn cannot be held responsible if the Customer does not possess suitable compatible equipment.

2.8 The Customer acknowledges that the general quality and availability of the Service and Network will depend upon the characteristics of the Customer's equipment and location and on other factors including those outside Tyddyn Llwyn's control, which include but are not limited to the number of Customers using the Service at the same time, electromagnetic interference and third party faults or network congestion. Availability, Network coverage, connection quality and connection and data transfer speeds are not guaranteed.

2.9 From time to time the whole or part of the Network may be closed down for routine repair or maintenance work. Tyddyn Llwyn shall give as much notice as in the circumstances is reasonable.

2.10 Tyddyn Llwyn may occasionally have to interrupt the Service or change the technical specification of the Service for operational reasons or because of an emergency. Tyddyn Llwyn will give the Customer as much notice as possible of any planned interruption of the Customer's Service. In these circumstances The Customer shall have no claim against Tyddyn Llwyn for any such interruption.

2.11 Tyddyn Llwyn will correct reported faults as soon as possible. Should the Customer encounter a fault with the Service the Customer should report the fault to Tyddyn Llwyn.

2.12 As the Service provides access to the general Internet without explicit filtering, parental supervision is required at all times if the Service is to be used by anyone under 18 years of age.

2.13 A separate Agreement is required for each Device that is to be connected to the Network in order to access the Service.

2.14 Access to the Service is controlled via a username and password which will be provided to the Customer once they complete the Application Form and pay the necessary fees. This username and password is not transferrable and once used to connect a Device to the Network it cannot then be used on or transferred to a different Device.

2.15 Except as otherwise expressly permitted in these Conditions, and in addition to other restrictions herein, the Customer may not:

2.16.1 redistribute, encumber, sell rent, lease, sub-license, copy or use the Service or otherwise transfer rights to the use of the Service to any third party, whether in whole or in part;

2.16.2 disclose Service features, errors or viruses to any third party without the prior written consent of Tyddyn Llwyn;

2.16.3 use the Service except in conjunction with Tyddyn Llwyn's recommended operating environment;

2.16.4 modify the Service without Tyddyn Llwyn's prior written consent.

2.17 Tyddyn Llwyn reserves the right to change the Customer's username and/or password at any time at its sole discretion.

### **3. Term**

3.1 This Agreement will commence on the Commencement Date and shall continue for a term equivalent to the subscription period paid by the Customer until the expiry of that subscription period or the Agreement is terminated in accordance with the terms hereof ("the Term") subject to the provisions of paragraph 8.1.

### **4. Fees**

4.1 Tyddyn Llwyn shall provide the Customer with the Service for the fees as set out on the Application Form. These fees are payable in advance. Save where the Service is terminated by Us without cause, the Customer shall not be entitled to a refund of subscriptions paid.

### **5. Customer Equipment**

5.1 The Customer is responsible for supplying, maintaining, configuring and safely operating any equipment used to access the Network and Service.

5.2 The Customer shall ensure that such equipment complies with any applicable law. The Customer shall immediately disconnect any equipment that does not, or ceases to, conform to applicable standards (if any) for the time being in force. Tyddyn Llwyn reserves the right to ask the Customer to disconnect any equipment if the Customer does not fulfil their obligations under this Clause.

5.3 Any equipment used to access the Network or Service which, in the opinion of Tyddyn Llwyn, may cause the death of or personal injury to any person, or damage to property, or materially impair the quality of any telecommunication service provided by Tyddyn Llwyn, must be disconnected by the Customer at Tyddyn Llwyn's request.

## **6 The Customer's Use of the Service**

6.1 The Service may only be used for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or regulation is strictly prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

6.2 The use of Peer to Peer file sharing software is expressly forbidden.

6.3 The Customer MUST:

6.3.1 Ensure that any equipment connected to the Service is protected by suitable security (e.g. firewall and intrusion prevention) and anti-virus software;

6.3.2 Ensure that such security and anti-virus software is kept up to date at all times

6.3.3 Ensure that any children under the age of 18 do not use the Service except when under the direct supervision of an adult.

