

1 Daniel M. Hattis (SBN 232141)
2 HATTIS LAW
3 P.O. Box 1645
4 Bellevue, WA 98009
5 Telephone: (650) 980-1990
6 Email: dan@hattislaw.com

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
11/09/2016 at 10:39:50 AM
Clerk of the Superior Court
By Tamara Parra, Deputy Clerk

5 Attorneys for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – UNLIMITED CIVIL

11 MICHAEL SONG,

12 Plaintiff,

13 v.

14 CHARTER COMMUNICATIONS, INC.;
15 CHARTER COMMUNICATIONS
16 HOLDING COMPANY, LLC; TIME
17 WARNER CABLE, INC.; TIME
18 WARNER CABLE INFORMATION
19 SERVICES (CALIFORNIA), LLC; and
20 DOES 1 through 100 inclusive,

21 Defendants.

Case No. 37-2016-00039501-CU-BT-CTL

COMPLAINT FOR:

1. Breach of Contract
2. Declaratory and Injunctive Relief
3. Violation of Unfair Competition Law, Business & Professions Code §17200 *et seq.*
4. Violation of False Advertising Law, Business & Professions Code §17500 *et seq.*
5. Violation of Consumers Legal Remedies Act, Civil Code §1750 *et seq.*

JURY TRIAL DEMANDED

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION AND SUMMARY..... - 1 -

II. PARTIES - 2 -

III. JURISDICTION AND VENUE - 4 -

IV. GENERAL FACTUAL ALLEGATIONS - 4 -

 A. Charter Invented the Broadcast TV Surcharge and the Sports Programming Surcharge to Enable It To Raise Its Monthly Rates While Still Advertising and Promising a Lower Price. - 4 -

 B. Charter Falsely Advertises a Lower Price for Its Services Than It Will Actually Charge. - 7 -

 1. Misleading Online Ads and Online Order Process. - 8 -

 C. Charter Sales Agents Consistently and Falsely Tell Prospective and Current Customers that the Broadcast TV Surcharge and the Sports Programming Surcharge Are Government-Related Fees or Taxes. - 12 -

 D. Charter’s Form Subscriber Agreement Does Not Mention the Broadcast TV Surcharge or the Sports Programming Surcharge, and to the Contrary, Implies That All Surcharges Are Government-Related. - 12 -

 E. Charter Commits Massive Billing Fraud By Hiding Price Increases On Its Bills in the Form of the Broadcast TV and Sports Programming Surcharges, and then Falsely Stating On Its Bills that the Surcharges Are Imposed to “Recover Costs of Complying With Its Governmental Obligations.” - 13 -

 1. Charter Charges Customers More Than the Advertised and Promised Price for Television Service By Disguising the Price Increase in the Form of Its Made-Up Broadcast TV and Sports Programming Surcharges Line Item on the Customer Bill. - 14 -

 2. Charter Commits Brazen Billing Fraud By Falsely Stating On Its Bills That the Broadcast TV and Sports Programming Surcharges are Imposed to “Recover Costs of Complying With Its Governmental Obligations.”... - 18 -

 F. Charter Lies to Customers Who Inquire or Complain About the Broadcast TV and Sports Programming Surcharges On Their Bills By Telling Them the Surcharges Are Government-Related Fees or Taxes. - 23 -

 G. Charter’s Practices Are Fraudulent and Unfair and Are Intended To Mislead Consumers. - 24 -

V. PLAINTIFF’S INDIVIDUAL FACTUAL ALLEGATIONS..... - 26 -

VI. THE TIME WARNER CABLE, INC. ARBITRATION CLAUSE EXPLICITLY REQUIRES INJUNCTIVE RELIEF ACTIONS SUCH AS THIS LAWSUIT TO BE BROUGHT IN COURT - 29 -

| | | |
|----|--|---------------|
| 1 | VII. CHOICE OF LAW..... | - 30 - |
| 2 | CAUSES OF ACTION | - 30 - |
| 3 | COUNT I – Breach of Contract..... | - 30 - |
| 4 | COUNT II – Declaratory and Injunctive Relief..... | - 31 - |
| 5 | COUNT III – California Business and Professions Code §17200 (“UCL”)..... | - 32 - |
| 6 | COUNT IV – California Business and Professions Code §17500 (“FAL”)..... | - 32 - |
| 7 | COUNT V – California Consumers Legal Remedies Act (“CLRA”). | - 33 - |
| 8 | PRAYER FOR RELIEF..... | - 35 - |
| 9 | JURY DEMAND..... | - 35 - |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | | |
| 18 | | |
| 19 | | |
| 20 | | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |
| 26 | | |
| 27 | | |
| 28 | | |

1 Plaintiff Michael Song alleges on personal knowledge, investigation of his
2 counsel, and on information and belief, as follows:

3 **I. INTRODUCTION AND SUMMARY**

4 1. This action alleges that Charter Communications, Inc. (“Charter”) and its
5 wholly owned subsidiary Time Warner Cable, Inc. (“TWC” or “Charter”) is engaging in a
6 massive illegal scheme of falsely advertising and promising its cable television service
7 plans for much lower prices than it actually charges. Charter promises to charge
8 customers a fixed monthly price for the service plans, but in fact Charter charges a much
9 higher rate for those plans via deceptive “Broadcast TV and Sports Programming
10 Surcharges” which Charter intentionally conceals in its advertising and disguises and lies
11 about in its customer bills.

12 2. These deceptive Surcharges earn Charter hundreds of millions of dollars
13 each year, accounting for approximately 20% of Charter’s total annual profits. The
14 Surcharges currently stand at \$8.75 per month for California subscribers like Plaintiff
15 Michael Song, having increased over 400% since TWC first introduced the Broadcast TV
16 Surcharge in March 2014.

17 3. Charter has admitted that it imposes the Surcharges to reimburse itself for
18 its contractual payments to ABC, NBC, CBS, FOX, and sports networks to carry and
19 transmit their video content.

20 4. But paying television networks for video content and transmission rights is
21 a basic cost of doing business for a cable company, and any such charges should be
22 included in Charter’s advertised and stated price for television service plans, rather than
23 being deceptively excluded. The reality is that Charter invented these Surcharges in
24 order to deceive its customers by advertising and promising a lower price while actually
25 charging a higher price.

26 5. An integral part of Charter’s scheme is tricking its customers into thinking
27 that the Broadcast TV and Sports Programming Surcharges are government-related fees
28

1 or taxes over which Charter has no control. Charter wants to prevent customers from
2 realizing that the Surcharges are in fact a hidden price increase and a way for Charter to
3 charge – and pocket – more for its services than Charter promised it would charge.

4 6. Charter’s fraudulent scheme pervades the entire life cycle of the customer,
5 from sign-up to billing to customer support. First, Charter conceals and misrepresents
6 the Surcharges in its advertising and in its communications with prospective customers.
7 Second, Charter commits billing fraud by (a) subtracting the invented surcharge amounts
8 from the top-line service price in its bills and then hiding and disguising them elsewhere
9 in the bill in the form of the Surcharges; and (b) explicitly and falsely stating on customer
10 bills that the Broadcast TV and Sports Programming Surcharges are government-related
11 fees imposed to “recover costs of complying with its governmental obligations.” Third, to
12 any customers who question Charter about the bogus Surcharges on their bills, Charter
13 agents explicitly lie by stating that the Broadcast TV and Sports Programming
14 Surcharges are government-related fees or taxes over which Charter has no control.

15 7. Plaintiff Michael Song has brought this lawsuit to put an end to Charter’s
16 unlawful actions, not only for his benefit but also for the benefit of millions of California
17 consumers whom Charter continues to target with this illegal and fraudulent scheme.

18 **II. PARTIES**

19 8. Plaintiff Michael Song is an individual residing in San Diego, California.

20 9. Defendant Charter Communications, Inc. is a Delaware corporation
21 headquartered in Stamford, Connecticut. Although Charter Communications, Inc.’s main
22 headquarters are in Stamford, Connecticut, many operations are based out of St. Louis,
23 Missouri, which served as the company’s headquarters prior to late 2012. Charter
24 Communications, Inc., together with its subsidiaries, is the second-largest cable operator
25 in the United States with over 25 million subscribers, including 17 million television
26 subscribers, in 41 states. Prior to May 18, 2016, Charter Communications, Inc. was a
27 much smaller company, with only 6.7 million cable subscribers, including 4.3 million
28 residential television subscribers. Charter Communications, Inc. instantly more than

1 tripled in size on May 18, 2016 when it acquired Time Warner Cable, Inc. and Bright
2 House Networks. Charter Communications, Inc. is now the largest cable operator and
3 provider of pay television services in Southern California.

4 10. Defendant Charter Communications Holding Company, LLC is a Delaware
5 limited liability company located in St. Louis, Missouri, and is a wholly owned subsidiary
6 of Charter Communications, Inc.

7 11. Defendant Time Warner Cable, Inc. is a Delaware corporation
8 headquartered in New York, New York, and is a wholly owned subsidiary of Charter
9 Communications, Inc. Prior to being acquired by Charter Communications, Inc. on May
10 18, 2016, Time Warner Cable, Inc. was one of the largest cable operators in the United
11 States with 15.1 million subscribers, including 10.8 million television subscribers,
12 primarily serving five geographic areas including Southern California. Time Warner
13 Cable, Inc. was the largest cable operator and provider of pay television services in
14 Southern California, a title which Charter Communications, Inc. inherited via its
15 acquisition of the company. Based on information and belief, Charter Communications,
16 Inc. is in the process of transferring the operations of Time Warner Cable, Inc. from New
17 York, New York to Charter Communications, Inc.'s headquarters in Stamford,
18 Connecticut. After Charter Communications, Inc. acquired Time Warner Cable, Inc., it
19 began phasing out the "Time Warner Cable" brand name and replacing it with Charter's
20 existing "Spectrum" branding.

21 12. Time Warner Cable Information Services (California), LLC is a Delaware
22 limited liability company, and is a wholly owned subsidiary of Time Warner Cable, Inc.

23 13. Charter Communications, Inc., Charter Communications Holding
24 Company, LLC, Time Warner Cable, Inc., and Time Warner Cable Information Services
25 (California), LLC are hereinafter referred to collectively as "Charter."

26 14. Time Warner Cable, Inc. and Time Warner Cable Information Services
27 (California), LLC are hereinafter referred to collectively as "TWC" or "Charter."

28 15. Plaintiff is unaware of the true names, identities or capacities, whether

1 individual, corporate, associate or otherwise, of those defendants sued herein as DOES
2 1 through 100, inclusive. Plaintiff therefore sues said defendants by such fictitious
3 names. Plaintiff will seek leave to amend this Complaint to set forth the true names and
4 capacities of these defendants when they are ascertained.

5 **III. JURISDICTION AND VENUE**

6 16. This Court has jurisdiction over this civil action pursuant to, without
7 limitation, the California Constitution, Article VI, Section 10, and Code of Civil Procedure
8 §410.10. Jurisdiction is also proper under Business and Professions Code §17200 *et*
9 *seq.*, Business and Professions Code §17500 *et seq.*, and Civil Code §1750 *et seq.*

10 17. This Court has personal jurisdiction over Charter because: (1) Charter has
11 purposely availed itself of the privilege of conducting business activities in California; (2)
12 Charter currently maintains systematic and continuous business contacts with this State;
13 (3) Charter has millions of customers who are residents of this State; and (4) Charter
14 maintains offices and retail locations in this State.

15 18. Federal subject matter jurisdiction over this action does not exist. Plaintiff is
16 not seeking any monetary damages in this Complaint, and is seeking only injunctive and
17 declaratory relief on behalf of himself and for the benefit of California residents. Plaintiff
18 asserts no federal question.

19 19. Venue is proper in the San Diego Superior Court because, without
20 limitation: (1) Charter engages and performs business activities in the County of San
21 Diego; and (2) Plaintiff entered into agreements to purchase Charter's cable television
22 services while in the County of San Diego.

23 **IV. GENERAL FACTUAL ALLEGATIONS**

24 **A. Charter Invented the Broadcast TV Surcharge and the Sports** 25 **Programming Surcharge to Enable It To Raise Its Monthly Rates** 26 **While Still Advertising and Promising a Lower Price.**

27 20. Charter, as a result of its recent acquisition of Time Warner Cable, Inc.
28 ("TWC") on May 18, 2016, is the second-largest cable operator in the United States and

1 is the largest cable operator and pay television provider in Southern California. After the
2 TWC acquisition, Charter began phasing out the TWC brand name and replacing it with
3 Charter's existing "Spectrum" branding.

4 21. Prior to its acquisition by Charter, TWC sold its television services under
5 the Time Warner Cable brand, and typically bundled its television service with Internet
6 and/or telephone service. TWC marketed its cable television, Internet, and telephone
7 services with standardized, uniform marketing materials to consumers via mass
8 mailings, television commercials, radio, print advertisements, and online advertising.
9 Consumers bought these service plans over the telephone, on TWC's website, or in
10 person at one of TWC's local stores. After the TWC acquisition, Charter continued to
11 advertise its services and channel packages to California consumers in similar bundled
12 packages and via the same uniform marketing methods previously utilized by TWC.

13 22. To attract customers, TWC and its successor Charter prominently
14 advertise a flat monthly rate for its service plans, typically with a promise of a fixed
15 "promotional" rate for a 12 month period.

16 23. In March 2014, TWC began utilizing a shady backdoor way to increase
17 prices to its prospective and current television service subscribers, while continuing to
18 advertise and promise the same flat lower monthly rates for its service plans. Rather
19 than implementing a top-line price increase for its advertised television service or
20 bundled service plans – which would have been noticed by its prospective and current
21 customers – TWC instead kept the advertised price the same and hid the price increase
22 in a newly invented and inadequately disclosed "Broadcast TV Fee."

23 24. TWC made sure never to define or explain the nature of the deceptively
24 named fee in any of its advertising materials or on its website. If the fee was mentioned
25 at all, it was buried in fine print, where it was listed only by name without explanation.

26 25. TWC introduced the Broadcast TV Fee to California customers who
27 subscribed to television service in March 2014 at a rate of \$2.25 per month. TWC
28 automatically charged the Broadcast TV Fee to all new California customers and all

1 existing customers who modified their service package.

