SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

TIME WARNER CABLE ENTERPRISES LLC, *Plaintiff/Counterclaim Defendant,* -against- UNIVERSAL COMMUNICATIONS NETWORK, INC., *Defendant/Counterclaim Plaintiff.*	Index No. 652407/2015 **ANSWER AND COUNTERCLAIMS**

Defendant/Counterclaim Plaintiff Universal Communications Network, Inc. ("UCN" or "Defendant/Counterclaim Plaintiff"), by and through its attorneys, Pryor Cashman LLP, submits this Answer and Counterclaims to Plaintiff Time Warner Cable Enterprises LLC's ("TWC") Complaint (the "Complaint"), and states as follows:

1. Denies the allegations set forth in paragraph 1 of the Complaint, specifically avers that the Channel Lease Agreement (the "Purported Agreement") was dated December 23, 2013, which TWC terminated on or about September 10, 2014, and respectfully refers the Court to the Purported Agreement, a true and correct copy of which is attached hereto as Exhibit A for a complete and accurate recitation of the contents thereof.

2. Denies the allegations set forth in paragraph 2 of the Complaint.

3. Denies the allegations set forth in paragraph 3 of the Complaint and respectfully refers the Court to the Purported Agreement (Ex. A hereto) for a complete and accurate recitation of the contents thereof.

4. Denies the allegations set forth in paragraph 4 of the Complaint, except admits that, among other material breaches, TWC failed to timely launch UCN's New Tang Dynasty

programming ("NTD") on TWC's Hudson Valley system, as required under the Purported Agreement.

5. Denies the allegations set forth in paragraph 5 of the Complaint.

6. Denies the allegations set forth in paragraph 6 of the Complaint and specifically avers that TWC had already notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon TWC's termination by severing the fiber signal to TWC on or about September 12, 2014.

7. Denies the allegations set forth in paragraph 7 of the Complaint and specifically avers that TWC notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon TWC's termination by severing the fiber signal to TWC on or about September 12, 2014.

8. Denies the allegations set forth in paragraph 8 of the Complaint.

9. Avers that the allegations set forth in paragraph 9 of the Complaint contain legal conclusions to which no response is required. To the extent a response is required, admits the allegations set forth in paragraph 9 of the Complaint except denies that TWC can rely on any provision of the Purported Agreement which it terminated as of September 10, 2014.

10. Avers that the allegations set forth in paragraph 10 of the Complaint contain legal conclusions to which no response is required. To the extent a response is required, admits the allegations set forth in paragraph 10 of the Complaint.

11. Denies knowledge or information sufficient to admit or deny the allegations set forth in paragraph 11 of the Complaint.

12. Admits the allegations set forth in paragraph 12 of the Complaint.

13. Denies the allegations set forth in paragraph 13 of the Complaint, except admits that the parties entered into the Purported Agreement dated December 23, 2013, and respectfully refers the Court to the Purported Agreement, terminated by TWC as of September 10, 2014 and no longer of any force or effect, for a complete and accurate recitation of the contents thereof.

14. Denies the allegations set forth in paragraph 14 of the Complaint and respectfully refers the Court to the Purported Agreement for a complete and accurate recitation of the contents thereof and specifically avers that TWC terminated the Purported Agreement as of September 10, 2014.

15. Denies the allegations set forth in paragraph 15 of the Complaint and respectfully refers the Court to the Purported Agreement for a complete and accurate recitation of the contents thereof and specifically avers that TWC terminated the Purported Agreement as of September 10, 2014.

16. Avers that the allegations set forth in paragraph 16 of the Complaint contain legal conclusions to which no response is required. To the extent a response is required, denies the allegations set forth in paragraph 16 of the Complaint, except admits that the Federal Communications Commission ("FCC") has adopted certain rules governing cable operators.

17. Denies the allegations set forth in paragraph 17 of the Complaint and, as specifically alleged below, avers that TWC structured the Purported Agreement to unlawfully coerce UCN to lease access in markets in which UCN did not desire to lease such access from TWC.

18. Denies the allegations set forth in paragraph 18 of the Complaint and respectfully refers the Court to the Purported Agreement for a complete and accurate recitation of the

contents thereof and specifically avers that TWC terminated the Purported Agreement as of September 10, 2014.

19. Avers that the allegations set forth in paragraph 19 of the Complaint contain legal conclusions to which no response is required. To the extent a response is required, denies the allegations set forth in paragraph 19 of the Complaint and, as specifically alleged below, avers that TWC structured the Purported Agreement to unlawfully coerce UCN to lease access in markets in which UCN did not desire to lease such access from TWC.

20. Denies the allegations set forth in paragraph 20 of the Complaint and respectfully refers the Court to the Purported Agreement for a complete and accurate recitation of the contents thereof and specifically avers that TWC terminated the Purported Agreement as of September 10, 2014.

21. Denies the allegations set forth in paragraph 21 of the Complaint and respectfully refers the Court to the Purported Agreement for a complete and accurate recitation of the contents thereof and specifically avers that TWC terminated the Purported Agreement as of September 10, 2014.

22. Denies the allegations set forth in paragraph 22 of the Complaint, except admits that UCN paid TWC $35,000 in or around January 2014, specifically avers that TWC terminated the Purported Agreement as of September 10, 2014, and respectfully refers the Court to the Purported Agreement for a complete and accurate recitation of the contents thereof.

23. Denies the allegations set forth in paragraph 23 of the Complaint except admits that TWC materially breached the Purported Agreement by, among other things, not providing service in the Hudson Valley market, and specifically avers that TWC terminated the Purported Agreement as of September 10, 2014.

24. Denies the allegations set forth in paragraph 24 of the Complaint.

25. Denies the allegations set forth in paragraph 25 of the Complaint, except admits that TWC failed to distribute UCN's NTD programming in the Hudson Valley area and that UCN notified TWC of such failure, and specifically avers that TWC has admitted that it did not even purport to provide access in the Hudson Valley until after it had already terminated the Purported Agreement as of September 10, 2014 in furtherance of an attempt to increase the value of its alleged damages claim.

26. Denies the allegations set forth in paragraph 26 of the Complaint, respectfully refers the Court to the correspondence identified therein for a complete and accurate recitation of the contents thereof, and specifically avers that TWC had already notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon TWC's termination by severing the fiber signal to TWC on or about September 12, 2014.

27. Denies the allegations set forth in paragraph 27 of the Complaint.

28. Denies the allegations set forth in paragraph 28 of the Complaint and respectfully refers the Court to the correspondence identified therein for a complete and accurate recitation of the contents thereof.

29. Denies the allegations set forth in paragraph 29 of the Complaint, except admits that UCN paid TWC $35,000 in or around January 2014.

30. Denies the allegations set forth in paragraph 30 of the Complaint and specifically avers that TWC had already notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon TWC's termination by severing the fiber signal to TWC on or about September 12, 2014.

31. Denies the allegations set forth in paragraph 31 of the Complaint.

32. Denies the allegations set forth in paragraph 32 of the Complaint.

33. Repeats and realleges each and every response contained in paragraphs 1 through 32 hereinabove as if fully set forth herein in response to Paragraph 33 of the Complaint.

34. Denies the allegations set forth in paragraph 34 of the Complaint and specifically avers that TWC notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon TWC's termination by severing the fiber signal to TWC on or about September 12, 2014.

35. Denies the allegations set forth in paragraph 35 of the Complaint and specifically avers that TWC materially breached the Purported Agreement and also notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon TWC's termination by severing the fiber signal to TWC on or about September 12, 2014.

36. Denies the allegations set forth in paragraph 36 of the Complaint.

37. Denies the allegations set forth in paragraph 37 of the Complaint.

38. Repeats and realleges each and every response contained in paragraphs 1 through 37 hereinabove as if fully set forth herein in response to Paragraph 38 of the Complaint.

39. Denies the allegations set forth in paragraph 39 of the Complaint.

40. Denies the allegations set forth in paragraph 40 of the Complaint.

41. Denies the allegations set forth in paragraph 41 of the Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 42 of the Complaint and specifically avers that, in addition to its material breaches of the Purported Agreement, TWC had already notified UCN that the Purported Agreement was terminated as of September 10, 2014 and UCN acted in reliance upon

TWC's termination by severing the fiber signal to TWC on or about September 12, 2014 and therefore TWC could not have expected compensation following such termination.

43. Denies the allegations set forth in paragraph 43 of the Complaint.

44. Denies the allegations set forth in paragraph 44 of the Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

45. Plaintiff's claims are barred because the Purported Agreement constitutes a *per se* illegal tying arrangement in violation of §1 of the Sherman Act, and thus, is unenforceable.

SECOND AFFIRMATIVE DEFENSE

46. Plaintiff's claims are barred because the Purported Agreement constitutes an illegal tying arrangement under a rule of reason analysis in violation of §1 of the Sherman Act, and thus, is unenforceable.

THIRD AFFIRMATIVE DEFENSE

47. Plaintiff has failed to mitigate any damages it purports to have incurred.

FOURTH AFFIRMATIVE DEFENSE

48. Plaintiff's claims are barred because any damages alleged to have been suffered by Plaintiff are the result of its own acts or omissions.

FIFTH AFFIRMATIVE DEFENSE

49. Plaintiff fails to state a claim upon which relief may be granted.

SIXTH AFFIRMATIVE DEFENSE

50. Plaintiff's claims are barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

51. Plaintiff's claims are barred by its breaches of the Purported Agreement.

EIGHTH AFFIRMATIVE DEFENSE

52. Plaintiff is not entitled to equitable relief because Plaintiff has an adequate remedy at law.

NINTH AFFIRMATIVE DEFENSE

53. Defendant/Counterclaim Plaintiff reserves their right to assert and rely on any such other affirmative defenses in the event that discovery indicates that they are proper.

