

08-27-2002

AUG 22 2002

OFFICE OF PUBLIC RECORDS



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002)

RECORD

DEPARTMENT OF COMMERCE Patent and Trademark Office

TRA 102202254

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Jack Eckerd Corporation
8333 Bryan Dairy Road
Clearwater, Fl 34618

- Individual(s)
- General Partnership
- Corporation-State
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)

Name: Eckerd Corporation

Internal Address: Legal Dept

Street Address: 8333 Bryan Dairy Rd

City: Largo State: FL Zip: 33777-1213

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Delaware
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: 08/12/1993

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1,357,112

COMP. U. CARE

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Alan S. Langer, Esq.

Internal Address: J. C. Penney Corporation, Inc.

Legal Dept. A1 MS: 1115

Street Address: 6501 Legacy Drive

City: Plano State: TX Zip: 75024-3698

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41) \$115.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Robert E. Lewis
Vice President, General Counsel & Secretary Eckerd Corporation

8-19-02
Date

Total number of pages including cover sheet, attachments, and document: 24

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

08/26/2002 TBIAZ1

00000191 1357112

01 FC:481
02 FC:482

40.00 OP
75.00 OP

TRADEMARK
REEL: 002571 FRAME: 0634

CONTINUATION OF ITEM 4

Registration No.

Mark

1,402,791

A-PHEDRIN

1,273,943

ECKERD AMERICA'S FAMILY DRUG STORE

1,303,154

ECKERD

State of Delaware

PAGE 1

Office of the Secretary of State

I, WILLIAM T. QUILLEN, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF RESTATED CERTIFICATE OF INCORPORATION OF "JACK ECKERD CORPORATION" FILED IN THIS OFFICE ON THE TWELFTH DAY OF AUGUST, A.D. 1993, AT 9:30 O'CLOCK A.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO KENT COUNTY RECORDER OF DEEDS ON THE FIFTEENTH DAY OF SEPTEMBER, A.D. 1993 FOR RECORDING.

* * * * *



William T. Quillen

William T. Quillen, Secretary of State

AUTHENTICATION: 4056624

DATE: 09/15/1993

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STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 09:30 AM 08/12/1993
932245224 - 2072573

RESTATED CERTIFICATE OF INCORPORATION

OF

JACK ECKERD CORPORATION

Pursuant to Section 242 and 245 and of
the Delaware General Corporation Law (the "GCL")

Jack Eckerd Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The name of the Corporation is Jack Eckerd Corporation.
2. The Corporation's name prior to the date hereof was Jack Eckerd Corporation and the Corporation was originally incorporated under the name of MLC Holdings Inc. The date of filing of the Corporation's original certificate of incorporation with the Secretary of State of the State of Delaware was October 3, 1985.
3. This Restated Certificate of Incorporation was duly adopted by the Board of Directors and adopted by the stockholders of the Corporation in accordance with Sections 242 and 245 of the GCL. This Restated Certificate of Incorporation has been duly adopted by written consent of the holders of the Corporation's outstanding capital stock having not less than the minimum number of votes that would be necessary to adopt this Restated Certificate of Incorporation at a meeting at which all shares entitled to vote were present and voted, and written notice of the corporate action has been given to the stockholders of the Corporation who have not so consented in writing, all in accordance with the provisions of Section 228 of the GCL.
4. Effective upon the filing of this Restated Certificate of Incorporation with the Secretary of State of the