2 26. Emboldened by its success, TWC repeatedly increased the fee, and
3 renamed the fee the “Broadcast TV Surcharge.” As of October 29, 2016, the monthly
4 Broadcast TV Surcharge to California customers has nearly tripled to \$6.05.

5 27. TWC introduced a new and separate “Sports Programming Surcharge” to
6 California customers in January 2015, approximately nine months after it rolled out the
7 Broadcast TV Fee. TWC appears to similarly impose the Sports Programming Surcharge
8 on all customers who subscribe to television service.

9 28. The Sports Programming Surcharge was introduced to TWC California
10 customers at a rate of \$2.70 per month. Also starting in January 2015, TWC combined
11 these two fees into a single line item on customer bills called the “Broadcast TV and
12 Sports Programming Surcharges.”

13 29. On or around September 20, 2016 – several months after Charter acquired
14 TWC on May 18, 2016 – Charter implemented new prices and plans for the geographic
15 area previously served by TWC. The new prices and plans were effective for new
16 California customers. The plans and services were now branded under Charter’s
17 “Spectrum” moniker (rather than under the TWC brand).

18 30. For new customers after September 20, 2016, Charter eliminated the
19 Sports Programming Surcharge altogether; however, Charter continued to charge these
20 customers the monthly \$6.05 Broadcast TV Surcharge. (In fact, Charter had been
21 charging its other customers across the nation a similar below-the-line “Broadcast TV
22 Surcharge” since 2010, long before Charter acquired TWC in 2016.)

23 31. Yet despite not charging new customers the Sports Programming
24 Surcharge after September 20, 2016, Charter continued after that date to charge
25 existing California customers like Plaintiff Michael Song the combined “Broadcast TV
26 and Sports Programming Surcharges” at a monthly rate of \$8.75.

27 32. Charter has admitted that it imposes the Surcharges to reimburse itself for
28 its contractual payments to ABC, NBC, CBS, FOX, and sports networks to carry and

1 transmit their video content.¹ But paying television networks for video content and
2 transmission rights is a basic cost of doing business for a cable company. The reality is
3 that Charter invented these Surcharges in order to deceive its customers by advertising
4 and promising a lower price while actually charging a higher price.

5 **B. Charter Falsely Advertises a Lower Price for Its Services Than It Will**
6 **Actually Charge.**

7 33. Today, in its advertising to and during the service sign-up process for
8 California prospective customers, Charter advertises a flat monthly rate for service when
9 in fact Charter intends to, and will, charge the customer a higher rate to provide that
10 service via the concealed Broadcast TV Surcharge.

11 34. Between January 2015 and September 20, 2016, Charter (and its
12 predecessor TWC) also charged customers an additional Sports Programming
13 Surcharge despite similarly not including the surcharge in its advertising. To this day,
14 Charter continues to charge these customers, such as Plaintiff Michael Song, for the
15 Sports Programming Surcharge as part of the combined “Broadcast TV and Sports
16 Programming Surcharges” line item on the customer bill.

17 35. In addition to concealing the Surcharges in its advertising, Charter
18 intentionally does not explain or define the Surcharges anywhere on the TWC website.
19 (As of November 6, 2016, new or existing customers in areas previously served by TWC
20 are automatically redirected from Charter’s main website at <http://charter.com> to the
21 TWC website at <http://timewarnercable.com>.)

22 36. TWC’s website returns zero relevant in-site search results for the terms
23 “Broadcast TV Surcharge,” “Sports Programming Surcharge,” “Broadcast TV and Sports

24
25 ¹ See Lazarus, David, “Time Warner Cable sneaks in higher fees to customers”, Los
26 Angeles Times, January 5, 2015 (available at <http://www.latimes.com/business/la-fi-lazarus-20150106-column.html>); Clodfelter, Tim, “Ask SAM: What is the Sports
27 Programming Surcharge in Time-Warner cable bill?”, Winston-Salem Journal, February
28 12, 2016 (available at http://www.journalnow.com/news/ask_sam/ask-sam-what-is-the-sports-programming-surcharge-in-time/article_2dd3b767-c330-5304-b67e-07f282d12609.html).

1 Programming Surcharges,” or “Broadcast TV Fee.” Similarly, there are no FAQ or
2 support articles defining or explaining the Surcharges.²

3 **1. Misleading Online Ads and Online Order Process.**

4 37. Charter’s current online ads and online order process for California
5 consumers falsely promise consumers a lower monthly price for service than what
6 Charter will actually charge them.

7 38. Figure 1 below is a screenshot of service packages advertised on the TWC
8 website for the San Diego, California area.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 ² The single possible exception is the existence of one annotated downloadable sample
24 bill, directed only to post-September 20, 2016 subscribers (meanwhile the sample bill
25 directed to earlier subscribers has no annotations explaining the surcharges). This
26 annotated bill is buried many levels deep under “Account Billing and Support” on the
27 TWC website. A single tiny annotation on the sample bill describes the “Broadcast TV
28 Surcharges” as “a pass through reflecting charges assessed to Charter Communications
by the local broadcasters, or local ‘network affiliated’ TV stations.” Meanwhile, both of
these sample bills differ in format and content from the actual post-September 20, 2016
bills sent to California Charter subscribers formerly served by TWC, such as Plaintiff
Michael Song.

1 **Figure 1: Service Package Offer Page On TWC Website**

2 <https://www.timewarnercable.com/residential/order/session/53c7329a-c86f-4804-9810-e077737a32ab?ne...>

3 **Time Warner Cable Spectrum** Chat Call to Order 1-855-243-8892 92130 Change Location Cart

4 Combine TV, Internet & Phone for the best deal

5 **LIMITED TIME ONLY** **FREE DVR SERVICE** with Triple Plays*
Enjoy your favorite shows and movies when you want

6 **Select and Compare Services**
TV Internet Phone All Packages

7 **Triple Play Select**
TV 125+ Channels Internet Up to 100Mbps Phone Unlimited Calling
From: **\$29.99/mo.** each for 12 mos. when bundled
Includes 125+ channels
Fast Internet with unlimited usage
Includes Voicemail and Private Listing
View Details Select Offer

8 **Triple Play Silver**
TV 175+ Channels Internet Up to 100Mbps Phone Unlimited Calling
SELECT + \$20 more per mo. for 12 mos.
175+ channels, HBO®, Showtime® & Cinemax®
Fast Internet with unlimited usage
Includes Voicemail and Private Listing
View Details Select Offer

9 **Triple Play Gold**
TV 200+ Channels Internet Up to 100Mbps Phone Unlimited Calling
SILVER + \$20 more per mo. for 12 mos.
200+ channels, HBO®, Showtime®, Cinemax®,
Starz®, Encore®, EPIX® and TMC®
Fast Internet with unlimited usage
View Details Select Offer

10 **TV Select and Spectrum Internet**
TV 125+ Channels Internet Up to 100Mbps
\$59.99/mo. for 12 mos. + **\$29.99/mo.** for 12 mos.
FREE TV apps
Fast Internet with unlimited usage
NO modem charge and NO data caps!
View Details Select Offer

11 **Spectrum Internet and Phone**
Internet Up to 100Mbps Phone Unlimited Calling
\$39.99/mo. for 12 mos. + **\$19.99/mo.** for 12 mos.
NO modem charge and NO data caps!
Includes Voicemail and Private Listing
Free unlimited directory assistance
View Details Select Offer

12 **Spectrum TV Select**
TV 125+ Channels
\$64.99/mo. for 12 mos.
FREE HD
FREE TV apps
View Details Select Offer

13 **Spectrum Internet**
Internet Up to 100Mbps
\$39.99/mo. for 12 mos.
NO modem charge and NO data caps!
Virus Detection with Security Suite
Unlimited usage
View Details Select Offer

14 **CHAT >**

15 **Get the best in Spanish language programming with Mi Plan Latino packages.**

16 [View retail rates for new and existing customers >](#)

17 Offers are valid for a limited time only, to qualifying residential customers who have not subscribed to applicable services within the previous 30 days and have no outstanding obligation to TWC. Standard rates apply after promotion. TV equipment required & is extra; No additional charge for modem; Phone taxes, fees, & surcharges are included in price; other equipment, install, taxes, fees & surcharges may apply. Credit approval, prepayment or major credit card may be required. Services are subject to all applicable service terms & conditions, which are subject to change. Trademarks belong to their respective owners. Services not available in all areas. Restrictions apply. Charter services not yet available in all areas, please enter your address to determine availability.

18 [View more >](#)

19 [Privacy Policy](#) | [Terms, Conditions & Policies](#) | [Regulatory](#) | [Forward-Looking Statements Caution](#) | [California Privacy Rights](#) | [Website Terms of Use](#)

20 © 2016 Charter Communications, Inc. CHARTER and CHARTER SPECTRUM are registered service marks of Charter Communications Holding Company LLC. Time Warner Cable and the eye/ear logo are trademarks of Time Warner Inc. Used under license. All rights reserved.

Triple Play Select

TV 125+ Channels Internet Up to 100Mbps Phone Unlimited Calling

From: **\$29.99/mo.** each for 12 mos. when bundled

Includes 125+ channels
Fast Internet with unlimited usage
Includes Voicemail and Private Listing

[View Details ^](#) [Select Offer >](#)

Close ✕

TV:

- 125+ channels, with free DVR Service
- Access to 10,000 shows and movies with [On Demand](#), with 5,000 free choices!
- FREE TV apps - Watch live TV and On Demand on any device
- Pause, play and rewind live TV
- No expensive equipment to buy or install on your home

Internet:

- Speeds up to [100Mbps](#)
- No data caps - unlimited usage
- [Virus Detection with Security Suite](#)
- No modem charge

Speed may vary in your area, and all speeds may not be available in all areas

Phone:

- Unlimited calling to the U.S., Canada and [U.S. territories](#)
- Includes Voicemail and Private Listing
- Free unlimited directory assistance
- State and federal taxes included in price - no hidden fees

Even more benefits:

- No contracts required

1 39. The webpage advertisement prominently advertises that the “Triple Play
2 Select” package is \$29.99/month, with smaller print stating “each for 12 mos. when
3 bundled.” The offer makes no mention of the monthly \$6.05 Broadcast TV Surcharge
4 which will be automatically charged in addition to the advertised price.

5 40. Clicking on the “View Details” button for the Triple Play Select offer causes
6 a drop-down chart with more offer details to appear (see the right side of Figure 1 which
7 is a screenshot of the offer after the “View Details” button is clicked). Even in these
8 “Details,” Charter makes no mention of the Broadcast TV Surcharge – not even in the
9 “TV” section – which will raise the monthly price by \$6.05. The tiny fine print at the
10 bottom of the webpage likewise makes no mention of the Broadcast TV Surcharge,
11 stating only that “Phone taxes, fees, & surcharges are included in price; other
12 equipment, install, taxes, fees & surcharges may apply.”

13 41. Charter’s deception extends through the entire online order process. For
14 example, see Figure 2 below (red box highlight added), which is a screenshot of page
15 one of the online order process captured on October 30, 2016 for service in the San
16 Diego, California area. On the top right side of each page of the online order process,
17 Charter prominently advertises the “MONTHLY CHARGES” for each service (TV,
18 Internet, Phone), and then highlights in blue the total monthly charges. Notably, under
19 the section for TV, the charges include only \$29.99 for the selected package plus \$4.99
20 for the DVR Box. Charter intentionally does not disclose that there is a \$6.05 monthly
21 Broadcast TV Surcharge.

22
23
24
25
26
27
28

1 **Figure 2: Online Order Process On TWC Website**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

22
23
24
25
26
27
28

42. In an attempt to insulate itself from liability for its fraud, Charter inserts an asterisk by the total “MONTHLY CHARGES.” Below, the small text referenced by the asterisk vaguely states: “This amount excludes taxes, broadcast and other fees... [T]he actual amount of taxes and fees will be calculated and reflected in your next bill statement.”

43. Charter does not mention or make reference to the “Broadcast TV Surcharge” in this small print. A reasonable consumer would interpret the phrase

1 “excludes taxes, broadcast and other fees” to refer to government-related fees and
2 taxes. Charter’s use of the intentionally vague and deceptive wording “broadcast and
3 other fees”, rather than Charter’s own official name for the fee – i.e., “the Broadcast TV
4 Surcharge” – is further evidence of Charter’s intent to conceal the charge while
5 simultaneously attempting to insulate itself from liability for the deception.

6 44. Also, Charter does not state in this text that the “broadcast and other fees”
7 will necessarily and automatically be charged, versus possibly charged. Instead, Charter
8 states the consumer will need to wait until receiving the first billing statement, where the
9 fees “will be calculated and reflected,” to find out what those fees are.

10 **C. Charter Sales Agents Consistently and Falsely Tell Prospective and**
11 **Current Customers that the Broadcast TV Surcharge and the Sports**
12 **Programming Surcharge Are Government-Related Fees or Taxes.**

13 45. Based on the investigation of Plaintiff’s counsel and on information and
14 belief, Charter sales agents consistently and falsely tell prospective and current
15 customers that the Broadcast TV Surcharge and the Sports Programming Surcharge are
16 government-related fees or taxes.

17 46. Online sales chat agents consistently and falsely state that the Broadcast
18 TV Surcharge is a fee “mandated by the FCC” over which Charter has no control.

19 **D. Charter’s Form Subscriber Agreement Does Not Mention the**
20 **Broadcast TV Surcharge or the Sports Programming Surcharge, and**
21 **to the Contrary, Implies That All Surcharges Are Government-Related.**

22 47. For customers in the service areas formerly served by TWC, as of
23 November 6, 2016 Charter continues to utilize the TWC form subscriber agreement
24 which it calls the “Time Warner Cable Residential Services Subscriber Agreement”
25 (hereinafter “TWC Agreement”). Neither the Broadcast TV Surcharge nor the Sports
26 Programming Surcharge is mentioned anywhere in the TWC Agreement’s 15 pages of
27 small type. An example of the TWC Agreement (the PDF iteration posted on the TWC
28 website as of November 6, 2016) is attached hereto as **Exhibit A**

48. The TWC Agreement does not define the word “surcharge” and utilizes the

1 word in the context of government related fees, taxes and “surcharges” in Section 1(j)
2 (emphasis added in the excerpt below):

3 **Governmental Fees, Taxes and Surcharges. Since tax and regulatory rules**
4 **are subject to interpretation, we have complete discretion in deciding what**
5 **governmental fees and taxes to collect from you.** You waive any right to (in
6 other words, you are not eligible to receive) a refund of any fees or taxes that we
7 collect from you and pay to any government or agency. You can receive a list of
8 the fees and taxes we collect from: Time Warner Cable, 7800 Crescent Executive
9 Drive, Charlotte, North Carolina, 28217; Attention: Subscriber Tax Inquiries.