COUNTERCLAIMS

Defendant/Counterclaim Plaintiff Universal Communications Network, Inc. ("UCN" or "Defendant" or "Counterclaim Plaintiff"), as and for its counterclaims against Plaintiff/Counterclaim Defendant Time Warner Cable Enterprises, LLC's ("TWC" or "Plaintiff" or "Counterclaim Defendant") alleges as follows:

NATURE OF THE COUNTERCLAIMS

54. These counterclaims arise out of Counterclaim Defendant TWC's improper use of its significant market power to strong-arm UCN, a company operating a Chinese-language television network known as "New Tang Dynasty" ("NTD"), into an unenforceable agreement for carriage – *i.e.*, distribution and broadcast – of NTD on various geographically unrelated TWC systems in order to obtain UCN's desired carriage of NTD on TWC's New York system.

55. As set forth in detail below, TWC first coerced UCN to enter into the Purported Agreement, notwithstanding its unlawful terms; TWC then materially breached the Purported Agreement; then, after TWC notified UCN that the Purported Agreement would terminate by no later than September 10, 2014 and UCN, in reliance upon TWC's election to terminate the Purported Agreement, affirmatively cut its fiber transmission signal to TWC in accordance with

the termination, TWC pirated UCN's signal directly from UCN's satellite signal in an unlawful and ill-conceived effort to manufacture a massive claim for damages.

PARTIES

56. UCN is a New Jersey corporation with its principal place of business at 229 W. 28th Street, Suite 700, New York, NY 10001.

57. Upon information and belief, Time Warner Cable Enterprises LLC is a Delaware limited liability company with its principal place of business located at 60 Columbus Circle, New York, New York 10023.

58. Upon information and belief, TWC is among the largest providers of video, high-speed data and voice services in the United States, connecting 15 million customers to entertainment, information and communication services.

59. Upon information and belief, TWC is the second largest cable television provider in the country, maintaining a market share in television services of approximately 23% nationwide. Upon information and belief, TWC's market share is even higher in the Greater New York area and it is the largest incumbent cable provider, with a service footprint that covers most of upstate New York as well as the Metro New York City region.

FACTUAL ALLEGATIONS

Background of the Parties

60. UCN is a company that operates NTD, a television network whose mission is to get uncensored news to China as well as Chinese diaspora communities.

61. NTD's programming is independent and based on U.S. journalistic practices, thereby offering the Chinese community an alternative to propaganda-heavy Chinese government sponsored television programming.

62. NTD's programming is provided to cable providers, such as TWC, through certain fiber and satellite signals. In providing NTD content, UCN determines the most efficient and reliable way to transmit NTD's programming to the cable television service provider – *i.e.*, either through a fiber signal or a satellite signal – and provides the service provider with access to that designated signal.

63. UCN's fiber signals are dedicated to a particular service provider, and may be shut off by UCN at any time. Alternatively, UCN's satellite signal is accessed by more than one service provider, and if UCN were to shut off its satellite signal, all service providers who access that signal would stop receiving transmission of NTD's programming and, accordingly, NTD cannot shut off its satellite signal without completely ceasing broadcast operations.

64. NTD's programming can be seen via cable and over the airwaves in and around New York, Los Angeles, San Francisco, Washington, D.C., Houston, and Honolulu.

65. NTD's programming is funded in large part by advertising sponsors.

66. Approximately 90% of UCN's advertising revenue is generated in the New York market.

67. The most significant market for UCN's NTD programming is the Greater New York area market.

68. Within the New York market, NTD enjoys a substantial viewer base in, among other places, the Hudson Valley.

69. In addition, UCN estimates that it has over 230,000 NTD viewers in the Greater New York Area alone and, upon information and belief, viewership on TWC's New York system accounts for approximately 40% of its New York viewership.

70. Accordingly, broadcast presence in the New York area is crucial to UCN's business.

71. Upon information and belief, TWC knew, at all times relevant, the importance of the New York market to UCN. Indeed, in or around March 2013, UCN explicitly advised TWC that the New York market was significant for NTD's U.S. distribution and for UCN's sales, as well as for reaching as large an audience as possible.

72. Upon information and belief, TWC offers its cable television service in various geographical areas across the country.

73. Upon information and belief, TWC offers its cable television services to these various geographical areas through separate and distinct "systems."

74. Upon information and belief, each of TWC's separate and distinct cable television systems provide, among other things, cable television services to particular geographical areas. Upon information and belief, TWC's various geographical systems do not offer identical channels.

75. TWC prices carriage on each distinct geographical system separately.

76. Upon information and belief, TWC controls a significant, and in some instances, a dominant market share of cable television broadcast services in the relevant geographical market of the Greater New York Area, which includes, the area around and including New York City, as well as Long Island, Westchester and Bergen County, New Jersey.

77. Upon information and belief, TWC controls a significant market share of cable television broadcast services in the relevant geographical market of Hawaii, which includes the entire state of Hawaii.

78. Upon information and belief, TWC controls a smaller market share of the cable television services in the Los Angeles area market than it does in the New York and Hawaii markets.

TWC's Carriage of NTD

79. Beginning in November 2009, TWC began carrying NTD as a 24 hour a day, 7 days a week network on its cable system in the Greater New York area at a rate of $40,000 per month. Subsequently, in December 2012, TWC and UCN agreed on a new rate whereby UCN paid $35,000 per month for carriage of NTD on TWC's New York system for two years.

80. Beginning in July 2010, TWC also began carrying NTD on its Hawaii system as well at a rate of $6,500 per month.

81. In or around March 2013, TWC proposed new pricing terms to UCN for its continued carriage of NTD's programming. Specifically, TWC offered to carry NTD's programming on its New York system for $60,000 per month and on its Hawaii system for $15,000 per month for a three year term.

82. TWC advised that its offer for continued carriage of NTD's programming was a package, such that to get those rates, UCN would have to agree to carriage on both the New York and Hawaii systems.

83. TWC's proposed rates were substantially higher than the rate UCN previously charged to UCN for carriage on the New York system and the Hawaii system.

84. TWC's proposal also included optional carriage on its Los Angeles system at a rate of $80,000 per month.

85. TWC's pricing approach, which set separate fees for carriage on each system, demonstrates that TWC views each of its markets and carriage for each area as separate and distinct services.

86. In response to TWC's initial offer, UCN requested a more reasonable price of $30,000 per month for carriage on the New York system, together with free advertising space for TWC. UCN also offered a more reasonable rate of $6,500 per month for carriage on the Hawaii system.

87. UCN explicitly advised TWC that while carriage in Hawaii was not that important, the New York market was significant for NTD's U.S. distribution and for UCN's sales, as well as for reaching as large an audience as possible.

88. UCN believed its offered rates to be more in line with what TWC would have charged had TWC not been unreasonably exploiting its market power in New York to leverage its other markets in an unlawful tying gambit.

89. TWC responded to UCN's counteroffer by advising that there was no room to counter and that, unless UCN agreed to pay the rates it offered, TWC would drop NTD from its Hawaii system on July 10, 2013 and would drop NTD from its New York system on December 31, 2013.

90. UCN did not agree to TWC's offer of carriage on the Hawaii system for $15,000 per month. Accordingly, TWC dropped NTD from its Hawaii system on or around July 10, 2013.

TWC's Unreasonable Tying of the New York, Hawaii and Los Angeles Markets

91. In or around September 2013, UCN and TWC revisited the pricing for carriage of NTD.

92. At that time, TWC advised, without explanation, that its rates had risen substantially, and offered a new package of carriage on the New York, Hawaii and Los Angeles systems at a total monthly rate of $250,000 per month – nearly $100,000 per month over TWC's previous offer.

93. In addition to the unjustified price increase, TWC's new offer required that UCN agree to carriage on all three systems. In other words, unlike TWC's previous offer, the Los Angeles system was no longer optional.

94. In response, UCN requested carriage on the New York system only, for the previously offered rate of $60,000 per month. TWC flatly rejected UCN's request for carriage on the New York system only, insisting that UCN had to agree to carriage on all three systems.

95. Rather than lose UCN as a channel lessee, TWC offered a new pricing scheme, whereby carriage of NTD on the New York system was priced at $60,000 per month, the Hawaii system was priced at $15,000 per month, and the Los Angeles system was priced at $80,000 per month. Together, the stated rates amount to $155,000 per month.

96. However, this new pricing scheme was contingent on UCN agreeing to carriage in all three markets – *i.e.,* New York, Hawaii and Los Angeles – and the only way UCN could obtain carriage in New York at the $60,000 rate would be if UCN accepted TWC's tied package of geographic markets.

97. Indeed, TWC advised that for UCN to be entitled to the $155,000 pricing scheme it had previously offered, agreeing to carriage in the Los Angeles market was "mandatory."

98. TWC offered an alternative for carriage on only the New York and Hawaii systems at a monthly rate of $105,000 per month – *i.e.*, a 30% higher rate for the New York and

Hawaii systems than if NTD was carried on all three systems. TWC did not offer any basis for such an onerous price differential.

99. Exercising its market power and dominance over the New York market, TWC categorically refused, without any stated cause, to extend a reasonable offer to carry NTD programming on its New York system alone, notwithstanding UCN's requests.

100. UCN advised TWC that it could not afford to pay $105,000 per month for the New York and Hawaii systems and that it could not afford carriage on the Los Angeles system.

101. In response, TWC advised that the two pricing schemes – *i.e.*, New York, Hawaii and Los Angeles for $155, 000 per month or New York and Hawaii for $105,000 per month – were the only two options. TWC further advised that if UCN did not accept one of the options, TWC would remove NTD from its systems on December 31, 2013.

102. Accordingly, in order for UCN to obtain carriage on TWC's New York system, carriage critical to its business, UCN was forced to accept carriage of NTD on the geographically unrelated Hawaii and Los Angeles systems and to pay the rates demanded by TWC for the tied geographic markets.

103. In light of the importance of the New York market to UCN's business described above, and given TWC's appreciable market power in the cable television market in the New York area, TWC coerced UCN into submitting to TWC's unfair pricing scheme and agreeing to carriage in markets and at prices it had no desire to pay.

104. And given the unreasonable and onerous pricing differential between the three market (*i.e.*, New York, Los Angeles and Hawaii) option versus the two market (*i.e.*, New York and Hawaii) option offered by TWC, UCN unwillingly accepted the three market option.

105. Accordingly, TWC and UCN entered into the purported "Channel Lease Agreement" dated as of December 23, 2013 (the "Purported Agreement") pursuant to which TWC commenced broadcasting NTD programming on part of its New York system, its Hawaii system and its Los Angeles system. (Ex. A hereto).

