

THIS POLICY IS SUBJECT TO MODIFICATION OR TERMINATION AT ANY TIME, WHETHER FOR CHANGES IN THE LAW, CHANGES TO OUR DESIGNATED AGENT, OR AT OUR CONVENIENCE WITHOUT ADVANCE NOTICE. YOU MUST CHECK BACK FREQUENTLY TO ENSURE THAT YOU SEE A CORRECT, CURRENT VERSION OF THE NOTICE.

## **SmarterBroadband, Inc. DMCA Copyright Infringement Policy**

**Effective November 18th, 2018**

This is the official copyright infringement notification policy (“DMCA Policy”) for the website(s) and Service(s) owned, operated or provided by **SmarterBroadband, Inc. (“SBB,” “our,” “us,” or “we”)**. This DMCA Copyright Infringement Policy sets forth the procedures that are required for customers, subscribers, users and visitors (collectively, “Users”) to notify us of an alleged copyright infringement of any of our website(s) or Service(s) and the procedures undertaken by us to respond to such notices under the Digital Millennium Copyright Act, 17 U.S.C. § 512(c)(3) (“DMCA”).

Any capitalized terms that are not defined in this DMCA Copyright Infringement Policy shall have the same meaning given in our terms and conditions/use agreement for our website(s) or Service(s), (collectively, “Service Agreements”). This DMCA Policy is incorporated by reference into our Service Agreements. The Service Agreements and this DMCA Policy are legally binding on all Users.

### **How to Provide Notification for Claims of Copyright Infringement**

If you have a good faith reasonable belief that any material on our website(s) or Service(s) are infringing on your copyrights, and you wish to notify us of such alleged copyright infringement, you must provide the following information in a written communication in the form required by the DMCA to our Designated Agent (see below for contact information); it must include substantially the following information:

- 1. A physical or electronic signature of the owner or a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;**
- 2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on our Website or Service are covered by a single notification, a representative list of such works at that Website or Service;**
- 3. 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 us to locate the material;**
- 4. Information reasonably sufficient to permit our Designated Agent to contact the complaining party, such as a postal address, telephone number, and,**

if available, an electronic mail address at which the complaining party may be contacted;

5. The 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; and

6. A statement that the information in the notification is accurate and under penalty of perjury, that the complaining party is the owner or is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**You may contact our Designated Agent for Notification of Claimed Copyright Infringement at:**

Name of Service Provider: SmarterBroadband, inc.

Name of Designated Agent: SmarterBroadband DMCA Agent

Postal Address: 15533 Johnson Place, Grass valley, CA 95949

Telephone Number: 530 272 4000

Email Address: abuse@smarterbroadband.com

**If you send your claim via email, you must put “DMCA Infringement Notification” in the subject line of the email.** The above address is intended only for notifications and any related correspondence regarding claims of copyright infringement for the Service(s) or website(s) under this DMCA Policy. Correspondence pertaining to other matters will not receive a response if sent to the above contact information.

We will remove or disable access to any posted material for which we have received a notice of claimed copyright infringement in substantial conformance with the DMCA. United States law provides significant penalties for submitting a false or fraudulent claim of copyright infringement.

**WE CAUTION YOU THAT IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO SEVERE CIVIL PENALTIES. THESE INCLUDE MONETARY DAMAGES, COURT COSTS, AND ATTORNEY’S FEES INCURRED BY US, BY ANY COPYRIGHT OWNER, OR BY ANY COPYRIGHT OWNER’S LICENSEE THAT IS INJURED AS A RESULT OF OUR RELYING UPON YOUR MISREPRESENTATION. YOU MAY ALSO BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY.**

If we have an accurate postal mail or email address, we will also send a notification to the User who posted the material informing the User that the material was removed or access to it was blocked because of claimed copyright infringement. The User has a

right to send us a counter-notice challenging our removal of the User's material, or disabling his/her access to the website or Service as described below.