10 49. A reasonable consumer who read the TWC Agreement would assume
11 “surcharges” such as the Broadcast TV “Surcharge” and Sports Programming
12 “Surcharge” are government-related fees or taxes.

13 50. Consistent with this interpretation, and as documented in Section E below,
14 Charter explicitly defines “Surcharges” on its customer bills to California consumers as
15 follows: “**Surcharges** – TWC imposes surcharges to recover costs of complying with its
16 governmental obligations.” Meanwhile, as described below, Charter labels these bogus
17 fees as “Broadcast TV and Sports Programming Surcharges” on these same bills.

18 **E. Charter Commits Massive Billing Fraud By Hiding Price Increases On**
19 **Its Bills in the Form of the Broadcast TV and Sports Programming**
20 **Surcharges, and then Falsely Stating On Its Bills that the Surcharges**
21 **Are Imposed to “Recover Costs of Complying With Its Governmental**
22 **Obligations.”**

23 51. Charter is committing massive billing fraud by disguising price increases
24 above the advertised and promised service package price in the form of the bogus
25 “Broadcast TV and Sports Programming Surcharges” line item on customer bills.

26 52. Compounding the fraud, since at least May 2016, and based on
27 information and belief for a long period prior to that, Charter and its predecessor TWC
28 have falsely printed on the bill that these Surcharges are government-related fees. Yet in
reality, the Broadcast TV and Sports Programming Surcharges have absolutely nothing
to do with government-related fees or taxes. Charter (previously TWC) is on record as
stating that the ostensible purpose of the Surcharges is to reimburse itself for its
contractual payments to ABC, NBC, CBS, FOX, and sports networks to carry and

1 transmit their video content.

2 **1. Charter Charges Customers More Than the Advertised and**
3 **Promised Price for Television Service By Disguising the Price**
4 **Increase in the Form of Its Made-Up Broadcast TV and Sports**
5 **Programming Surcharges Line Item on the Customer Bill.**

6 53. Below at Figures 3 through 5 is Plaintiff Michael Song's July 2016 bill from
7 TWC (red box highlight added). The relevant pages three through five are reprinted
8 below; the first two pages of the bill (not shown) are advertisements for TWC services.³

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27 ³ Mr. Song downloaded the bill from his online account on the TWC website on October
28 24, 2016. TWC allows customers to view and download only the last 6 months of bills
from its website.

1 **Figure 3: Time Warner Cable Bill for July 2016 – Page 3**

Page 3 of 5



Account number
[REDACTED]

Customer code
[REDACTED]

| Due date | Service period | Amount due |
|--------------|----------------|----------------|
| Jul 03, 2016 | 06/23 - 07/22 | \$99.35 |

Service address
 Lifeng Song
 Account Phone [REDACTED]
[REDACTED]
 San Diego CA [REDACTED]

Previous balance & payments

| | |
|--------------------------------------|---------|
| Balance last statement | 204.40 |
| Payments received as of Jun 13, 2016 | -209.15 |

Current month

| | |
|------------------------------|-------|
| Monthly services | 83.24 |
| Movies on demand and events | 4.99 |
| Credits and one-time charges | 4.75 |
| Taxes, fees & surcharges | 11.12 |

Total due by AUTOPAY **\$99.35**

IMPORTANT TWC INFO

We've simplified your bill. Now you'll see a clearer summary of your Monthly Service charges on page 2.

Our free Peace & Quiet features let you block unwanted calls and protect your privacy (including Nomorobo®). Visit twc.com/account to set up.

Watch Live TV on your devices. Use the Internet without using your data. TWC has the free apps you want. Start at twc.com/register to get your TWC ID.

Great deals are waiting. Don't miss out on the hottest shows, fastest Internet, and now 500,000 wireless hotspots. Call 1-855-708-6708 to upgrade and save.

Please enclose this coupon with your payment.



8949 WARE COURT SAN DIEGO CA 92121-2275
[REDACTED]

LIFENG SONG
[REDACTED]
 SAN DIEGO, CA [REDACTED]



Payment due date
Jul 03, 2016

Account number
[REDACTED]

Total amount due
\$99.35

Amount enclosed
AUTOPAY

You are an AUTOPAY customer. Thank you!
 Your Automatic Payment Will Be Made 07/01/16

1 **Figure 4: Time Warner Cable Bill for July 2016 – Page 4**

Page 4 of 5

Lifeng Song
Total due by AUTOPAY: \$99.35
Account number: [REDACTED]
Customer code: [REDACTED]
Statement date: Jun 13, 2016



| Previous balance | | <i>continued from previous column</i> | |
|--|------------------|--|---------------|
| Balance last statement | 204.40 | | |
| Total previous balance | \$204.40 | Total movies on demand and events | \$4.99 |
| Payments | | Credits and one-time charges | |
| 05/30 Credit Card Payment | -209.15 | 05/20 Late Fee | 4.75 |
| Total payments | -\$209.15 | Total credits and one-time charges | \$4.75 |
| Monthly services | | Taxes, fees & surcharges | |
| Bundled services | | E911 Surcharge 0.10 | |
| 06/13 Standard Triple + Epix | 144.99 | Universal LifeLine Tel Serv Surcharge 0.84 | |
| Includes: Preferred TV (with Variety Pass), Epix, Standard Internet, Home Phone National and Voicemail | | CA Relay Service & Comm. Device Fund 0.08 | |
| Service Discount | -66.75 | High Cost Fund Surcharge A 0.05 | |
| Bundled services total | \$78.24 | CASF and High Cost B Surcharge 0.07 | |
| TV services | | Federal Universal Svc Recovery Fee 0.91 | |
| 06/13 HD Set-Top Box & Remote | 11.75 | CTF - CA Teleconnect Fund 0.16 | |
| Service Discount | -6.75 | Franchise Fee 3.11 | |
| The Internet Speed in | 0.00 | TWC Regulatory Recovery Fee 0.30 | |
| Your Area Is Now 3x Faster. Visit twc.com/bettertwc . | | Broadcast TV and Sports Programming Surcharges 5.50 | |
| Recurring Payment | 0.00 | Total taxes, fees & surcharges \$11.12 | |
| Complimentary Subscription for 12 months. Includes Showtime and The Movie Channel | 0.00 | Total due by AUTOPAY \$99.35 | |
| TV services total | \$5.00 | <i>Taxes, fees and surcharges are subject to change</i> | |
| Internet/Data services | | | |
| 06/13 Home WiFi | 0.00 | | |
| Extreme Upgrade | 20.00 | | |
| Service Discount | -20.00 | | |
| Internet/Data services total | \$0.00 | | |
| Total monthly services | \$83.24 | | |
| Movies on demand and events | | | |
| 06/10 Zootopia | 4.99 | | |
| Start 8:16 PM | | | |
| <i>continued on next column</i> | | | |

Pay online

Go green with online bill payment. Sign up at twc.com/account. Have your account number and customer code ready, found on the top of this page.

Pay by phone

Make a credit card payment free of charge using our automated payment option at **1-888-892-2253**; simply say "pay my bill". Use your Visa, MasterCard, Discover or American Express card.

Customer information

Experiencing technical issues with closed captioning? Call 1-800-892-2253, email closedcaption@twcable.com, or fax 1-877-430-1386. Address written complaints to W. Wesselman, Legal, 13820 Sunrise Valley Dr., Herndon, VA 20171, email ccissues@twcable.com, or fax 1-704-697-4935. To follow up on a written submission only, call 1-877-276-7432.

If your check is returned, you expressly authorize your bank account to be electronically debited for the amount of the check plus any applicable fees. The use of a check for payment is your acknowledgment and acceptance of this policy and its terms and conditions.

To view the call detail for your Home Phone calls, go to twc.com/account

For information on any upcoming programming changes please consult the Legal Notices published in The San Diego Union-Tribune on the 1st and 3rd Wednesday each month and on twc.com

Visit twc.com/careers for career opportunities at Time Warner Cable.

TWC imposes surcharges to recover costs of complying with its governmental obligations.

This bill is now due and payable. A late payment charge of \$4.75 will be assessed if the account is past due. Please contact TWC with bill questions. If your questions remain unresolved, you may contact the CPUC's Consumer Affairs Branch at 1-800-649-7570.

Your Franchise Authority Is: Cable Franchise Admin, City Of San Diego, 1200 3rd Ave., Suite 416, San Diego CA 92101 Phone: (619) 236-6010 Your FCC Community ID Is: CA0428

1 **Figure 5: Time Warner Cable Bill for July 2016 – Page 5**

2 [REDACTED]

3 **Lifeng Song**
4 **Total due by AUTOPAY: \$99.35**
5 **Account number:** [REDACTED]
6 **Customer code:** [REDACTED]
7 **Statement date: Jun 13, 2016**

8 [REDACTED]

9 **Reach us at your convenience**

10 **In person**
11 8949 Ware Court, San Diego, CA 92121
12 Monday - Friday 9am - 6pm
13 Saturday 9am - 5pm

14 **On twc.com**
15 Visit twc.com/account to pay your bill online, view FAQs/self-help options and
16 chat with a live agent. Just have your customer code above on hand.

17 **Through your mobile device**
18 With our free My TWC® app.

19 **Over the phone**
20 Call us anytime at **1-888-892-2253** and simply say "pay my bill" to pay your
21 bill for free. Or you can speak to someone live with any questions about your
22 bill.

23 *Basic TV tier (Starter TV) is \$22.00*

24 *TV equipment charges (before discount and per device): Set-Top Box \$11.75;*
25 *CableCARD \$2.50; Digital Adapter \$3.25*

26 *Basic Phone service (Local) is \$24.99*

27 [REDACTED]

28 [REDACTED]

Page 5 of 5



1 54. Charter lists a total “Monthly services” price of \$83.24 on page 3 of the
2 TWC bill (Figure 3), which is repeated on page 4 of the bill (Figure 4) where it is labeled
3 as “Total monthly services.” This \$83.24 price includes the \$78.24 “Bundled services
4 total” for Mr. Song’s “Standard Triple + Epix” service package, plus \$5.00 for the “HD
5 Set-Top Box & Remote.” A reasonable consumer would believe that this “Total monthly
6 services” price is the actual total price for all the monthly services in Mr. Song’s package,
7 including the broadcast TV channels which are in every television package offered by
8 Charter, and including the sports channels which are included in the package selected
9 by Mr. Song. The consumer would be wrong.

10 55. The “Total monthly services” price of \$83.24 is a lie. The \$83.24 price is in
11 fact \$5.50 less than Charter is truly charging Mr. Song to provide the TV channels that
12 are included in his package. Charter has deceptively subtracted this \$5.50 from the
13 “Total monthly services” and has hidden it in the “Taxes, fees & surcharges” section in
14 the form of a \$5.50 “Broadcast TV and Sports Programming Surcharges” line item.

15 56. Charter intentionally and deceptively disguises the Broadcast TV and
16 Sports Programming Surcharges as a government-related fee or tax by hiding the
17 charge in the “Taxes, fees & surcharges” section at Figure 4. All 9 other line item
18 charges in that section on Mr. Song’s bill are government-related taxes or fees. But in
19 contrast to those 9 other charges, the deceptively named “Broadcast TV and Sports
20 Programming Surcharges” line item is a completely made-up fee, which Charter has
21 admitted it charges to provide the very channels Charter has promised are already
22 included in the “Total monthly services” price.

23 **2. Charter Commits Brazen Billing Fraud By Falsely Stating On Its**
24 **Bills That the Broadcast TV and Sports Programming**
25 **Surcharges are Imposed to “Recover Costs of Complying With**
26 **Its Governmental Obligations.”**

27 57. Charter’s deception of charging more than the advertised and promised
28 price via the bogus Broadcast TV and Sports Programming Surcharges does not stop
with Charter’s hiding the Surcharges in the “Taxes, fees & surcharges” section in the

1 customer bill. To be absolutely certain that it has successfully tricked its customers into
2 believing that the Broadcast TV and Sports Programming Surcharges are government-
3 related fees, and to ensure its customers thereby do not question these hidden price
4 increases, Charter brazenly and falsely prints on its bills that the Surcharges are
5 imposed to reimburse itself for its government-imposed obligations.

6 58. In Figure 4 above, Charter explicitly states in the footer of the bill that
7 **“TWC imposes surcharges to recover costs of complying with its governmental**
8 **obligations.”** This is a clear and unambiguous statement that any line item on the bill
9 that is labeled as a “surcharge” is charged to recover costs imposed on Charter by the
10 government.

11 59. Charter clearly and unambiguously calls the Broadcast TV and Sports
12 Programming fees “surcharges” – in fact, the very name of the line item is: “Broadcast
13 TV and Sports Programming Surcharges” (emphasis added). Meanwhile, Charter
14 provides no further explanation or definition of the Broadcast TV and Sports
15 Programming Surcharges line item on its customer bills.

16 60. Thus, Charter is committing explicit and brazen billing fraud by falsely
17 stating on its customer bills that the Broadcast TV and Sports Programming Surcharges
18 line item is a government-related fee, imposed to “recover costs of complying with its
19 governmental obligations.” But in truth, rather than collecting this money to pay for its
20 governmental obligations, Charter is pocketing the money and enriching itself as a result
21 of its fraud.

22 61. On or around September 20, 2016, Charter updated the formatting and
23 branding of the TWC bills sent to California subscribers residing in areas formerly served
24 by TWC. The new bills replaced the prior TWC branding with new “Spectrum” branding
25 (the top of the new bills stated “Time Warner Cable is Now Spectrum”). Figures 6
26 through 8 below are pages from Mr. Song’s October 14, 2016 bill which contains these
27 changes.