State of Delaware (such time referred to herein as the "Effective Time"), a reclassification (the "Reclassification") of the Corporation's Class A Common Stock, par value \$.01 per share (the "Class A Common Stock"), Class B Common Stock, par value \$.01 per share (the "Class B Common Stock") and Non-Voting Common Stock (Series I), par value \$.01 per share (the "Non-Voting Common Stock") shall occur as follows: (i) each issued and outstanding share of the Corporation's Class A Common Stock shall be converted without any action on the part of the holders thereof into .667 of a share of Common Stock, par value \$.01 per share, (ii) each issued and outstanding share of the Corporation's Class B Common Stock shall be converted without any action on the part of the holders thereof into 0.46078 of a share of Common Stock, par value \$.01 per share and (iii) each issued and outstanding share of the Corporation's Non-Voting Common Stock shall be converted without any action on the part of the holders thereof into .667 of a share of Non-Voting Common Stock (such number of shares to be issued in respect of each issued and outstanding share of Class A Common Stock, Class B Common Stock and Non-Voting Common Stock, respectively, is herein referred to as the "Class A Reclassification Ratio," the "Class B Reclassification Ratio," and the "Non-Voting Common Stock Reclassification Ratio," respectively). From and after the Effective Time, the holders of outstanding certificates which immediately prior to the Effective Time represented shares of Class A Common Stock, Class B Common Stock and Non-Voting Common Stock ("Certificates") shall cease to have any rights with respect to such shares and, until Certificates are surrendered and exchanged in the manner provided for herein, each such Certificate shall, after the Effective Time, be deemed to represent only the right to receive a certificate for a number of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be, equal to the Class A Reclassification Ratio, Class B Reclassification Ratio, or Non-Voting Common Stock Reclassification Ratio, as applicable, multiplied by the number of shares of Class A Common Stock, Class B Common Stock or Non-Voting Common Stock, as the case may be, represented by such Certificate. No holder of a Certificate shall be entitled to receive any dividends or other distributions in respect of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be, into which the shares of Class A Common Stock, Class B Common Stock, or Non-Voting Common Stock,

as the case may be, were converted at the Effective Time until surrender of such holder's Certificate for a certificate or certificates representing shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be, but upon such surrender, there shall be paid to the holder the amount of any dividends or other distributions (without interest) which theretofore became payable to holders who were holders of record of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be, after the Effective Time, but which were not paid by reason of the foregoing, with respect to the number of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be, represented by the certificate or certificates issued upon such surrender. From and after the Effective Time, the Corporation shall be entitled to treat any unsurrendered Certificates as evidencing the ownership of the number of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be, into which the shares represented by such Certificates shall have been converted, notwithstanding the failure to surrender such Certificates. Upon the surrender to the Corporation of all Certificates held by a holder of shares of Class A Common Stock, Class B Common Stock, or Non-Voting Common Stock, as the case may be, together with such stock transfer powers and other documents reasonably requested by the Corporation, the holder of such Certificates shall receive therefor a certificate for a number of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be (in each case rounded up to the next whole share), equal to the Class A Reclassification Ratio, Class B Reclassification Ratio or Non-Voting Common Stock Reclassification Ratio, as applicable, multiplied by the number of shares of Class A Common Stock, Class B Common Stock or Non-Voting Common Stock, as the case may be, represented by such Certificates.

5. The Corporation's Restated Certificate of Incorporation, as heretofore amended, is hereby restated, integrated and amended to read in its entirety as follows:

FIRST: The name of the Corporation is Eckerd Corporation.

SECOND: The address of the registered office of the Corporation in the State of Delaware is 1013 Centre Road, in the City of Wilmington, County of New Castle. The name of its registered agent at that address is Corporation Service Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the "GCL").

FOURTH: The total number of shares of capital stock that the Corporation shall have authority to issue is 120,000,000 consisting of (A) 100,000,000 shares of Common Stock, par value \$.01 per share (the "Common Stock"), consisting of 96,481,272 shares of voting Common Stock, par value \$.01 per share (the "Common Stock, par value \$.01 per share") and 3,518,728 shares of Non-Voting Common Stock (Series I), par value \$.01 per share (the "Non-Voting Common Stock"), and (B) 20,000,000 shares of Preferred Stock, par value \$.01 per share (the "Preferred Stock"). As used in this Article FOURTH, the term "Common Stock" shall refer collectively to the Common Stock, par value \$.01 per share and the Non-Voting Common Stock.

The Board of Directors is expressly authorized to provide for the issuance of all or any shares of Preferred Stock in one or more classes or series, and to fix for each such class or series such voting powers, full or limited, or no voting powers, and such distinctive designations, preferences and relative, participating, optional or other special rights and such qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such class or series and as may be permitted by the GCL, including, without limitation, the authority to provide that any such class or series may be (i) subject to redemption at such time or times and at such price or prices; (ii) entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series; (iii) entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the Corporation; or (iv)

convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock, of the Corporation at such price or prices or at such rates of exchange and with such adjustments, all as may be stated in such resolution or resolutions.

The following is a statement of the designations and powers, preferences and rights, and qualifications, limitations and restrictions thereof, in respect of the Common Stock of the Corporation.

Section I. Definitions

For purposes of this Article FOURTH the following terms shall have the meanings ascribed to them below:

"Affiliate" shall mean with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person. For the purpose of the above definition, the term "control" (including with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Converted Shares" has the meaning ascribed to it in Section II.5(iii).