106. Had TWC not conditioned carriage in New York on carriage in Hawaii and/or Los Angeles, UCN could have elected to broadcast its NTD programs through other service providers in the Hawaii and Los Angeles markets.

107. Thus, TWC's unreasonable tying of the New York, Hawaii and Los Angeles markets unfairly restrained trade and foreclosed competition in those markets. Upon information and belief, TWC has engaged in the same predatory activities with respect to other broadcasters. The Purported Agreement is therefore unenforceable.

The Purported Agreement

108. The Purported Agreement defines the scope of the New York, Los Angeles and Hawaii cable television systems.

109. The Purported Agreement defines the New York system as certain communities of the New York designated market area, including Manhattan, Brooklyn, Queens, Staten Island, Mount Vernon, the Hudson Valley and Bergen County (the "New York System"). (Ex. A, ¶A). The Purported Agreement defines the Los Angeles system as certain communities in Los Angeles, California (the "Los Angeles System"), and the Hawaii system as certain communities in Hawaii (the "Hawaii System," collectively with the New York System and the Los Angeles System, the "Systems"). (*Id.*)

110. Under the Purported Agreement, TWC agreed *inter alia* to distribute and broadcast UCN's NTD programming on its New York System, Los Angeles System and Hawaii System. (Ex. A at Schedule A, ¶1).

111. In exchange for TWC's distribution and broadcast in these Systems, Schedule A to the Purported Agreement sets forth fixed monthly fees for carriage of NTD programming on each of the Systems in the following amounts: $60,000 per month for the New York System; $15,000 per month for the Hawaii System; and $80,000 per month for the Los Angeles System. (Ex. A at Schedule A).

112. UCN had also previously paid a security deposit to TWC (the "Security Deposit"). The Purported Agreement provided that the Security Deposit would be refunded within sixty (60) days after the termination of the Purported Agreement, less any amounts owing and unpaid by the Lessee at that time. (Ex. A at Schedule A, ¶2).

113. The Purported Agreement under paragraph 12 defines the term as beginning on January 1, 2014 and ending on June 30, 2016, unless terminated sooner. (Ex. A, ¶2).

114. Paragraph 12 provides that the Purported Agreement could be terminated for various reasons, including among other things: (i) by either party in the event of a material breach by the other party of any provision of the Purported Agreement; or (ii) by TWC, if UCN failed to make any lease payments due under the Purported Agreement and UCN fails to cure such failure within 10 days after such payment was due. (Ex. A at ¶12(a)-(b)).

TWC's Failures To Perform

115. After executing the Purported Agreement, TWC began broadcasting NTD programming on certain portions of the New York System and the Hawaii System. However,

despite the obligations set forth in the Purported Agreement, TWC failed to launch NTD programming to the Hudson Valley area, which was expressly included in the New York System.

116. TWC's failure to distribute or broadcast NTD programming in the Hudson Valley area constituted a material breach of TWC's obligations under the Purported Agreement because it is specifically a required part of the New York System.

117. Upon learning of TWC's failure, on July 29, 2014, UCN notified TWC of its failure to distribute and broadcast NTD in the Hudson Valley (the "July 29 Notice").

118. The July 29 Notice also notified TWC of its failure to fulfill other material obligations set forth in the Purported Agreement.

119. Specifically, in or around May 2014, TWC changed the channel number offering NTD's programming on the New York System from 589 to 1414. While the Purported Agreement allows TWC to change the channel number, it requires that TWC provide UCN with "reasonable notice" in advance of such change. (Ex. A at ¶1).

120. TWC failed to provide such advance notice of the channel change. Such failure constitutes a material breach of the Purported Agreement.

121. Had TWC provided the required notice, UCN would have informed TWC that 1414 was an unacceptable channel number given that the Chinese pronunciation of that number is confusingly similar to offensive and threatening language that would harm UCN's relationship with its audience.

122. Compounding its failure to notify UCN of the channel change, TWC also failed to provide notice of such change to its subscribers, leaving NTD off the list of its new channel lineup.

123. As a result of this failure, several NTD viewers, who sought to locate the network after TWC's channel change, contacted TWC to inquire as to the new channel number for NTD.

124. These viewers were informed by TWC that it no longer carried NTD. Upon information and belief, TWC so advised the viewers because TWC's own personnel discovered that there was no channel listing for NTD; but whatever the explanation, TWC's actions deprived NTD of its viewers and the viewers of access to NTD.

125. Upon information and belief, as a result of TWC's failure to notify UCN of the channel change, failure to include NTD on its new channel lineup list, and misrepresentation to NTD viewers that NTD was no longer being carried by TWC, NTD lost substantial viewership, and in turn, advertising sales revenue. Accordingly, NTD was directly damaged by TWC's failure to perform.

126. Finally, in addition to the foregoing breaches, TWC also failed to timely invoice UCN for its carriage of NTD and has failed to return UCN's Security Deposit.

127. In response to the July 29 Notice, TWC conceded its breaches of the Purported Agreement, including that it had not been distributing or broadcasting NTD in the Hudson Valley and that it had failed to provide notice of the channel change and failed to include NTD on its new channel lineup listing material.

128. Indeed, even after UCN notified TWC of its failure to broadcast NTD in the Hudson Valley in July 2014, TWC did not correct the error until late September 2014, subsequent to the effective date of TWC's termination of the Purported Agreement and subsequent to UCN's reliance upon such termination and its severing of the signal to TWC. Prior to such termination, NTD continued to lose viewership and thus, lose advertising sales and revenues.

129. TWC's failure to notify UCN of the change in NTD's channel number, its failure to include NTD on its new channel lineup, and its active dispensing of misinformation concerning NTD's carriage on TWC to NTD's viewers caused NTD to lose viewers and advertising sales revenue. At no time prior to its election to terminate the Purported Agreement did TWC attempt to remedy its breaches.

TWC's Termination of the Purported Agreement

130. In addition to providing notice of TWC's material failures to perform, the July 29 Notice, also advised TWC that the mandated carriage in three geographically unrelated Systems and manipulation of rates to restrain UCN's choice of service providers in other geographic areas constituted illegal tying and a misuse of TWC's market power.

131. Thereafter, by letter dated August 18, 2014, TWC demanded payment of certain monthly fees it claimed were due under the Purported Agreement and expressly advised "that **TWC will terminate the Agreement effective as of September 10, 2014 and drop UCN in all TWC systems**" if UCN did not make the demanded payments prior to September 10, 2014.

132. UCN did not make any payment to TWC in response to the demand. Rather, UCN accepted TWC's election to terminate the Purported Agreement and drop carriage of NTD programming on all of its Systems as of September 10, 2014.

133. TWC did not, at any time before September 10, 2014, recant or rescind its election to terminate the Purported Agreement.

134. Accordingly, UCN reasonably relied on TWC's election to terminate the Purported Agreement as of September 10, 2014 and cut the fiber signal that provided TWC with UCN's NTD programming on or around September 12, 2014.

135. By cutting its fiber signal, UCN unequivocally demonstrated its acceptance of TWC's election to terminate the Purported Agreement and cutting the fiber signal ensured that NTD would no longer be carried by TWC in accordance with TWC's stated election to terminate the Purported Agreement.

136. Accordingly, as of September 10, 2014, the Purported Agreement was terminated in accordance with TWC's election and UCN's acceptance of TWC's election to terminate, to the extent such Purported Agreement had ever been a lawful and enforceable agreement and to the extent that TWC had not theretofore materially breached the Purported Agreement.

TWC Pirates UCN's Signal To Broadcast NTD Programming

137. Upon information and belief, soon after terminating the Purported Agreement, TWC realized that by so doing, it thereby cut off any possible claim for "damages" for alleged breach of contract by UCN and unilaterally, and without any revocation of its election, attempted to ignore its termination election.

138. Just days after UCN cut its fiber signal to TWC, and despite TWC's own election to terminate the Purported Agreement, TWC improperly and without authorization or permission and without any communication to UCN's management, connected to UCN's satellite signal and began broadcasting NTD's programming to TWC subscribers.

139. Having unilaterally pirated UCN's satellite signal, TWC then sent a letter dated September 23, 2014, pretending to retroactively rescind its prior termination of the Purported Agreement and unilaterally revive it despite UCN's reliance upon such termination and severing of its fiber signal to TWC.

140. UCN did not agree to TWC's attempted retraction of its election to terminate.

141. TWC's unauthorized misappropriation of UCN's satellite signal and broadcast of NTD programming over its New York, Los Angeles and Hawaii Systems after it unambiguously terminated the Purported Agreement and after UCN cut off its fiber signal to TWC constitutes, *inter alia*, unlawful piracy under the Communications Act, 47 U.S.C. §§553 and 605.

142. Upon information and belief, TWC's intention in pirating UCN's signal and in attempting to retroactively rescind its termination was to continue carriage of NTD's programming in order to maintain the subscriptions of NTD viewers and to "run up the bill" for the monthly fees it was charging UCN for over seven months.

143. Coincidentally, TWC's covert attempt to run up damages for over seven months, without any disclosure of its actions and without purporting to pursue the claims it asserts herein coincided with the period of time TWC was under antitrust scrutiny in connection with a proposed merger between Comcast and TWC.

144. Upon information and belief, TWC did not, at any time after it terminated the Purported Agreement, seek to replace NTD's programming with another content provider nor did it try to lease NTD's channel number to another content provider nor did it even take the simple step of dropping carriage of NTD which it advised UCN it would do on September 10, 2014 and which, but for TWC's theft of UCN's satellite signal after UCN severed the fiber signal to TWC, would have occurred consistent with TWC's termination.

145. Accordingly, not only did TWC manufacture its damage claim here by stealing UCN's satellite signal after having terminated the Purported Agreement, TWC also failed to mitigate any purported damages it incurred in connection with the Purported Agreement and/or termination thereof.

TWC Continues To Run Up Its Claim For And Fails To Mitigate Its "Damages"

146. Following its election to terminate and UCN's acceptance thereof and following TWC's unilateral and unauthorized attempt to undo its termination, TWC continued to pirate UCN's satellite signal and broadcast NTD programming on its Systems for over seven more months.

