

JOINT VENTURE
OF
NEW HORIZONS VENTURES

JOINT VENTURE AGREEMENT OF NEW HORIZONS VENTURES, dated November 18, 1991 by and among Mr. Steven E. Leber, having address at 235 Briarwood Crossing, Lawrence, N.Y. 11516, and Mr. Robert P. Walker, having an address at 106 Bradlee Avenue, Swampscott, Massachusetts 01907, and Mr. Mark J. Maged, having an address at 2 Sleepy Hollow Road, New Canaan, CT 06840, and Mr. Arcady Beleske, having an address at 38 Ralph Road, Marblehead, MA 01945 (hereinafter sometimes referred to collectively as the "Venturers" and individually as "Venturer").

W I T N E S S E T H:

WHEREAS, the Venturers through NEW HORIZONS VENTURES intend to represent the Tyumen Region Administration of the Russian Republic, USSR in a wide range of international transactions;

WHEREAS, the Venturers through NEW HORIZONS VENTURES intend to introduce the Tyumen Region of the Russian Republic, USSR to external capital and industrial markets and attract industrial interests to the Tyumen Region of the USSR and to perform various services necessary to effectuate the foregoing;

WHEREAS, the Venturers through NEW HORIZONS VENTURES intend to participate in trade or investment opportunities (including one or more joint ventures) within the Tyumen Region as well as with the Tyumen Region Administration;

WHEREAS, the Venturers through NEW HORIZONS VENTURES may by consent of each Venturer engage in activities in other areas of what has heretofore been known as the USSR;

NOW THEREFORE, the Venturers, intending to be legally bound, do hereby agree as follows:

1. Formation. The parties hereby form a joint venture (the "Joint Venture") pursuant to the Partnership Law of the State of Delaware.

2. Name. The name of the Joint Venture shall be "New Horizons Ventures".

3. Purposes. The purposes of the Joint Venture are to:

(a) represent the Tyumen Region Administration of the Russian Republic, USSR and industrial and other enterprises of the Tyumen Region in international markets;

(b) attract industrial and financial investors to business opportunities throughout the Tyumen Region;

(c) invest in joint ventures within the Tyumen Region and to engage in trade transactions involving organizations in the Tyumen Region;

(d) engage in such other activities in what heretofore has been known as the USSR, whether inside or outside the Tyumen Region as the Joint Venture shall determine; and

(e) otherwise do any and all other acts which may be required or desirable in connection with any of the aforementioned purposes or as otherwise contemplated in this Agreement.

The Joint Venture shall not engage in any other business or activity and none of the Venturers shall engage in any business or activity in or with respect to the Tyumen Region, except through the Joint Venture. Furthermore each Venturer agrees to devote significant time and effort to the furtherance of the purposes of the Joint Venture.

4. Principal Office. The principal office and place of business of the Joint Venture shall be maintained at 155 East 55th Street, New York, N.Y. 10022 Attention: New Horizons Ventures, or at such other place or places as the Joint Venture may from time to time designate.

5. Term. The term of the Joint Venture shall commence as of the date hereof and shall continue through December 31, 2041 unless sooner terminated as provided in this Agreement, or otherwise extended pursuant to the consent of fifty one (51%) percent or more of the Venturers.

6. Percentage Interests and Non-Capital Contributions.

(a) The percentage interest ("Percentage Interest") of each of the Venturers in the Joint Venture shall, subject to Article 7 and 13 hereof, be as set forth in Schedule A annexed hereto.

(b) Each Venturer has contributed and will continue to contribute to the Joint Venture his respective business expertise and business contacts which would prove useful to the furtherance of the Joint Venture.

7. Capital Contributions.

(a) Whenever the Joint Venture determines, in accordance with the provisions of Article 10 hereof, that capital contributions need to be made to the Joint Venture, then, within ten (10) days after notice of such determination, each Venturer shall contribute his share of the same to the Joint Venture pro rata in accordance with his then Percentage Interest.

(b) In the event that any Venturer shall fail to so contribute his share (hereinafter referred to as the "Defaulted Amount") pro rata as required pursuant to paragraph 7(a) hereof, within the aforesaid ten (10) day period, then, at the expiration of such ten (10) day period, such Venturer (hereinafter referred to as the "Defaulting Venturer") shall be deemed in default. Upon any such default, the non-defaulting Venturers (hereinafter referred to as the "non-Defaulting Venturers") shall have the following rights and alternatives:

(1) to contribute to the Joint Venture all or any part of the Defaulted Amount, and the Percentage Interest of each Non-Defaulting Venturer shall be increased to the percentage which his contributions to the capital of the Joint Venture (less distributions received) bears to the aggregate cash contributions to the capital of the Joint Venture of all of the Venturers (less distributions made) and the default shall be deemed cured, to the extent of the aggregate of such contributions, as of the date of such contributions by the Non-Defaulting Venturers; or

