

**MIDSTATE COMMUNICATIONS, INC.**

**DIGITAL MILLENNIUM COPYRIGHT ACT POLICY**

**Article I  
Purpose**

1. Purpose. The purpose of this policy is to establish guidelines for Midstate Communications, Inc. (the “Company”) to respond to notices of alleged copyright infringement if such notices substantially comply with the Digital Millennium Copyright Act (the “DMCA”) and other applicable laws and/or regulations and to respond to claims of infringement in accordance with the DMCA or the corresponding section of any future federal code. This policy is intended to supplement but not replace any applicable state and federal laws governing copyrights. An overview of the Company’s Digital Millennium Copyright Act Policy is attached hereto as Exhibit A and incorporated herein.

**Article II  
Infringement of Copyright**

2. Duty to Act. Upon obtaining proper notice as set forth in the DMCA and having knowledge or awareness of an infringement of a copyright by reason of peer-to-peer video or audio file sharing or the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the Company, the Company shall take all actions required by the DMCA and applicable law.

3. Designated Agent. The Company shall designate an agent to receive notifications of claimed infringements (the “Designated Agent”). The Company shall make available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office, substantially the following information:

- a. The name, address, phone number, and electronic mail address of the Designated Agent.
- b. Other contact information which the Register of Copyrights may deem appropriate.

As of the adoption of this policy, Lantz Brennan, is the Designated Agent for the Company.

4. Elements of Notification of Infringement. A notification of claimed infringement must be a written communication (by fax, regular mail or by email) provided to the Designated Agent that includes substantially the following or as provided under section

512 of Title 17 of the United States Code, or corresponding section of any future federal code:

- a. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- b. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site is covered by a single notification, a representative list of such works at that site.
- c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
- d. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- e. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- f. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Elements of the notification of infringement are attached hereto as Exhibit B and incorporated herein.

5. Notice Compliance.

- a. A notification from a copyright owner or from a person authorized to act on behalf of the copyright owner that fails to comply substantially with the provisions of Section 4 shall not be considered under Section 2 in determining whether the Company has actual knowledge or is aware of facts or circumstances from which infringing activity is apparent.
- b. In a case in which the notification that is provided to the Designated Agent fails to comply substantially with all the provisions of Section 4 but substantially complies with Subsections b, c, and d of Section 4, Subsection a. of this Section 5 applies only if the Company promptly attempts to contact the person making the notification or takes other reasonable steps to assist in the receipt of notification that substantially complies with all the provisions of Section 4.

### **Article III**

#### **Procedure for Addressing Repeated Infringement**

6. Receipt of Official Notice of Infringement. Upon the receipt of an official notice of infringement that complies with the DMCA, the Company will, to the extent permissible and as required by law, expeditiously remove or disable access to any allegedly copyrighted materials that may be stored on its network. The Company may send a copy of the official notice and shall provide a written notification (by fax, regular mail or email) to the subscriber, informing the subscriber of the removal or disabling of access of the content, as well as, notify the customer that the Company may also suspend, disconnect, and/or terminate Internet service upon receiving evidence of repeated instances of copyright infringement. The Company, in accordance with the law, may also notify a subscriber of an alleged violation of peer to peer file sharing. A copy of a template notification letter is attached hereto as Exhibit C and incorporated herein.

7. Counter Notification. If the subscriber who receives notification of an alleged copyright infringement believes in good faith that the allegedly infringing material stored on the Company's system or network has been by mistake or misidentification, the subscriber may make a counter notification pursuant to sections 512(g)(2) and (3) of the DMCA. In the event the Company receives a counter notification that substantially complies with the DMCA and other applicable laws and/or regulations, the Company will provide the copyright owner with a copy. Unless the Company receives notification from a copyright owner within fourteen (14) business days after receipt of the counter notification that the owner has filed a court action seeking to restrain the alleged infringement, the Company shall restore access to the removed or disabled content and, as appropriate, and, as applicable, enable Internet service to the subscriber. If the Company receives such notification of court action, the Company will not enable Internet service but will use its best efforts to forward said notice to the subscriber or account holder affected.

8. Counter Notification Compliance. To be an effective counter notification that is recognized by the Company, the counter notification must be a written communication (by fax, regular mail or email) provided to the Designated Agent, with the Company included on the letter, fax, and email, that includes substantially the following or as provided under section 512 of Title 17 of the United States Code, or corresponding section of any future federal code:

- a. A physical or electronic signature of the subscriber.
- b. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.

- c. A statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
- d. The subscriber's name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the address is located.

A copy of a template counter notification letter is attached hereto as Exhibit D and incorporated herein.

9. Receipt of Multiple Official Notices of Infringement. Upon the receipt of multiple official DMCA compliant notices that constitute Repeated Infringement as defined in Paragraph 10 below, the Company shall send written notification to the subscriber informing the subscriber of the offenses of infringement of the DMCA and informing the alleged infringing subscriber that the Company shall respond expeditiously to slowdown, suspend, disconnect, and/or terminate Internet service that is claimed to be infringing the DMCA upon the next official notification of infringement. The Company may provide copies of official notices of alleged copyright infringements it receives to the subscribers at its discretion and as may be required by law. In the event the Company determines the copyright infringement activity is blatant, or even conclusively determines that the user is an infringer, the subscriber shall be deemed to have repeated infringement violations and the Company shall respond in accordance with Section 10 below.

