

Florida Department of State

Division of Corporations
Public Access System

Electronic Filing Cover Sheet

H060001916093

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H06000191609 3)))



H060001916093ABC%

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
Fax Number : (850)205-0380

From:

Account Name : CORPORATION SERVICE COMPANY
Account Number : I20000000195
Phone : (850)521-1000
Fax Number : (850)558-1575

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

MERGER OR SHARE EXCHANGE

BLACK GOLD INTERNATIONAL LLC

Certificate of Status	0
Certified Copy	0
Page Count	17
Estimated Charge	\$87.50

Amanda Hadden Ext 2955

Electronic Filing Menu

Corporate Filing Menu

Help

RECEIVED

06 JUL 28 AM 8:00

DIVISION OF CORPORATIONS

No. # 217890120

H06000191609 3

CERTIFICATE OF MERGER**FOR****FLORIDA LIMITED LIABILITY COMPANY**

The following Certificate of Merger is submitted to merge the following Florida Limited Liability Company in accordance with Section 608.4382 of the Florida Limited Liability Company Act.

FIRST: The exact name, form/entity type, and jurisdiction for the merging party is as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
Mel Howard Accessories Corp.	New York	Corporation

SECOND: The exact name, form/entity type, and jurisdiction of the surviving party is as follows:



<u>Name</u>	<u>Jurisdiction</u>	<u>Form/Entity Type</u>
Black Gold International LLC	Florida	Limited Liability Company L06000044183

THIRD: The attached agreement and plan of merger was approved by Black Gold International LLC in accordance with the applicable provisions of Chapter 608 of the Florida Limited Liability Company Act.

FOURTH: The attached agreement and plan of merger was approved by Mel Howard Accessories Corp. in accordance with the applicable laws of the state of New York.

FIFTH: The effective date of the merger shall be the date on which this Certificate of Merger is filed with the Florida Department of State.

SIXTH: Signature(s) for Each Party:

<u>Name of Entity/Organization:</u>	<u>Signature(s):</u>	<u>Name of Individual and Title:</u>
Mel Howard Accessories Corp.		Howard Genis President
Black Gold International LLC		Douglas A. Black Chief Executive Officer

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

HD6000191609 3

Execution Copy

AGREEMENT AND PLAN OF MERGER

By and Among

BLACK GOLD INTERNATIONAL LLC
A Florida Limited Liability Company,

MEL HOWARD ACCESSORIES CORP.
A New York Corporation

And

HOWARD GENIS

Dated as of July 28, 2006

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

HD6000191609 3

H06000191609 3

Execution Copy

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (together with all supplements and amendments, this "Agreement"), dated as of July 28, 2006 (the "Contract Date"), is by and among **BLACK GOLD INTERNATIONAL LLC** (the "LLC"), a Florida limited liability company, whose principal business address is 2280 SW 70th Avenue, Suite 6, Davie, Florida 33317, **MEL HOWARD ACCESSORIES CORP.** (the "Company"), a New York corporation, whose principal business address is 30-02 48th Avenue, Long Island City, New York 11101, and **HOWARD GENIS** (the "Sole Stockholder"), whose address is 58 Sutton Lane, New Hyde Park, New York 11040.

Each of the LLC, the Company and the Sole Stockholder is sometimes individually hereinafter referred to as a "Party" and sometimes collectively hereinafter referred to as the "Parties."

Recitals

WHEREAS, the Sole Stockholder beneficially owns ten (10) shares of Common Stock (the "Shares") of the Company. The Shares so owned by the Sole Stockholder constitute all of the issued and outstanding shares of all classes of capital stock of the Company; and

WHEREAS, the sole member and manager of the LLC and the Board of Directors and Sole Stockholder of the Company have determined that it is in the best interests of their respective entities to consummate the business combination transaction provided for herein in which the LLC will acquire the Company through the merger of the Company with and into the LLC (the "Merger"); and

WHEREAS, concurrently with the closing of the Merger, the LLC shall close the transactions contemplated by that certain Stock Contribution Agreement by and between JP, LLC and Jonathan Goldman and the LLC, dated as of the date hereof (the "Stock Contribution Agreement"); and

WHEREAS, the Parties desire to make certain representations, warranties and agreements in connection with the Merger and also to prescribe certain conditions to the Merger.