28

1 **Figure 6: Charter Spectrum Cable Bill for October 2016 – Page 1**



October 14, 2016
Auto Pay Notice
 Account: [REDACTED]
 Phone Number: [REDACTED]
 Security Code: [REDACTED]
 Service At: [REDACTED]

SPECTRUM NEWS

Your current promotion is ending, but your savings will continue. As a valued customer, we have automatically extended you a new preferred rate.

Contact Us
 Visit us at twc.com/support
 Or, call us at 855-70-SPECTRUM (855-707-7328)

| Summary <small>Service from 10/23/16 through 11/22/16 details on following pages</small> | |
|---|-----------------|
| Previous Balance | 99.35 |
| Payments Received -Thank You! | -99.35 |
| Remaining Balance | 0.00 |
| Bundled Services | 98.24 |
| TV Services | 5.00 |
| Internet Services | 0.00 |
| Other Charges | 8.75 |
| One-Time Charges | 7.98 |
| Taxes, Fees and Charges | 7.05 |
| Current Charges | 127.02 |
| <i>YOUR AUTO PAY WILL BE PROCESSED 11/01/16</i> | |
| Total Due by Auto Pay | \$127.02 |

Thank you for choosing Spectrum.
 To avoid a late fee, the BALANCE must be paid by the DUE DATE. We appreciate your prompt payment and value you as a customer.

Auto Pay. Thank you for signing up for auto pay. Please note your payment may be drafted and posted to your Spectrum account the day after your transaction is scheduled to be processed by your bank.



8949 WARE COURT SAN DIEGO CA 92121-2275
 [REDACTED]

LIFENG SONG
 [REDACTED]

[REDACTED]

October 14, 2016

Lifeng Song

Account: [REDACTED]
 Phone Number: [REDACTED]
 Service At: [REDACTED]

Total Due by Auto Pay **\$127.02**

TIME WARNER CABLE
 PO BOX 60074
 CITY OF INDUSTRY CA 91716-0074

[REDACTED]

1 **Figure 7: Charter Spectrum Cable Bill for October 2016 – Page 2**



2 Page 2 of 6 October 14, 2016

3 Account: Lifeng Song
 4 Security Code: [REDACTED]

Contact Us
 Visit us at twc.com/support
 Or, call us at 855-70-SPECTRUM (855-707-7328)

5 **Charge Details**

| | | |
|--------------------------|-------|---------------|
| Previous Balance | | 99.35 |
| Credit Card Payment | 10/02 | -99.35 |
| Remaining Balance | | \$0.00 |

6 Payments received after 10/14/16 will appear on your next bill.

7 Service from 10/23/16 through 11/22/16

8 **Bundled Services**

| | | |
|--|--|----------------|
| Standard Triple + EPIX | | 144.99 |
| Includes: Preferred TV (with Variety Pass), Epix, Standard Internet, Home Phone National and Voicemail | | |
| Service Discount | | -46.75 |
| Bundled Services Total | | \$98.24 |

9 **TV Services**

| | | |
|---|--|---------------|
| HD Set-Top Box & Remote | | 11.75 |
| Service Discount | | -6.75 |
| Recurring Payment | | 0.00 |
| Complimentary Subscription for 12 months, Includes Showtime and The Movie Channel | | 0.00 |
| | | \$5.00 |

| | | |
|----------------|-----------------------------|---------------|
| Fees & Charges | Franchise Fee | 3.92 |
| | TWC Regulatory Recovery Fee | 0.08 |
| | | \$4.00 |

14 TV Services Total \$9.00

15 **Internet Services**

| | | |
|------------------|--|---------------|
| Home WiFi | | 0.00 |
| Extreme Upgrade | | 20.00 |
| Service Discount | | -20.00 |
| | | \$0.00 |

17 Internet Services Total \$0.00

5 **Phone Services**

| | | |
|----------------|---------------------------------------|---------------|
| Fees & Charges | E911 Surcharge | 0.13 |
| | Universal LifeLine Tel Serv Surcharge | 1.05 |
| | CA Relay Service & Comm. Device Fund | 0.10 |
| | High Cost Fund Surcharge A | 0.07 |
| | CASF and High Cost B Surcharge | 0.09 |
| | Federal Universal Svc Recovery Fee | 1.11 |
| | CTF - CA Teleconnect Fund | 0.21 |
| | TWC Regulatory Recovery Fee | 0.29 |
| | | \$3.05 |

For additional call details, please visit twc.com/account.

Phone Services Total \$3.05

11 **Other Charges**

| | |
|---|---------------|
| Broadcast TV and Sports Programming Surcharges | 8.75 |
| Other Charges Total | \$8.75 |

12 **One-Time Charges**

| | | | |
|-------------------------------|-------|-------|---------------|
| Private Title | 09/30 | 6:24p | 3.99 |
| Private Title | 10/07 | 6:24p | 3.99 |
| One-Time Charges Total | | | \$7.98 |

14 **Current Charges** \$127.02
Total Due by Auto Pay \$127.02

15 **Billing Information**

Tax and Fees - This statement reflects the current taxes and fees for your area (including sales, excise, user taxes, etc.). These taxes and fees may change without notice.

Surcharges - TWC imposes surcharges to recover costs of complying with its governmental obligations.

Continued on the next page...

19 Local Store: 8949 Ware Court, San Diego, CA 92121 Store Hours: Mon thru Fri - 9:00am to 6:00pm; Sat - 9:00am to 5:00pm

20 **Your WAY can be the GREEN way!**
 21 **GO GREEN with Spectrum.**
 Online Bill Pay is helping the environment one customer at a time. It's easy - all you need to do is sign up for Online Bill Pay. It will save you money on postage and time - and it will also save trees!

For questions or concerns, please call 1-855-707-7328.

22 Enrolling is easy, just go to twc.com/account. Each month, you'll receive a paperless e-bill that you pay online with your choice of payment options.

- Debit Card - Credit Card - Electronic Funds Transfer
- Receive a quick summary of your account at any time
- Access up to 6 months of statements



1 **Figure 8: Charter Spectrum Cable Bill for October 2016 – Page 3**



2
3 Page 3 of 6 October 14, 2016

4 Account: [Lifeng Song](#)
Security Code: [REDACTED]

Contact Us
Visit us at twc.com/support
Or, call us at 855-70-SPECTRUM (855-707-7328)

5 **Basic Phone Service (Local)** - is \$24.99

6 **Basic Tier (Starter TV)** - is \$22.00

7 **TV Equipment Charges (before discount and per device)** - Set-Top
Box \$11.75; CableCARD \$2.50; Digital Adapter \$3.25

8 **Video Closed Captioning Issues** - Experiencing technical issues with
closed captioning? Call 1-800-892-2253, email
closedcaption@twcable.com, or fax 1-877-430-1386. Address written
complaints to W. Wesselman, Legal, 13820 Sunrise Valley Dr., Herndon,
VA 20171, email ccissues@twcable.com, or fax 1-704-697-4935. To
follow up on a written submission only, call 1-877-276-7432.

9 **Authorization to Convert your Check to an Electronic Funds
Transfer Debit** - If your check is returned, you expressly authorize your
bank account to be electronically debited for the amount of the check plus
any applicable fees. The use of a check for payment is your
acknowledgment and acceptance of this policy and its terms and
conditions.

10 **Late Fee** - This bill is now due and payable. A late payment charge of
\$4.75 will be assessed if the account is past due. Please contact TWC
with bill questions. If your questions remain unresolved, you may contact
the CPUC's Consumer Affairs Branch at 1-800-649-7570.

11 **Programming Changes** - For information on any upcoming
programming changes please consult the Legal Notices published in The
San Diego Union-Tribune on the 1st and 3rd Wednesday each month and
on twc.com.

12 **Franchise Administrator** - City of San Diego, Cable Franchise
Administrator 1010 Second Ave, Suite 500E San Diego CA 92101
Phone: (619) 533-4783

13 **Phone Provider** - Time Warner Cable Information Services (California),
LLC

14 **Billing** - This bill is now due and payable; it becomes subject to a late
payment charge if not paid within 15 calendar days of presentation date.
Should you question this bill, please request an explanation from Time
Warner Cable Information Services (California), LLC.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
If you believe you have been billed incorrectly you may file a complaint
with the California Public Utilities Commission, Consumer Affairs Branch,
505 Van Ness Avenue, San Francisco, CA 94102. To avoid having
service disconnected, payment of the disputed bill should be made "under
protest" to the CPUC or payment arrangements should be made
agreeable to the CLEC pending the outcome of the Commission's
Consumer Affairs Branch review. The Consumer Affairs Branch shall
review the basis of the billed amount, communicate the results of its
review to the parties and inform you of your recourse to pursue the matter
further with the Commission.

1 62. On the new bill, Charter now lists the Broadcast TV and Sports
2 Programming Surcharges line item in a new “Other Charges” section.⁴

3 63. However, Charter has retained the same language regarding the definition
4 of “Surcharges,” and has made the fraudulent definition even more prominent (see
5 Figure 7 above): “**Surcharges** – TWC imposes surcharges to recover costs of complying
6 with its governmental obligations.”

7 64. Charter continues to commit billing fraud on the new bills by: (1)
8 subtracting part of the monthly price of services and hiding it in the form of the Broadcast
9 TV and Sports Programming Surcharges line item in the “Other Charges” section of the
10 bill; and (2) continuing to retain the same language which falsely states on the bill that
11 the Broadcast TV and Sports Programming Surcharges are government-related charges
12 imposed to “recover costs of complying with its governmental obligations.”

13 **F. Charter Lies to Customers Who Inquire or Complain About the**
14 **Broadcast TV and Sports Programming Surcharges On Their Bills By**
15 **Telling Them the Surcharges Are Government-Related Fees or Taxes.**

16 65. Some customers notice the deceptive fees on their bills and call Charter to
17 inquire or complain about the Broadcast TV and Sports Programming Surcharges.
18 Consistent with the fraudulent description of the Surcharges printed on Charter’s
19 customer bills, the standard response of Charter customer service agents is to lie and
20 tell customers that the Surcharges are government-related fees or taxes.

21 66. Charter agents also uniformly refuse to remove the Surcharges from the
22 bill, telling customers that everyone with television service must pay the Broadcast TV
23 and Sports Programming Surcharges.⁵

24 67. When Plaintiff Michael Song complained in an online chat with a Charter

25 ⁴ Also on this new bill, Charter increased the Broadcast TV and Sports Programming
26 Surcharges line item to Mr. Song by 60% to \$8.75, compared to the prior month’s
(September’s) bill.

27 ⁵ New California Charter customers since September 20, 2016 must pay only the \$6.05
28 Broadcast TV Surcharge; Charter appears to no longer charge new customers the
Sports Programming Surcharge.

1 customer service agent about the Broadcast TV and Sports Programming Surcharges,
2 he was told the Surcharges were local government charges which Charter paid to the
3 government.

4 68. Mr. Song's online chat with the Charter agent is excerpted below
5 (emphasis added via underline):

6 **Online Chat on 10/27/2016**

7 **Charmi P.:** I have checked the details, your bill was \$99.35 for the service
8 period 09/23 – 10/22 because the old promotion was active and also taxes
9 were not increased which is Broadcast fee and Sports fee

10 **Charmi P.:** After that the promotion got ended due to which your bill
11 increased and taxes were also increased for the same period.

12 ...

13 **You:** does that increase go up, even if I am in current promotion? it goes
14 up for everyone?

15 **Charmi P.:** Yes.

16 **Charmi P.:** It increased for all the customer's

17 ...

18 **Charmi P.:** The broadcast fee is the charge included in the Cable service.

19 **Charmi P.:** It is charge to all the customer's

20 **You:** Does Time Warner keep this money from the broadcast fee. Or does
21 it pay it to the government?

22 **Charmi P.:** Broadcast fee is been charge by the local government to
23 broadcast the channels.

24 **Charmi P.:** It the fee charged to all the broadcaster's.

25 **Charmi P.:** All TV providers are required to carry the local broadcast
26 channels for their area as part of the first tier of service sold to customers.

27 **You:** Ok, so Time Warner pays this broadcast fee to the local government?

28 **Charmi P.:** Correct!

29 **G. Charter's Practices Are Fraudulent and Unfair and Are Intended To**
30 **Mislead Consumers.**

31 69. Charter perpetrates this scheme in order to charge its California customers
32 (and also its other customers nationwide) more money for its service packages while
33 advertising and promising a lower price. This massive fraud pervades and is reinforced
34 throughout the entire life cycle of the customer, from sign-up to billing to customer

1 support. First, Charter intentionally hides and misrepresents the Broadcast TV and
2 Sports Programming Surcharges in its advertising and in its communications with
3 prospective customers. Second, Charter commits billing fraud by (a) subtracting the
4 invented surcharge amounts from the top-line service price in its bills and then hiding
5 and disguising them elsewhere in the bill in the form of the Surcharges; and (b) explicitly
6 and falsely stating on customer bills that the Broadcast TV and Sports Programming
7 Surcharges are government-related fees imposed to “recover costs of complying with its
8 governmental obligations.” Third, to those customers who question the bogus
9 Surcharges on their bills, Charter lies by stating that the charges are government-related
10 fees or taxes over which it has no control.

11 70. These combined bogus Surcharges now stand at \$8.75 per month for
12 current California subscribers like Plaintiff Michael Song, having increased over 400%
13 since TWC (the predecessor to Charter) first introduced the Broadcast TV Surcharge
14 (then called the “Broadcast TV Fee”) in March 2014.

15 71. The FCC has identified these fees by “MVPDs” (Multichannel Video
16 Programming Distributors, such as Charter) as potentially deceptive, stating the following
17 and seeking public comment:

18 Some MVPDs have added various video-related fees to monthly billing
19 statements. **Such fees include, for instance, a broadcast fee to partially**
20 **recoup retransmission consent fees charged by local broadcast stations**
21 **and a sports fee to defray the cost of sports programming. Some MVPDs**
22 **may raise subscribers’ total monthly bills using these fees without raising**
23 **the advertised package prices.** We seek comment on the competitive strategy
24 associated with adding video-related fees as opposed to raising monthly
25 subscription prices... Do such fees enable MVPDs to better attract new
26 subscribers and retain existing subscribers? **Are consumers less responsive to**
27 **a \$1 video-related fee than they are to a \$1 increase in the price of video**
28 **services?**

(See FCC Public Notice, 30 FCC Rcd 7114, released on July 2, 2015, *available at*
<https://www.fcc.gov/ecfs/filing/60001090312>; emphasis added.)