6.4 The Customer must NOT use the Service:

6.4.1 in a way that does not comply with the Conditions or any legislation or that is in any way unlawful or fraudulent;

6.4.2 in connection with the carrying out of a fraud or criminal offence;

6.4.3 to send, encourage the receipt of, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights, or which may contain viruses or other similar programs, or which cause overloads to the Tyddyn Llwyn Network;

6.4.4 to send or procure the sending of unsolicited advertising or promotional material (e.g. spam);

6.4.5 in a way that does not comply with any instructions given by Tyddyn Llwyn for reasons of health or safety;

6.4.6 circumvent user authentication or security of any host, network, or account (referred to as "cracking" or "hacking"), nor interfere with service to any user, host, or network (referred to as "denial of service attacks").

6.4.7 violate system or network security. Examples of system or network security violations include, without limitation, the following : Unauthorised access to or use of data, systems or networks,

including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorisation of the owner of the system or network; Unauthorised monitoring of data or traffic on any network or system without express authorisation of the owner of the system or network; Interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks; Forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting.

6.4.7 Use or misuse the Network or the System in such a way as to cause inconvenience to other Customers using the system. This includes but is not limited to transferring a constant or semi-constant stream of data for periods over an hour and connecting misconfigured equipment to the Network.

6.5 The Customer will co-operate with Tyddyn Llwyn's reasonable requests for information regarding the Customer's use of the Service and supply such information without delay.

6.6 Where the Customer uses the Service to reach networks and services not operated by Tyddyn Llwyn, the Customer will abide by the acceptable use policies or terms and conditions imposed by the operators of those networks and services.

6.7 The Customer warrants that:

6.7.1 You, as the registered user of the account, will keep the username and password secure and not let them become public knowledge.

6.7.2 if the username or password becomes known to any other unauthorised user You will inform Tyddyn Llwyn or its authorised representative immediately;

6.7.3 any breach of these obligations shall entitle Tyddyn Llwyn to immediately terminate the Service to the Customer without notice.

6.8 The Customer acknowledges that Tyddyn Llwyn is unable to exercise control over the content of information passing over the Tyddyn Llwyn Network or via the Service, and Tyddyn Llwyn hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.

6.9 Due to the public nature of the Internet and the insecurity of WiFi transmissions, all information passing through the Tyddyn Llwyn Network or the Service or via the Internet in general should be considered generally accessible to the public. This includes the usernames and passwords used to access or login to certain websites and email accounts, and the contents of email messages and website posts. The Customer must therefore take steps to help secure the transmission of such information if the Customer deems it necessary.

6.10 Tyddyn Llwyn is not liable for protection or privacy of electronic mail or other information transferred through the Network, the Service, the Internet in general or any other network Tyddyn Llwyn or the Customer may utilize.

6.11 Tyddyn Llwyn reserve the right to suspend or terminate the Customer's access to the Service at its sole discretion, without refund, and make an additional charge for all reasonable costs incurred

due to investigating and dealing with the misuse of and/or blocking access to any component(s) of the Service or Network.

## **7. Breach of Conditions**

7.1 Tyddyn Llwyn shall investigate any suspected or alleged breach of the Conditions or any suspected compromise to its Network, systems or security and in doing so We will act reasonably and fairly at all times.

7.2 Tyddyn Llwyn reserves the right to take any action We deem appropriate and proportionate to the breach of the Conditions.

7.3 If Tyddyn Llwyn decide that the Customer has breached the Conditions, We will use reasonable endeavours to ensure that the Customer is made aware of the breach without suspension or termination of the Service. However it may be necessary, due to the severity of the breach, to suspend or end the Customer's access to the Service whilst details of the breach are investigated further.