"Converting Shares" has the meaning ascribed to it in Section II.5(iii).

"Deferral Notice" has the meaning ascribed to it in Section II.5(iv).

"Deferral Period" has the meaning ascribed to it in Section II.5(iv).

"Person" shall mean an individual, a partnership, a corporation, a trust, a joint venture, an unincorporated organization or a government or any department or agency thereof.

"Regulated Banking Stockholder" shall mean (a) any stockholder that is subject to the provisions of Regulation Y of the Board of Governors of the Federal Reserve System (12 C.F.R. Part 225) or any successor to such regulation ("Regulation Y") and to which shares of common stock were originally issued pursuant to either of the Investor Stock Subscription Agreements dated as of April 30, 1986 between the Corporation and the investors listed therein so long as such stockholder shall hold, and only with respect to, such shares of common stock or shares issued upon conversion (or reclassification) of such shares, (b) any Affiliate of any such Regulated Banking Stockholder that is a transferee of any such shares of common stock of the Corporation, so long as such Affiliate shall hold, and only with respect to, such shares of common stock or shares issued upon conversion of such shares and (c) any Person to which such Regulated Banking Stockholder or any of its Affiliates has transferred such shares, so long as such transferee shall hold, and only with respect to, any shares transferred by such stockholder or Affiliates or any shares issued upon conversion of such shares but only if such Person is (or any Affiliate of such Person is) subject to the provisions of Regulation Y.

Section II. Common Stock

1. General. Except as otherwise provided herein, all shares of Common Stock will be identical and will entitle the holders thereof to the same rights and privileges.
2. Voting Rights. (i) Each holder of shares of Common Stock shall be entitled to one vote for each share of Common Stock held on each matter on which the stockholders of the Corporation shall be entitled to vote; provided, however, that except as set forth herein or as otherwise required by law, each outstanding share of Non-Voting Common Stock shall not be entitled to vote on any matter on which the stockholders of the Corporation shall be entitled to vote (other than matters set forth in Article FOURTH, subsection II.2(ii)), and shares of Non-Voting Common Stock shall not be included in determining the number of shares voting or entitled to vote on any such matters (other than matters described in Article FOURTH, subsection II.2(ii)).

(ii) On any matter on which the holders of shares of Non-Voting Common Stock are entitled to vote, the Non-Voting Common Stock and the Common Stock, \$.01 par value per share, shall vote together as a single class, and each holder of shares of Common Stock entitled to vote shall be entitled to one vote for each share of such Common Stock held by such holder; provided that, notwithstanding the foregoing, holders of shares of Non-Voting Common Stock shall be entitled to vote as a separate class on any amendment, repeal or modification of any provision of this Restated Certificate of Incorporation that adversely affects the powers, preferences or special rights of holders of the Non-Voting Common Stock.

3. Dividend Rights. Subject to the rights of the holders of Preferred Stock or any other class or series of stock having a preference as to dividends over the Common Stock then outstanding, the holders of Common Stock will be entitled to receive, to the extent permitted by law, and to share equally and ratably, share for share, to the exclusion of the holders of any and all series of Preferred Stock, such dividends as may be declared from time to time by the Board of Directors, whether payable in cash, property or securities of the Corporation; provided that, in the event that any such dividend or other distribution is payable in shares of Common Stock, or options, warrants or rights to acquire shares of Common Stock or securities convertible into or exchangeable for shares of Common Stock, the shares, options, warrants, rights or securities so payable to each such holder with respect to each class and series of Common Stock held by such holder shall be payable in shares of, or options, warrants or rights to acquire or securities convertible into or exchangeable for, Common Stock of the same class and series.

4. Liquidation, Dissolution or Other Winding Up of the Corporation. In the event of the voluntary or involuntary liquidation, dissolution, distribution of assets or other winding up of the Corporation, after distribution in full of preferential amounts, if any, to be distributed to the holders of shares of Preferred Stock or any other class or series of stock having a preference as to liquidating distributions over the Common Stock, the holders of the Common Stock shall be entitled to share equally and ratably, share for share, in all of the remaining assets of the Corporation of whatever kind

available for distribution to stockholders. For purposes of this subsection 4, neither the voluntary sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all the property or assets of the Corporation nor the consolidation or merger of the Corporation with one or more other corporations shall be deemed to be a liquidation, dissolution or winding-up of the Corporation, voluntary or involuntary, unless such voluntary sale, conveyance, exchange or transfer shall be in connection with a dissolution or winding-up of the business of the Corporation.