(2) to lend to the Joint Venture all or any part of the Defaulted Amount, which loan shall bear interest at the highest legal rate permitted under the laws of the State of New York, shall be secured by the Defaulting Venturer's interest in the Joint Venture, but shall be non-recourse against the Joint Venture and personally guaranteed by the Defaulting Venturer, and shall be upon such other terms and conditions as the Non-Defaulting Venturers shall determine; or

(3) to borrow, on behalf of the Joint Venture, from any person, firm or corporation, all or any part of the Defaulted Amount, which borrowing may be secured by the Defaulting Venturer's interest in the Joint Venture and shall be upon such other terms and conditions as the Non-Defaulting Venturers shall determine; or

(4) to purchase all or any part of the Defaulting Venturer's interest in the Joint Venture, which purchase shall be for cash equal to the aggregate contributions theretofore made by the Defaulting Venturer to the capital of the Joint Venture (less distributions received) with respect to the interest so being purchased. In exercising the right to purchase as described in this subparagraph (4), any Non-Defaulting Venturer must also contribute to the Joint Venture that portion of the Defaulted Amount as is in respect of the portion of the Defaulted Venturer's Percentage Interest so being purchased.

Each Non-Defaulting Venturer may, at its option, exercise any one or more of the aforesaid rights and alternatives with respect to that proportion of the Defaulted Amount or the Percentage Interest in the Joint Venture of the Defaulting Venturer, as the case may be, as is equal to the proportion which

the Percentage Interest of such Non-Defaulting Venturer bears to the aggregate Percentage Interest of all Non-Defaulting Venturers who exercise their right hereunder. To the extent that any Non-Defaulting Venturer fails to exercise such rights or alternatives with respect to the entire portion of the Defaulted Amount or the Percentage Interest in the Joint Venture of the Defaulting Venturer to which each Non-Defaulting Venturer is entitled, the other Non-Defaulting Venturers who shall have exercised their entire rights shall have successive rights hereunder with respect to such non-exercised portion. Upon completion of the exercise of rights of Non-Defaulting Venturers hereunder, at such time as the Defaulted Amount shall have been provided for, the default shall be deemed entirely cured.

8. Divisions of Profits and Losses and Other Distributions.

(a) Profits and losses of the Joint Venture shall be determined each year in accordance with the accounting methods followed for Federal income tax purposes for joint ventures of similar type and composition as the Joint Venture, and shall be allocated among the Venturers *pro rata* in accordance with their Percentage Interests in the Joint Venture as of the end of the fiscal year in question.

(b) Any other distribution of money or property of any kind or nature shall be distributed to the Venturers *pro rata* in accordance with their Percentage Interests.

9. Withdrawal of Capital and Venture Expenses.

(a) No Venturer shall be entitled to withdraw any part of his capital and/or non-capital contributions to the Joint Venture or to receive any distribution from the Joint Venture, nor shall any Venturer be entitled to demand or receive any property from the Joint Venture other than cash, except as otherwise provided in this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement, no distribution of profits, funds or property of any kind or nature shall be made to the Venturers until after all expenses, salaries, advances, costs

or any other funds previously advanced by any Venturer to the Venture or to any other Venturer for Venture purposes have been repaid to such Venturer from any revenues received by the Joint Venture. To the extent that more than one Venturer has advanced any such funds to the Venture or to any other Venturer, repayment shall be made on a *pro rata* basis in accordance with the relative amounts of funds so advanced by each such Venturer.

10. Majority Rule. The determination of any and all matters pertaining to the business of the Joint Venture, both day to day and any extraordinary business, shall be made by a vote ("Majority Vote") of the Venturers whose aggregate Percentage Interest shall be at least fifty-one (51%) percent of the interest of all Venturers. None of the Venturers shall, except by Majority Vote, perform any act or make any commitment on behalf of the Joint Venture; without limiting the generality of the foregoing, none of the Venturers shall:

(1) make, execute and deliver any assignment for the benefit of creditors, or any note or bond, confession of judgement, mortgage, chattel mortgage, deed, guaranty, indemnity, surety, bond or contract of sale of any of its real or personal property or any other instrument whether similar or dissimilar to any of the foregoing;

(2) borrow or loan money, or make, execute, deliver, accept or endorse any commercial paper of behalf of the Joint Venture, or use the credit, money or other property of the Joint Venture; or

(3) pledge the credit of the Joint Venture to answer for the debt, default or miscarriage of any person, firm or corporation.

