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August 14, 2001

Department of State
Division of Corporations
409 E. Gaines Street
Tallahassee, FL 32399

BY FEDERAL EXPRESS

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Re: Austwell/Tivoli Limited Partnership

Dear Sir/Madam:

Pursuant to Florida Statutes §620.108 and §620.116 I hereby enclose an original signed Agreement and Certificate of Limited Partnership of Austwell/Tivoli Limited Partnership and the required Affidavit of capital contributions of the limited partners and the amount of capital contributions that are contemplated for all limited partners.

I further enclose a check in the amount of \$ 303.50 to cover the following costs:

Certified copy (21 pages)	\$ 58.50
Filing Fees	210.00
Registered Agent Designation	35.00
	<u>\$ 303.50</u>

I have further enclosed a prepaid FEDEX airbill and letter envelope. Please return the certified copy as shown by the said airbill.

Thank you for handling. If there are any questions, please call me directly.

Sincerely yours,

Ledyard H. DeWees

Ledyard H. DeWees

LHD:bd

encl.

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TALLAHASSEE, FLORIDA

AGREEMENT AND CERTIFICATE

OF

LIMITED PARTNERSHIP

OF

AUSTWELL/TIVOLI LIMITED PARTNERSHIP

THIS AGREEMENT AND CERTIFICATE OF LIMITED PARTNERSHIP made and entered into at 270 NW 3rd Court Boca Raton, Florida 33432, as of August 1, 2001, by and between CABLE UNLIMITED, INC., a Florida corporation, as General Partner, and all other persons and entities who or which shall execute a Subscription Agreement in the form attached hereto as Exhibit I and made a part thereof.

WHEREAS, the General Partner and the Limited Partners (hereinafter sometimes collectively called the "partners") wish to form AUSTWELL/TIVOLI LIMITED PARTNERSHIP as a Limited Partnership organized pursuant to the Florida Revised Uniform Limited Partnership Act (1986) of the State of Florida (hereinafter sometimes called the "ULPA") for the purpose of purchasing, owning and operating "SMATV" Satellite Master Antenna Television System and Franchised Cable Television Systems.

WHEREAS, the Limited Partners are willing to contribute to the Partnership \$160,000 to meet the partnership objectives;

NOW, THEREFORE, in consideration of the covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **Definitions**

As used in this Agreement, the following terms shall have the following meanings:

- (a) "Agreement" means this Agreement and Certificate of Limited Partnership.
- (b) "Cash Flow" of the Partnership shall have the meaning set forth in Section 11.3
- (c) "Code" means the Internal Revenue Code of 1986, as amended to date. All references to particular sections of the Code shall be deemed to include references to corresponding provisions of subsequent law.
- (d) The "Fiscal Year" of the Partnership, and its taxable year for Federal income tax purposes, shall be the calendar year.

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(e) The "Partners" shall mean and include both the General Partner and the Limited Partners. "Limited Partners" shall mean and include the persons who shall execute a Subscription Agreement in the form attached hereto as Exhibit I, and the "General Partner" shall mean CABLE UNLIMITED, INC.. Any reference to the General Partner shall be deemed a reference to the original General Partner and any successor General Partner qualifying hereunder. In addition, any references to any Partner shall, unless the context clearly requires otherwise, be deemed a reference to his predecessor and successor (other than a mere assignee) in interest.

(f) "Recoupment" means that point in time when aggregate distributions in cash equals the total aggregate cash capital contribution of the Limited Partners.

(g) "Proportionate Share" with respect to any Limited Partner shall mean that percentage determined by dividing the number of Interests then held by such Limited Partner by the aggregate number of Interests then held by all the then Limited Partners.

(h) "Schedule" means the Limited Partners and the number of Interests owned by each as set forth in the Subscription Agreement executed by each Limited Partner provided, however, that in the event of an amendment of the Agreement to reflect any change in the Limited Partners or in the number of Interests owned by any Limited Partner, the "Schedule" shall be deemed to be amended accordingly.

(i) "Subscriptions" means the monetary amount of each and all of the agreed subscriptions for Interests of Limited Partnership Interests in the Partnership.

(j) "Unit" means a \$1,000 Limited Partnership Interest in the Partnership.

All references to statutory provisions shall be deemed to include references to corresponding provisions of subsequent law.

2. **Formation and Name of Partnership**

The Partners hereby form a Limited Partnership (the "Partnership") pursuant to the provisions of the Florida Revised Uniform Partnership Act (1986). The name of the Partnership shall be: AUSTWELL/TIVOLI LIMITED PARTNERSHIP.

The principal place of business and offices of the Partnership shall be located at 270 NW 3rd Court Boca Raton, Florida 33432, or such other place as the General Partner may determine from time to time upon prior written notice to the Limited Partners.

The Mailing address is: AUSTWELL/TIVOLI LIMITED PARTNERSHIP, 5151 Reed Road, Suite 113-A, Columbus, OH 43220.

3. **Terms**

This Agreement shall become effective on the date that at least one executed copy of this Agreement has been duly filed for record and the Partnership shall continue in existence for a period of fifty (50) years, unless earlier dissolved and terminated pursuant to the provisions of this Agreement or by law.

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4. **Purpose of Partnership**

The Partnership was organized for the purpose of purchasing, owning and managing franchised and private "SMATV" Cable Systems.

The Partnership may enter into, make and perform all contracts and other undertakings and may engage in all such activities and transportation, as may be necessary in order to carry out the foregoing purpose. In addition, the partnership may engage in any other type of activity which is lawful under the laws of the United States and the State of Florida.

"Termination Date" means the earlier the date (i) upon which the General Partner accept Subscriptions for Units; or (ii) Notwithstanding the foregoing, if the General Partner exercise their option to extend the length of the Offering, then it shall refer to August 31, 2002.