5. Conversion. (i) Conversion of Common Stock, par value \$.01 per share. Subject to and upon compliance with the provisions of this subsection 5, any Regulated Banking Stockholder shall be entitled to convert, at any time and from time to time, any or all of the shares of Common Stock, par value \$.01 per share, held by such stockholder into the same number of shares of Non-Voting Common Stock.

(ii) Conversion of Non-Voting Common Stock. Subject to and upon compliance with the provisions of this subsection 5, any holder of Non-Voting Common Stock shall be entitled at any time and from time to time to convert any of the shares of Non-Voting Common Stock held by such holder into the same number of shares of Common Stock, par value \$.01 per share; provided, however, that no holder of shares of Non-Voting Common Stock shall be entitled to convert any such shares into shares of Common Stock, par value \$.01 per share, to the extent that, as a result of such conversion, such holder and its Affiliates, directly or indirectly, would own, control or have power to vote a greater number of shares of Common Stock or other securities of any kind issued by the Corporation than such holder and its Affiliates shall be permitted to own, control or have power to vote under any law, regulation, rule or other requirement of any governmental authority at the time applicable to such holder and its Affiliates.

(iii) Procedures for Conversion of Shares of Non-Voting Common Stock or Common Stock, par value \$.01 per share. Each conversion of shares of Non-Voting Common Stock or Common Stock, par value \$.01 per share into shares of Common Stock, par value \$.01 per share or Non-

Voting Common Stock, respectively, shall be effected by the surrender of the certificate or certificates representing such shares of Non-Voting Common Stock or Common Stock, par value \$.01 per share, as the case may be, to be converted (the "Converting Shares") at the principal office of the Corporation (or such other office or agency of the Corporation as the Corporation may designate by notice in writing to the holders of the Non-Voting Common Stock and the Common stock, par value \$.01 per share) at any time during the Corporation's usual business hours, together with written notice by the holder of such Converting Shares stating that (i) such holder desires to convert the Converting Shares represented by such certificate or certificates into an equal number of shares of the class into which such shares may be converted (the "Converted Shares"), (ii) if such converting stockholder is a Regulated Banking Stockholder, such holder and its Affiliates shall not upon such conversion, directly or indirectly, own, control or have power to vote a greater quantity of securities of any kind issued by the Corporation than such holder and its Affiliates are permitted to own, control or have power to vote under any applicable law, regulation, rule or other governmental requirement. Such notice shall also state the name or names (with addresses) and denominations in which the certificate or certificates for Converted Shares are to be issued and shall include instructions for reasonable delivery thereof. The Corporation shall promptly notify each Regulated Banking Stockholder of its receipt of such notice. Promptly after such surrender and the receipt of such written notice together with the certificates evidencing the Converting Shares, the Corporation shall be obligated to, and shall, issue and deliver in accordance with such instructions the certificate or certificates evidencing the Converted Shares issuable upon such conversion, and the Corporation shall deliver to the converting holder a certificate (which shall contain such legends as were set forth on the surrendered certificate or certificates) representing any shares which were represented by the certificate or certificates surrendered to the Corporation in connection with such conversion but which were not Converting Shares and, therefore, were not converted; provided, however, that if such conversion is subject to subsection II.5(iv) below, the Corporation shall not issue said certificate or certificates until the expiration of the Deferral Period referred to therein. Such conversion, to the extent permitted by law, shall be

deemed to have been effected as of the close of business on the date on which such certificate or certificates have been surrendered and such notice has been received by the Corporation, and at such time the rights of the holder of such Converting Shares as such holder shall cease (except that, in the case of a conversion subject to subsection II.5(iv) below, the conversion shall be deemed effective upon expiration of the Deferral Period referred to therein), and the person or persons in whose name or names the certificate or certificates for the Converted Shares are to be issued upon such conversion shall be deemed to have become the holder or holders of record of the Converted Shares. Upon issuance of any Converted Shares upon conversion of any Converting Shares in accordance with this subsection 5, such Converted Shares shall be deemed to be duly authorized, validly issued, fully paid and non-assessable.