147. Upon information and belief, TWC's continued broadcast of UCN's pirated satellite signal was aimed at running up its purported damages claim by continuing to charge monthly carriage fees where its termination and UCN's acceptance thereof effectively barred TWC from any further claim.

148. Finally, on April 17, 2015, TWC's counsel sent another demand for payment of the monthly carriage fees it had been improperly charging UCN for its broadcast of a pirated signal since January 2014 under the long since terminated Purported Agreement (the "April 17 Demand Letter"). In making the demand, TWC disingenuously claimed that it had not terminated the Purported Agreement, ignored that it carried NTD only by pirating its satellite signal and demanded payment of all amounts due within 10 business days.

149. The April 17 Demand Letter wholly ignored TWC's pirating of UCN's satellite signal, its improper tying and anticompetitive behavior in arriving at the Purported Agreement in the first instance, its own material breaches of the Purported Agreement and its termination of the Purported Agreement. Nor did it even acknowledge TWC's over seven month delay in addressing any of its purported claims.

150. The April 17 Demand Letter also did not identify any reasonable attempts to mitigate TWC's purported damages.

151. Consistent only with the fact that TWC maintained its silence for its own business reasons in connection with its intended merger with Comcast, upon information and belief, the April 17 Demand Letter was sent at or about the time TWC accepted its intended merger with Comcast would not be approved and would have to be withdrawn.

152. In response to the April 17 Demand Letter, UCN advised that it had acknowledged and accepted TWC's election to terminate the Purported Agreement, and that TWC had failed to mitigate its damages and continued to broadcast NTD's programming at its own risk and expense.

153. UCN also reiterated its previous position that the Purported Agreement violated antitrust laws and was therefore unenforceable, and that even if enforceable, TWC had failed to perform under the Agreement.

154. Nearly three months later, TWC filed the Complaint in the above-captioned action.

155. Upon information and belief, TWC only filed the Complaint in this action after the proposed Comcast merger failed and TWC believed that its new contemplated merger with Charter Communications would not be affected by public revelation of its unlawful conduct.

FIRST CAUSE OF ACTION
(Piracy Under 47 U.S.C. §§553 and 605)

156. Counterclaim Plaintiff repeats and realleges the allegations set forth in Paragraphs 54-155 above, as if fully set forth herein.

157. On September 10, 2014 TWC terminated the Purported Agreement to lease channel space to UCN in exchange for certain carriage fees.

158. UCN accepted TWC's termination of the Purported Agreement and shut off its fiber signal that delivered NTD's programming to TWC.

159. In an attempt to cause UCN to involuntarily remain on TWC's service after TWC had already terminated the Purported Agreement and after UCN accepted such termination by severing its fiber signal, TWC purposefully bypassed UCN management in order to impermissibly obtain instructions as to how to connect TWC to UCN's satellite signal and connected to the signal without permission, license or other authorization.

160. TWC then used its unauthorized connection to UCN's signal to unilaterally continue to broadcast NTD programming to its subscribers on the Systems despite having terminated the Purported Agreement.

161. TWC's broadcast of NTD was not authorized, nor was receipt of NTD's programming by TWC's viewers.

162. TWC benefited from its unauthorized broadcast by avoiding loss of NTD viewership and maintaining use of NTD programming.

163. As a result of TWC's willful unauthorized misappropriation of UCN's satellite signal and its unauthorized broadcast of NTD programming after termination of the Purported Agreement for its own direct commercial advantage and private financial gain, UCN is entitled to costs, attorneys' fees and damages pursuant to 47 U.S.C. §§553(c)(3)(B) and/or 605(e)(3)(C)(ii) in an amount to be determined at trial, but in excess of $1,085,000 plus reasonable attorneys' fees and costs.

SECOND CAUSE OF ACTION
(Unfair Competition)

164. Counterclaim Plaintiff repeats and realleges the allegations set forth in Paragraphs 54-163 above, as if fully set forth herein.

165. TWC's pirating of UCN's satellite signal and unauthorized broadcast of NTD's programming after TWC terminated the Purported Agreement constitutes unfair and improper conduct and has caused confusion in the minds of the viewing public.

166. TWC's unfair and improper conduct and misappropriation of UCN's satellite signal constitute unfair competition.

167. As a result of TWC's unfair competition, UCN has been damaged in an amount to be determined at trial, but in excess of $1,000,000.

THIRD CAUSE OF ACTION
(Breach of Contract, In the Alternative)

168. Counterclaim Plaintiff repeats and realleges the allegations set forth in Paragraphs 54-167 above, as if fully set forth herein.

169. TWC and UCN entered into the Purported Agreement.

170. TWC failed to perform its obligations under the Purported Agreement, including by failing to broadcast NTD programming in parts of the New York System and by failing to provide notice of a channel change, both of which were expressly required under the Purported Agreement.

171. In addition, the Purported Agreement required TWC to return UCN's Security Deposit in the event of termination.

172. TWC terminated the Purported Agreement but has not returned such Security Deposit.

173. UCN was damaged as a result of TWC's failure to perform its obligations under the Purported Agreement, by, among other things, loss of viewership and advertising revenue.

174. The Purported Agreement violates federal antitrust laws and is thus, unenforceable.

175. To the extent the Purported Agreement is enforceable, in the alternative, TWC has materially breached the Purported Agreement and has damaged UCN in an amount to be determined at trial, but no less than $1,000,000.

FOURTH CAUSE OF ACTION
(Unjust Enrichment)

176. Counterclaim Plaintiff repeats and realleges the allegations set forth in Paragraphs 54-175 above, as if fully set forth herein.

177. TWC has engaged in improper conduct including pirating UCN's satellite signal and breaching the Purported Agreement for its own benefit.

178. In addition, despite being required to return UCN's Security Deposit paid under the Purported Agreement after termination, TWC has not returned such Security Deposit.

179. As a result of TWC's improper conduct, UCN has been damaged in an amount to be determined at trial but no less than $1,000,000.

FIFTH CAUSE OF ACTION
(N.Y. Gen. Bus. Law § 349)

180. Counterclaim Plaintiff repeats and realleges the allegations set forth in Paragraphs 54-179 above, as if fully set forth herein.

181. TWC has engaged in deceptive trade practices to in violation of N.Y. Gen. Bus. Law § 349 by broadcasting NTD programming after TWC's termination of the Purported Agreement.

182. TWC's misconduct in disseminating NTD is consumer-oriented, in that it was directed towards TWC's countless thousands of viewers.

183. TWC's misconduct was materially misleading in suggesting that TWC had permission to disseminate NTD's programming after TWC terminated the Purported Agreement and that TWC had a right to receive its own fee in return for broadcasting such programming.

184. TWC's conduct has caused injury to UCN.

185. As a result of TWC's misconduct, UCN has been damaged in an amount to be determined at trial but no less than $1,000,000.

WHEREFORE, Defendant/Counterclaim Plaintiff demands judgment against TWC as follows:

(a) dismissing the Complaint in its entirety, with prejudice;

(b) on Counterclaim Plaintiff's first cause of action, damages in an amount to be determined at trial but believed to be in excess of $1,085,000, plus reasonable attorneys' fees and costs;

(c) on Counterclaim Plaintiff's second cause of action, damages in an amount to be determined at trial but believed to be in excess of $1,000,000;

(d) on Counterclaim Plaintiff's third cause of action, damages in an amount to be determined at trial but believed to be in excess of $1,000,000;

(e) on Counterclaim Plaintiff's fourth cause of action, damages in an amount to be determined at trial but believed to be in excess of $1,000,000;

(d) on Counterclaim Plaintiff's fifth cause of action, damages in an amount to be determined at trial but believed to be in excess of $1,000,000; and

(e) granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York
August 28, 2015

PRYOR CASHMAN LLP

By: _____

Donald S. Zakarin
William L. Charron
M. Mona Simonian
Erich C. Carey
7 Times Square
New York, New York 10036
(212) 421-4100

Attorneys for Defendant/Counterclaim Plaintiff Universal Communications Network, Inc.

EXHIBIT A

EXECUTION VERSION

CHANNEL LEASE AGREEMENT

This Agreement is entered into as of December 23, 2013 (the "**Effective Date**"), by and between TIME WARNER CABLE ENTERPRISES LLC ("**Lessor**"), a Delaware limited liability company with offices located at 60 Columbus Circle, New York, NY 10023, and UNIVERSAL COMMUNICATIONS NETWORK, INC. ("**Lessee**") a New Jersey corporation with offices located at 229 West 28th Street, 7th Floor, New York, NY 10001.

RECITALS

A. Lessor operates certain cable television systems serving certain communities in Los Angeles, California (the "**LA Systems**"), certain communities in Hawaii (the "**HI Systems**") and certain communities of the New York designated market area, including Manhattan, Brooklyn, Queens, Staten Island, Mount Vernon, the Hudson Valley and Bergen County (the "**NY Systems**", and together with the LA Systems, HI Systems and any other systems operated, leased, managed or controlled by Lessor, the "**Systems**").

B. Lessee desires to distribute the television programming service known as New Tang Dynasty (the "**Service**") on the Systems pursuant to Section 612 of the Communications Act and subject to the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, Lessor and Lessee agree as follows:

AGREEMENT

1. **Use of Channel.** Lessee hereby grants Lessor the non-exclusive right and license to: (i) receive the signal(s) for the Service ("**Signal(s)**"); (ii) digitize, compress, modify, and otherwise technologically manipulate (including the right to buffer) ("**Technologically Manipulate**") the Signal(s); and (iii) transmit, distribute, perform, display and exhibit the Signal(s) and the Service, whether in the format delivered as of the date hereof or in any other format now known or hereafter developed, to each subscriber of Lessor's Systems. Lessee also hereby grants to Lessor and each of its Systems enhanced television rights as set forth in Schedule D and the non-exclusive right throughout the Term to distribute, perform, display and otherwise make the Service available via the Internet. Lessor will distribute the principal video and accompanying principal audio of the Service as set out in Schedule A to this Agreement ("**Schedule A**"). Lessor will further distribute the Required Materials; provided that in each case (A) Lessee delivers the Required Materials in a format and manner reasonably specified by Lessor and at no cost to Lessor, any System or its

subscribers; and (B) Lessee does not transmit any other information or material together with, or inseparable from, any Required Materials. **"Required Materials"** means (i) closed-captioning for the hearing impaired with respect to the principal language audio, and (ii) program content advisory materials (i.e., V-Chip material). The Signal shall not contain any material, information, data, images, sounds, triggers, applications or features other than the principal video and accompanying principal audio of the Service and the Required Materials. Ownership and control of any and all channels on the Systems (and the signal distribution capacity contained within the bandwidth of such channels, including the vertical blanking interval) shall at all times be and remain with Lessor. Lessee shall have no right to any particular channel or to any rights or priorities for further or future access to the Systems, and Lessor expressly reserves the right at any time and from time to time, upon reasonable notice to Lessee, to distribute Lessee's Service on a different channel. Lessor may without limitation enter into agreements for the use of its channels by others or make use of any channel time reserved by Lessee during any time when Lessee fails to provide the Service for such channel that complies with this Agreement.