10. Repeated Infringement. The Company shall respond expeditiously to suspend, disconnect, and/or terminate Internet service that is claimed to be infringing the DMCA upon notification of repeat infringers in order to comply with DMCA. A subscriber will be deemed to be a repeat infringer if the Company receives valid notice of infringing activity occurring on four (4) separate occasions within a twelve (12) month period measured back from the most recent notice.

#### **Article IV Subscriber Information**

11. Notice. The Company shall provide information to subscribers and account holders of the policy that provides for the termination in appropriate circumstances of subscribers and account holders of the Company's system or network who are repeat infringers.

12. Accommodations. The Company shall accommodate and not interfere with standard technical measures. The DMCA defines "standard technical measures" as technical measures that are used by copyright owners to identify or protect copyrighted works and:

- a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;
- b. Are available to any person on reasonable and nondiscriminatory terms; and
- c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

**Article V**  
**Termination of Account or Service**

13. Termination of Account or Service. The Company shall reserve the right to terminate service or a subscriber's account upon receiving evidence of repeated instances of copyright infringement.

## EXHIBIT A

### OVERVIEW OF DIGITAL MILLENNIUM COPYRIGHT ACT POLICY

The Digital Millennium Copyright Act (“DMCA”) requires that a claim of copyright infringement be sent to our designated agent. Upon the receipt of an official notice of infringement that complies with the DMCA, we shall provide a written notification (by fax, regular mail or by email) of the alleged infringement to the subscriber and inform the subscriber that we may suspend, disconnect, and/or terminate Internet service. We shall respond expeditiously to suspend, disconnect, and/or terminate Internet service that is claimed to be the subject of the infringing activity upon notification of repeated infringement in order to comply with the DMCA. In the event the subscriber desires to contest the infringement allegation, the subscriber may file a counter notification with our designated agent.

The text of the DMCA can be found at the U.S. Copyright Office Web Site: <http://www.copyright.gov>. The designated agent to whom notices and counter notifications should be sent is as follows:

Midstate Communications, Inc.  
Attn: Lantz Brennan  
PO Box 48  
Kimball, SD 57355  
Telephone: (605) 778-6221  
Email: [copyright@midstaff.net](mailto:copyright@midstaff.net)

## EXHIBIT B

### ELEMENTS OF NOTIFICATION OF INFRINGEMENT

A notification of claimed infringement must be a written communication (by fax, or regular mail or by email) provided to the Designated Agent that includes substantially the following or as provided under section 512 of Title 17 of the United States Code, or corresponding section of any future federal code:

- a. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- b. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site is covered by a single notification, a representative list of such works at that site.
- c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
- d. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- e. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- f. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

EXHIBIT C

[TEMPLATE]

INFRINGEMENT NOTIFICATION

DATE

SUBSCRIBER  
SUBSCRIBER ADDRESS  
CITY, STATE, ZIP

*Re: DMCA Infringement Notification*

Dear SUBSCRIBER:

This letter is a formal notification that Midstate Communications, Inc. has received notification alleging that you have infringed upon a copyright interest protected under the law. A copy of said notification is enclosed herewith. In accordance with the Digital Millennium Copyright Act (“DMCA”), Title 17, United States Code, Section 512(c) (the text of which can be found at the U.S. Copyright Office Web Site, <http://www.copyright.gov>) the alleged copyrighted material(s) should be removed and/or disabled access to as expeditiously as possible.

If you believe in good faith that the allegedly infringing material has been removed, blocked or identified as infringing by mistake or misidentification and wish to contest the enclosed notification, you may file a counter notification with Midstate Communications’ designated agent. The counter notification must meet the requirements as set forth in the Digital Millennium Copyright Act. A template counter notification is provided for your convenience on Midstate Communication’s website (available at <http://www.midstatesd.net>).

Midstate Communications respects the legitimate rights of copyright owners and will take appropriate actions as required under the Digital Millennium Copyright Act, Title 17, United States Code, Section 512(c) (the text of which can be found at the U.S. Copyright Office Web Site, <http://www.copyright.gov>), which may include suspending, disconnecting, and/or terminating Internet service claimed to be the subject of infringing activity.

Sincerely,

Midstate Communications, Inc.

EXHIBIT D

[TEMPLATE]

COUNTER NOTIFICATION

DATE

Midstate Communications, Inc.  
Attn: Fay Jandreau  
PO Box 48  
Kimball, SD 57355

*Re: DMCA Counter Notification*

Dear Internet Administrator:

1. The material(s) and location(s) claimed to infringe copyright include:
2. My name, address, telephone number, and email address are as follows:
3. I consent to the jurisdiction of Federal District Court for the judicial district in which the above address is located.
4. Under penalty of perjury I state that I have a good faith belief that the material or other item of content identified above was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled, or that the material identified by the complainant has been removed or disabled.

Signed,

*Signature*

PRINTED NAME