Capitalized terms not defined in the applicable sections of this Agreement have the meaning ascribed to such terms in Section 15 of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the Parties covenant and agree:

1. **The Merger.** Subject to the terms and conditions of this Agreement, in accordance with the Florida Limited Liability Company Act and the New York Business Corporation Law, at the Closing, the Company will merge with and into the LLC with the LLC being the surviving entity (sometimes hereinafter referred to as the "Surviving Entity") in the Merger. Upon consummation of the Merger, the separate corporate existence of the Company shall cease.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

R06000191609 3

2. Effective Time. The Merger shall become effective on the date and at the time specified in the respective certificates of merger (each a "Certificate of Merger" and collectively, the "Certificates of Merger") as filed with the respective Secretary of State of each of the State of Florida and the State of New York. The term "Effective Time" shall be the date and time when the Merger becomes effective as set forth in the Certificates of Merger.

3. Effects of the Merger. At the Effective Time of the Merger, the Company shall be merged with and into the LLC and the separate existence of the Company shall cease. The directors and officers of the LLC immediately prior to the Effective Date shall be the directors and officers of the Surviving Entity. The Certificate of Formation and the Operating Agreement of the LLC, as amended at the Effective Time of the Merger, shall be the Certificate of Formation and the Operating Agreement of the LLC of the Surviving Entity until further amended as provided therein and in accordance with applicable law. All property (real, personal and mixed) and all debts on whatever account and all choses in action, all and every other interest, of or belonging to or due to each of the constituent entities so merged shall be taken and deemed to be transferred to and vested in the Surviving Entity without further act or deed. The title to any property (real, personal and mixed), or any interest therein, vested in any of the constituent entities shall not revert or be in any way impaired by reason of the Merger. The Surviving Entity shall thenceforth be responsible and liable for all the liabilities and obligations of each of the constituent entities so merged and any claim existing or action or proceeding pending by or against either of the constituent entities may be prosecuted as if the Merger had not taken place or the Surviving Entity may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any constituent entity shall be impaired by the Merger.

4. Closing and Closing Date. Subject to the observance, performance, and fulfillment of the terms and conditions set forth in this Agreement, the closing of the Merger (the "Closing") shall take place on the date hereof at the offices of Redmond, Pollio & Caso, LLP, 1461 Franklin Avenue, Garden City, New York 11530, or at such other time and place as the LLC and the Company mutually agree upon in writing (the "Closing Date").

5. Conversion of the Shares.

5.1 Manner of Conversion. Subject to the provisions hereof, as of the Effective Time of the Merger and by virtue of the Merger and without any further action on the part of the LLC, the Company or the Sole Stockholder, all of the Shares collectively outstanding immediately prior to the Effective Time of the Merger shall be converted into the right to receive One Million Six Hundred Thousand Dollars (\$1,600,000) (the "Purchase Price"). The Sole Stockholder acknowledges that the Purchase Price has been paid to him contemporaneously with the execution of this Agreement.

6. LLC Membership Interests. The membership interest of the LLC at the Effective Time shall not be affected by the Merger and shall continue to be the membership interest of the Surviving Entity.

7. INTENTIONALLY OMITTED.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

R06000191609 3

H06000191609 3

8. Additional Agreements.

8.1 Consulting Agreement. Concurrently with the Closing of the Merger, the Surviving Entity and the Sole Stockholder shall execute a consulting agreement, substantially in the form attached hereto as Exhibit A (the "Consulting Agreement").