2. **Term of Agreement.** The term of this Agreement shall begin on January 1, 2014 and shall end on June 30, 2016 unless terminated sooner pursuant to paragraph 12 below (the "**Term**").

3. **Technical Requirements.** At Lessor's request, Lessee shall, at its expense, transmit the Signal(s) to each System headend or other first downlink facility via domestic communications satellite(s) commonly used for transmission of cable television programming signals and use technology, standards, practices and procedures that are generally-accepted throughout the United States cable television industry or that are otherwise reasonably requested by Lessor. Lessee shall, at Lessor's option, supply to Lessor or reimburse Lessor for, any and all facilities or equipment that are or will be necessary for all Lessor headends to receive and distribute the Service as contemplated hereunder, including any necessary IRDs. Lessee shall ensure that neither Lessee's access hereunder nor its use of any equipment in connection therewith shall impair or interfere with the quality of any audio, video or data signals distributed by Lessor, any of its other licensees, or other authorized users. Lessee's Service shall meet reasonable production standards comparable to those applied to public, educational and government access channels.

4. **Financial Terms.**

(a) **Fee for Channel Use in the HI Systems, LA Systems and NY Systems.** Lessee shall pay a fee for Lessor's distribution of the Signal(s) and the Service to the HI Systems, LA Systems and NY Systems in accordance with the payment schedule set out in Schedule A of this Agreement. Without prejudice to any of Lessor's rights under the terms of this Agreement, or at common law or equity, Lessor

may terminate this Agreement in accordance with paragraph 12 of this Agreement if Lessee fails to make any payment required hereunder when due.

(b) **Security Deposit**. Contemporaneously with the execution of this Agreement, Lessee shall pay to Lessor a Security Deposit (as defined in Schedule A of this Agreement).

(c) **Fees for Carriage on an À La Carte Basis and in a Package of Premium Programming Services.**

Lessor shall pay to Lessee the following fees for carriage of the Service solely on an à la carte basis or as part of a package containing at least one other premium programming service (a "**Package**"), and solely with respect to subscribers of Systems other than the HI Systems, LA Systems and NY Systems:

(i) For each such subscriber that receives the Service on an à la carte basis, the monthly fee shall equal the greater of (A) $2.50 and (B) fifty percent (50%) of the retail price charged by the applicable System for the Service

(ii) For each such subscriber that receives the Service as part of a Package, the monthly fee shall equal the greater of (A) $1.25 and (B) fifty percent (50%) of the Service Package Revenue (as defined below), less any refunds, credits or charge backs provided by Lessor or such System in such month. For purposes hereof, the "**Service Package Revenue**" shall be an amount equal to the total revenue collected by Lessor and/or the applicable System from each such subscriber for receipt of the Package (excluding any amounts attributable to non-programming services, equipment, fees and taxes), divided by the number of programming services (including the Service) contained in the Package in such System.

(iii) For purposes of calculating the fees pursuant to this paragraph 4(c), the number of subscribers that receive the Service shall be determined using Lessor's standard methods, as generally applied to other similarly-situated programming services, including those used to determine (i) the number of such subscribers attributable to multiple dwelling complexes, including apartment complexes, planned communities, hotels, motels and similar establishments that receive the Service on a bulk-rate basis, and (ii) exclusions from the number of subscribers who have not paid their monthly rate to Lessor for a given month (which may be determined using the bad debt percentage for subscription services experienced by Lessor) and courtesy subscribers. Any subscriber that receives the Service on more than one (1) tier, level or package of services or that receives more than one (1) feed of the Service shall count only

as one (1) subscriber. Notwithstanding anything to the contrary herein, in no event shall Lessor be required to pay any fee with respect to any subscriber that receives the Service on digital basic tier or any more highly penetrated tier, regardless of whether such subscriber also receives the Service à la carte or in a Package.

5. Content of the Service.

(a) **Service Description.** Lessee agrees that, throughout the Term, (i) the Service shall be a twenty-four (24) hour per day, seven (7) day per week, professionally-produced, advertiser-supported, general entertainment video programming service targeted to upscale, well-educated Chinese Americans; and (ii) the Service shall be entirely in Mandarin, other than up to 3% which may be in Cantonese and up to 10% which may be in English. The Service will contain programming in the following categories: (i) children's, (ii) finance and business, (iii) entertainment (iv) sports, (v) talk shows (vi) feature documentaries, (vii) prime time drama and (viii) news from local and global perspectives, including news from and about China the majority of which will be uncensored by the Chinese government.

(b) **Restrictions.** (i) Lessee covenants that, throughout the Term: (i) in no event shall any single specialized programming category dominate the Service to such extent that the Service could reasonably be characterized as a service of a specialized programming category (e.g., a "sports service," a "comedy service," a "music video service," a "children's service," a "movie service"); (ii) the Service shall not include any programming rated (or, if not rated, that would have been rated) more restrictively than TVPG in accordance with the then-current NCTA accepted standards (or any successor standard), which as of the Effective Date consists of the TV Parental Guidelines attached hereto as Schedule E (**"TV Guidelines"**); (iii) the Service shall not include any wagering or gambling-related programming, any pay-per-view programming, or programming for which Lessee seeks a surcharge fee; (iv) the Service shall not include "infomercials," "advertorials," "home shopping," direct on-air sales/marketing programming, or other similar paid programming (collectively **"Paid Programming"**) except that Lessee may include up to three (3) hours per day of Paid Programming in the Service between the hours of 2:00 a.m. and 6:00 a.m. (prevailing local time); (v) the Service shall not include any advertisements for any telephone services that bill a caller for placing or confirming the call (other than for ordinary usage charges assessed by the subscriber's telephony provider) or that relate directly or indirectly to gambling, the occult, astrology, psychic readings, sexual activities, services that target children, or any similar services; and (vi) the Service shall not include any advertisements that relate directly or indirectly to any adult products or services. Lessee acknowledges and agrees that the provisions of paragraphs 5(a) and (b) constitute a material inducement to Lessor's entering into this Agreement. Accordingly, if Lessor determines that any programming contained in the Service fails to comply with such paragraphs (**"Non-Conforming Programming"**), such failure shall be considered a material breach of this

Agreement, and Lessor may, at its option, in addition to any rights it may have at law, in equity or hereunder, temporarily suspend or terminate distribution of the Service on any or all Systems, effective immediately upon written notice to Lessee.

(ii) **Commercial Announcement Time.** Lessee shall not include more than twelve (12) minutes of commercial announcements, promotions, PSAs, sponsorship or other announcements, product placements, and other non-programming material (collectively, **"Commercial Announcement Time"**) in the Service, including the Commercial Announcement Time allocated to Lessor, during any hour of the Service. In each hour of the Service, Lessee shall make available to Lessor not less than twenty percent (20%) of the total Commercial Announcement Time, equally distributed throughout each and every hour of the Service and in time blocks of no less than one (1) minute each. Commercial Announcement Time made available to Lessee under this Agreement shall be in-program and shall be no less favorable, in terms of scheduling, availability, length and other applicable terms, than that made available to any other distributor of the Service. Lessee shall properly "tone switch" via inaudible signals (i.e., cue tones or the digital equivalent in a manner compliant with SCTE Standard 35 (or any successor industry standard adopted by Lessor)) all of Lessor's Commercial Announcement Time to enable Lessor to utilize its Commercial Announcement Time using then-standard industry equipment. Lessor shall have the right to retain for itself all of the proceeds derived from the sale of its Commercial Announcement Time.

6. **Warranties of Lessee.** Lessee hereby represents and warrants its compliance with the following covenants. These representations and warranties are material inducements to Lessor to enter into this Agreement, and Lessee's rights under this Agreement shall be dependent on its compliance with these covenants:

(a) **Authority to contract.** Lessee (i) has the requisite power and authority to execute and deliver this Agreement and to fully perform its obligations hereunder; and (ii) is not subject to any contractual or other legal obligation that would reasonably be expected to interfere in any way with its full performance hereunder. The individual executing this Agreement on behalf of Lessee has the authority to do so. The execution, delivery and performance of this Agreement has been duly authorized by all actions necessary on the part of Lessee.

(b) **Objectionable Programming.** No programming provided by Lessee for distribution by Lessor will be obscene or indecent as determined by Lessor, in its sole discretion, and as set forth on Lessor's policy on indecency attached hereto and incorporated herein as Schedule C of this Agreement.

(c) **Permits and Licenses.** Lessee shall obtain, at its own expense, any local, state or federal permits, licenses or other authorizations required for its promotional materials and the transmission of its programming and the Service, including without limitation (i) all necessary arrangements with copyright holders,

sponsors, music licensing organizations (including obtaining a "through-to-the-viewer" license (as such term is commonly understood in the entertainment industry) from the applicable music performing rights societies and organizations (i.e., ASCAP, BMI and SESAC), for all music contained in the Service), and performers' representatives; and (ii) compliance with all applicable charitable solicitation registration requirements.

(d) **Subscriber Information**. Lessee will not, without Lessor's prior written consent, obtain access to or use or disclose information concerning Lessor's subscribers, or subscribers of Lessor's affiliates, whether the information concerned is "personally identifiable information" (as described in Section 631 of the Cable Act) or not, and will not engage in any direct mailing or telephone solicitation to Lessor' cable television subscribers, or subscribers of Lessor's affiliates.