Notwithstanding anything to the contrary contained herein, until such time as all funds previously advanced to Mark Maged by Steven Leber whether for Venture purposes or otherwise, have been repaid pursuant to Paragraph 9 (b) hereof, or pursuant to any other agreements between them, or from separate funds of Mark Maged, Steven Leber shall be entitled to vote the Percentage Interest of Mark Maged in connection with the determination of all matters pertaining to the business of the Joint Venture.

11. **Banking.** All funds of the Joint Venture shall be deposited in its name in such checking account(s) as shall be designated by the Joint Venture. All withdrawals therefrom are to be made upon checks signed by those persons who may from time to time be designated by the Joint Venture it being agreed that all checks in excess of Five Thousand (\$5,000.00) Dollars must be jointly signed by either Steven E. Leber or Mark J. Maged on the one part and Robert P. Walker or Arcady Beleske on the other part (i.e. Double Signature checking on amounts in excess of Five Thousand \$5,000.00 Dollars).

12. Books, Records, Fiscal Period.

(a) The fiscal year of the Joint Venture shall be the calendar year.

(b) A full and accurate account of the transactions of the Joint Venture shall be kept in proper books, which shall be maintained at the principal office of the Joint Venture, and each Venturer shall have access thereto at all times during regular business hours and may inspect and copy the same. The books shall be kept on such basis, cash, accrual or otherwise, as the Joint Venture shall decide and shall be closed and balanced at the end of each fiscal year.

(c) The Venturers agree to cause the accountants for the Joint Venture to deliver to the Venturers, on or before March 15 of each year, (i) an annual balance sheet and profit and loss statement, which shall, upon request to the Joint Venture on or before January 1 of that year by any Venturer whose Percentage Interest in the Joint Venture exceeds 10%, be certified, and (ii) "Information Returns" showing the distribution of profit and loss to each Venturer for the preceding fiscal year.

(d) All elections under the Internal Revenue Code with respect to the selection of a permissible method of reporting depreciation on the federal income tax returns of the Joint Venture shall be made and determined by Majority Vote.

13. Transfer.

(a) Except as provided in this Article 13, a Venturer shall not assign, transfer, hypothecate, pledge or encumber (collectively "Sell") his interest in the Joint Venture or his rights under this Agreement in any manner, and any attempt to Sell shall be void. A Venturer may not substitute an assignee or any person as a contributor in his place or stead except as otherwise provided in this Article 13 or as provided for in Article 7.

(b) Notwithstanding the foregoing, any Venturer without the consent of any other Venturer may during his lifetime transfer all or any part of his interest in the Joint Venture (i) to a trust created for the benefit of himself/herself and/or his wife/husband, one or more of his/her children or any member of his immediate family, or (ii) to a corporation of which more than fifty (50%) percent of the voting stock is owned by such Venturer or any of the parties described in (i) above; provided that (a) any such transferee shall, by an agreement in writing, assume performance of the terms and conditions of this Agreement as a Venturer, and (B) any transfer of the voting stock of any corporate transferee which will render any Venturer's percentage interest therein not in excess of fifty (50%) percent shall be deemed a Sale of this Agreement.

(c) Any Venturer may transfer his interest in the Joint Venture to any person or persons by testamentary disposition or intestate succession; provided, however, that such person or persons shall hold the interest in the Joint Venture subject to the terms, covenants and conditions of this Agreement and shall be deemed to have assumed performance of the terms and conditions of this Agreement as Venturers. Any such person shall be prohibited from Selling the interest in the Joint Venture (or his interest therein) unless all such persons shall join in such Sale and, in the making thereof, comply with the provisions herein.

14. Dissolution.

(a) The Joint Venture shall be dissolved:

- (i) upon a unanimous vote of the Venturers;
- (ii) upon the insolvency or bankruptcy of the Joint Venture;
or

(b) In the event of the death, bankruptcy or adjudication of incompetency or insanity of any Venturer ("Retiring Venturer"), (i) the Joint Venture shall give prompt notice of such fact to each Venturer other than the Retiring Venture and the Joint Venture shall not be dissolved, provided, however, that a Venturer may, within thirty (30) days after receipt of the said notice, give notice to the Joint Venture of an election to withdraw and retire from the Joint Venture; and (ii) the interest of the Retiring Venturer in the Joint Venture shall not be subject to withdrawal, but shall descend to and shall vest in his legal representatives, heirs, legatees or other successors, subject to the obligations of such Retiring Venturer which shall have theretofore accrued under this Agreement.

(c) Except as expressly provided herein, no Venturer may withdraw from the Joint Venture.