26 72. Consumerist.com, a website published by a subsidiary of Consumer
27 Reports, criticized Charter’s (then TWC’s) “Broadcast TV and Sports Programming
28 Surcharges” scheme as follows: “This fee is a way for TWC to raise prices while

1 pretending not to raise prices. Basically, it's just a fee on TV services for... being TV
2 services.”⁶

3 73. Charter will continue deceiving and cheating its California customers with
4 this Broadcast TV and Sports Programming Surcharges scheme until it is forced by law
5 to stop. The scheme is far too profitable. Plaintiff estimates that Charter earns over \$1
6 billion per year from these bogus fees, equal to approximately 20% of Charter's total
7 annual profits.

8 **V. PLAINTIFF'S INDIVIDUAL FACTUAL ALLEGATIONS**

9 74. Plaintiff Michael Song has been a subscriber to TWC (and now Charter)
10 television, Internet, and voice services for approximately two years after switching from
11 AT&T U-Verse.

12 75. In October 2015, Mr. Song noticed that his TWC bill had increased
13 compared to the previous month's bill. Mr. Song called TWC customer service to inquire
14 about the bill. The customer service agent told Mr. Song that his previous 12-month
15 promotion had ended, and thus his monthly price had increased.

16 76. The customer service agent told Mr. Song that the agent could sign Mr.
17 Song up for a new 12-month promotion. The agent quoted Mr. Song a monthly price for
18 the “Standard Triple + Epix” service package, and the agent told him there also would be
19 additional taxes. Mr. Song asked the agent what the total amount of the bill would be
20 each month, and the agent told him a higher total amount which included taxes.

21 77. Relying on these representations of the TWC agent, Mr. Song placed the
22 order for the services under the new 12-month promotion.

23 78. At no time prior to or in placing his order was Mr. Song aware that TWC
24 would be charging him, and pocketing, an additional \$5.50 per month to provide his
25 television services, above and beyond the claimed monthly service package price.

26
27 ⁶ Cox, Kate, “The Consumerist Guide To Understanding Your Time Warner Cable Bill”,
28 Consumerist, February 17, 2016 (available at <https://consumerist.com/2016/02/17/the-consumerist-guide-to-understanding-your-time-warner-cable-bill/>).

1 Based on TWC's representations, Mr. Song was led to believe that all additional charges
2 above the package price were taxes.

3 79. On October 24, 2016, Mr. Song reviewed his October 2016 bill and noticed
4 that the bill had increased by \$24.68 to \$119.04 compared to his September bill of
5 \$94.36 (this was after subtracting charges for on-demand videos from each of the bills).

6 80. Mr. Song observed that \$3.25 of this price increase was due to a rise in the
7 "Broadcast TV and Sports Programming Surcharges" line item, which Mr. Song had
8 previously assumed was a government-related fee or tax.

9 81. On October 27, 2016, Mr. Song went to the TWC website and initiated an
10 online chat with a Charter customer service representative.

11 82. Mr. Song asked why his bill had gone up. The agent told him "You had
12 active promotion on your account which expired in the month of September. Due to
13 which your bill increase."

14 83. Mr. Song asked how he could find out when such promotions end, and the
15 agent replied that "When the promotion is about to expire you will get notification on the
16 previous bill."

17 84. However, contrary to the agent's assertion, Mr. Song received no such
18 notice on the September bill about his expiring promotion; there was only a notice on the
19 October bill which stated "Your current promotion is ending." Yet on this October bill, the
20 charges had already increased.

21 85. The agent told Mr. Song that "to control your monthly cost we applied a
22 new deal on your account. In this offer you will receive of discount of \$46.75 for
23 upcoming 12 months." However this new "discount," which apparently took effect in
24 October, was \$20 less than the previous promotional "discount" he had been receiving.

25 86. Mr. Song again asked why the bill had increased, and told the agent that
26 he also noticed that the Broadcast TV and Sports Programming Surcharges had
27 increased from \$5.50 on the September bill to \$8.75 in the October bill.

28 87. The agent replied, "I have checked the details, your bill was \$99.35 [\$94.36

1 plus the video on-demand charge] for the service period 09/23 – 10/22 [the September
2 bill] because the old promotion was active and also taxes were not increased which is
3 the Broadcast fee and Sports fee. After that the promotion got ended due to which your
4 bill increased and taxes were also increased for the same period. ...There is increase in
5 Broadcast fee for all the Cable customer's due to which your rate was increased."

6 88. Mr. Song asked the agent, "Does Time Warner keep this money from the
7 broadcast fee. Or does it pay it to the government?"

8 89. The agent replied, "Broadcast fee is been charged by the local government
9 to broadcast the channels. It the fee charged to all the broadcaster's."

10 90. Mr. Song then asked, "Ok so Time Warner pays this broadcast fee to the
11 local government?"

12 91. The agent replied, "Correct!"

13 92. Then Mr. Song asked the agent, "How much will my bill be under the new
14 promotion? When this new promotion end."

15 93. The agent replied, "Your rate will be \$135.23. It will be for next 12
16 months... It will expire 10/23/2017."

17 94. This further confused Mr. Song, because the agent had earlier in the
18 conversation told him that his current October bill of \$119.04 (after subtracting the video
19 on-demand charges) was the new rate under the new promotion which Charter had
20 already applied on his October bill after his previous promotion expired in September.
21 The agent had stated that the October bill had increased to \$119.04 from the previous
22 \$94.36 because of the decrease in discount under the new promotion and the higher
23 Broadcast TV and Sports Programming Surcharges. Now the agent was telling him his
24 rate would be increasing another \$16.19 per month starting on the November bill.

25 95. Mr. Song told the agent, "I don't understand my last [October] bill was
26 \$127.02, why did it increase [in November] to \$135.23?"

27 96. The agent replied, "The promotion against Extreme Internet will expire next
28 month."

1 97. Mr. Song, still confused from the contradictory explanations by the agent,
2 asked, “How do I know that the bill will not increase from \$135 in the next 12 months? I
3 am worried the broadcast fee again or other fees will be increased again.”

4 98. The agent replied, “I can assure you on promotion rate that it would not be
5 increase for next 12 months.”

6 99. Mr. Song then told the agent, “This broadcast fee was not told to me when
7 I signed up. It was not in the price I was promised. I want it refunded for all months since
8 I signed up as a subscriber.”

9 100. The agent replied, “We cannot remove this charge from account.”

10 101. Mr. Song responded, “So you are refusing to refund the broadcast tv and
11 sports programming surcharges?”

12 102. The agent replied, “Yes, we cannot remove this charge from account.”

13 103. Mr. Song materially relied upon Charter’s, and its predecessor TWC’s,
14 misrepresentations and omissions, which in conjunction with their acts and practices
15 alleged herein caused Mr. Song to suffer harm, injury in fact, and lost money or property.

16 **VI. THE TIME WARNER CABLE, INC. ARBITRATION CLAUSE EXPLICITLY**
17 **REQUIRES INJUNCTIVE RELIEF ACTIONS SUCH AS THIS LAWSUIT**
18 **TO BE BROUGHT IN COURT**

19 104. Section 15 of the TWC Agreement purports to contain a binding arbitration
20 provision (“Arbitration Clause”). An example of the TWC Agreement (the PDF iteration
21 posted on the TWC website as of November 6, 2016) is attached hereto as **Exhibit A**.

22 105. The Arbitration Clause explicitly states that injunctive relief actions, such as
23 this civil action, must be brought in court, and not in arbitration:

24 **“Only claims for money damages may be submitted to arbitration; claims
25 for injunctive relief must be brought in a court...”**

26 (See TWC Agreement at Section 15(a).)

27 106. In this action, Plaintiff Michael Song is seeking only injunctive and
28 declaratory relief to stop Charter’s unlawful actions, plus attorneys’ fees pursuant to

1 California Code of Civil Procedure §1021.5 because this action will result in the
2 enforcement of an important right affecting the public interest.

3 107. Thus, even assuming the Arbitration Clause is binding on Mr. Song (which
4 he does not concede), it is beyond dispute that this action must be heard and decided in
5 Court, and is not subject to arbitration.

6 **VII. CHOICE OF LAW**

7 108. The laws of the State of California apply.

8 **CAUSES OF ACTION**

9 **COUNT I**

10 **Breach of Contract**

11 109. Plaintiff realleges and incorporates by reference every allegation set forth
12 in the preceding paragraphs as though alleged in this Count.

13 110. Charter entered into valid contractual agreements with Plaintiff.

14 111. The essential terms of Charter's contracts with Plaintiff included Charter's
15 obligation to provide services at the monthly advertised and promised rate.

16 112. The essential terms of Charter's contracts with Plaintiff also included the
17 promise that those charges represented to be government-related, and also stated as
18 such on the customer bill, were in fact government-related fees and taxes.

19 113. Plaintiff gave consideration that was fair and reasonable, and has
20 performed all conditions, covenants, and promises required to be performed under his
21 contract with Charter.

22 114. Charter has breached its contract with Plaintiff via the inadequately
23 disclosed and invented Broadcast TV and Sports Programming Surcharges, which
24 Charter intentionally hides and disguises in both its advertising and in its customer bills.

25 115. Charter's contractual breaches are ongoing. Absent an order from the
26 Court ordering Charter to perform as it is required under its contracts with Plaintiff,
27 Charter will continue to breach its agreements with Plaintiff now and in the future.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT II
Declaratory and Injunctive Relief

116. Plaintiff re-alleges and incorporates by reference every allegation set forth in the preceding paragraphs as though alleged in this Count.

117. Plaintiff is a person interested under the California Declaratory Judgment Act (California Code of Civil Procedure §1060 *et seq.*), and, as such, desires a declaration of his rights or duties with respect to another, or in respect to property in this actual controversy relating to the legal rights and duties of the respective parties.

118. Plaintiff does not have a plain, speedy and/or adequate remedy in the ordinary course of law.

119. Plaintiff is entitled to the relief demanded, and the relief, or any part thereof, consists in restraining the commission or continuance of the acts complained of.

120. For example, and without limitation, Plaintiff is entitled to the following declaratory and injunctive relief: (1) a finding that Charter has engaged in unfair, unlawful, and/or fraudulent business acts or practices in violation of California law; (2) that Charter stop advertising and promising a price for its services that does not include the amounts currently described by Charter as the Broadcast TV Surcharge, Sports Programming Surcharge, and/or the Broadcast TV and Sports Programming Surcharges; (3) that Charter include all charges it imposes to reimburse itself for its contractual payments to the broadcast television stations and sports networks in its advertised, promised, and stated price for its services, including in the top-line price for the service plans which is stated on customer bills; and (4) that Charter stop falsely characterizing the Broadcast TV Surcharge, Sports Programming Surcharge, and/or the Broadcast TV and Sports Programming Surcharges as being related to government fees or taxes.

121. Plaintiff will be irreparably injured if Charter continues in its present course of conduct.

122. Pecuniary compensation will not afford adequate relief.

1 or “FAL”), by engaging in the acts and practices described herein with the intent to
2 induce consumers to purchase its service plans.

3 133. Charter’s misrepresentations and omissions deceive or have a tendency to
4 deceive the general public.

5 134. The misrepresentations and omissions by Charter alleged herein were the
6 type of representations and omissions that are regularly considered to be material, i.e, a
7 reasonable person would attached importance to them and would be induced to act on
8 the information in making purchase decisions.

9 135. Plaintiff reasonably relied on Charter’s false advertising in purchasing his
10 bundled cable services from Charter.

11 136. As a result of the foregoing, Plaintiff has been injured and has lost money
12 or property and is entitled to injunctive relief.

13 137. Unless restrained by this Court, Charter will continue to engage in untrue
14 and misleading advertising, as alleged above, in violation of California Business and
15 Professions Code §17500 *et seq.*

16 **COUNT V**
17 **Violations of California’s Consumers Legal Remedies Act (“CLRA”)**
18 **California Civil Code §1750 *et seq.***

19 138. Plaintiff realleges and incorporates by reference every allegation set forth
20 in the preceding paragraphs as though alleged in this Count.

21 139. Charter is a “person,” as defined by California Civil Code §1761(c).

22 140. Plaintiff is a “consumer” as defined by California Civil Code §1761(d).

23 141. The service plans marketed and sold by Charter constitute “goods” and
24 “services” as defined by California Civil Code §1761(a) and (b).

25 142. Plaintiff’s purchases of Charter’s services constitute “transactions,” as
26 defined by California Civil Code §1761(e).

27 143. Venue is proper under California Civil Code §1780(d) because a
28 substantial portion of the transactions at issue occurred in this county. Plaintiff’s
declaration establishing that this Court has proper venue for this action is attached

1 hereto as **Exhibit B**.

2 144. Charter intentionally misled consumers including Plaintiff to believe Charter
3 would charge consumers an advertised and promised flat monthly rate for cable
4 services, but in fact Charter charged a much higher rate via inadequately disclosed and
5 deceptive Broadcast TV and Sports Programming Surcharges.

6 145. Charter intentionally deceived consumers including Plaintiff by hiding and
7 disguising said Surcharges in its advertising and also in its customer bills, and by falsely
8 stating on its customer bills that the Surcharges were government-related fees. Charter
9 also lied to customers including Plaintiff who questioned Charter about the Surcharges,
10 by telling them that the Surcharges were government-related fees or taxes over which
11 Charter had no control.

12 146. Charter's misrepresentations, active concealment, and failures to disclose
13 violated the CLRA in ways including, but not limited to, the following:

14 a. Charter misrepresented that its service plans had characteristics,
15 benefits, or uses that they did not have (California Civil Code §1770(a)(5));

16 b. Charter advertised its services with an intent not to sell them as
17 advertised (California Civil Code §1770(a)(9));

18 c. Charter made false or misleading statements of fact concerning
19 reasons for, existence of, or amounts of price reductions (California Civil Code
20 §1770(a)(13));

21 d. Charter misrepresented that its service plans conferred rights,
22 remedies or obligations that they did not have (California Civil Code §1770(a)(14));

23 e. Charter misrepresented that its service plans were supplied in
24 accordance with previous representations when they were not (California Civil Code
25 §1770(a)(16)); and

26 f. Charter inserted unconscionable provisions in its customer contracts
27 (California Civil Code § 1770(a)(19)).