(e) **Affiliation**. Lessee is unaffiliated (within the meaning of Section 612(b)(1) of the Cable Act, Section 612 of the Communication Act and their related regulations) with Lessor or with any affiliate of Lessor.

(f) **Ownership of and Responsibility for the Service**. Lessee shall be solely responsible for program content of the Service. Lessee represents, warrants and covenants that: (i) it has and throughout the Term will have the right to grant the licenses granted herein, free and clear of all liens, restrictions, charges, claims and encumbrances; (ii) it has obtained and will maintain all licenses, permits, exemptions, authorizations and consents necessary to fully perform its obligations under this Agreement; (iii) none of the content or material in the Signal(s), or the Service: (A) is or will be libelous, slanderous, obscene, defamatory or indecent; (B) violates or infringes or will violate or infringe any common law or statutory rights of any person or entity, including civil or property rights, copyrights (including music synchronization and performance rights and dramatic and non-dramatic music rights), trademark rights, patent rights, rights of privacy or publicity of any person or entity; (C) constitutes incitement or obstruction of law enforcement, (D) creates a danger of injury to persons or property; or (E) violates or will violate any applicable law.

(g) **Compliance**. Lessee represents, warrants and covenants that at all times throughout the Term, and at its sole expense, all Service programming complies with all applicable legal requirements (whether applicable to the Systems or the owners or operators thereof or otherwise) regarding (i) children's television (including the Children's Television Act of 1990, Public Law 101-437 (October 18, 1990) and 47 C.F.R. §76.225); (ii) closed-captioning (including 47 C.F.R. §79.1 et seq.); (iii) video-descriptioning; (iv) the Commercial Advertisement Loudness Mitigation Act, Public Law 111-311 (December 15, 2010); (v) false and misleading advertising; (vi) the franchise under which the Systems operate; (vii) FCC requirements, including Part 76, Subpart G of the FCC Rules; and (viii) any other applicable laws, rules or regulations (including 47 C.F.R. 76.1700 (recordkeeping) and the origination cablecasting regulations of the FCC, including 47 C.F.R. §§76.205, 76.206, 76.209, 76.213 and 76.1615 (political equal time,

personal attack, lotteries and sponsorship identification)), as each may be amended from time to time (collectively, "**Regulatory Requirements**"), to the full extent required to ensure that Lessor is in compliance with all such Regulatory Requirements. Lessee further covenants and agrees that on a quarterly basis (or on any shorter time interval required by any Regulatory Requirements or upon the reasonable request of Lessor), it shall provide Lessor all records, documents and other information as are necessary for Lessor to timely and fully demonstrate its compliance with such Regulatory Requirements, and a certification by Lessee's Chief Executive Officer or Chief Financial Officer as to Lessee's compliance with all of the Regulatory Requirements (or to the extent any such Regulatory Requirements are not applicable, a statement setting forth the basis for such non-applicability). Failure or refusal to provide evidence of compliance shall constitute a material breach of this Agreement.

7. **Warranties of Lessor**. Lessor hereby represents and warrants that it has the power and authority to enter into this Agreement and to perform its obligations hereunder and that the person executing this Agreement on behalf of Lessor has been authorized to do so by Lessor.

8. (a) **Most Favored Nations**. If Lessee has offered or agreed to provide provided, or at any time offers or agrees to provide or provides any programming of the Service, in whole or in part, directly or indirectly, pursuant to any agreement, understanding or arrangement (whether oral or written, formal or informal, now or hereafter effective, or on a long term or short term basis) to any distributor or directly to viewers, for any period, under any net effective rate (as calculated in accordance with subsection (b) below) or any other term, provision or condition, covenant, commitment, concession, commission, rebate, allowance, fee or rate (each a "**Provision**" and, collectively, "**Provisions**") that could reasonably be determined to be more favorable (or the absence of which could reasonably be determined to be more favorable) than that set forth in this Agreement ("**More Favorable Provision**"), Lessee shall immediately give written notice thereof to Lessor ("**MFN Notice**"), which MFN Notice shall include the exact language expressing such More Favorable Provision (or, if the More Favorable Provision is pursuant to an oral agreement, a true and complete description of the More Favorable Provision). For purposes of this Agreement, Lessee shall be deemed to have provided a More Favorable Provision regardless of whether such Provision is contained in any agreement (whether written or oral) or whether Lessee acquiesces in (including by failure to enforce) any action or position taken by any distributor. Lessee's failure to deliver an MFN Notice in accordance with this paragraph 8(a) shall be deemed a material breach of this Agreement and shall not limit or otherwise affect Lessor's right to enjoy the benefits of this paragraph 8(a). At Lessor's election, this Agreement shall be deemed to have been modified so that Lessor shall receive and be entitled to the benefits of such More Favorable Provision (i) from the date on which such More Favorable Provision is first so provided (or, if such More Favorable Provision is being provided as of the Effective Date, from the Effective Date) and thereafter for so long as such More Favorable Provision was offered or continues to

be so provided, or (ii) for such period of time or to such extent as is necessary following such notice and election to allow Lessor to equally enjoy the benefit of such More Favorable Provision, whichever period results in the greatest benefit to Lessor. In determining whether a Provision is a More Favorable Provision, such determination shall focus on such Provision individually for each moment of time during which such Provision is effective rather than on the agreement, understanding or arrangement as a whole or the effect of such Provision thereon. As used in this paragraph 8, "distributor" means any distributor (including Lessee) of any programming of the Service.

(b) **Net Effective Rate.** Without limitation to Lessee's obligations under paragraph 8(a) above, Lessee hereby represents, warrants and covenants to Lessor that the Net Effective Rate (i) payable by Lessee to Lessor pursuant to this Agreement is, and at all times during the Term shall remain, equal to or greater than the Net Effective Rate payable by Lessee to any other distributor and (ii) payable by Lessor to Lessee pursuant to this Agreement is, and at all times during the Term shall remain, equal to or less than the Net Effective Rate payable by any other distributor to Lessee. **"Net Effective Rate"** means the maximum aggregate fees (including without limitation channel use and channel position fees) and all other direct and indirect economic outlays (including without limitation any cash payments, marketing support, launch incentives or support, equity or a profit-sharing interest provided at less than fair market value, revenue sharing or channel position fees) related to the carriage of the Service that may be payable by Lessee to Lessor (in the case of Lessor) or to another distributor (in the case of such other distributor), or by Lessor (in the case of Lessor) or another distributor (in the case of such other distributor) to Lessee, assuming each of Lessor and such other distributor maximizes the earning potential under each of the fee provisions applicable to its carriage of the Service, whether included in an agreement relating to the Service or otherwise (e.g., side letters or commitments such as advertising purchases), divided by the number of Service subscribers of Lessor (in the case of Lessor) or Service subscribers of such other distributor (in the case of such other distributor), attributable to such calendar month. The number of Service subscribers as to which fees may be payable under any other agreement or arrangement shall be determined on the same basis as the number of Service subscribers is determined under this Agreement. Further, the Net Effective Rate shall be determined for both Lessor and the applicable distributor using identical methodologies and accounting principles.

(c) **Audit Rights; Damages.** During the Term and for one (1) year thereafter, Lessee shall maintain accurate and complete books and records in accordance with generally accepted accounting principles and practices that, at a minimum, shall contain sufficient information to enable an auditor to verify compliance with paragraph 8(a). Upon not less than thirty (30) days' prior written notice, Lessor shall have the right, during the Term and for one (1) year thereafter, to examine during normal business hours all of the books and records of Lessee to the extent necessary to verify compliance with this paragraph 8. If any such examination reveals that Lessee has

failed at any time to comply with paragraph 8, (i) Lessor shall provide to Lessee a notice identifying such noncompliance and setting forth the cost of performing such examination and Lessor's reasonable estimate of the MFN Damages (as defined below) resulting from such noncompliance; and (ii) Lessee shall, immediately upon receipt of such notice, pay to Lessor an amount equal to the cost of such examination, plus the amount of such MFN Damages, plus interest on the amount of such MFN Damages at the rate of one and one-half percent (1.5%) per month (or, if lower, the maximum rate permitted by applicable law) from the date on which Lessee first offered the applicable More Favorable Provision to another distributor through the date on which such costs, MFN Damages and interest are actually paid in full to Lessor. For purposes of this Agreement, the "MFN Damages" attributable to a More Favorable Provision shall equal the amount of all overpayments, costs, expenses and other losses and damages (whether direct, indirect, incidental, special, consequential or otherwise) suffered or incurred by Lessor as a result of Lessor's failure to receive the benefit of such More Favorable Provision in accordance with this paragraph 8.

(d) **MFN Certification**. Lessee represents, warrants and covenants that, as of the Effective Date, no other distributor is entitled to any More Favorable Provision, Lessor is not entitled to an MFN Notice, and it is in full compliance with this paragraph 8. Further, beginning on the first anniversary of the Effective Date and on each subsequent anniversary during the Term (and for one (1) year thereafter), Lessee shall provide Lessor a written certificate signed by Lessee's Chief Executive Officer or Chief Financial Officer, certifying that Lessee is and since the later of the Effective Date and the date of the certificate most recently delivered pursuant to this paragraph 8(d), if any, has been in full compliance with this paragraph 8.