8.2 Allocation. The Parties hereby agree to allocate the Purchase Price plus the amount of all assumed liabilities (the "Aggregate Deemed Sales Price") among the assets acquired from the Company (the "Acquired Assets") for all purposes (including financial accounting and tax purposes) in accordance with the allocation schedule attached hereto as Exhibit B (the "Asset Allocation Statement") which the parties agree has been determined in a manner consistent with Section 1060 of the Internal Revenue Code of 1986, as amended (the "Code") and the Treasury Regulations promulgated thereunder. The Parties further agree to each prepare the Form 8394 consistent with the Asset Allocation Statement; provided, however, in the event that the Aggregate Deemed Sales Price changes in accordance with the terms of this Agreement, the Parties hereby agree to revise the Asset Allocation Statement and prepare and/or revise the Asset Allocation Statement in the manner consistent with Section 1060 of the Code.

8.3 Settlement Agreement. Following the Closing, the Sole Stockholder shall use his best efforts to deliver to the LLC a fully executed Settlement Agreement with respect to the dispute with the Company's landlord with respect to the Company's headquarters in Long Island City, New York.

8.4 Proceedings and Documents. Any time after the Closing, the Sole Stockholder will promptly execute, acknowledge and deliver any other assurances or documents reasonably requested by the LLC or the Company, as the case may be, to satisfy or in connection with its obligations hereunder.

8.5 New York City Corporate Taxes. The LLC agrees to pay the New York City Corporate Taxes (the "NYC Taxes") of the Company, up to an aggregate amount of \$90,000, for the Company's fiscal year ending October 31, 2006. Such NYC Taxes will be paid at such time as they are lawfully due but in any event no later than October 31, 2006. The LLC and the Sole Stockholder will mutually agree upon the actual amount of the NYC Taxes as soon as practicable after the Closing.

9. Representation and Warranties of the Company. As a material inducement for the LLC to enter into this Agreement and to consummate the Closing, the Sole Stockholder and the Company jointly and severally hereby represent and warrant to the LLC as follows:

9.1 Organization, Good Standing and Qualification. The Company is a corporation that is duly organized, validly existing, and in good standing under the laws of the State of New York and has all requisite corporate power and authority to carry on its business as now conducted. The Company is duly qualified to transact business and is in good standing in the State of New York.

9.2 Capitalization. The authorized capital stock of the Company consists solely of Two-Hundred (200) shares of common stock, no par value per share, of which only ten (10) Shares are presently issued and outstanding. The Shares are duly authorized, validly issued,

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

H06000191609 3

outstanding, fully paid and nonassessable. The Sole Stockholder owns 100% of the Shares, beneficially and of record, free and clear of all Liens. There are no outstanding or authorized options, warrants, purchase rights, subscription rights, conversion rights, exchange rights or other contracts or commitments that could require the Company to issue, sell or otherwise cause to become outstanding any of its capital stock or equity interests. There are no outstanding or authorized stock appreciation, phantom stock, profit participation or similar rights with respect to the capital stock of the Company. There are no voting trusts, proxies or other agreements or understandings with respect to the voting of the capital stock of the Company. Neither the Sole Stockholder nor the Company nor any of their respective Affiliates has entered into any agreement, or is bound by any obligation of any kind whatsoever, to transfer or dispose of the business currently operated by the Company (the "Business") (or any substantial portion thereof) or any Shares to any Person other than the LLC, and none of them has entered into any agreement, nor are any of them bound by any obligation of any kind whatsoever, to issue any capital stock of the Company to any Person.

9.3 Subsidiaries. The Company does not own or hold any rights to acquire any capital stock or any other security, interest or investment in any other Person, other than investments which constitute cash or cash equivalents. The Company does not have, and has never had, a Subsidiary.

9.4 Authorization: Legality, Validity, Binding Effect and Enforceability. All corporate action on the part of the Company and its officers, directors, and stockholders and all action by the Sole Stockholder that is necessary for the authorization, execution, and delivery of this Agreement and the observance, performance, and fulfillment of all duties and obligations of each of the Company and the Sole Stockholder hereunder has been taken. This Agreement has been duly authorized, executed, and delivered by each of the Company and the Sole Stockholder and constitutes the legal, valid, and binding obligation of each of the Company and the Sole Stockholder, enforceable against them in accordance with its terms.