5. **Name and Address of Partners**

(a) **General Partner.** The name and business address of the General Partner is as follows:

<u>Name</u>	<u>Address</u>
Cable Unlimited, Inc.	270 NW 3rd Court Boca Raton, FL 33432

(b) **Initial Limited Partner.** The name and residence address of the Initial Limited Partner is as follows:

<u>Name</u>	<u>Address</u>
Cable Unlimited, Inc.	270 NW 3 rd Court Boca Raton, FL 33432

6. **Contributions to Capital**

6.1 **Limited Partners**

(a) The Limited Partners shall contribute to the capital of the Partnership the amount of \$160,000 divided into 160 equal Units of participation as a Limited Partner hereto, representing a commitment for, and the contribution to capital of \$1,000 per Unit, with a minimum investment per Limited Partner of 10 units. For and on behalf of the Partnership, the General Partner shall receive such contributions of cash to the capital of the Partnership from any person or persons who shall be admitted to the Partnership as Limited Partners upon their execution and delivery of the Subscription Agreement set forth at the conclusion herein and upon the acceptance thereof by the General Partner. The General Partner may, in their discretion, accept subscriptions for partial units.

(b) The Units shall be divided severally among the Limited Partners in accordance with the number set forth on the respective Subscriptions executed and delivered by each of the Limited Partners.

(c) Contributions to the capital of the Partnership from the Limited Partners shall not be accepted from more than 35 persons.

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(d) If prior to the Termination Date, not all Units have been purchased, the General Partner will be required to purchase any of the unsold Units. As to any such Units which the General Partner purchase, they shall be deemed to be, and have only the rights of, a Limited Partner.

6.2. **Initial Limited Partner**

(a) The Initial Limited Partner shall make a cash contribution of \$100.00 which shall be the total contribution made by the Initial Limited Partner.

(b) Notwithstanding provisions of this Agreement to the contrary, the Initial Limited Partner shall be entitled to purchase a Unit of Ownership with a down payment of \$100.00 in cash paid at the execution of this Agreement, provided, however, that upon such time as other Limited Partners are admitted, the Subscription Agreement for the Initial Limited partner shall be canceled and the cash down payment shall be returned, without interest, to the Initial Limited Partner who shall henceforth have no partnership interest whatsoever.

6.3 **Limited Liability of Limited Partners**

Anything in this Agreement or elsewhere to the contrary notwithstanding, the personal liability of the Limited Partners and each of them arising out of or in any manner relating to the Partnership or its business shall not be assessable and shall not exceed the amount of the capital contributions called for pursuant to Section 6.1, and upon the payment of such capital contribution, the Limited Partners shall not have any further personal liability to contribute money or otherwise to, or in respect of, the liabilities or obligations of the Partnership. Upon the payment of each Limited Partner's capital contributions, such Limited Partner shall have no further liability or responsibility to the Partnership or its creditors in any event whatsoever.

6.4 **Interest**

No interest shall be paid on the capital contributions of any Partners.

6.5 **Withdrawal**

No Partner shall be entitled to withdraw any portion of his capital account except in accordance with the terms of this Agreement.

6.6 **Use of Capital Contributions**

The total of the cash capital contributions of the Limited Partners shall be used and applied as follows:

The aggregate of all the contributions to capital of the Partnership provided for herein shall be available to the Partnership subject to Section 6.7, to carry out the purposes of the Partnership.

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7. **Advances to the Partnership**

In the event that, at any time or from time to time during the terms hereof, the General Partner have need of additional funds in excess of the contributions to capital of the Partnership such as the payment of any of its obligations, expenses, costs, liabilities or expenditures, including, but not limited to, operating deficits, the General Partner may, in their discretion, borrow such funds for and on behalf of the Partnership, with interest payable at rates then prevailing, from commercial banks or other financial institutions or other persons including Partners; provided, however, that any loan to the Partnership for a term in excess of one year in an amount equal to \$20,000 from a person who shall not be a Partner, shall be on a basis whereby the lender shall have recourse against only the Project, or the proceeds therefrom, and the Partners, including the General Partner, shall have no personal liability or obligation for the payment thereof. Nothing contained herein shall be interpreted or construed to require the General Partner to advance any of their funds to or for the benefit of the Partnership. Notwithstanding the foregoing, any loan in excess of \$20,000 will not be made without prior approval of the Limited Partners.

8. **Removal of General Partner**

In the event that the General Partners have taken action or omitted to take action under circumstances such that such act or failure to act constitutes willful misconduct, fraud, or negligence or has made a material misrepresentation in connection with the Private Offering Memorandum, then and in that event, the limited partners, by the affirmative written vote of the Limited Partners holding at least 3/4 of all Limited Partnership Units, may remove the General Partner and appoint a successor General Partner(s) in their place and stead. Upon such removal, the General Partner's interest shall be converted to such Limited Partners' interest as will equal 50% of all then-existing (after Recoupment) Limited Partnership and General Partnership Units; provided, however, that distribution of net profits, net losses, cash flow and liquidation distributions, as set forth in Sections 11.2, 11.3, and 14.2, shall remain unchanged regarding the allocable shares of such items as between the General Partner and the Limited partners.

The Limited Partners shall not have a right to remove the General Partner under this Section 8 unless and until counsel acceptable to the then-existing Limited Partners has given its opinion to all Limited Partners and General Partner that the exercise of the right of removal in this Section 8 will not (i) cause the Partnership to be treated as an association taxable as a corporation for Federal Income Tax purposes; (ii) cause the Limited Partners to be treated as other than Limited Partners with the limited liability described in Section 6.3., or (iii) cause a termination of the Partnership as described in Section 12.5.

9. **Powers and Duties of the General Partner**

9.1 **Powers of the General Partner**

Subject to the limitations imposed by law and this Agreement, the General Partner in their full and exclusive discretion shall have the power to manage and control and make all decisions affecting the business and assets of the Partnership, including, but not limited to, the power to:

A. Establish, maintain and draw upon checking and other accounts in the name of the Partnership in such bank or banks as the General Partner may from time to time select.

B. Negotiate, enter into and execute any and all contracts necessary, desirable or convenient with respect to the business of the Partnership.

C. Execute any notifications, statements, reports, returns or other filings that are necessary or desirable to be filed with any State or Federal Agency, Commission, or Authority, including any State, or Federal Securities Commission; sell, exchange, dispose of, transfer, sublease or otherwise alienate all or part of the business.

D. Execute, acknowledge and deliver any and all instruments which are necessary to effectuate any of the foregoing or are otherwise desirable.

E. Employ accounts, title companies, attorneys or other persons, firms, corporations or entities on such terms and for such compensation as they shall determine.