15. Distribution upon Dissolution and Termination.

(a) Upon dissolution of the Joint Venture or termination thereof, the assets of the Joint Venture shall be liquidated as promptly as practicable, and the proceeds of such liquidation shall be applied and distributed in the following order of priority:

- (i) first, to the payment of debts and liabilities of the Joint Venture and the expenses of liquidation; then
- (ii) to the setting up of any reserves which the Joint Venture may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Joint Venture; then
- (iii) to the repayment of any loans or advances that may have been made by any of the Venturers, but if the

amount available for such repayment shall be insufficient, then pro rata to the Venturers in that proportion which the loan or advance of each Venturer bears to the aggregate of all loans and advances made by the Venturers to the Joint Venture; and

(iv) any balance then remaining shall be distributed to the Venturers pro rata in accordance with their then Percentage Interests.

(b) A reasonable time shall be allowed for the orderly liquidation of assets of the Joint Venture and the discharge of liability to creditors so as to enable the Venturers to minimize the normal losses incurred in liquidation.

(c) Within sixty (60) days after such liquidation, each of the Venturers shall be furnished with a statement prepared by the Joint Venture's accountants which shall set forth the assets and liabilities for the Joint Venture as of the date of complete liquidation.

16. Notices. Unless otherwise specified in writing, all notices, requests, demands or other communications which any of the Venturers or the Joint Venture may desire or be required to give hereunder shall be given in writing by certified or registered U.S. mail, postage prepaid, addressed as follows:

(a) To the Joint Venture, at its principal office as set forth herein.

(b) To any Venturer, at the address hereinabove set forth or at such other address as such Venturer shall have designated by notice given in accordance herewith to the Joint Venture and the other Venturers.

The same shall be deemed given upon receipt.

17. Accounting. Any calculation or computation required to be made under this Agreement, as well as any accounting procedure adopted

hereunder, shall be made in accordance with generally accepted accounting principles consistently applied.

18. Applicable Law. Except as otherwise provided herein, this Agreement shall be construed and interpreted in accordance with the laws of the State of Delaware applicable to agreements made and to be performed wholly therein.

19. Benefits. This Agreement shall be binding on, and inure to the benefit of, the parties hereto and their respective legal representatives and assigns, except that no violation of the provisions of Section 13 hereof shall operate to vest any rights in any legal representative or assignee.

20. Amendments. This Agreement may be amended at any time, and from time to time, upon written consent of Venturers whose aggregate Percentage Interest shall be at least fifty-one (51%) percent of the interest of all Venturers, and when so amended, the amendment hereof shall be binding and effective as to all Venturers in like manner as if they had been signatories to such amendment. Except as set forth in this paragraph 21, this Agreement may not be amended..

21. Captions. All titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the contents of this Agreement.

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

23. Counterparts. This Agreement shall not be effective unless and until executed by all of the persons whose names are set forth at the foot hereof, and may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same Agreement.

24. Entire Agreement. This Agreement contains the entire

understanding between the parties and supersedes any prior understandings and agreements between them respecting the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

25. Invalidity. In the event that any provision of this Agreement shall prove to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

26. Arbitration. In the event of any dispute or controversy between the parties hereto, with respect to this Agreement, the parties agree to submit such dispute to binding arbitration, pursuant to the rules of the American Arbitration Association before one (1) arbitrator experienced in such matters in the City of New York, whose decision shall be final and binding upon the parties hereto with the same force and effect as a judgement entered by a court of competent jurisdiction, and the parties agree that judgement may be entered on any award or decision rendered by the arbitrators in any court having jurisdiction over either the Joint Venture, its assets or any of the parties hereto.

27. Power of Attorney. Each of the Venturers constitutes and appoints Alan D. Leber, Esq. as his true and lawful attorney to make, execute, sign, acknowledge and file in his name, place and stead:

(a) Any certificate or other instrument which may be required to be filed by the Joint Venture under the laws of the State of Delaware and any and all amendments or modifications thereto.

(b) All documents and instruments which may be required to effectuate the dissolution and termination of the Joint Venture, so long as same are in accordance with the terms hereof; and

(c) Such other document or documents or instrument or instruments as may be required under the laws of any state or of the United States or of any other jurisdiction.

28. Further Assurances. Each party to this Agreement agrees to execute, acknowledge, deliver, file, record and publish such further certificates, amendments to certificates, instruments and documents, and do all such other acts and things, as may be required by law or as may, in the opinion of Venturers constituting a Majority Vote, be reasonably necessary or advisable to carry out the intents and purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day and year first above written.



Mr. Steven E. Leber



Mr. Mark J. Maged

Mr. Robert P. Walker

Mr. Arcady Beleske

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Mr. Steven E. Leber

Mr. Mark J. Maged



Mr. Robert P. Walker



Mr. Arcady Beleske

SCHEDULE A

<u>Partner</u>	<u>Percentage Interest</u>
Steven E. Leber	28.125%
Robert P. Walker	28.125%
Mark J. Maged	18.75%
Arcady Beleske	25%