9.5 Consents. The execution, delivery and performance of this Agreement does not and will not (i) conflict with or result in a breach of the terms, conditions or provisions of, (ii) constitute a default under, (iii) result in the creation of any Lien upon any of the Shares or any Assets under, (iv) result in a violation of, or (v) require any authorization, consent, approval, exemption or other action by or declaration or notice to any Government Entity pursuant to, the Certificate of Incorporation or Bylaws of the Company or any agreement, instrument or other document, or any legal requirement, to which the Company, the Sole Stockholder, any of the Shares or any of the Company's Assets is subject.

9.6 Financial Information. Attached hereto on Schedule 9.6 are true, accurate and correct copies of certain financial schedules and other information regarding certain assets and liabilities of the Company as of the date hereof. To the Knowledge of the Sole Stockholder and the Company, the Company has no liabilities other than the liabilities disclosed on such Schedule 9.6.

9.7 INTENTIONALLY OMITTED.

9.8 Tax Matters. All references to the Company in this Section 9.8 refer both to the Company and to the Sole Stockholder.

H06000191609 3

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

(a) Except as set forth on Schedule 9.8:

(i) to the Knowledge of the Sole Stockholder and the Company, all Tax Returns for all periods which end prior to or which include the Closing Date that are or were required to be filed prior to the Closing Date by or on behalf of the Company have been or shall be filed in accordance with the applicable laws of each Government Entity;

(ii) to the Knowledge of the Sole Stockholder and the Company, other than (i) New York City Corporation Taxes not in excess of \$90,000.000 and (ii) the Payroll and related Taxes not in excess of \$50,000.00 (collectively, the "Transferred Tax Liabilities"), all Taxes that the Company was or is required by Law to withhold or collect, have been duly withheld or collected and, to the extent required, have been paid to the appropriate Government Entity;

(iii) to the Knowledge of the Sole Stockholder and the Company, there are no Liens with respect to Taxes upon any of the assets of the Company;

(iv) there are not pending or, to the Knowledge of the Company, threatened actions or proceedings for the assessment or collection of Taxes against the Company;

(v) the Company has not received from any Government Entity (1) any notice indicating an intent to open an audit or other review; (2) request for information related to Tax matters; or (3) notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted, or assessed by any Government Entity against the Company;

(vi) the Company has not waived any statute of limitations in respect of Taxes or has agreed to any extension of time with respect to a Tax assessment on deficiency; and

(viii) the Company uses the accrual method of accounting for Tax accounting purposes;

(b) The Company has been a validly electing S Corporation for federal income Tax purposes, within the meaning of Sections 1361 and 1362 of the Code, at all times during the prior fifteen (15) years and the Company will be an S Corporation up to and including the Closing Date. The election to be treated as an S Corporation is valid, and there is no claim or proceeding pending, or the Knowledge of the Company, threatened, challenging the validity of such election before any Government Entity or otherwise.

(c) The Company has been a validly existing S Corporation for state income Tax purposes in each state in which the Company is required to file Tax Returns, at all times during the prior fifteen (15) years and neither the Company nor, to the Knowledge of the Company, any Government Entity with which the Company is required to file Tax Returns has taken a position which is inconsistent with such treatment.

H06000191609 3

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

9.9 Litigation. Except as disclosed on Schedule 9.9 (with paragraph references corresponding to those set forth below):

(a) there are no actions, suits or proceedings pending or, to the Knowledge of the Company or the Sole Stockholder, threatened against, relating to or affecting the Company or the Sole Stockholder with respect to the Business or any of the Company's Assets;

(b) to the Knowledge of the Sole Stockholder and the Company, there are no Orders outstanding against the Company with respect to the Business or the Assets.

9.10 Title to Assets. Company owns its Assets free and clear of all Liens, except for those Liens identified on the UCC search disclosed on Schedule 9.10 attached hereto.

9.11 Affiliated Transactions. Except as identified on Schedule 9.11, no officer, director, stockholder or Affiliate of the Company (and no individual related by blood or marriage to any such Person, and no entity in which any such Person or individual owns any beneficial interest) is a party to any agreement, contract, commitment or transaction with the Company (other than this Agreement) or has any material interest in any material property used by the Company.