The exercise of the powers or rights granted hereunder to the General Partner shall require action by at least three-quarters (3/4) of the General Partner. No act by, or power of, the General Partner authorized by this Agreement or otherwise authorized by law shall in any manner increase or extend the liability of the Limited Partners as described in this Agreement.

9.2 Duties of the General Partner

The General Partner shall manage the affairs of the Partnership in a prudent and businesslike manner and shall devote such part of their time to the Partnership affairs as is reasonably necessary for the conduct of such affairs; provided, however, that it is expressly understood and agreed that the General Partner shall not be required to devote their entire time or attention to the business of the Partnership nor shall they be restricted in any manner from participating in other business or activities, despite the fact that the same may be competitive with the business of the Partnership.

In carrying out its obligations, the General Partner shall:

A. Render annual reports to the Limited Partners with respect to the operations of the partnership.

B. Furnish to the Limited Partners, within 90 days after the end of each Fiscal Year, a balance sheet with a report of the receipts, disbursements, net profits, losses and cash Flow of the Partnership, and the share of the net profits, losses and Cash Flow of each Partner for such Fiscal Year. The balance sheet and report shall be prepared in accordance with generally-accepted accounting principals and shall be certified in the customary manner by an independent certified public accountant and also certified by the General Partner to be true and correct to the best of their knowledge and belief.

C. Obtain and maintain such public liability and other insurance as may be deemed necessary or appropriate by the General Partner.

D. Deposit all funds of the Partnership in one or more separate bank accounts with such banks or savings and loan or trust companies as the General Partner may designate.

E. Maintain complete and accurate records of all assets owned or leased by the Partnership and complete and accurate books of account (containing such information as shall be necessary to record allocations and distributions), and make such records and books of account available for inspection and audit by any Partner or his duly authorized representative (at the expense of such Partner) during regular business hours and at the principal office of the Partnership.

F. Prepare and distribute to all Partners, within 90 days after the end of the Fiscal Year, all reasonable tax reporting information and arrange for the preparation and filing of all necessary Federal, State and local tax returns of the Partnership.

G. Cause to be filed such certificates and do such other acts as may be required by law to qualify and maintain the Partnership in Florida as a Limited Partnership, including without limitation, the proper filing of a Certificate of Limited Partnership and a Fictitious Name Certificate.

H. Cause the Partnership, at all times, to satisfy and comply with all the requirements and conditions of any and all loans.

I. Within ten days after receipt of notice that the Partnership is in default under the terms and conditions of any loan, mortgages, or other obligations in excess of \$1,000 advise each of the Limited Partners of such default.

J. Cause an appropriate amendment of the outstanding Certificate of Limited Partnership to be prepared in order to properly reflect the return of all or any portion of the contributions of any Limited Partner and properly file said amendment simultaneously with or within a reasonable time after the distribution(s) representing the return of any Limited partner's contribution.

K. Cause all persons dealing with the Partnership, or with the General Partner or any agent or employee of the Partnership acting on behalf of the Partnership, to be aware of the character of the Partnership as a Florida Limited Partnership.

9.3 **Prohibitions on Actions and Limitations of Power of the General Partner**

The General Partner shall have no authority to:

A. Do any act in contravention to this Agreement.

B. Do any act which would make it impossible to carry on the business of the Partnership.

C. Possess Partnership Property or assign the right of the Partnership to specific Partnership Property for other than a Partnership purpose.

D. Admit a person as a General Partner or as a Limited Partner except as otherwise expressly permitted in this Agreement.

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9.4 **Reliance on Acts of the General Partner**

No financial institution or any other person, firm or corporation dealing with the General Partner shall be required to ascertain whether the General Partner is acting in accordance with this Agreement, but such financial institution or such other person, firm or corporation shall be protected in relying solely upon the deed, transfer or assurance of and the execution of such instrument or instruments by the General Partner.

9.5 **Liabilities of the General Partner**

In carrying out its duties hereunder, the General Partner shall not be liable to the Partnership or to any other Partner for any actions taken in good faith and reasonably believed to be in the best interests of the Partnership, but shall only be liable for willful misconduct, fraud, negligence, breach of its obligations under this Agreement or other breach of its fiduciary duties to the Partnership or the other Partners.

9.6 **Employment by or Dealings with Partnership**

The General Partner may directly or indirectly engage, on behalf of the Partnership, itself, any partner or persons or firms associated with any partner for specific purposes of providing services and may otherwise deal with the Partnership on terms and for compensation or commissions that are fair and equitable under the circumstances; provided, however, any and all fees or prices to be charged to the Partnership in connection therewith shall not exceed those customarily charged for such in the area or in a comparable geographical location by persons dealing at arm's length and having no affiliation with the recipient.

9.7 **Compensation**

The management and control of the day-to-day operation of the Partnership shall rest exclusively with the General Partner, and it shall receive compensation not exceeding 10% of the gross income of the Partnership.

9.8 **Limited Partners' Protection Against Misrepresentations**

The General Partner shall indemnify each Limited Partner against, and hold him harmless from, any loss arising from any misstatement in the Agreement and Certificate of Limited Partnership or any amendment thereto or revocation thereof, except to the extent that such misstatement was based upon information given by or on behalf of a Limited Partner.

10. **Rights and Prohibitions of Limited Partners**

10.1 **Rights of Limited Partners**

Limited Partners shall not in any way be prohibited from or restricted in engaging or owning an interest in any other business venture of any nature including any venture which might be competitive with the Business of the Partnership, and, subject to Subsection 9.6., the Partnership may engage

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Limited Partners or persons or firms associated with them for specific purposes and may otherwise deal with such Limited Partners and the Partnership shall not be entitled to participate in the control or management of the Business of the Partnership.

Each Limited Partner shall be entitled to (i) have the Partnership books kept at the principal place of business of the Partnership, and at all times, during business hours, inspect and copy any of them; (ii) have on demand true and full information of all matters affecting the Partnership and a formal account of Partnership affairs whenever circumstances render it just and reasonable, (iii) have dissolution and winding up of the Partnership as provided by this Agreement; and (iv) have such additional rights as are elsewhere provided in this Agreement.

10.2 **Prohibitions with Respect to Limited Partners**

No Limited Partner shall have the right:

A. To take part in the management and control of the Partnership Business or to sign for or to bind the Partnership, such power being vested solely in the General Partner.

B. To have his capital contribution repaid, except to the extent provided in this Agreement, or to demand property other than cash in payment of his Partnership capital contribution.