7.4 The Customer agrees to waive and hold Tyddyn Llwyn harmless from any claims relating to any action taken by Us as part of an investigation into a suspected violation of the Conditions or as a result of its conclusion that a violation of terms and conditions has occurred. Therefore, the Customer cannot sue or recover any damages whatsoever from Tyddyn Llwyn as a result of the decision to suspend or terminate a Customer's access to the Service or Network. This clause shall survive the termination of the Agreement

7.5 The Customer agrees to defend, hold harmless, and expeditiously indemnify Tyddyn Llwyn from any and all liability, claim, loss, damage or expense arising out of the Customer's breach or violation of any covenant contained in the Conditions, or resulting from the Customer's use of the Service or Network. This clause shall survive the termination of the Agreement

7.6 The Customer must notify Tyddyn Llwyn immediately in writing of any allegation of infringement of any intellectual property rights prompted by their use of the Service. The Customer may not make an admission relating to an alleged infringement. The Customer must allow Tyddyn Llwyn, or at Tyddyn Llwyn's election the Carrier, to conduct all negotiations and proceedings and give Tyddyn Llwyn or the Carrier all reasonable assistance in doing so. The Customer must allow any part of the Service to be modified so as to avoid continuation of the alleged infringement.

## **8: Termination:**

8.1 Tyddyn Llwyn may end this Agreement immediately if:

8.1.1 it becomes unlawful for (i) Tyddyn Llwyn or the Carrier supporting the Service to continue to provide the Service; or (ii) Tyddyn Llwyn or the Carrier supporting the Service is required to cease the Service by a competent regulatory authority; or

8.1.2 the Carrier supporting the Service ceases to do so for whatever reason or materially changes the terms of its provision of telecommunications services to Tyddyn Llwyn for the Service beyond the reasonable control of Tyddyn Llwyn; or

8.1.3 The Customer (or a third party acting on the Customer's behalf or instruction) fails to comply with any of the material Conditions or conditions of this Agreement, including the Customer's obligation to pay, and the Customer does not remedy such failure within fifteen (15) days of a request to do so.

8.2 The provisions of this Agreement regarding limitation of liability shall survive the termination of the Agreement.

8.3 The provisions of this Agreement under Clauses 7.4 and 7.5 and under all other Clauses requiring the Customer to cooperate with Tyddyn Llwyn when investigating a Breach of Agreement or requiring the Customer to defend, hold harmless, and expeditiously indemnify or otherwise indemnify Tyddyn Llwyn shall survive the termination of this Agreement.

8.4 Upon termination of this Agreement the Customer shall immediately stop using the Service and the Customer's right to use Service shall immediately terminate.

## **9. Disclaimer of Warranties**

14.1 THE SERVICE WILL BE PROVIDED TO THE CUSTOMER "AS IS", WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND, WHETHER EXPRESS OR IMPLIED. TYDDYN LLWYN DISCLAIMS AND EXCLUDES ALL SUCH WARRANTIES AND REPRESENTATIONS INCLUDING WITHOUT LIMITATION ANY WARRANTY OR REPRESENTATION THAT THE SERVICE IS FREE OF DEFECTS AND VIRUSES, OF SATISFACTORY QUALITY, FIT FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. FURTHER, TYDDYN LLWYN DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES THAT MIGHT ARISE FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. THE CUSTOMER ACCEPTS ALL RISKS AND LIABILITIES ASSOCIATED WITH THE CUSTOMER'S USE OF THE SERVICE.

## **10. Limitation on Liability**

10.1 Nothing in this Agreement shall exclude or limit liability for (a) death or personal injury resulting from the negligence of either party or their servants, agents or employees or (b) fraud.