9.12 Brokerage. There is no claim for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated hereby based on any arrangement or agreement which may be binding upon the Company or the Sole Stockholder or to which the Company or any of the Shares or any of the Assets may be subject.

9.13 Compliance with Laws.

(a) Generally. To the Knowledge of the Sole Stockholder and the Company, the Company has not violated any Laws. The Company has not received notice alleging any such violation.

(b) Required Permits. To the Knowledge of the Sole Stockholder and the Company, the Company has complied with (and is in compliance with) all permits, licenses and other authorizations required for the occupation of the Company's facilities and the operation of the Business. To the Knowledge of the Sole Stockholder and the Company, the items identified on Schedule 9.13(h) constitute all of the permits, filings, notices, licenses, consents, authorizations, accreditation, waivers, approvals and the like of, to or with any Government Entity which are required for the consummation of the Sale or any other transaction contemplated hereby or the conduct of the Business (as it is presently conducted by the Company) thereafter.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

H06000191609 3

9.14 Disclosure. To the Knowledge of the Sole Stockholder and the Company, neither this Agreement nor any schedule or exhibit hereto contains any untrue statement of a material fact or omits a material fact necessary to make each statement contained herein or therein not misleading.

10. Representations and Warranties of the LLC. As a material inducement to the Company and the Sole Stockholder to enter into this Agreement, the LLC hereby represents and warrants to each of the Company and the Sole Stockholder that:

10.1 Limited Liability Company Existence. The LLC is a limited liability company that is duly formed, validly existing and in good standing under the Laws of the State of Florida. The LLC has full power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.

10.2 Authority. The execution and delivery by LLC of this Agreement, and the performance by the LLC of its obligations hereunder, have been duly and validly authorized by the managing member of the LLC. This Agreement has been duly and validly executed and delivered by the LLC and constitutes the legal, valid and binding obligation of the LLC, enforceable against the LLC in accordance with its terms.

10.3 No Conflicts. The execution and delivery by the LLC of this Agreement does not, and the performance by the LLC of its obligations under this Agreement and the consummation of the transactions contemplated hereby will not:

(a) conflict with or result in a violation or breach of any of the terms, conditions or provisions of the Articles of Organization of the LLC or the Operating Agreement; or

(b) conflict with or result in a violation or breach of any term or provision of any law or order applicable to the LLC (other than such conflicts, violations or breaches which could not in the aggregate reasonably be expected to adversely affect the validity or enforceability of this Agreement).

11. INTENTIONALLY OMITTED.

12. INTENTIONALLY OMITTED.

13. INTENTIONALLY OMITTED.

14. Remedies for Breaches of This Agreement.

14.1 Survival of Representations and Warranties. All of the representations and warranties of the Company, the Sole Stockholder and the LLC contained in Sections 9 and 10, respectively, shall survive the Closing hereunder and continue in full force and effect for a period of one year thereafter, except for the representations and warranties contained in Section 9.8, which shall survive the Closing for a period of three years thereafter, and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the LLC, the Company or the Sole Stockholder.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

14.2 Scope of the Sole Stockholder's Indemnification. The Sole Stockholder shall indemnify the LLC and its members, Board of Directors, and officers (each an "Indemnified Party" and collectively, the "Indemnified Parties") in respect of, and hold each of them harmless from and against, any and all Losses suffered, incurred or sustained by each of them or to which each of them becomes subject, resulting from, arising out of or relating to:

- (a) any inaccuracy or breach of any representation or warranty;
- (b) any failure to perform any agreement on the part of the Sole Stockholder contained in this Agreement;
- (c) a final and nonappealable determination by an appropriate taxing or judicial authority that the Company did not qualify as an S corporation for federal income Tax purposes for any Tax period ending prior to the Closing, or that the Company did not qualify as an S corporation with respect to any state for any Tax period ending prior to the Closing;
- (d) except for the Transferred Tax Liabilities, any liability for Taxes attributable to the operations and transactions of the Company for all Tax periods ending on or prior to the Closing Date and any liability for Taxes attributable to the transactions contemplated by this Agreement; and
- (e) any Third Party Claim, as defined below.