9. **Indemnification**. Lessee shall indemnify, defend and hold harmless Lessor and its affiliates, and all officers, directors, partners, agents, shareholders and employees of each such entity from and against any and all liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses of defending claims or litigation) or other injury or claim of injury arising, directly or indirectly, from or related to:

(a) the Signal(s) or the Service or the delivery or distribution thereof (including any loss arising out of libel, slander, defamation, indecency, obscenity, or infringement or violation of copyrights, music synchronization or performance rights, dramatic or non-dramatic music rights, trademark rights, patent rights or rights of privacy or publicity or other proprietary rights of any person or entity);

(b) Breach by Lessee of any representation, warranty, covenant or other provision of this Agreement;

(c) Any claims which may be made by any governmental body or agency or any person or entity (including, but not limited to, Lessee or Lessee's agents

or employees) in connection with the Signal(s) or the Service or the delivery or distribution thereof;

(d) Any injury to any person (including without limitation Lessor's agents, employees, or invitees) or damage to any property (including without limitation Lessor's equipment or other assets) resulting from the delivery or distribution of the Signal(s) or the Service;

(e) The content of Lessee's Service and/or Lessor's use and delivery thereof; or

(f) The violation of the rights of any third party, including without limitation any claims based on alleged or proven libel, slander, defamation, invasion of privacy, wrongful publicity, misrepresentation, obscenity, indecency or other forms of speech, whether protected or not by the Constitution of the United States or any state; infringement of common law or statutory copyright, literary right or music performance or synchronization right; unauthorized use of any trademark, trade name or service mark; breach of contractual or other obligations; and any other claim arising from the production, or insertion or transmission of Lessee's Service or any advertisements in connection therewith.

10. **Indemnification Procedure; Damages.** Promptly after receipt by Lessor of notice of the commencement of any action, suit, proceeding, investigation or assertion of any claim in respect of which a claim for indemnification may be made hereunder by it, Lessor will give written notice thereof to Lessee; provided, that the failure to provide such notice will not relieve Lessee from any indemnification obligation under this Agreement except to the extent of any material prejudice to Lessee resulting from such failure. Lessee shall have primary control of the defense of the claims and negotiation for its settlement, except that Lessor may, at its own cost and expense, obtain separate counsel to represent its interest. Lessee may enter into a settlement of a third party claim or action if such settlement (i) involves only the payment of money damages by Lessee, and (ii) includes a complete release of Lessor's indemnitees, it being acknowledged and agreed that any other settlement shall be subject to the written consent of the Lessor's indemnitees. Lessor shall cooperate reasonably with Lessee's defense and Lessee shall reimburse Lessor for its reasonable out-of-pocket expenses in providing such cooperation.

Except for Lessee's indemnification obligations hereunder, neither party shall, for any reason or under any legal theory, be liable to the other or any third party for any special, punitive, indirect, incidental consequential or statutory damages, or for loss of profits, revenues, damage to or loss of personal property or data or services, regardless of the theory of liability, even if such party has been informed in advance of the possibility of such damages.

11. **Insurance.** Lessee shall, at its sole expense, obtain and keep in force, throughout the Term, with a reputable insurance company approved by Lessor and authorized to do business in the states in which the Systems are located, a policy or policies of liability insurance as set forth in Schedule B of this Agreement, generally insuring against all perils and hazards and any negligent or other conduct of Lessee, and all other risks reasonably associated with Lessee's obligations under this Agreement. The terms of coverage shall be as summarized in Schedule B of this Agreement.

12. **Termination.**

This Agreement may be terminated in the event of any of the following:

(a) By either party in the event of any material breach by the other of any provision of this Agreement;

(b) By Lessor, if Lessee fails to make any Channel Lease Payment (as defined in Schedule A) due hereunder and if Lessee fails to cure such default within ten (10) days after such payment was due;

(c) By Lessor if Lessor ceases to provide cable television service over the Systems or if the Signal(s) or the Service would violate or would cause Lessor to violate any obligation of Lessor imposed by any governmental authority; or if, in the reasonable judgment of Lessor, the renewal of its franchise or license would or could be endangered by the continuation or implementation of this Agreement;

(d) By either party, if termination is required by a final order of any court, governmental body or agency having jurisdiction;

(e) By Lessor if Lessee should file, or should have filed against it, a petition in bankruptcy (voluntary or involuntary), or become insolvent;

(f) By Lessor if the obligations of Lessor to lease channel space pursuant to Section 612 of the Communications Act are repealed or are adjudged unconstitutional or otherwise invalid or unenforceable in a final, unstayed decision of any court of competent jurisdiction; or

(g) By Lessee if Lessor raises the Channel Lease Payment other than pursuant to paragraph 16.

13. **Disposition of Lessee's Equipment.** Upon termination of this Agreement, Lessee shall promptly remove any of its equipment from the facilities of Lessor. If Lessee fails to remove its equipment, Lessor shall have the right to remove and store Lessee's equipment at Lessee's expense, and, following reasonable notice to

Lessee, to sell such equipment at public or private sale and apply the proceeds of such sale against any balance owing to Lessor.

14. **Limitation of Liability.** This Agreement shall create no rights in any party other than Lessee. If Lessor fails or is unable for any reason to perform any of its obligations pursuant to this Agreement and as a result its subscribers do not receive Lessee's Service or receive Lessee's Service in a technically degraded form, Lessee's sole and exclusive remedy shall be a refund or credit for the amount of any lease payments attributable to the time period during which Lessee's Service was not delivered. Similarly, Lessor shall not be liable for the safety of equipment, tapes, or other materials of Lessee that are in Lessor's possession, and in the event of any damage to any such equipment, tapes or other materials, for which Lessor is adjudicated liable, Lessor's liability shall be limited to the replacement cost. Lessor has no duty to prescreen or monitor Lessee's Service.

15. **Use of Company Name.**

(a) Lessee is prohibited from using Lessor's name, service marks or trade names in Lessee's advertising or in any other manner or for any purpose without the prior written consent of Lessor, which consent may be withheld or delayed in Lessor's absolute discretion.

(b) Lessee shall take all necessary measures to ensure that there is no confusion between the Service offered by Lessee and the services offered by Lessor and no confusion concerning the absence of any legal relationship between Lessee and Lessor. Lessor retains the right to insert messages into Lessee's Service stating that Lessor is not responsible for Lessee's Service and to review and approve Lessee's advertising and promotional materials, which materials will set forth a separate telephone number and/or Internet address, different from that of Lessor, for parties to call who desire information about Lessee's Service.

16. **Miscellaneous.**

(a) **Notices.** All notices and other communications provided for hereunder shall be in writing. If sent by mail, they shall be deemed received three days after mailing. If sent by courier, overnight courier or electronic means, they shall be deemed received when receipt is confirmed. Notices and communications shall be sent to the following addresses:

If to Lessor: Time Warner Cable
60 Columbus Circle
New York, NY 10023
Attention: Executive Vice President,
Chief Video & Content Officer

with a copy to Executive Vice President and General Counsel at the same address.

If to Lessee: New Tang Dynasty Television
229 West 28th Street, Suite 700
New York, NY 10001
Attention: Qing Liu

or to such other addresses as either party may designate to the other in writing.

(b) **Assignability.** Except for subleases entered into pursuant to paragraph 16 above, Lessee shall not relinquish, sublease, assign, sell or otherwise transfer its rights and obligations under this Agreement to any other person or entity without the express prior written consent of Lessor.

(c) **Paragraph Headings.** Paragraph headings are for ease of reference only and are not to be utilized to expand, limit or otherwise modify the terms of this Agreement.

(d) **Legal Status.** It is understood and agreed that the business to be operated by Lessee is separate and apart from any which may be operated by Lessor and no representation will be made by either party which would create an apparent agency, independent contractor or partnership relationship or suggest or imply a joint venture.

(e) **Entire Agreement.** This document constitutes the entire agreement between the parties and supersedes all prior agreements and understandings concerning the subject matter hereof. Except as provided for herein, this Agreement may not be altered except by an instrument in writing signed by all parties hereto. Lessee acknowledges that at all times prior to the execution of this Agreement, Lessor has had the rights necessary to distribute the Service.

(f) **Force Majeure.** Each party's performance hereunder shall be excused by the occurrence of any Act of God, natural disaster, act of war, terrorist attack or other cause or occurrence beyond Lessor's reasonable ability to control.

(g) **Late Payments.** Lessee agrees to pay interest at the rate of 1.5% per month on any amounts that are not paid when due. Lessee further agrees to pay all reasonable attorney's fees and costs incurred in the collection of any such amounts.

(h) **Reservation of Rights.** All rights not specifically granted to Lessee under this Agreement are reserved to Lessor for its sole and exclusive use, and are exercisable by Lessor in its sole discretion.

(i) **Governing Law.** The interpretation, validity, performance and enforcement of this Agreement, and all legal actions brought under or in connection with the subject matter of this Agreement, shall be governed by the laws of the State of New York (without giving effect to the laws, rules or principles of the State of New York regarding conflicts of laws (except Section 5-1401 of the New York General Obligations Law)). The respective obligations of the parties under this Agreement are subject to all applicable law (including the Communications Act of 1934, as amended, the Cable Communications Policy Act of 1984, as amended, and the rules and regulations of the FCC thereunder). Nothing in this Agreement shall be construed to limit Lessor's or any Lessor subscriber's rights under copyright law.

(j) **Forum; Jury Trial Waiver.** Any legal action brought under or in connection with the subject matter of this Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of this Agreement in any other court or forum. Each party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of this Agreement in the federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Each party hereby consents to service of process with respect to any such proceeding by registered mail, return receipt requested, and by any other means permitted by applicable law. In making the foregoing submission to jurisdiction, the parties expressly waive the benefit of any contrary provision of foreign law. Each party irrevocably waives trial by jury in any such proceeding.

(k) **Severability.** Except as provided in paragraph 12(f) of this Agreement, if any provision of this Agreement shall be held to be invalid, unenforceable or illegal, in whole or in part, by a tribunal of competent jurisdiction in any jurisdiction under applicable law: (i) such provision shall be reformed to the minimum extent necessary to cause such provision to be valid, enforceable and legal while preserving the intent of the parties as expressed in, and the benefits to the parties provided by, this Agreement; or (ii) if such provision cannot be so reformed, such provision shall be severed from this Agreement and an equitable adjustment shall be made to this Agreement (including the addition of necessary further provisions to this Agreement) so as to give effect to the intent so expressed and the benefits so provided; provided that in the event the parties cannot agree on an equitable adjustment to this Agreement, either party shall have the right to terminate this Agreement upon written notice to the other

party. Such invalidity, unenforceability or illegality shall not affect or impair the validity, enforceability or legality of (A) such provision in any other jurisdiction or under any other circumstances, or (B) any other provision of this Agreement.