28 147. Charter's misrepresentations and nondisclosures regarding its service

1 plans were material to Plaintiff, and also to other California consumers, because a
2 reasonable person would have considered them important in deciding whether to
3 purchase Charter's service plans, and because Charter had a duty to disclose the truth.

4 148. Plaintiff relied upon Charter's material misrepresentations and
5 nondisclosures, and had he known the truth, he would have acted differently.

6 149. As a direct and proximate result of Charter's material misrepresentations
7 and nondisclosures, Plaintiff has suffered monetary damages and been irreparably
8 harmed.

9 150. Plaintiff seeks injunctive relief in the form of an order enjoining Charter
10 from making such material misrepresentations and omissions.

11 **PRAYER FOR RELIEF**

12 Plaintiff requests that the Court order relief and enter judgment against Charter,
13 and all persons acting in concert therewith, which:

- 14 1. Preliminarily and/or permanently enjoins Charter from its misconduct as
15 alleged;
- 16 2. Enters declaratory relief pursuant to California Code of Civil Procedure
17 §1060 *et seq.*;
- 18 3. Commands the payment of attorneys' fees to the extent allowed by law,
19 including, without limitation, attorneys' fees authorized pursuant to Code of Civil
20 Procedure §1021.5;
- 21 4. Commands the payment of costs to the extent allowed by law; and
- 22 5. Commands all other and further relief as this Court deems necessary, just
23 and proper.

24 **JURY DEMAND**

25 Plaintiff demands a trial by jury on all issues so triable.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: November 8, 2016 Respectfully submitted,

By: 
Daniel M. Hattis

Daniel M. Hattis (SBN 232141)
HATTIS LAW
P.O. Box 1645
Bellevue, WA 98009
Telephone: (650) 980-1990
Email: dan@hattislaw.com

Attorneys for Plaintiff

EXHIBIT A

TIME WARNER CABLE
RESIDENTIAL SERVICES SUBSCRIBER AGREEMENT

Style Definition: Comment Reference

We provide you and your household members with our Services on the condition that you comply with our Customer Agreements. These agreements, which are listed below, contain important information regarding your rights and responsibilities. Please review them carefully. The Customer Agreements constitute the entire agreement between you and us, and you are not entitled to rely on any other agreements or undertakings made by TWC personnel other than as set forth in the Customer Agreements.

- Residential Services Subscriber Agreement (this document). This Agreement contains the general terms and conditions governing your use of the Services.
- Your Work Order(s). We present you with a Work Order (either in electronic or print form) when you initiate service or when we visit your home to install additional services or address service problems.
- Terms of Service. Our Terms of Service contain information about the Services you receive and TWC's policies relating to such matters as billing and customer service.
- Tariffs. If TWC has filed a tariff with the telephone regulatory authority in your state, then the tariff will govern, in whole or in part, your receipt of our TWC Phone Service.
- Acceptable Use Policy. The "do's" and "don'ts" for use of our Services.
- Addenda. You may have agreed to an Addendum to this Agreement when you signed up for a special service or a special promotional program.

By signing your Work Order (either in electronic or print form) or using our Services, you accept (in other words, agree to be legally bound by) these Customer Agreements and confirm that, by doing so, you are not violating the terms of any agreement you may have with another provider of services. Our website always contains the most current versions of our Customer Agreements. See help.twcable.com/policies.html or contact your local TWC office.

THIS AGREEMENT CONTAINS A BINDING "ARBITRATION CLAUSE," WHICH SAYS THAT YOU AND TWC AGREE TO RESOLVE CERTAIN DISPUTES THROUGH ARBITRATION, AND ALSO CONTAINS A LIMITATION ON YOUR RIGHT TO BRING CLAIMS AGAINST TWC MORE THAN ONE YEAR AFTER THE RELEVANT EVENTS OCCURRED. YOU HAVE THE RIGHT TO OPT OUT OF THESE PORTIONS OF THE AGREEMENT. SEE SECTIONS 14, 15 AND 16.

Capitalized terms used in this Agreement have special meanings, which are contained in Section 17. By signing a Work Order or using our Services you agree on your own behalf and on behalf of your household members as follows:

1. Your Financial Responsibilities

(a) Charges and Billing. You must pay for the Services you receive or order in accordance with our billing practices, along with any installation or equipment charges and other applicable fees and taxes. We

reserve the right to change our prices and fees, and to impose new fees, charges and surcharges, including cost recovery surcharges as permitted by law. Certain of our fees are described below. Additional information regarding each of them is available from your local TWC office.

(b) Promotions. If you are under a promotional offering for a set period of time, you are assured that the price you are charged for the Services will not change during that period. However, you are not assured that the Services themselves (or the Customer-Owned Equipment or Customer Use Equipment requirements) will remain the same or that TWC's fees for things other than the Services (like Customer Use Equipment charges, late payment fees or charges for receiving paper statements) will remain the same.

(c) Late Fees. If you fail to pay your bill by the due date on your statement, we incur costs that we may pass on to you in the form of late fees and collection fees (including field collection fees that apply if we send someone to your home in an attempt to collect amounts you owe us). Except where late fees are set pursuant to law, these fees are based on the aggregate costs of our collection activities and may change over time and may vary by location. You confirm that these fees are difficult to determine on an individual basis and are reasonable in light of our costs in collecting past due amounts. We are entitled to charge you interest on past due amounts.

(d) Service Suspension Fees. If we suspend any of the Services we provide to you (for example, because you fail to pay amounts you owe us or because you violate our Customer Agreements), we may require that you pay us a fee for restoring your Service in addition to charging you the regular cost for such Services during the suspension.

(e) Bounced Checks. If your check to us "bounces" (or if your bank or payment card issuer refuses to pay us amounts you have previously authorized us to charge to your account), we may require that you pay us a fee.

(f) Deposits. We may require a deposit or other guaranteed form of payment (for example, a payment card or bank account debit authorization) from you. If you owe us money on any account, we can deduct those amounts from any existing credit you have with us or any security deposit you provide or, if applicable, charge them to the bank or payment card account you have authorized us to use.

(g) Purchase Authorizations. You authorize us to accept (and charge you for) any orders or requests made from your location or using your account information. For example, if someone in your home makes a long distance TWC Phone call or requests a pay channel like HBO®, you are responsible for the resulting charges. Similarly, if you provide any person with your TWC ID and password, you will be responsible for the costs of anything they order using the information, whether from within your home or outside it.

(h) Special Offers are, Well, Special. We are not required to notify you of offers we make available to others, or to change your prices to equal those contained in such offers.

(i) Billing Errors. You must bring any billing errors to our attention within 30 days of the day you receive the bill or you will waive any right to (in other words, you will not be eligible to receive) a refund or credit.

(j) Governmental Fees, Taxes and Surcharges. Since tax and regulatory rules are subject to interpretation, we have complete discretion in deciding what governmental fees and taxes to collect from you. You waive any right to (in other words, you are not eligible to receive) a refund of any fees or taxes that we collect from you and pay to any government or agency. You can receive a list of the fees and taxes we collect from: Time Warner Cable, 7800 Crescent Executive Drive, Charlotte, North Carolina, 28217; Attention: Subscriber Tax Inquiries.

(k) Urban Myth Debunked. You cannot settle amounts you owe us by writing “paid in full” or any other message on your bill or check.

(l) Replacement Bank and Credit Cards. If you provide us with a credit or bank card for billing or deposit purposes and the issuer gives you a new card on the account, you authorize us to update our records and to continue to use the account as before.

(m) Third-Party Claims. If a third party sues us based on your use of our Services, Equipment or Software (for example, claiming theft or copyright infringement based on something you posted online using our HSD Service), or based on a breach by you of any Customer Agreement(s), you will indemnify us (in other words, reimburse us) for any losses, including reasonable attorneys’ fees, that we suffer.

2. Your Responsibilities Regarding Equipment

(a) Access to Equipment. You will allow us to enter your premises to install, maintain or replace Equipment and to make sure our Services are operating and being delivered properly to you and your neighbors. If you stop receiving Services from us, you may terminate these rights by giving us one year’s advance notice. You confirm that you are authorized to grant the rights described in this paragraph.

(b) Repairs. After we install or remove Equipment or wiring on your premises, you are responsible for any repairs or cosmetic corrections you wish to make. We have an obligation to make such repairs only if we performed our work negligently and your property was damaged as a result.

(c) Downloads. We can make changes to Equipment and Software through downloads from our network or otherwise. To deliver the Services, we may from time to time download software and make other changes to Customer Owned Equipment, which may change the features and functionality of Customer-Owned Equipment. You represent that you have the authority to grant us access to such equipment to make such changes.

(d) Equipment Location. You may not move Customer Use Equipment to any location other than the location where you initially received the Services. This is true even if you have moved to a new location and continue to pay us for the Services.

(e) Equipment Return. You must arrange to return the Customer Use Equipment to us in good condition when the Services are terminated and, if you fail to do so, we have your permission to retrieve Customer Use Equipment from your premises at your expense. You are responsible for applicable fees until we receive the Customer Use Equipment. If we do not receive the Customer Use Equipment within a reasonable amount of time after the Services are terminated, we are entitled to assume that you have lost the Customer Use Equipment.

(f) Lost or Damaged Equipment. If the Customer Use Equipment is lost, stolen, damaged or tampered with, you must reimburse us (as “liquidated damages”) even if you are not at fault. The liquidated

damages amount for Customer Use Equipment is available on request from your local TWC office. You agree that this liquidated damages approach is reasonable in light of the difficulty of determining the value of the Customer Use Equipment or the losses we could suffer if a third party improperly gained access to our Services using Customer Use Equipment we provided to you.

(g) Recovered Equipment. The Customer Use Equipment we provide to you always belongs to us even if you reimburse us for the cost of it. If you find or recover lost equipment, you must return it to us. You may not remove or alter our logos or other identifying information (for example, serial numbers) on the Customer Use Equipment.

3. Your Right to Use Our Services and Property is Limited

(a) Our Services May Change. We can change the Services, or require that you obtain new Customer-Owned Equipment, or lease new or additional Customer Use Equipment from us to obtain the full benefit of the Services. As an example, we offer several different Video Service packages, each of which contains a variety of channels, and the channel lineup for each package may change from time to time. In purchasing a Video Services package, you are not guaranteed any particular channels and you are not entitled to any compensation if any channels are removed from your video package.

(b) Features and Functionality May Differ. Our Services may operate differently depending on the equipment you use to receive them. For instance, if you choose not to lease a set-top box from us, you may be unable to view all available channels for the tier of Service you receive or to perform certain two-way operations. If you use a TWC App running on a third party's device, you may have access to a different guide and user experience than if you use a set-top box for the Video Service. Different set-top boxes may also deliver different user experiences. Our in-home and out-of-home Services may also differ. For example, our out-of-home wifi service may not provide the same Throughput Rate that our in-home HSD Service provides and our out-of-home Video Services may provide fewer channels than our in-home Video Services.

(c) Software License. We may provide you with Software as part of or to help you use our Services. We allow you to use such Software and other TWC intellectual property, but only to the extent necessary to use or receive the related Services. The Software and other intellectual property always belong to us and our licensors, and you do not have any ownership rights in them or any right to license them to others. We may, but are not obligated to, modify the Software, including through remote downloads to Customer Use Equipment or Customer-Owned Equipment. If we notify you that a Software update is available to you, you should promptly perform the update. If you don't, the Software, Customer Use Equipment and/or Customer-Owned Equipment may not work properly with our Services. You represent that you have the authority to grant us access to the Customer Owned Equipment to make such modifications.

(d) Personal, Non-commercial Use Only. The Services and Software are for your reasonable personal, non-commercial use only. You may not examine or manipulate the Software code. You may not share our in-home Services or related Software with any person who is not a member or guest of your household or to persons outside your premises. You may not enable any person who is not a member of your household to access our out-of-home Services or related Software (for example, by providing them with your TWC ID and password).

(e) Unauthorized Access. You will take reasonable precautions to prevent others from gaining unauthorized access to the Services. For example, if you establish a username and password with us that enable you to access our out-of-home Services, you will not provide that username and password to any person other than the members of your household. If you do, we reserve the right to revoke your access credentials or terminate the Services you receive.

(f) Theft of Service. If you knowingly access Services that you have not paid for, enable others to access Services that they have not paid for, or damage or alter our Equipment (or use Customer-Owned Equipment) in order to do so, you will have breached this Agreement and possibly subjected yourself to statutory damages, fines or criminal charges. Only TWC may service Customer Use Equipment. You will not allow anyone else to open, take apart or modify Customer Use Equipment.

(g) Deletion of Materials. We reserve the right, both during the term of this Agreement and upon its termination, to delete Voicemail messages, email messages, call details, files and other information that is stored on our servers, systems or Equipment, in our discretion and in accordance with our storage policies. We might delete this information if, for example, the applicable Service account has gone unused for an extended period of time, if this Agreement has been terminated by you or us, or if we replace Customer Use Equipment that holds such information. Such deletions also may occur inadvertently. We will not be responsible for any loss or removal of such data or information.

4. Special Provisions for Phone Subscribers

(a) Electrical Power is Required. TWC Phone Service is delivered over a broadband connection and, as is the case with a cordless phone, is electrically powered. If your broadband connection or power is interrupted, you may not be able to make or receive calls or use 911, home security or medical monitoring services. This is true even if your cable modem contains a battery.

(b) Home Security and Medical Monitoring. The TWC Phone Service may not work properly with a third party's home security or medical monitoring system and we accept no responsibility for its performance with such systems. If you intend to use the TWC Phone Service with a third party's home security or medical monitoring system, you are responsible for making sure it works properly and for the cost of doing so. You should contact your home security or medical monitoring provider to determine whether the TWC Phone Service is compatible with its systems and to test the system's operation with the TWC Phone Service.