We will terminate the privileges, subscription, membership, and/or account of any User who repeatedly uses our website(s) or Service(s) to unlawfully transmit, download, upload or post copyrighted material without a license, express consent, valid defense or fair use exemption to do so. Please see the "Repeat Infringer Policy" below.

### **Repeat Infringer Policy**

Under certain circumstances we will terminate the privileges, account(s) and/or membership of Users that are repeat infringers. A person does not have to be found guilty of copyright infringement in a court to be deemed a repeat infringer. We will review the circumstances of each situation and the decision to terminate will be at the sole discretion of our Designated Agent based on the frequency and number of complaints against that User. We will terminate a User's account, membership, or subscription when that User has been notified for three complaints/violations for the same IP Address or account over a period of three months. A complaint/violation will not be assessed against the User if the User has filed a counter-notice of infringement, and there are no further legal actions from the copyright owner or owner's agent.

Each User understands, acknowledges, and agrees that if his or her account, membership or subscription is terminated pursuant to this DMCA Policy, the User will not attempt to establish a new account, membership or subscription under any name, real or assumed. The User further understands, acknowledges, and agrees that by opening a new account, membership or subscription after being terminated pursuant to this DMCA Policy, he/she will have violated this DMCA Policy and Service Agreements and shall indemnify and hold us harmless for any and all liability that we may incur.

### **How to Appeal the Removal of Material with a Counter-Notice If You Believe the Content Was Not Infringing**

If you are a User who posted material that was removed in response to a notice of infringement or your access to our website(s) or Service(s) were disabled and you believe that such material was removed or disabled actions were due to a mistake or misidentification, you may request that we restore the posting or cease blocking access to the material by sending us a written communication via postal mail, email, or facsimile to our Designated Agent for receiving notices of infringement. (See above for our Designated Agent's contact information). This counter-notice must include substantially the following information:

- 1. A physical or electronic signature of the User of the Website or Service;**
- 2. Identification of the material that has been removed or to which access has been disabled and the location on our Website or Service at which the material appeared before it was removed or access to it was disabled.**

**3. The statement: “I swear, under penalty of perjury, that I have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled.”**

**4. The User’s full name, postal address, telephone number and email address (if applicable), and the statement that the User consents to the jurisdiction of the Federal District Court for the district in which the address is located, or if the User’s address is outside of the United States, for any judicial district in which SBB or its appropriate subsidiary may be found, and that the User will accept service of process from the person who provided notification of copyright infringement under 17 U.S.C. § 512(c)(1)(C) or an agent of such person.**

When we receive a counter-notice that complies with these requirements, we will forward it to the person who submitted the original claim of copyright infringement. Please note that when we forward the counter-notice, it includes your Personal Information. **By submitting a counter-notification, you consent to having your Personal Information revealed to third parties.**

We also reserve the right, but not the obligation, to restore the material that was removed or to allow access to the material. As stated in our Service Agreements, we can at our discretion **remove any material for any purpose at any time.** If we receive a counter-notice from the User that posted the material subject to a claim of copyright infringement, we will take the following actions: 1) We will forward a copy of the counter-notice to the person who sent the notice of infringement and inform him/her that the removed material may be restored or we may allow access to the material in ten (10) business days. 2) If during those 10 business days, the person who sent the original notice of infringement notifies us that he/she has filed an action seeking a court order to restrain the User from infringing activity relating to the material on our website(s) or Service(s), we will not restore or allow access to the material. 3) Otherwise, we may restore the material and allow access at our sole discretion.

However, as a User, you acknowledge, understand and agree that we generally retain the right to modify, move, remove, block access to, replace or decline to restore material at any time for any reason without notice to or any liability to the posting User.

Please contact us at [support@smarterbroadband.com](mailto:support@smarterbroadband.com) if you have any questions regarding this DMCA Policy. Do NOT send notices of infringement to this email address; see the above contact information for our DMCA Designated Agent.

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