C. To require partition of partnership property or to compel any sales or appraisement of Partnership assets or sale of a deceased Partner's interest therein, notwithstanding any provisions of law to the contrary.

D. To sell or assign his interest in the Partnership or to constitute the vendee or assignee thereunder a substituted Limited Partner except as provided in this Agreement.

10.3 **Death, Incompetency or Bankruptcy of Limited Partner**

The death, incompetency or bankruptcy of a Limited Partner shall not dissolve or terminate the Partnership. Upon the death, incompetency or bankruptcy of a Limited partner, his executor, administrator or personal representative shall have the same rights that such Limited Partner would have had under this Agreement if he had not died or become bankrupt or incompetent. The successor in interest of a deceased Limited Partner shall be admitted as a substituted Limited Partner, however, only upon compliance with Section 12.3.

11. **Profits, Losses and Cash Flow**

11.1 **Determination of Profits and Losses:**

The net profits and net losses of the Partnership shall be determined in accordance with the accounting methods followed by the Partnership for Federal Income Tax purposes and shall specifically include the Operating Deficit Account.

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11.2 **Allocation of Profits and Losses:**

(a) **Ownership by Partner or Partnership.** Each Partner shall have and own an undivided interest in the Partnership equal to his respective percentage interest in the Partnership in accordance with the terms hereof; provided, however, that no Partner shall have any right to partition with respect to any property or assets of the Partnership including, but not limited to, the Project.

(b) **Percentage Interest in Partnership.** Subject to this Agreement, the percentage interest of the Partners in the Partnership for purposes of allocating net profits, net losses, cash flow arising from operation of the Project, shall be as follows:

Pre-Recoupment

	<u>Profits (Losses)</u>	<u>Cash Flow</u>	<u>Sale or Refinancing</u>	<u>Profits (Losses)</u>	<u>Cash Flow</u>	<u>Sale or Refinancing</u>
General Partner	10%	10%	10%	10%	10%	10%
Limited Partners	<u>90%</u>	<u>90%</u>	<u>90%</u>	<u>90%</u>	<u>90%</u>	<u>90%</u>
TOTALS	100%	100%	100%	100%	100%	100%

The percentage interest in the Partnership allocated to the Limited Partners shall be divided among them pro-rata in proportion to the respective number of interests owned by each of them.

(c) **Capital Accounts.** For the purpose of this Agreement, the term "capital account" of any Limited Partner as of any date shall mean the amount of cash contributed by such partner to the capital of the Partnership in accordance with the provisions hereof, properly adjusted to reflect (i) the distributive shares to such partner of income, gain, loss, deduction or credit of the Partnership, the distributive share of such items of the Partnership for the period from the close of the last such Fiscal Year of the Partnership to such date, and (ii) distributions by the Partnership to such Partner, including, if such date shall not be the close of the Fiscal Year of the Partnership, distributions by the Partnership to such Partner during the period from the close of the last such Fiscal Year of the Partnership to such date.

(d) **Withdrawals from Capital Accounts.** Except as expressly provided herein, no Partner shall be entitled to withdraw any amount from his Capital Account in the Partnership; and no Limited Partner shall have the right to demand and receive property other than cash in return for any contributions to the capital of the Partnership. In the event, nevertheless, that the General Partner shall not accept Subscriptions for at least 30 Units on or before December 31, 2001, unless extended, the General Partner will be obligated to purchase the units remaining unsold on that date. Such Interests shall be purchased for investment only.

(e) **Limitation on Distributions.** Except as expressly provided herein, the General Partner shall make no distribution of the property of the Partnership to any Partner with respect to his interest in the Partnership; and, notwithstanding anything contained herein, the General Partner shall make no distribution or take any other action in violation of the ULPA.

If there is a transfer or substitution of, or any other change in the number of Interests of any Limited Partner during the period covered by allocations hereunder, a daily net profit or net loss shall be computed by dividing the net profit or net loss for the period by the number of days in the period and assigning the result to each day in the period, and that portion of the daily net profit or net loss for each day to be allocated to the Limited Partners shall be so allocated in the proportion to the number of their respective Interests as of the close of business on each such day; provided, however, that profits and losses arising from the disposition of Partnership assets shall be taken into account as of the date thereof.

11.3. **Distribution of Cash Flow**

(a) **Distributions.** For and on behalf of the Partnership, the General Partner shall distribute the Net Cash Flow of the Partnership as defined in Section 11.3 (e) hereof (hereinafter sometimes called the "Net Cash Flow") with respect to the term hereof among the Partners in accordance with their respective percentage interests in the Partnership. Any distributions made to the Partners hereunder may be made quarterly or semi-annually (at the discretion of the General Partner), in proportion to their respective percentage interests in the Partnership as of the last day of each calendar month immediately preceding the date of the distribution. The policy of the General Partner is to distribute 100% of net cash flow to the Limited Partners until the Limited Partners have received a 12% return, in any calendar year, and thereafter cash flow will be split 90% to Limited Partners and 10% to General Partner.

(b) **Adjustment and Distributions.** All distributions made with respect to any Fiscal Year of the Partnership in accordance with the provisions of Section 11.3 (a) hereof shall be subject to adjustment by reference to the audited annual financial report with respect to such Fiscal Year. If the provisions of Section 11.3 (a) shall require the distributions of any additional amount, such additional amount shall be distributed to the Partners on the same basis as if made on the day immediately following the end of such Fiscal Year as soon as practicable after delivery of such fiscal report and shall be deemed to be a distribution with respect to such Fiscal Year, the General Partner may, at its discretion, reduce any subsequent distributions with respect to the Fiscal Year immediately following by the excess of the amount distributed over the amount required to be distributed with respect to the prior Fiscal Year.

(c) **Partner's Shares of Tax Profits and Losses.** Except as otherwise provided herein or in Section 707 of the Code, as from time to time amended and then in effect, the distributive shares of the items of income, gain, loss, deduction and credit of the Partnership for each taxable year of the Partnership during the term hereof shall be allocated among the Partners, subject, however, to the effect of any adjustments as a consequence of any election made in accordance with Section 11 hereof with respect to such Year; provided, however, that if there shall have been no distributions of Net Cash Flow with respect to any Fiscal Year of the Partnership, the distributive shares of such items shall be allocated among the Partners with respect to such Year prorated in the same proportion as New Cash Flow in the amount of One Dollar would have been distributed immediately following the last day of December in such Year.