(c) 911 Information. The cable modem that we provide to you for TWC Phone Service is linked to the address on your Work Order. Ensuring that your address is correctly listed with 911 databases normally takes between 24 and 120 hours from the time that you subscribe to TWC Phone service. If you move the modem to another address, you violate this Agreement. Furthermore, if you call 911 from the new address using the modem, emergency personnel will not be able to locate you. Also, as noted above, your TWC Phone Service may not be available in the event of an electrical power outage, or if your local TWC system experiences service issues, and in those instances you will not be able to use the TWC Phone Service to call 911.

(d) Directory Listing Errors. If we do not comply with your requests regarding directory listing information (for example, list the wrong number or list a number you requested be unlisted), you may be entitled to a credit under our policies or, if greater, an amount prescribed by applicable regulatory

requirements. Please contact your local TWC office for more information. Other than these credits, we have no liability with respect to directory listings.

5. Special Provisions for HSD Subscribers

(a) **Network Management and Monitoring.** We may use Network Management Tools to make our Services operate efficiently. We may monitor your bandwidth usage and patterns and your compliance with our Customer Agreements.

(b) **HSD Service Level Limits.** Each HSD Service level may have a Maximum Throughput Rate, a Usage Limit or other characteristics. We can set or change the Maximum Throughput Rate, Usage Limit or other characteristics of any HSD Service level. If we do, we may put in place additional terms to address usage that is not consistent with the resulting HSD Service level. For example, if we set or change the Usage Limit that applies to your HSD Service level and you exceed the limit, we may suspend your HSD Service, reduce your Maximum Throughput Rate or charge you for your excess usage. You may need to subscribe to a more expensive HSD Service level or pay for additional bandwidth to avoid suspension or slower HSD Service. We will notify you of any new or changed Usage Limit (or any material reduction in the previously published Maximum Throughput Rate) for your HSD Service level and any related terms.

(c) **Throughput Rates.** We do not guarantee that you will obtain the Maximum Throughput Rate for the level of HSD Service to which you subscribe at any given time or on a continuous basis. The Throughput Rate you experience at any time will be affected by a number of factors, including the nature of the Internet and its protocols, our facilities, the bandwidth we devote to carriage of protocol and network information, the condition and configuration of our Equipment or Customer-Owned Equipment at your location, whether you use an in-home WiFi network (which can significantly limit the Throughput Rate obtained by devices attached to it), our use of Network Management Tools, data volume and congestion on our network and the Internet, the time of day you are using the HSD Service, the performance of the website servers you try to access, and the priority we give to our business subscribers' data traffic and specialized services we deliver using our Equipment as described in our Network Management Disclosures.

(d) **Your Transmissions.** If you send or post materials through the HSD Service, you are responsible for the material and confirm that you have all necessary rights to do so. You grant us, with no obligation to pay you, all rights we need to complete your transmission or posting. If we determine that the transmission or posting violates our Customer Agreements, we may (but have no duty to) delete the materials, block access to them or cancel your account.

(e) **Cable Modems.** The HSD Service requires the use of a cable modem. You may lease a cable modem from us for a monthly fee or purchase one from a list of modems authorized for use on our systems. For a list of TWC-authorized modems, see twc.com/compatiblemodems. In addition, if you use a modem we do not supply, or if you do not replace the modem we provide when we increase speeds, you may not be capable of obtaining our Maximum Throughput rate.

(f) **Addresses.** Use of the HSD Service does not give you any ownership or other rights in any Internet Protocol, email or Internet addresses that may be provided to you as part of the Service. We may modify or change these addresses at any time without notice to you. Upon termination of an HSD Service

account, we reserve the right to permanently delete or remove any or all addresses associated with such account.

6. Objectionable Material and Parental Controls

Our Services make available some material that may offend you or be inappropriate for members of your household. TWC provides Parental Controls and other tools that can filter or block access to certain video programming and Internet content. Parental Controls for Internet can be downloaded at twc.com/en/internet/features/security-privacy.html. In order to use our Parental Controls for video programming, you generally must lease a set-top box from us or use a TWC App that has such capabilities.

The availability and effectiveness of these tools may vary. Even if you use the Parental Controls we provide and they work as intended, you may be exposed to materials you find objectionable.

7. If You Have Service Problems, You May Be Entitled to a Credit

(a) Service Problems. We will attempt to correct service problems caused by our Equipment or Software but we are not required to install, service or replace Customer-Owned Equipment or software. Depending on the circumstances, we may charge you for service calls. For more information, please contact your local TWC office.

(b) Outages and Credits. TWC has no liability for service interruptions except that, if you lose all Video, HSD or TWC Phone Service for more than 24 consecutive hours and the cause of the outage was within our reasonable control (excluding service suspensions resulting from your failure to pay amounts you owe us or for violations of our Customer Agreements), we will provide you a credit for that period if you request one. If you experience a service problem with a VOD transaction, we will issue you a credit for the amount of the VOD purchase if you request one. All credit requests must be made within 30 days of your next bill following the outage or service issue. Unless required by law, such credit will not exceed the fixed monthly charges for the month of such Service(s) interruption and will exclude all nonrecurring charges, one-time charges, per call or measured charges, regulatory fees and surcharges, taxes and other governmental and quasi-governmental fees. **UNLESS PROHIBITED BY LAW, SUCH CREDIT WILL BE YOUR SOLE AND EXCLUSIVE REMEDY FOR AN INTERRUPTION OF SERVICE(S).**

(c) Force Majeure. We have no responsibility for service problems that are beyond our reasonable control. Examples of problems beyond our reasonable control include those caused by storms and other natural disasters, vandalism, terrorism, regulations or governmental acts, fires, civil disturbances, electrical power outages, computer viruses or strikes.

(d) Applicable Laws. Applicable law may impose other outage credit requirements with respect to some or all of the Services. If this is the case, we will follow the law.

(e) Non-TWC Equipment. Our Services may not work with Customer-Owned Equipment, or other equipment, software or services that we did not provide to you. For example, some "cable ready" or "digital cable ready" televisions and DVRs may not receive or support all of our Video Services even if we provide you with a CableCARD™ as may be recommended by the device manufacturer. To get the full benefit of our Services, you may need to lease Customer Use Equipment from us.

8. We May Change Our Customer Agreements

(a) Changes May be Made Online. We may change our Customer Agreements by amending the online version of the relevant document.

(b) Effectiveness. Any change to a Customer Agreement will only become binding on you 30 days after we make that change. If you continue to use the Services following such 30-day period, you will have accepted (in other words, agreed to be legally bound by) the change. If you do not agree to the change, you will need to contact your local TWC office to cancel the Services you receive from us.

(c) Notice as to Certain Changes. We will provide you at least 30 days' notice of any material change to the provisions that limit the time to commence a legal action contained in Section 14 or the arbitration provisions contained in Section 15 of this Agreement and any such change will become effective only after such notice period has run.

(d) Changes are Prospective Only. Any change to a Customer Agreement is intended to be prospective only. In other words, the amended version of the relevant document begins to apply only as of the end of the 30-day period noted above.

9. If You Violate our Customer Agreements

(a) We Can Suspend or Terminate the Service. If we think you have violated our Customer Agreements, we have the right to suspend or terminate any or all of the Services we provide to you (including your rights to use any Software) without prior notification.

(b) Charges While Service Suspended. If we choose to suspend your Service, we may do so electronically and we may require that you pay us a fee for restoring your Service in addition to charging you the regular cost for such Service during the suspension. Service restoration fees are available from your local TWC office.

(c) We Can Pursue other Remedies. If we think you have violated our Customer Agreements, we have the right to seek compensation from you through arbitration or, if you have opted out of this Agreement's arbitration provisions as permitted under Section 15, or if we are seeking a court order that requires you to take or cease taking any action, by suing you in court.

(d) No Waiver. TWC does not waive (in other words, give up) any rights under our Customer Agreements just because we have not previously enforced such rights. To be legally binding on us, any waiver we grant must be in writing. If we waive a violation of our Customer Agreements, it does not mean that we are waiving other rights, including in respect of earlier or later violations.

10. Our Services are Not Guaranteed and Our Liability is Limited

(a) NO WARRANTIES. OUR SERVICES (WHICH, FOR PURPOSES OF THIS SECTION 10, ALSO REFERS TO OUR EQUIPMENT AND SOFTWARE) ARE NOT GUARANTEED TO WORK, TO BE ERROR- OR VIRUS-FREE, OR TO BE COMPATIBLE WITH ANY SERVICES, EQUIPMENT OR SOFTWARE NOT PROVIDED TO YOU BY TWC OR OUR LICENSORS OR SUPPLIERS (INCLUDING CUSTOMER-OWNED EQUIPMENT). OUR SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. NEITHER WE NOR OUR LICENSORS OR SUPPLIERS MAKE ANY WARRANTIES OF ANY KIND WITH RESPECT TO THESE SERVICES. THIS INCLUDES SO-CALLED "IMPLIED WARRANTIES" (SUCH AS THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE). IF THE LAW WHERE YOU LIVE SAYS WE CANNOT EXCLUDE CERTAIN WARRANTIES, THEN THOSE WARRANTIES ARE NOT EXCLUDED.

(b) TWC'S LIABILITY IS LIMITED. EXCEPT FOR THE DIRECTORY

LISTING SERVICE CREDITS DESCRIBED IN SECTION 4 AND THE SERVICE INTERRUPTION CREDITS DESCRIBED IN SECTION 7 OF THIS AGREEMENT, NEITHER WE NOR OUR EMPLOYEES, AGENTS, LICENSORS OR SUPPLIERS WILL BE LIABLE TO YOU FOR ANY LOSSES OR DAMAGES OF ANY KIND BASED DIRECTLY OR INDIRECTLY ON YOUR RELATIONSHIP WITH US OR OUR PROVISION OF THE SERVICES, WHETHER BASED ON BREACH OF CONTRACT, TORT (FOR EXAMPLE, A NEGLIGENCE OR PRODUCT LIABILITY CLAIM), VIOLATION OF LAW OR REGULATION OR ANY OTHER LEGAL THEORY. FOR EXAMPLE, WE ARE NOT LIABLE TO YOU FOR LOSSES OR DAMAGES THAT RESULT FROM YOUR USE OR INABILITY TO USE THE

SERVICES (INCLUDING 911 SERVICES), OR FOR ANY LOSSES OR DAMAGES THAT MAY RESULT FROM INSTALLATION, USE, MODIFICATION, REPAIR OR REMOVAL OF CUSTOMER USE EQUIPMENT OR CUSTOMER-OWNED EQUIPMENT. IN NO EVENT WILL WE BE REQUIRED TO CREDIT YOU AN AMOUNT IN EXCESS OF YOUR SERVICE FEES FOR THE MONTH DURING WHICH YOU SUFFER ANY LOSSES OR DAMAGES.

(c) SECURE YOUR COMMUNICATIONS AND DATA. THE SERVICES AND THE COMMUNICATIONS YOU MAKE USING THEM MAY NOT BE SECURE. YOU ARE RESPONSIBLE FOR SECURING YOUR COMMUNICATIONS AND DATA. TWC WILL NOT BE RESPONSIBLE IF A THIRD PARTY GAINS ACCESS TO THE SERVICES, THE CUSTOMER-OWNED EQUIPMENT, OR YOUR COMMUNICATIONS OR DATA.

(d) DAMAGE OR LOSS TO YOUR PROPERTY. THE SERVICES MAY RESULT IN DAMAGE OR LOSS TO YOUR OWN SERVICES, EQUIPMENT (INCLUDING CUSTOMER-OWNED EQUIPMENT), SOFTWARE AND DATA (INCLUDING YOUR PERSONAL FILES). WE ARE NOT RESPONSIBLE FOR ANY SUCH DAMAGE OR LOSS. THIS INCLUDES DAMAGE OR LOSS RESULTING FROM SOFTWARE DOWNLOADS OR OTHER CHANGES OR MODIFICATIONS THAT ARE MADE TO CUSTOMER-OWNED EQUIPMENT AS CONTEMPLATED IN THIS AGREEMENT.

11. Your Privacy Rights and Obligations

(a) Applicable Law. Your privacy interests, including your ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Federal Communications Act of 1934, as amended, and the Electronic Communications Privacy Act. You grant us permission to collect, use or disclose your personal information as described in our Subscriber Privacy Notice.

(b) TWC's Privacy Policy. In accordance with applicable law and our own practices, we give each new customer our Subscriber Privacy Notice at installation and provide all customers with our Subscriber Privacy Notice at least annually. You may obtain the Subscriber Privacy Notice at help.twcable.com/policies.html or from your local TWC office.

(c) Information from Interactive Services. When you or members of your household use interactive features of our Services or Software, you may provide us or third parties with your personal information. For more information regarding our collection, use and disclosure of your personal information, see our Subscriber Privacy Notice.

(d) Exceptions. TWC may (but has no duty to) disclose any information that it believes appropriate to protect its rights, comply with law, safeguard its personnel, property and operations, or where it believes that individual or public safety is in peril.

(e) Safeguard Your Account Information. You are responsible for protecting the information needed to securely access your account information and verify orders (for example, your social security number or passwords that we may issue to you). If someone else acquires this information (through no fault of ours), we may assume that you have authorized that person's use of the information and we may provide your personal information to that person as if they were you.

12. You are Consenting to Phone and Email Contact

(a) Phone Calls. We may call or text you or authorize others to call or text you on our behalf using any number you provide to us (or that we issue to you) for any purpose, including marketing of our Services. This is true even if your numbers are included on state or federal "do not call" lists. You are responsible for charges for incoming text messages on your wireless phone. However, if you ask to have your number placed on our "do not call" list, we will not call or text you (or authorize others to call or text you) at that number for marketing purposes. To have your number placed on our "do not call" list, contact your local TWC office.

(b) Robo-Calls. We (or persons acting on our behalf) may use automated dialing systems or artificial or recorded voices to contact you or leave you messages if you do not answer.

(c) Recording of Calls. You agree that we may monitor or record your telephone conversations with us (whether we call you, or you call us). If you do not wish your telephone conversations with us to be monitored or recorded, you should conduct any business with us in person at your local TWC office.

(d) Emails. We may email you or authorize others to email you on our behalf using any address you provide to us (or that we issue to you) for any purpose, including marketing of our Services. If you ask to have your address placed on our "do not email" list, we will not email (or authorize others to email) marketing messages to you at that address. To have your address placed on our "do not email" list, contact your local TWC office.