(iv) Notice of Conversion to Other Regulated Stockholders. The Corporation shall not convert or directly or indirectly redeem, purchase or otherwise acquire any shares of Common Stock, par value \$.01 per share, or take any other action affecting the voting rights of such shares, if such action will increase the percentage of outstanding voting securities known by the Corporation to be owned or controlled by any Regulated Banking Stockholder (other than any stockholder which requested that the Corporation take such action, or which otherwise waives in writing its rights under this Subsection II.5(iv)) unless the Corporation gives written notice (the "Deferral Notice") of such action to each such Regulated Banking Stockholder. The Corporation will defer making any such conversion, redemption, purchase or other acquisition for a period of 25 days (the "Deferral Period") after giving the Deferral Notice in order to allow each such Regulated Banking Stockholder to determine whether it wishes to convert or take any other action with respect to the Common Stock it owns, controls or has the power to vote, and if any such Regulated Banking Stockholder then elects to convert any shares of Common Stock, par value \$.01 per share, it shall notify the Corporation in writing within 15 days of the issuance of the Deferral Notice, in which case the Corporation shall (i) defer taking the pending action until the end of the Deferral Period, (ii) promptly notify from time to time each other Regulated Banking Stockholder holding shares of which it has knowledge of each proposed conver-

sion and the proposed transactions, and (iii) effect the conversions requested by all Regulated Banking Stockholders in response to the notices issued pursuant to this Subsection II.5 (iv) at the end of the Deferral Period or as soon thereafter as is reasonably practicable.

(v) Stock Splits; Adjustments. If the Corporation shall in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by reverse stock split or otherwise) the outstanding shares of either the Common Stock, par value \$.01 per share, or the Non-Voting Common Stock, the outstanding shares of the other class (or series) of Common Stock shall be proportionately subdivided or combined, as the case may be, and effective provision shall be made for the protection of all conversion rights hereunder.

In case of any reorganization, reclassification or change of outstanding shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock (other than a change in par value, or from par to no par value as a result of a subdivision or combination), or in case of any consolidation of the Corporation with one or more other corporations or a merger of the Corporation with another corporation (other than a consolidation or merger in which the Corporation is the resulting or surviving corporation and which does not result in any reclassification or change of outstanding shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock), each holder of a share of Common Stock, par value \$.01 per share, or Non-Voting Common Stock shall have the right at any time thereafter, so long as the conversion right hereunder with respect to such share would have existed had such event not occurred, to convert such share solely into the kind and amount of shares of stock and other securities and property receivable upon such reorganization, reclassification, change, consolidation or merger by a holder of the number of shares of Non-Voting Common Stock or Common Stock, par value \$.01 per share, into which such shares of Non-Voting Common Stock or Common Stock, par value \$.01 per share, as the case may be, might have been converted immediately prior to such reclassification, change, consolidation or merger. In the event of such a reorganization, reclassification, change, consolidation or merger, effective provision shall be made in the certificate of incorporation of the resulting or surviving corporation or otherwise for the

protection of the conversion rights of the shares of Common Stock, par value \$.01 per share, and Non-Voting Common Stock that shall be applicable, as nearly as reasonably may be, to any such other shares of stock and other securities and property deliverable upon conversion of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, respectively. In case securities or property other than Non-Voting Common Stock or Common Stock, par value \$.01 per share, shall be issuable or deliverable upon conversion as aforesaid, then all references in this subsection II.5 shall be deemed to apply, so far as appropriate and as nearly as may be, to such other securities or property.

(vi) Reservation of Shares. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock, par value \$.01 per share and Non-Voting Common Stock or its treasury shares, solely for the purpose of issuance upon the conversion of the Non-Voting Common Stock and Common Stock, par value \$.01 per share, as provided in this subsection II.5, such number of shares of Common Stock, par value \$.01 per share, and Non-Voting Common Stock as are then issuable upon the conversion of all outstanding shares of Non-Voting Common Stock and Common Stock, par value \$.01 per share, held by Regulated Banking Stockholders. Shares of Common Stock, par value \$.01 per share and Non-Voting Common Stock that are converted into shares of any other class shall not be reissued, except in connection with the conversion of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, into such shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock, as the case may be.