(d) **Adjustments to Basis.** In the case of distribution of property of the Partnership to any Partner or transfer of the interest of any Partner in the Partnership pursuant to the provisions hereof, the Partnership may, but shall not be required to, file the election contemplated by Section 754 of the Code in order to adjust the basis, for Federal income tax purposes, of property of the Partnership in the manner provided by Section 734 and 743 of the Code.

(e) **Net Cash Flow.** As used herein, the Net Cash Flow of the Partnership with respect to any period shall mean all cash receipts of the Partnership less all cash disbursements thereof, including but not limited to any management fee paid to the General Partner in accordance with Section 9 hereof, during such period as shown on the books of the Partnership but reduced by such reserves for capital improvements, replacements, and for repairs or anticipated expenses with respect to the property as the General Partner, in its discretion, shall deem to be reasonably necessary or appropriate in the efficient conduct of the Business of the Partnership; except, however, that such receipts and disbursements shall not include the following:

(i) net proceeds resulting from refinancing sale or other disposition of all or substantially all of the Project;

(ii) contributions to the capital of the Partnership;

(iii) cost of organization of the Partnership, including but not limited to, costs of syndication of the Units hereby;

(iv) expenditures for the acquisition of Property by the Partnership and for capital improvements or replacements to the extent, however, that such expenditures are financed by contributions to the capital of the Partnership; and

(v) distribution to the Partners by the Partnership in accordance with Section 11.3 hereof, provided, however, that the Net Cash Flow of the Partnership shall include any other funds, including but not limited to any amount previously set aside as reserves by the General Partner and no longer regarded as reasonably necessary in the efficient conduct of the Business of the Partnership, deemed to be available for distribution and designated as part of the Net Cash Flow of the Partnership by the General Partner, in their discretion.

11.4 **Distribution of Proceeds of Sale; Refinancing Proceeds.**

(a) The General Partner shall distribute among the Partners the net proceeds resulting from the refinancing of any mortgage on or the condemnation (or similar eminent domain taking) or casualty of from the sale, or other complete disposition of the Project or upon termination of the Partnership in the following order of priority:

(i) First, to the payment of all debts, and liabilities (including any loans and/or fees then owed to the General Partner of the Partnership); then,

(ii) Next, to the setting up of any reserves which the General Partner may deem necessary to provide for any contingent or unforeseen liabilities of the Partnership; provided, however, that the expiration of such reasonable period of time as the General Partner deems advisable, the balance of such reserves established herein remaining after payment of such contingency shall be distributed in the manner as provided in this Section 11; then,

(iii) Next, to the payment of an amount equal to the positive capital account balance of each Partner; then,

(iv) Next, ninety percent (90%) to the Limited Partners until the sum of the distribution and all past distributions of cash flow equals the amount of the capital contributed by the Limited Partners; then,

(v) The balance of profits, if any, and all losses, if any, shall be distributed sixty percent (60%) to the Limited Partners, pro-rata, and forty percent (40%) to the General Partner, provided, however, that the General Partner may, at its discretion and in order to comply with Internal Revenue Code requirements, require that any Partner having a negative capital account upon liquidation restore the amount of such deficit. Any such restored amount will then be allocable and distributable among the Partners as if gain from sale or refinancing.

11.5 Allocation of Taxable Profits and Losses on Sale. The taxable profits and losses of the Partnership arising from the sale or other disposition of the Project, or substantially all of the assets of the Partnership, shall be allocated as follows:

(a) The profits, if any, shall first be allocated among the Partners in proportion to (and in no event greater than the total of the following respective amounts):

(i) The balance of each Partners' capital account.

(b) The balance of profits, if any, and all losses, if any, shall be allocated sixty percent (60%) to the Limited Partners, pro-rata, and forty percent (40%) to the General Partner, provided, however, that in the event the General Partner elects to require restoration of capital account deficits, then allocation shall be made as is then necessary to comply with applicable Treasury regulations.

(c) In characterizing such profits and losses, that portion of the profits, if any, which constitute ordinary income by reason of recapture of depreciation under Section 1245 or 1250 of the Internal Revenue Code shall be the first profits allocated under Section 11.4 (a) hereof.

12. Transfer of Interests

12.1 General Partner:

Subject to Sections 13.1, 13.2, 13.3., and 14.3., the interest of the General Partner, as such, shall not be transferable, and any attempted assignment shall be ineffective to transfer any such interest.

12.1 Limited Partners:

Subject to Sections 12.4., 12.5., and 12.6., part or all of the interest of a Limited Partner shall be assignable, but the assignee shall not become a substituted Limited Partner, except pursuant to Section 12.3. An assignee who does not become a substituted Limited Partner shall have no rights hereunder except to receive any allocations or distributions which (but for the assignment) would have been made to the assignor. No assignment of the interest of a Limited Partner shall be effective as respects the Partnership until a duplicate original copy of the instrument of assignment, properly executed, shall have been received by the Partnership.

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In the event that any Limited Partner shall wish to sell all or any part of his interest in the Partnership, then, as a condition precedent to the sale by such Limited Partner thereof, such Limited Partner shall give to the General Partner written notice containing a copy of a bonafide, legally-enforceable written offer of a third party forthwith to purchase such interest for a consideration consisting solely of cash to be paid upon the assignment of such interest free and clear of all liens, encumbrances, equities and claims except as provided herein. For a period of 90 days after receipt of such notice from such Limited Partner, the General Partner shall have an option to purchase such interest from such Limited Partner for the same price set forth in the bonafide offer contained in such notice hereunder. If the General Partner shall waive their rights hereunder or shall fail to exercise the option within a 60-day period, then for a period of 30 days thereafter, the option of the General Partner hereunder shall be suspended; and such Limited Partner shall have the right to accept the written offer to purchase such interest as contained in such notice and shall have the right to transfer such interest in accordance with the terms and provisions of such offer.