(l) **Construction; Survival of Representations.** Forms of the word "include" mean "including, without limitation," and references to "herein," "hereunder," "hereof," or the like, refer to this Agreement. Each party acknowledges that this Agreement was fully negotiated by the parties and agrees, therefore, that no provision of this Agreement shall be interpreted against any party because such party or its counsel drafted such provision. All representations and warranties in this Agreement shall survive the execution and delivery of this Agreement and shall be deemed to be made continuously throughout the Term.

(m) **Amendments; Consents.** Except as otherwise expressly set forth in this Agreement, no addition to, and no cancellation, renewal, extension, modification or amendment of, this Agreement shall be binding upon a party unless set forth in a written instrument that is executed and delivered on behalf of each party by, in the case of Lessee, an officer of Lessee and, in the case of Lessor, by its Senior Executive Vice President and Chief Video and Content Officer, Chief Operating Officer or Chief Executive Officer (each an "**Authorized Person**"); provided that any Authorized Person may, by written authorization, designate another person to execute and deliver such an instrument.

(n) **Waivers Limited.** No waiver of any provision of this Agreement shall be binding upon a party unless such waiver is set forth in a written instrument executed and delivered on behalf of such party by, in the case of Lessee, an officer of Lessee and, in the case of Lessor, by an Authorized Person. Such waiver shall be effective only to the extent specifically set forth in such written instrument. Neither the exercise (from time to time and at any time) by a party of, nor the delay or failure (at any time or for any period of time) to exercise, any right, power or remedy shall constitute a waiver of the right to exercise, or impair, limit or restrict the exercise of, such right, power or remedy or any other right, power or remedy at any time and from time to time thereafter.

[remainder of page intentionally left blank]

EXECUTION VERSION

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Lessee: Name: Universal Communications Networks, Inc. for and on behalf of New Tang Dynasty Television

By: _____
Name: John Tang
Title: President

Lessor: Name: Time Warner Cable Enterprises LLC

By: _____
Name: Melinda C. Witmer
Title: Executive Vice President and Chief Video & Content Officer

EXECUTION VERSION

SCHEDULE A

CHANNEL PLACEMENT AND PAYMENT TERMS

1. Carriage

Lessor will distribute Lessee's Service on the following channels, days and times:

Channel Name: New Tang Dynasty

Lessor shall have the unilateral right at any time and from time to time to launch, suspend or terminate distribution of the Service in any or all Systems, and each System may, at any time and from time to time, distribute or reposition the Service on any one or more tier(s), level(s) or package(s) of services (including à la carte). Notwithstanding the foregoing, at such times that that Lessee delivers the Signal(s) and the Service for the applicable Systems, Lessor shall distribute the Service on the HI Systems, LA Systems and the NY Systems on the digital basic tier or a more highly penetrated tier.

2. Payment Terms.

Lessee agrees to pay for Lessor's distribution of the Service in the HI Systems, LA Systems and NY Systems as set out in the foregoing Agreement on the following terms (the "**Channel Lease Payment**"):

Dollar amount: NY Systems - $60,000 per month; LA Systems - $80,000 per month; HI Systems - $15,000 per month; each of the foregoing fees shall increase by 4% on January 1st of each year from the previous year's fee

Date of first payment: NY Systems - January 1, 2014; HI Systems – the date on which the Service is launched on the HI Systems; LA Systems – later of the date on which the Service is launched on the LA Systems or July 1, 2014.

Frequency of payment: First of every calendar month.

Lessee agrees to pay a security deposit of $155,000 (the "**Security Deposit**"). The Security Deposit is due on the date hereof. The Security Deposit will be refunded within sixty (60) days after the termination of the foregoing Agreement, less any amounts owing and unpaid by the Lessee at that time.

EXECUTION VERSION

SCHEDULE B

LIABILITY INSURANCE

Lessee shall obtain insurance coverage complying with the following requirements:

Insurance Coverage	Limits of Liability
Errors and Omissions Insurance	$1,000,000 per occurrence

The following requirements apply:

1. Terms to cover any and all perils, hazards and negligent conduct of Lessee covering the Signal(s), the Service and all elements thereof. All insurance required to be carried by Lessee, hereunder, shall be from responsible insurance companies, qualified to do business in the state where these operations transpire, and be rated no lower than A- in the current Best's Insurance Guide.

2. Lessor shall be an additional insured and loss payee.

3. Presentation of evidence of coverage will be required before Lessor will sign this Agreement.

4. Certificate to warrant that insurance shall not be canceled or modified except upon the delivery of thirty (30) days' prior written notice to Lessor.

5. Certificate to indicate coverage for the Term or Lessee shall provide (and shall continue to provide) subsequent certificates of insurance so as to provide Lessor evidence of continuous insurance coverage that satisfies the above requirements throughout the Term.

EXECUTION VERSION

SCHEDULE C

TIME WARNER CABLE LEASED ACCESS POLICY ON INDECENT PROGRAMMING

Under federal law, cable operators can refuse to telecast, indecent programming on leased access channels. Time Warner Cable has adopted a policy that prohibits indecent programming on leased access channels and which will continue to prohibit obscene programming in accordance with applicable law. Therefore, Time Warner Cable has implemented the following policy regarding leased access programming for its systems.

1. Indecent programming will not be carried on leased access channels.

2. For purposes of this policy, "indecent programming" is defined as any programming that the cable operator reasonably believes describes or depicts or sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards for the cable medium. The term "programming" encompasses the entire program as submitted including any and all advertising.

3. All new leased access program providers, as well as program providers who currently have programming on leased access channels, will be subject to this policy.

4. As a programmer seeking leased access time on the systems you certify (a) that you are responsible for the content of the programming; and (b) that you will not submit for distribution any programming that is obscene or indecent as defined herein. As the person acknowledging this certification you assume responsibility for the program's content

5. Any program provider who does not make a required certification no longer will be eligible to obtain or retain leased access channel capacity on the systems.

6. You certify that you have exercised reasonable efforts to ensure that the programs will not contain obscene or indecent programming as defined herein. Any program provider of live programming that does not make the required certifications or violates a certification no longer will be eligible to obtain or retain leased access channel capacity on the systems.

7. Any program provider who, on more than one occasion, seeks to have indecent material exhibited after having certified that its programming does

not contain indecent or obscene material no longer will be able to obtain or retain leased access channel capacity on the systems. The first time a program provider who has completed the aforementioned certification submits material that is indecent as defined in this policy, the material will not be distributed and the program provider's eligibility to obtain or retain leased access channel capacity will be suspended for 6 months. Any submission of obscene material by a program provider constitutes grounds for revocation of all eligibility to obtain or retain leased access channel capacity on the systems.

8. Notwithstanding the foregoing, Time Warner Cable reserves the right to determine whether programming exhibited or sought to be exhibited is indecent.

9. Time Warner Cable reserves the right to revise this policy at any time for any reason including, but not limited to, compliance with applicable law.

EXECUTION VERSION

SCHEDULE D

Enhanced TV

1. Definitions.

a. "**Available Window**" means the period during which any program may be viewed.

b. "**Look Back**" means that functionality whereby a viewer may access for viewing a Program at any time during the applicable Available Window.

c. "**Programs**" means all programs contained in the Signal(s).

d. "**Start Over**" means that functionality whereby a viewer may start viewing a Program (as defined above) that is in progress, from its beginning, at any time during the period of such Program's linear exhibition.

2. Grant of Rights. Lessee hereby grants to Lessor and each of its Systems, at no additional cost to Lessee, or to Lessor or any of its Systems, the right to offer, transmit, distribute and exhibit each Program on a Start Over, and Look Back basis, including the right to record each Program from the Signal(s), and to encode, compress, digitize, index, segment, reformat and otherwise technologically manipulate, copy, store, distribute, transmit and exhibit each Program (and copies thereof) on a Start Over and Look Back basis.

3. Available Window. The license granted hereby shall permit Lessor to allow subscribers (i) to view each Program an unlimited number of times during the applicable Available Window and (ii) to continue to access and view through the Grace Period such Program for which a viewing session was commenced within the Available Window. The "**Grace Period**" for each Program shall be a period of time equal to twenty-four (24) hours immediately following the end of such Program's Available Window. The Available Window for each Program shall be at least the longer of (A) thirty (30) days and (B) the access window that Lessee makes available to any other distributor on a Look Back basis.

4. Promotion. Lessor shall have the right to advertise and promote by any means or media the exhibition of the Programs on a Start Over and Look Back basis.

EXECUTION VERSION

SCHEDULE E

The TV Parental Guidelines

TV Y All Children
This program is designed to be appropriate for all children. Whether animated or live-action, the themes and elements in this program are specifically designed for a very young audience, including children from ages 2-6. This program is not expected to frighten younger children.

TV Y7 Directed to Older Children
This program is designed for children age 7 and above. It may be more appropriate for children who have acquired the developmental skills needed to distinguish between make-believe and reality. Themes and elements in this program may include mild fantasy violence or comedic violence, or may frighten children under the age of 7. Therefore, parents may wish to consider the suitability of this program for their very young children.

TV Y7 FV Directed to Older Children - Fantasy Violence
For those programs where fantasy violence may be more intense or more combative than other programs in this category, such programs will be designated TV-Y7-FV.

TV G General Audience
Most parents would find this program suitable for all ages. Although this rating does not signify a program designed specifically for children, most parents may let younger children watch this program unattended. It contains little or no violence, no strong language and little or no sexual dialogue or situations.

TV PG Parental Guidance Suggested
This program contains material that parents may find unsuitable for younger children. Many parents may want to watch it with their younger children. The theme itself may call for parental guidance and/or the program may contain one or more of the following: some suggestive dialogue (D), infrequent coarse language (L), some sexual situations (S), or moderate violence (V).

TV 14 Parents Strongly Cautioned
This program contains some material that many parents would find unsuitable for children under 14 years of age. Parents are strongly urged to exercise greater care in monitoring this program and are cautioned against letting children under the age of 14 watch unattended. This program may contain one or more of the following: intensely suggestive dialogue (D), strong coarse language (L), intense sexual situations (S), or intense violence (V).

EXECUTION VERSION

TV MA Mature Audience Only

This program is specifically designed to be viewed by adults and therefore may be unsuitable for children under 17. This program may contain one or more of the following: crude indecent language (L), explicit sexual activity (S), or graphic violence (V).