13. You are Consenting to How We Provide You with Notices and Communications

(a) Video Lineup Changes. You authorize us to provide required notices to you regarding channel lineup changes and other changes to our Services by providing the relevant information on our website, on your monthly bill, as a bill insert, via email, in a newspaper or by any other communication permitted under applicable law.

(b) Other Notices. You authorize us to provide other notices to you using any method we determine appropriate, including by electronic means (for example, email or online posting).

(c) Other Consents. We may ask you to provide consents or authorizations, including by electronic means including email or your equipment (for instance, using your remote to purchase a VOD movie, to request information regarding an advertiser's products or to "opt in" to a consumer study), and we are entitled to assume that any consent or authorization we receive through your Services or from your location has been authorized by you.

(d) Email Address for Notice. Upon our request, you will provide us with a current email address that you regularly check so that we may provide notices and communications to you at that address. If you stop using that email address, you will provide us with a new address for such purposes.

14. Unless You Opt Out, You are Agreeing to Limit the Time You Have to Bring a Legal Action

(a) One Year Limit. You waive (in other words, give up) the right to commence any proceeding against TWC if the relevant events occurred more than one year earlier.

(b) Opt Out. You may opt out of the waiver set forth in this section. If you do so, the normal statute of limitations in your area will apply to any claims you may wish to assert. To opt out, you must notify TWC using one of the methods described in Section 16, below, within 30 days of the date that you first became subject to this provision (i.e., the date you first became subject to our Customer Agreements by signing a Work Order or using our Services or, if this Section 14 (or a predecessor version that is not materially different from this Section 14) was not then a part of the Customer Agreements, then the date that this Section 14 became binding on you in accordance with the terms of Section 8(c), above).

15. Unless you Opt Out, You are Agreeing to Resolve Certain Disputes Through Arbitration

(a) Arbitration or Small Claims Court. Our goal is to resolve Disputes fairly and quickly. However, if we cannot resolve a Dispute with you, then, except as described elsewhere in Section 15, each of us agrees to submit the Dispute to the American Arbitration Association for resolution under its Consumer Arbitration Rules or, by separate mutual agreement, to another arbitration institution. As an alternative, you may bring your claim in your local “small claims” court, if its rules permit it. If you bring an action in small claims court, you waive (unless local law prohibits such a waiver) discovery in that proceeding (in other words, unless local law prohibits you from doing so, you agree you will not be able to depose TWC witnesses or seek nonpublic documents).

(b) Types of Claims. Each of us may bring claims against the other only on their own behalf, and not on behalf of any official or other person, or any class of people, and neither of us may bring claims against the other alongside or with claims, whether similar or not, brought by other people. Only claims for money damages may be submitted to arbitration; claims for injunctive orders or similar relief must be brought in a court (other than claims relating to whether arbitration is appropriate, which will be decided by an arbitrator, not a court). You may not combine a claim that is subject to arbitration under this Agreement with a claim that is not eligible for arbitration under this Agreement.

(c) Arbitration Decisions. The arbitrator will issue an award decision in writing but will not provide an explanation for the award unless you or TWC requests one. Any arbitration award over \$75,000 may be appealed to a three-person panel appointed by the same arbitration institution that rendered the original award. Any such appeal must be filed within 30 days and the appeal will be decided, based on that institution’s appeal rules, within 120 days of filing.

(d) Costs. Before you initiate an arbitration proceeding, you may request that we advance on your behalf (1) the arbitration filing fees (but only to the extent they exceed your local small claims court filing fees) and (2) the portion of the arbitrator’s costs for which you would normally be responsible. If TWC wins the arbitration, you will reimburse us for these advances. TWC will, of course, pay any fees or costs required under the law where you live.

(e) Opt Out. You may opt out of this agreement’s arbitration provision. If you do so, neither you nor TWC can require the other to participate in an arbitration proceeding and each of us can sue the other in a court of law. To opt out, you must notify TWC using one of the methods described in Section 16, below, within 30 days of the date that you first became subject to this arbitration provision (i.e., the

date you first became subject to our Customer Agreements by signing a Work Order or using our Services or, if this Section 15 (or a predecessor version that is not materially different from this Section 15) was not then a part of the Customer Agreements, then the date that this Section 15 became binding on you in accordance with the terms of Section 8(c), above).

(f) Enforcement. If the prohibition against class action and other claims brought on behalf of third parties contained in Section 15(b) is found to be unenforceable, then all of Section 15 other than subsection (g), below, will be null and void.

(g) Jury Waiver. Any Dispute properly brought in a court of law in connection with our Customer Agreements (including this Agreement) will be heard and decided by a judge, not a jury. Each of us waives (in other words, gives up) the right to a jury trial in any such Dispute.

16. Opt Out Instructions

To opt out of the time limitation on claims that is set forth in Section 14, above, or the arbitration provisions in Section 15, above, you must use one of the following notification methods:

Send a written opt out request to:

Time Warner Cable
60 Columbus Circle, Rm 16-329
New York, NY 10023
Attn: Senior Director, Compliance and Legal Affairs

You must include in your written request your name, address and TWC account number and a clear statement that you wish to opt out of this Agreement's arbitration obligation and/or that you wish to opt out of this Agreement's 1-year limitation on your right to bring claims.

or

Visit the appropriate URL noted below and complete all required information:

To opt out of Section 14: twc.com/1yearoptout

To opt out of Section 15: twc.com/arbitrationoptout

17. Definitions; Headings

(a) "Addendum" means a document that you agree to when you sign up for or use a special TWC service or promotional program. The Addendum supplements the terms of our other Customer Agreements for purposes of the relevant special service or promotional program.

(b) "Agreement" means this Residential Services Subscriber Agreement, as amended from time to time.

(c) "Customer Agreements" refers to the agreements, notices and policies described in the introduction to this Agreement.

(d) "Customer-Owned Equipment" means any devices and equipment that are owned by you, whether purchased from us or someone else, and used by you to receive the Services. Customer-Owned Equipment does not include Customer Use Equipment.

(e) “Customer Use Equipment” means the set-top boxes, cable modems, remotes and other devices and pieces of equipment that we provide to you to receive the Services and that you must return to us if the Service is cancelled.

(f) “Dispute” means any dispute, claim, or controversy between you and TWC regarding any aspect of your relationship with us or any conduct or failure to act on our part, including claims based on breach of contract, tort (for example, a negligence or product liability claim), violation of law or any claims based on any other theory, and including those based on events that occurred prior to the date of this Agreement.

(g) “Equipment” means Customer Use Equipment and other equipment utilized in connection with the Services. Equipment does not include wiring on your premises and does not include Customer-Owned Equipment.

(h) “HSD Service” and “High Speed Data Service” means our broadband Internet service (including when distributed over an in-home wifi network) and wireless data services (including our out-of-home wifi service).

(i) “Including” or “include” means inclusion without limitation.

(j) “Maximum Throughput Rate” means the highest Throughput Rate that is provided by your level or tier of HSD or Wireless Data Service.

(k) “Network Management Tools” are the tools and techniques we use to manage our network, ensure a quality user experience and ensure compliance with our Acceptable Use Policy. Examples of some Network Management Tools can be found in our Acceptable Use Policy and Network Management Disclosures. See help.twcable.com/policies.html or contact your local TWC office.

(l) “Services” refers to the services and features you receive or order from us. These may include video, high-speed data, wireless data, home security and monitoring, and TWC Phone services, equipment-based services like DVR service, and free services that you may use in connection with any of our paid services. “In-home Services” refer to Services that you use in your home; “out-of-home Services” refer to Services that you can use outside your home (for example, wifi service you access in a public place through your TWC account and video programming you can watch outside your home using a TWC App or twctv.com).

(m) “Software” refers to any software that we or our licensors provide or make available to you in connection with our Services, including any software that has been downloaded to Customer Use Equipment or Customer-Owned Equipment as contemplated in this Agreement.

(n) “Tariff(s)” are the materials TWC files with your local Public Service Commission (or similar state agency) that describe some of the terms on which we offer our TWC Phone Service.

(o) “Throughput Rate” refers to the rate at which data can be transferred between your location and our facilities over a given period of time. The Throughput Rates that we mention in our marketing and other materials refer to our Maximum Throughput Rates.

(p) “TWC” means Time Warner Cable Inc. and our subsidiaries that provide our Services, or any cable operator to whom we assign this Agreement.

(q) "TWC App" means Software that we make available directly or through a third party that allows you to use a third party's device to access TWC Services.

(r) "Usage Limit" means the aggregate amount of "upstream" and "downstream" data that may be transferred between your location and our facilities in a prescribed period (for example, a monthly billing period). If you are unsure of whether your HSD Service level has a Usage Limit or how to monitor your data usage, check with your local TWC office.

(s) "Video Service" refers to the video and/or audio programming Services we provide, including On Demand offerings.

(t) "Work Order" means any TWC work or service order(s) that we have provided to you or provide in the future. We provide you with a Work Order when you initiate service or when we visit your home (for example, to install additional services or correct service problems). If you require a copy of any Work Order we have provided to you, please contact your local TWC office.

(u) Headings. Headings used in this Agreement are for convenience only, do not form a part of this Agreement and will not affect the meaning or interpretation of this Agreement.

18. Term of Agreement; Termination of Service

(a) Survival of Terms. The terms of this Agreement relating to the rights in and to Software (Sections 3(b) and 3(c)), limitations on liability and warranty disclaimers (Section 10), the time period within which you may bring claims (Section 14), resolution of disputes (Section 15), our obligation to grant you service credits (Sections 4 and 7) and your obligation to pay us and to indemnify us for certain third-party claims (Section 1) will survive (in other words, continue to apply to you even after) the termination of this Agreement.

(b) Term. This Agreement remains in effect until you no longer receive any of the Services and any balance on your account has been paid in full or waived in writing by us.

(c) Our Right to Terminate. We may terminate your Services and your rights to use any Software or Equipment at any time for any or no reason, including if we determine that you or a member of your household has received Services from us in the past and failed to pay amounts owed to us.

(d) Your Right to Terminate. If you wish to terminate Services, you must notify us and either return any Customer Use Equipment to us or provide us with reasonable opportunity to schedule a visit to your location to disconnect the Services and recover Customer Use Equipment.

(e) Another Urban Myth Dispelled. You cannot terminate Services by writing "canceled" or any other message on your bill or check.

19. The Rights of Third Parties

(a) No Transfers or Assignments. Except with our consent, you may not transfer or assign to any other person (in other words, make another person legally responsible for) the Services, the Software, the Customer Use Equipment or your obligation to comply with our Customer Agreements.

(b) Contractors and Licensors. We may use contractors to assist us in providing the Services and we may provide you with Software or Equipment that is owned or manufactured by a third party. If you bring a

claim against these contractors or third parties, they have the same rights that we have under our Customer Agreements.

(c) No other Third Party Beneficiaries. Other than contractors and licensors mentioned in the preceding paragraph, our Customer Agreements are not intended to benefit (in other words, to create any rights or obligations for) anyone other than you and us.

20. What Happens if the Law in Your Area Conflicts with our Customer Agreements

(a) Conflict with Local Law. Our Customer Agreements may be the subject of legal requirements that apply where you live or where we provide Services to you. If such a requirement conflicts with our Customer Agreements with respect to one or more Services, the legal requirement will take priority over the part of our Customer Agreements with which it conflicts, but only with respect to that part and only with respect to the Services to which such legal requirement applies.

(b) Partial Invalidity. If a court or similar body determines that a portion of a Customer Agreement is invalid or unenforceable, the rest of the agreement should stand. The surviving portions of the relevant Customer Agreement should be interpreted as closely as possible (consistent with the law in your area) so as to reflect the intention of the original. The only exception to this is that described in Section 15 regarding Arbitration.

21. What Happens if There is a Conflict between our Customer Agreements

(a) English Language Version Controls. If we have provided you with a non-English translation of any of our Customer Agreements, the English language version of that Customer Agreement will govern your relationship with TWC and will control in the event of a conflict. The translation is provided as a convenience only.

(b) Conflicts with Work Order. In the event of a conflict between the terms of this Agreement and your Work Order, then the terms of this Agreement control.

(c) Conflicts with Certain Other Agreements. In the event of a conflict between the terms of this Agreement and the terms of any Addendum or our Terms of Service, then the terms of the other document will control with respect to the applicable Service.

EXHIBIT B

1 Daniel M. Hattis (SBN 232141)
HATTIS LAW
2 P.O. Box 1645
Bellevue, WA 98009
3 Telephone: (650) 980-1990
Email: dan@hattislaw.com
4

5 Attorneys for Plaintiff
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – UNLIMITED CIVIL
10

11 MICHAEL SONG,

12 Plaintiff,

13 v.

14 CHARTER COMMUNICATIONS, INC.;
15 CHARTER COMMUNICATIONS
HOLDING COMPANY LLC; TIME
16 WARNER CABLE, INC.; TIME
WARNER CABLE INFORMATION
17 SERVICES (CALIFORNIA), LLC; and
DOES 1 through 100 inclusive,
18

19 Defendants.
20
21
22

Case No. _____

COMPLAINT FOR:

1. Breach of Contract
2. Declaratory and Injunctive Relief
3. Violation of Unfair Competition Law, Business & Professions Code §17200 *et seq.*
4. Violation of False Advertising Law, Business & Professions Code §17500 *et seq.*
5. Violation of Consumers Legal Remedies Act, Civil Code §1750 *et seq.*

JURY TRIAL DEMANDED

23 I, Michael Song, hereby declare and state as follows:

24 1. I am over the age of 18, and a Plaintiff in this action. The facts contained
25 in this declaration are based on my personal knowledge, and if called upon to do so, I
26 could and would testify competently hereto.
27
28

1 2. The complaint in this action, filed concurrently with this declaration, is filed
2 in the proper place for trial under California Civil Code § 1780(d), because this is a
3 county in which Defendants do business and where a substantial portion of the
4 transactions occurred.

5
6 I declare under penalty of perjury under the laws of the United States and the
7 State of California that the foregoing is true and correct.

8
9 Executed on 11/7/2016, in San Diego, California.

10 DocuSigned by:
11 By: Michael Song
 MICHAEL SONG

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28