Nothing contained in this Section 12.1. shall prevent any Limited Partner from transferring his interest herein, in whole, or in part, whether by Will or intestate, by inter vivos gift, by sale for consideration, by distribution or liquidation or merger of consolidation, by distribution or liquidation or otherwise to any associate thereof. The term "associate", as used herein shall include (i) the Partnership; (ii) the General Partner; (iii) any corporation or organization of which such Limited Partner is, directly or indirectly, the beneficial owner of 50% or more of the equity securities thereof having voting control; (iv) any trust or other estate in which such Limited Partner has a substantial beneficial interest or as to which such Limited Partner serves as trustee or in a similar capacity having control; (v) any individual, corporation, organization, trust or other estate which is the beneficial owner of 50% or more of the equity securities of such Limited Partner; (vi) any substantial beneficiary of such Limited Partner; (vii) any spouse, child, grandchild or parent of such Limited Partner; (viii) any principal of such Limited Partner, and (ix) the United States, any state, territory, any political subdivision thereof, or the District of Columbia.

Notwithstanding the foregoing in this Section 12.1., nothing contained herein shall be interpreted or construed to permit any Limited Partner (i) to assign all or any part of his percentage interest in the Partnership to any individual person who shall be under 21 years of age, to any non-resident alien individual or foreign partnership referred to in Section 1441 (a) of the Code or to any person who shall thereafter own less than three percent of the percentage interest in the Partnership within one year of its acquisition; (iii) to cause a termination of the Partnership in accordance with Section 708 (b) (1) (B) of the Code, or (iv) to cause treatment of the Partnership, for Federal income tax purposes, as an association referred to in Section 7701 (a) (3) of the Code.

12.3 Substitution of a Limited Partner

In the event of a transfer pursuant to the provisions of Section 12.1., any transferee shall become only an assignee of a Limited Partner in accordance with the ULPA and shall not have the rights of a substituted Limited Partner, unless, with the approval of the General Partner, which approval may be withheld for any reason, such transferee shall execute any addendum to this Agreement, agreeing to be bound by all the terms and provisions hereof, to assume all the obligations of the transferor Limited Partner hereunder and to reimburse the Partnership for any costs incurred in connection with any action taken by the Partnership to reflect such transfer under the ULPA.

12.4. Legal Disabilities

A Limited Partner's interests in the Partnership or any portion thereof shall not be assigned or transferred to any person who is insane, incompetent, or has not reached 21 years of age or to a person or entity not lawfully empowered to own such interest, and any assignment or transfer directly to a person or entity under any such disability may be disregarded by the Partnership in its discretion; provided, however, that a Limited Partner may transfer his interest free of any restrictions imposed by this Section 12.4. to trust for the benefits of his spouse and/or issue or to a custodian for his minor issue, notwithstanding the legal disability of such beneficiaries.

12.5 Termination of Partnership

No Partner's interest or any portion thereof shall be transferable or assignable to the extent that any such transfer or assignment would result in the termination of the Partnership for Federal income tax purposes and any attempted assignment in violation hereof shall be ineffective to transfer any such interest.

12.6 Effects of Sales or Other Disposition of Interests

In the event a Limited Partner sells or otherwise disposes of this Interests during a Fiscal Year, income, expenses, deductions, credits, gains, losses and Cash Flow with respect to such Fiscal Year allocable to such Partnership interests during which Fiscal Year shall be allocated among the persons (including corporations, trust estates and partnerships) who were holders of such Interests during such Fiscal Year, in proportion to the number of days that each such holder was recognized as the owner on the records of the Partnership of such Interests during such full calendar year, without regard to the results of the Partnership operations (including extraordinary gains or losses) for the period of the Fiscal Year that the Interest was actually held by the person selling or otherwise disposing of the Interest and without regard to the date, amount, or recipient of any distribution which may have been made with respect to such Interest for the Fiscal Year of sale or other disposition.

12.7 Investment Representation; Securities Restriction

All of the Partners hereby represent and warrant that they are purchasing their interests in the Partnership for their own account and not with a view to the distribution or resale thereof. The offering and sale of the Interests pursuant to this Agreement, has not been registered under the Securities Act of 1933, and notwithstanding any other provisions of this Agreement, all Partners agree that no Interests may be sold or transferred to any person, unless (i) such interest is registered under the Securities Act 1933, or (ii) an opinion of counsel for the Partnership is obtained to the effect that such registration is not necessary.

13. Retirement and Withdrawal of General Partner; Conversion of Interests

13.1 Retirement and Withdrawal

The General Partner may elect to withdraw from the Partnership at any time from and after 12 months from the date of this Agreement upon 120 days prior written notice to all Limited Partners; provided, however, that the withdrawn General Partner shall not be relieved of its obligations to the Partnership and Limited Partners arising prior to its withdrawal, and any obligations and/or liabilities

resulting or arising from event, actions, inactions or transactions occurring during the period in which they were the General Partner.

13.2 Death, Etc., of General Partner

Upon the death, mental incapacity, bankruptcy, insolvency or retirement of the General Partner, it shall cease to be a General Partner but unless it assigns its entire interest in the Partnership to a substituted General Partner, such former General Partner shall become a Limited Partner with respect to its interest, or any portion thereof, then remaining in the Partnership.

13.3 Continuing Liability of Former General Partner

A former General Partner shall remain liable for all liabilities and obligations of the Partnership incurred or arising out of Partnership operations, during the time it was a General Partner, but shall be free from liability in respect of obligations and liabilities incurred and arising out of operations thereafter, unless the Partnership is dissolved and terminated as a consequence of its ceasing to be a General Partner or liability is imposed upon it by law or some specific provision of this Agreement.

14. Termination of the Partnership and Distribution Upon Termination

14.1. Termination

The Partnership shall be terminated upon: (i) the expiration of the term specified in Section 3; (ii) the insolvency, retirement, death, bankruptcy or adjudication of insanity or incompetency of a General Partner unless the Partnership is reconstituted and continued as provided in Section 14.3.; (iii) the voluntary or involuntary sale of all of the assets of the Partnership; (iv) upon the vote of the General Partner and the then-existing Limited Partners holding 85% of the Limited Partnership Units. In the event of the insolvency, dissolution, bankruptcy, liquidation or incompetency of the General Partner, a notice to the effect shall be sent to each Limited Partner by the remaining General Partner or, if none, by the legal representative of the disqualified General Partner.

Upon dissolution of the Partnership, the General Partner, or if none, a trustee chosen by the holders of 85% of the Interests (the "Trustee") shall proceed with the liquidation and winding up of the Partnership and its assets shall be applied and distributed as provided in Section 14.2.