14.3 Limitation of the Sole Stockholder's Indemnification. The aggregate liability of the Sole Stockholder for indemnification pursuant to Section 14.2 (and including any attorneys fees paid pursuant to Section 14.4 hereunder) will not exceed \$100,000. The LLC may make no claim for indemnification pursuant to Section 14.2(a) and (b), unless notice of such claim describing the basic facts or events, the existence or occurrence of which constitute or have resulted in the alleged breach of a representation or warranty or covenant has been given to the Sole Stockholder within three years, in the case of a breach of a representation or warranty contained in Section 9.8, and one year, in all other cases. The LLC may make no claim for indemnification pursuant to Section 14.2(c) and (d), unless notice of such claim describing the basic facts or events, the existence or occurrence of which constitute or have resulted in the alleged Loss has been given to the Sole Stockholder within three years following the Closing Date.

14.4 Claims by Third Parties. If an Indemnified Party seeks indemnity hereunder with respect to a claim by a third party, then promptly after the receipt by any Indemnified Party of notice of a third party claim or the commencement of a third party action, suit or proceeding subject to indemnification hereunder (a "Third Party Claim"), such Indemnified Party will, if a claim in respect thereto is to be made against the Sole Stockholder, give the Sole Stockholder reasonable written notice of the Third Party Claim. The failure to provide such notice will not relieve the Sole Stockholder of any of his obligations, or impair the right of the Indemnified Party to indemnification unless, and only to the extent that, such failure materially prejudices the Sole Stockholder's opportunity to defend or compromise the Third Party Claim. The Sole Stockholder will have the right, at their option, to defend at their own expense and by their own counsel any Third Party Claim, provided that (i) such counsel is

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

reasonably satisfactory to the Indemnified Party, (ii) the Indemnified Party is kept fully informed of all developments, and is furnished with copies of all documents and papers, related thereto and is given the right to participate in the defense and investigation thereof as provided below, and (iv) such counsel proceeds with diligence and in good faith with respect thereto. If the Sole Stockholder will undertake to defend a Third Party Claim, the Sole Stockholder shall notify the Indemnified Party of their intention to do so promptly (and in any event no later than 30 days) after receipt of notice of the Third Party Claim, and the Indemnified Party shall cooperate in good faith with the Sole Stockholder and his counsel in the defense of such Third Party Claim. Notwithstanding the foregoing, the Indemnified Party will have the right to participate in the defense and investigation of any Third Party Claim with its or his own counsel at its or his own expense, except that the Sole Stockholder will bear the expense of such separate counsel if (A) in the written opinion of counsel to the Indemnified Party reasonably acceptable to the Sole Stockholder, use of counsel of the Sole Stockholder's choice would be expected to give rise to a conflict of interest which consent could not be waived, (B) only with regard to Third Party Claims to which both the Indemnified Party and the Sole Stockholder are a party, that joint representations would be inappropriate and that there are or may be legal defenses available to the Indemnified Party that are different from or additional to those available to the Sole Stockholder, (C) the Sole Stockholder has not employed counsel to represent the Indemnified Party within a reasonable time after notice of the Third Party Claim is given to the Sole Stockholder or notice that the Sole Stockholder intends to assume the defense of the Third Party Claim is given to the Indemnified Party or (D) the Sole Stockholder will authorize the Indemnified Party to employ separate counsel at the expense of the Sole Stockholder. The Sole Stockholder will not settle any Third Party Claim without the prior written consent of the Indemnified Party, which will not be unreasonably withheld; provided, however, that an Indemnified Party will not be required to consent to any settlement involving the imposition of equitable remedies.

15. Definitions.

15.1 Defined Terms. As used in this Agreement, the following defined terms have the meanings indicated below:

"Affiliate" means any Person that directly, or indirectly through one of more intermediaries, controls or is controlled by or is under common control with the Person specified. For purposes of this definition, control of a Person means the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise and, in any event and without limitation of the previous sentence, any Person owning ten percent (10%) or more of the voting securities of another Person shall be deemed to control that Person.