10.2 Tyddyn Llwyn shall not be liable in contract, tort, pre-contract or other representations (other than fraudulent or negligent misrepresentations) or otherwise arising out of or in connection with this Agreement for:

10.2.1 any economic losses (including, without limitation, loss of revenues, profits, contracts, business or anticipated savings); or

10.2.2 any loss of goodwill or reputation; or

10.2.3 any special, indirect or consequential losses or any destruction of data, in any case, whether or not such losses were within the contemplation of the parties at the date of this Agreement, suffered or incurred by that party arising out of or in connection with the provisions of, or any matter under this Agreement.

10.3 Subject to paragraphs 10.1 and 10.2 Tyddyn Llwyn's liability to the Customer in contract, tort, negligence, pre-contract or other representations arising out of or in connection with this Agreement or the performance or observation of its obligations under this Agreement shall be limited in aggregate to £250.

10.4 Each provision of this section 10 excluding or limiting liability shall be construed separately, applying and surviving even if for any reason any other provision does not remain in force, notwithstanding the expiry or termination of this Agreement.

10.5 The Customer is solely responsible for any liability arising out of any content provided by the Customer and/or any material to which other users can link to through such content.

## **11. Indemnity**

11.1 The Customer agrees to indemnify and hold Tyddyn Llwyn harmless for all liabilities, loss, claims and expenses that may arise from (a) any breach of these Conditions by the Customer; and (b) any transmission or receipt of any content or message which the Customer has requested or made using the Service.

## **12. Data Protection/Personal Details**

17.1 Tyddyn Llwyn may retain the Customer's personal data, and the Customer authorise Tyddyn Llwyn to use their personal data, for the following purposes:

17.1.1 provision of the Service to the Customer;

17.1.2 keeping of a record for a reasonable period after termination of the Customer's Service;

17.1.3 operation and enforcement of these Conditions;

17.1.4 technical maintenance;

17.1.5 transferring it to another company in the event of a sale of Tyddyn Llwyn;

17.1.6 legal compliance including disclosing it to any third party who Tyddyn Llwyn reasonably consider has a legitimate interest in any such investigation or its outcome.



## **18. Amendment of These Conditions**

18.1 Tyddyn Llwyn reserves the right to add to and/or amend the Conditions at any time. Such changes shall be notified to the Customer by a posting on Terms and Conditions section of the Tyddyn Llwyn web site. Changes in this manner shall be deemed to have been accepted if the Customer continues to use the Service after a period of two weeks from the date of posting on the Web site.

## **19. Miscellaneous**

19.1 The Agreement will constitute the entire agreement between the parties concerning the subject matter of these Conditions. It will supersede all prior and contemporaneous agreements, communications and representations (except for fraudulent or negligent misrepresentations) whether oral or written, between the parties relating to the subject matter of these Conditions, and all past courses of dealing or industry custom. The Agreement will prevail over any other conflicting written instrument or other notice the Customer may submit to Tyddyn Llwyn.

19.2 Any amendment to the Agreement must be in writing and signed by an authorised representative of each party.

19.3 The Agreement shall be governed by the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales.

19.4 In the event of a dispute between the parties, the parties will attempt in good faith to resolve the dispute or claim arising out of or relating to the Agreement promptly through negotiations between the respective representatives of the parties who have authority to settle the same.

19.5 If any provision of the Agreement (whether in part or in whole) is held by a court of competent jurisdiction to be illegal, invalid or unenforceable the remaining provisions of the Agreement shall remain in full force and effect.

19.6 Any waiver of any breach of any provision of the Agreement will not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions of the Agreement. A waiver of a provision or breach of a provision of the Agreement will only be effective if made in writing and signed by an authorised representative of the waiving party.

19.7 The licence granted under the Agreement will not create a partnership, joint venture, agency relationship or franchise relationship.

19.8 Notwithstanding any other provision in this Agreement, nothing in this Agreement will create or confer any rights or other benefits whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise in favour of any person other than the Customer or Tyddyn Llwyn.

19.9 The headings to the sections of these Conditions are for convenience only and have no substantive meaning.