14.2 Priority of Distribution of Assets of the Partnership

In the event of termination, the affairs of the Partnership shall be wound up and an accounting made by the General Partner or the Trustee. Thereafter, there shall be distributions of cash available as follows:

- A. To the payment of debts and liquidations of the Partnership and expenses of liquidation.
- B. To the setting up of any reserves (to be held in a special interest bearing account) which the liquidating General Partner or Trustee may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Partnership; provided, however, that at the expiration of such time as the liquidating General Partner or Trustee deem

advisable (in the event more than two years from the event of termination and dissolution), the balance of such reserves remaining after payment of such contingent liabilities shall be distributed in a manner hereinafter set forth in this Section 14.1.

C. The balance, if any, shall be distributed to the Partners in accordance with and to the extent of their capital account balance.

D. The balance of all cash proceeds available shall be distributed, if termination is prior to Recoupment, among the Limited Partners, in an amount, if any, to the Limited Partners sufficient to constitute Recoupment and of the remainder 10% to the General Partner, and 90% to the Limited Partners in proportion to their Interests in the Partnership, if Recoupment has occurred, the balance, if any, shall be distributed 10% to the General Partner and 90% among the Limited Partners in proportion to the number of their respective Units.

14.3 Election to Continue the Partnership

Upon the insolvency, adjudication of bankruptcy, or incompetence of the General Partner, all of the Limited Partners may elect within 90 days after notice of such event to reconstitute and continue the Partnership and, if there is no remaining General Partner, designate a substituted General Partner(s). If a substituted General Partner(s) is so selected and accepted, such substituted General Partner(s) shall acquire (i) all of the departed General Partner's interest by paying to it or its legal representative the fair market value of such interest or (ii) any portion, but a least five percent (5%) of the departed General Partner's interest by paying to it or its legal representative the fair market value of such interest. Any dispute as to such fair market value shall be promptly submitted to an arbitration committee composed of three persons, one chosen by the departed General Partner or its legal representatives, one chosen by the substituted General Partner(s) and the third chosen by the other two. The procedures of such committee shall conform to the rules of the American Arbitration Association. Any portion of the departed General Partner's interest not so acquired shall become a Limited Partner Interest in accordance with Section 13.2. Subject to other written agreements and exceptions accepted by all the Limited Partners, the substituted General Partner(s) shall assume from after the date of substitution and upon becoming a party to this Agreement, all the rights, powers and obligations of a General Partner under this Agreement.

14.4 Time for Winding Up

A reasonable time shall be allowed for the orderly liquidation of assets of the Partnership and the discharge of liabilities to creditors so as to enable the General Partner to minimize the normal losses attendant upon a liquidation.

14.5 Final Accounting

Each of the Partners shall be furnished with a statement, certified by the Partnership's independent accountants, setting forth the assets and liabilities of the Partnership as of the date of complete liquidation. Upon the compliance by the General Partner or Trustee, as is applicable, with the foregoing distribution plan, the Limited Partners shall cease to be such, and the General Partner shall execute and cause to be filed a Certificate of Cancellation of the Partnership and any and all other documents necessary with respect to termination and cancellation.

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15. **Financing Proceeds**

Subject to all other provisions of this Agreement, the General Partner, in its sole discretion, may when necessary, in order to carry out the purpose and intent of the Business, enter into financing arrangements with commercial banks or other financial institutions to borrow funds on a strictly non-recourse basis. The foregoing shall not be deemed to obviate or otherwise lessen the responsibility and obligation that any third party may have to the Partnership.

16. **Amendment**

This Agreement may be amended by a writing executed by the General Partner and by Limited Partners holding at least 85% of the Limited Partnership Interests; provided, however that (i) it may be modified from time to time by the General Partner to reflect any change in the Partners or in the number of Interests owned by any Partner or for the purpose of clarification without changing the substance of the Agreement; (ii) no amendment shall reduce a Partner's interest in the Partnership unless the writing is executed by him; and (iii) no amendment shall effect any change in this Section unless the writing is executed by all the Partners; however, without the consent or approval of the Limited Partners; however, without the consent or approval of the Limited Partners, the Managing General Partner may amend the provisions of Section 11.2., 11.3., and 14.2. of this Partnership Agreement relating to the allocations of net income, net loss and distributions among Partners if the Partnership is advised at any time by the Partnership's accountants or legal counsel that the allocations provided in Section 11 of this Partnership Agreement are unlikely to be respected for Federal income tax purposes, either because of promulgation of Treasury Regulations under Section 704 of the Code or other developments in the law. The Managing General Partner is empowered to amend such provisions to the minimum extent necessary in accordance with the advice of the accountants and legal counsel to effect the plans of allocation and distributions provided in this Partnership Agreement. New allocations made by the Managing General Partner in reliance upon the advice of the accountants or counsel described above shall be deemed to be made pursuant to the fiduciary obligation of the General Partner to the Partnership and the Holders, and no such new allocation shall give rise to any claim or cause of action by any Limited Partner.

17. **Power of Attorney**

17.1 **Powers**

Each of the Limited Partners irrevocably constitutes and appoints the General Partner his true and lawful attorney in this name, place and stead to make, execute, swear to, acknowledge, deliver and file:

A. Any certificates or other instruments which may be required to be filed by the Partnership under the laws of the State of Florida or jurisdiction in which the Partnership shall transact Business or in which the General Partner shall deem it advisable to file:

B. Any documents, certificates or other instruments, including without limiting the generality of the foregoing, any and all amendments and modifications of this Agreement or of the instruments described in Section 17.1.A., which may be required or deemed desirable by the General Partner to effectuate the provisions of any part of this Agreement or necessary to continue and to carry on the Business of the Partnership; and

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C. All documents, certificates or other instruments which may be required to effectuate the dissolution and termination of the Partnership or the organization of any new limited partnership occasioned by designated events as herein before provided.

The power of attorney granted hereby shall not constitute a waiver of, or be used to avoid, the rights of the Limited Partners to approve amendments to this Agreement, or be used in any manner inconsistent with the status of the Partnership as a Limited Partner or the limited liability of the Limited Partners.