"Assets" of any Person means all assets and properties of every kind, nature, character and description, including the goodwill related thereto, operated, owned or leased by such Person.

"Government Entity" means any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States or any foreign country, state, county, city or other political subdivision.

H06000191609 3

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

"Knowledge" as used with respect to a Person in connection with the making of any representation or warranty means those facts that are actually known by such Person or that should be known by such Person after reasonable inquiry and investigation.

"Laws" means all Laws, statutes, rules, regulations, ordinances and other pronouncements having the effect of law of the United States or any state, county, city or other political subdivision or of any Government Entity.

"Liens" means any mortgage, pledge, assessment, security interest, lease, lien, adverse claim, levy, charge or other encumbrance of any kind, or any conditional sale contract, title retention contract or other contract to give any of the foregoing.

"Loss" means any and all damages, fines, penalties, deficiencies, losses and expenses (including without limitation interest, court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or of any claim, default or assessment).

"Merger Documents" means all the documents, certificates and agreements executed by the parties thereto in connection with the Closing.

"Order" means any writ, judgment, decree, injunction or similar order of any Government Entity (in each such case whether preliminary or final).

"Person" means any natural person, corporation, general partnership, limited partnership, limited liability company, joint venture, proprietorship, other business organization, trust, union, association, other business entity or Government Entity.

"Subsidiary" of any Person means any corporation, partnership, association or other business entity which such Person, directly or indirectly, controls or in which such Person has a majority ownership interest.

"Taxes" means any federal, state, county, local or foreign taxes, charges, fees, levies, other assessments or withholding taxes or charges imposed by any governmental entity and includes any interest and penalties (civil or criminal) on or additions to any such taxes.

"Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto and any amendment thereof.

15.2 Construction of Certain Terms and Phrases. Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement; (iv) the term "Section" refer to the specified Section of this Agreement; and (v) the phrase "ordinary course of business" refers to the business of the Company in connection with the Business. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless business days are specified. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under generally accepted

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

H06000191609-3

accounting principles. Any representation or warranty contained herein as to the enforceability of a Contract shall be subject to the effect of any bankruptcy, insolvency, reorganization, moratorium or other similar law affecting the enforcement of creditors' rights generally and to general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at Law).

16. Miscellaneous.

16.1 Transfer: Successors and Assigns. The rights and obligations of the Company, the Sole Stockholder and the LLC hereunder may not be assigned by it or him, as the case may be. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

16.2 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H060001916:9 3

accounting principles. Any representation or warranty contained herein as to the enforceability of a Contract shall be subject to the effect of any bankruptcy, insolvency, reorganization, moratorium or other similar law affecting the enforcement of creditors' rights generally and to general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at Law).

16. Miscellaneous.

16.1 Transfer; Successors and Assigns. The rights and obligations of the Company, the Sole Stockholder and the LLC hereunder may not be assigned by it or him, as the case may be. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

16.2 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.3 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

16.4 Notices. All communications, demands, approvals, consents, waivers, notices and items of like import under this Agreement (each a "Notice") shall be in writing (and the Parties may not waive, modify, amend or otherwise change the preceding portion of this sentence or any part thereof orally). Notices shall be deemed to have been validly or duly given (a) five (5) days after being mailed by first class United States certified or registered mail, postage prepaid, return receipt requested, (b) on the date a Notice is delivered by hand, or (c) on the date a Notice is delivered by overnight courier service and providing for a receipt of delivery thereof. Notices shall be sent to the Parties at the addresses set forth below (or to such other address a party who is entitled to receive Notice shall give to the other parties pursuant to a Notice).

If to the LLC, to:

Black Gold International LLC
c/o Douglas Black
2280 SW 70th Avenue, Suite 6
Davie, Florida 33317

With a copy concurrently to:

Pitney, Hardin LLP
Mail to:

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H060001916:9 3

006000191609 3

P.O. Box 1945
Morristown, New Jersey 07962-1945
Delivery to:
200 Campus Drive
Florham Park, New Jersey 07932
Attention: Michael T. Rave, Esq.

If to the Company, to:

Mel Howard Accessories Corp.
30-02 48th Avenue
Long Island City, New York 11101
Attention: Howard Genis

With a copy concurrently to:

Redmond, Pollio & Caso, LLP
1461 Franklin Avenue
Garden City, New York 11530
Attention: Ronald A. Pollio, Esq.

If to the Sole Stockholder, to:

Howard Genis
58 Sutton Place
New Hyde Park, New York 11040

With a copy concurrently to:

Redmond, Pollio & Caso, LLP
1461 Franklin Avenue
Garden City, New York 11530
Attention: Ronald A. Pollio, Esq.

16.5 Amendments and Waivers. Any term of this Agreement may be amended only with the written consent of the Company, the Sole Stockholder and the LLC.

16.6 Severability. If one or more provisions of this Agreement are held to be invalid, illegal, non-binding or unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be legal, valid, binding and enforceable in accordance with its terms.

16.7 No Third Party Beneficiaries. Nothing contained in this Agreement shall create a contractual relationship with, or any rights in favor of, any third person or entity.

006000191609 3

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

16.8 Duplicate Originals. This Agreement may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

16.9 Jurisdiction. With respect to any action, suit, or proceedings relating to this Agreement or arising in connection with the transactions contemplated hereby, each of the Company, the Sole Stockholder and the LLC irrevocably (a) submit to the jurisdiction of the Federal and State courts of the State of New York, (b) waive any objection which he or it, as the case may be, may have at any time to the laying of venue of any action, suit or proceeding in any such court, (c) waive any claim that any such action, suit, or proceeding has been brought in an inconvenient forum, and (d) waive the right to object that such court does not have jurisdiction over the Parties.

16.10 GOVERNING LAW AND WAIVER OF TRIAL BY JURY. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, CONSTRUED, AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO SUCH JURISDICTION'S PRINCIPLES OF CONFLICTS OF LAWS). TO EXPEDITE RESOLUTION OF ANY ACTIONS, SUITS, OR PROCEEDINGS WHICH MIGHT ARISE UNDER THIS AGREEMENT, AND IN LIGHT OF THE COMPLEXITY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EACH OF THE PARTIES IRREVOCABLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT TO WHICH HE OR IT, AS THE CASE MAY BE, MAY BE A PARTY.

16.11 Non-Waiver. Any Party's failure to exercise any right or remedy hereunder or to require compliance with any duty, obligation, or responsibility of any Party under this Agreement shall not be a waiver or an estoppel of the right to exercise such right or remedy (unless and to the extent such waiver is expressly set forth in writing and signed by the Parties, and provided that no such waiver shall relate to: (i) any act, omission, event, or circumstance other than as set forth in such writing; or (ii) future or successive transactions) or to insist on such compliance at any other time or on any other occasion.

16.12 Cumulative Remedies. No remedy herein conferred upon or reserved to the LLC is intended to be exclusive of any other remedy and each such remedy shall be cumulative, and shall be in addition to every other remedy given under this Agreement and the other Merger Documents, or now or hereafter existing at law or in equity or by statute.

16.13 No Joint Venture. There is no intention to create a joint venture, partnership, or similar arrangement between the LLC and the Company and any inference or implication relating thereto is hereby expressly disclaimed.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
2006 JUL 31 AM 10:41

H06000191609 3

H06000191609 3

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the Contract Date.

LLC:

BLACK GOLD INTERNATIONAL LLC
A Florida limited liability company

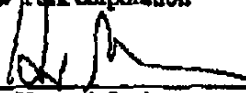

Witness

By: 
Name: Douglas Black
Title: Chief Executive Officer

Company:

MEL HOWARD ACCESSORIES CORP.
A New York corporation


Witness

By: 
Name: Howard Genis
Title: President

Sole Stockholder:


Witness


HOWARD GENIS

H06000191609 3