17.2 Survival of Power

It is expressly intended by each of the Limited Partners that the foregoing power of attorney is coupled with an interest, is irrevocable and shall survive the death, adjudication of incompetency or insanity of each such Limited Partner. The foregoing power of attorney shall survive the delivery of an assignment by any of the Limited Partners of his entire interest in the Partnership, except that where an assignee of such entire interest has become a substituted Limited Partner than the foregoing power of attorney of the assignor Limited Partner shall survive the delivery of such assignment for the sole purpose of enabling the General Partner to execute, acknowledge and file any and all instruments necessary to effectuate such substitution.

18. Miscellaneous Provisions

18.1 Books of Account

The General Partner shall keep and maintain, or cause to be kept and maintained, in accordance with sound accounting practices, complete and accurate books, records and accounts of the Partnership. The Partnership books shall be kept on the account method, cash or accrual basis, most favorable to the Partners and in accordance with generally accepted accounting principles consistent with those employed for determining partnership income for Federal income tax purposes. All books, records and accounts of the Partnership shall be kept at all times at the principal office of the Partnership. All Partners shall have the right to examine such books, records and accounts at any and all reasonable hours.

18.2 Accounts and Accounting Decisions

Certified public accountants (the "Auditors") shall be retained by the General Partner for the Partnership which may be one of the General Partner. All decisions as to accounting matters, except as specifically provided to the contrary herein, shall be made by the General Partner in accordance with generally accepted accounting principles consistently applied. Such decisions shall be acceptable to the Auditors employed by the Partnership, and the General Partner may rely upon the advice of the Auditors (or their replacements or successors) as to whether such decisions are in accordance with generally accepted accounting principles.

18.3 Federal Income Tax Elections

The Partnership shall elect to use such methods of depreciation as the General Partner determine to be most favorable to the Partners. In the event of a transfer of all or part of the Interest of any Partner

in the Partnership, the Partnership may, but shall not be required to, elect pursuant to Sections 754, 734 and 743 of the Code, to adjust the basis of the assets of the Partnership upon written request of the transferee, unless such election will have a materially unfavorable affect upon a majority interest of the Partners.

18.4. Addresses and Notices

The address of the Partnership shall be at its principle office. The address for each Partner for all purposes shall be as set forth next to each Partner's name on the Schedule, or such other address of which the General Partner have received written notice. Any notice, demand or request required or permitted to be given or made hereunder shall be deemed given or made when delivered or sent by certified or registered mail to such Partners at such addresses.

18.5 Titles and Captions

All captions are for convenience only. They do not form a substantive part of this Agreement, and shall not restrict or enlarge any substantive provisions of this Agreement.

18.6 Pronouns and Plurals

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

18.7 Further Action

The parties hereto shall execute and deliver all documents, provide all information and take or forebear from all such action as may be necessary or appropriate to achieve the purpose of this Agreement.

18.8 Entire Agreement

This Agreement contains the entire understanding between and among the parties hereto and supersedes any prior understanding and agreements between or among them respecting the subject matter of this Agreement.

18.9 Counterparts

This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all parties hereto, notwithstanding that all the parties are not signatory to the original of the same counterpart.

18.10 Applicable Law

This Agreement and the rights of the Partners hereunder shall be interpreted in accordance with the laws of the State of Florida.

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18.11 **Benefits**

This Agreement shall inure to the benefit of and shall bind the parties hereto, their permitted successors and permitted assigns.

18.12 **Severability**

The validity or unenforceability of any provision of this Agreement in a particular respect shall not affect the validity or enforceability of any other provision of this Agreement or of the same provision of any other respect.

18.13 **Successors in Interest**

Except as otherwise provided herein, all provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective heirs, executors, administrators, personal representatives, successors, and assigns of each Partner.

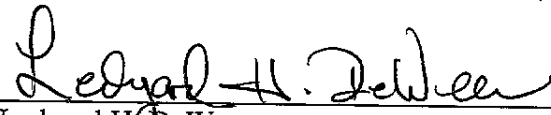
19. **Designation and Acceptance of Agent for Service of Process**

(a) **Name and Address of Agent.** The name and address of the agent for service of process is as follows:

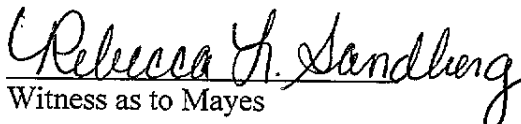
Name Ledyard H. DeWees

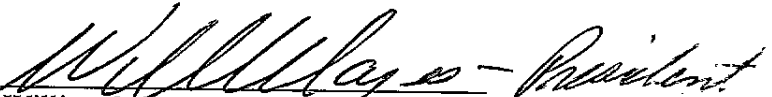
Address 270 NW 3rd Court Boca Raton 33432

(b) **Acceptance of Agent for Service of Process.** Having been designated herein as agent for service of process, at the place designated above I hereby agree, pursuant to the requirements of the Florida Revised Uniform Limited Partnership Act (1986) to act in this capacity, and I further agree to comply with the provisions of the Florida Revised Uniform Limited Partnership Act (1986) relative to the proper and complete performance of my duties.


Ledyard H. DeWees

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and Certificate of Limited Partnership on the date and year above first written.
ATTEST: General Partner, CABLE UNLIMITED, INC.


Witness as to Mayes

By: 
William Mayes, President

AFFIDAVIT

STATE OF OHIO)

COUNTY OF FRANKLIN)

Before me, the undersigned authority, personally appeared WILLIAM MAYES who,
first being duly sworn deposes and says:

1. That William Mayes, on behalf of CABLE UNLIMITED, INC. is the sole General Partner of
AUSTWELL/TIVOLI LIMITED PARTNERSHIP, a Florida limited partnership being filed for
certification concurrent with the submission of this Affidavit.

2. That the capital contribution of all limited partners as of this date is \$100.00.

3. That the capital contributions that are contemplated for all limited partners of
said limited partnership total \$30,000.00.

Further affiants sayeth not.

CABLE UNLIMITED, INC.

By: *William Mayes - President*
WILLIAM MAYES, PRESIDENT

Sworn to and subscribed before
me this 11 day of August 2001.

Maria Avradopoulos
Notary Public, State of Ohio
Personally known to me.
My Commission Expires:



MARIA AVRADOPOULOS
Notary Public - State of Ohio
My Commission Expires Feb. 15, 2005

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