(vii) No Charge. The issuance of certificates for shares of Common Stock, par value \$.01 per share, and Non-Voting Common Stock upon conversion of shares of Non-Voting Common Stock and Common Stock, par value \$.01 per share, respectively, shall be made without charge to the holders of such shares for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such conversion and the related issuance of shares of Common Stock, par value \$.01 per share, or Non-Voting Common Stock; provided that the Corporation shall not be required to pay any tax which may be payable in respect of any transfer involved in the issuance and delivery of any certificate in a name other than that of

the holder of the Non-Voting Common Stock and Common Stock, par value \$.01 per share, respectively, being converted.

FIFTH: The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders:

1. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.
2. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors shall have concurrent power with the stockholders to make, alter, amend, change, add to or repeal the bylaws of the Corporation.
3. The Board of Directors shall consist of not less than three nor more than fifteen directors, with the exact number of directors to be determined from time to time by resolution adopted by the affirmative vote of a majority of the directors then in office. The directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The term of the initial Class I directors shall terminate on the date of the 1994 annual meeting of stockholders; the term of the initial Class II directors shall terminate on the date of the 1995 annual meeting of stockholders; and the term of the initial Class III directors shall terminate on the date of the 1996 annual meeting of stockholders. At each annual meeting of stockholders beginning in 1994, successors to the class of directors whose term expires at that annual meeting shall be elected for a three-year term. If the number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, but in no case will a decrease in the number of directors shorten the term of any incumbent director. A director shall hold office until the annual meeting for the year in which his or her term expires and until his or her successor shall be elected and shall qualify, subject,

however, to prior death, resignation, retirement, disqualification or removal from office. Any vacancy occurring on the Board of Directors may be filled by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director. Any director of any class elected to fill a vacancy resulting from an increase in such class shall hold office for a term that shall coincide with the remaining term of that class. Any director elected to fill a vacancy not resulting from an increase in the number of directors shall have the same remaining term as that of his or her predecessor. Notwithstanding the foregoing, whenever the holders of any one or more classes or series of Preferred Stock issued by the Corporation shall have the right, voting separately by class or series, to elect directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Restated Certificate of Incorporation applicable thereto or the resolution or resolutions adopted by the Board of Directors pursuant to Article FOURTH, and such directors so elected shall not be divided into classes pursuant to this Section 3 of Article FIFTH unless expressly provided by such terms.

4. No director shall be personally liable to the Corporation or any of its stockholders for monetary damages for any breach of fiduciary duty as a director, except for liability (a) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) pursuant to Section 174 of the GCL or (d) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of this Article FIFTH, subsection 4 by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

5. In addition to the powers and authority hereinbefore or by statute expressly conferred upon them, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the GCL, this Restated Certificate of Incorporation.

tion, and any By-Laws adopted by the stockholders; provided, however, that no By-Laws hereafter adopted by the stockholders shall invalidate any prior act of the directors which would have been valid if such By-Laws had not been adopted.

6. Directors of the Corporation may be removed by the stockholders of the Corporation only for cause and only by the affirmative vote of the holders of a majority of the then-outstanding shares of capital stock entitled to vote generally in an election of directors.

7. Election of directors need not be by written ballot unless the By-Laws so provide.

SIXTH: Meetings of stockholders may be held within or without the State of Delaware, as the bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the GCL) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the bylaws of the Corporation.

SEVENTH: 1. The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives. The right to indemnification conferred in this Article SEVENTH shall include the right to be paid by the Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition.

2. The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation who are not directors or officers similar to those conferred in this Article SEVENTH to directors and officers of the Corporation.

3. The rights to indemnification and to the advancement of expenses conferred in this Article SEVENTH shall not be exclusive of any other right which any person may have

or hereafter acquire under this Restated Certificate of Incorporation, the By-laws, any statute, agreement, vote of stockholders or disinterested directors, or otherwise.


4. Any repeal or modification of this Article SEVENTH by the stockholders of the Corporation shall not adversely affect any rights to indemnification and advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

EIGHTH: Any action required or permitted to be taken by stockholders of the Corporation must be effected at an annual or special meeting of the stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

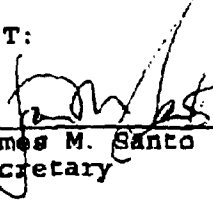
NINTH: The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

IN WITNESS WHEREOF, the Corporation has caused this Restated Certificate of Incorporation to be executed in its corporate name by its Vice President and attested to by the Secretary this 12 day of August, 1993.

JACK ECKERD CORPORATION
a Delaware corporation

By: 
Thomas E. Whiddon
Vice President

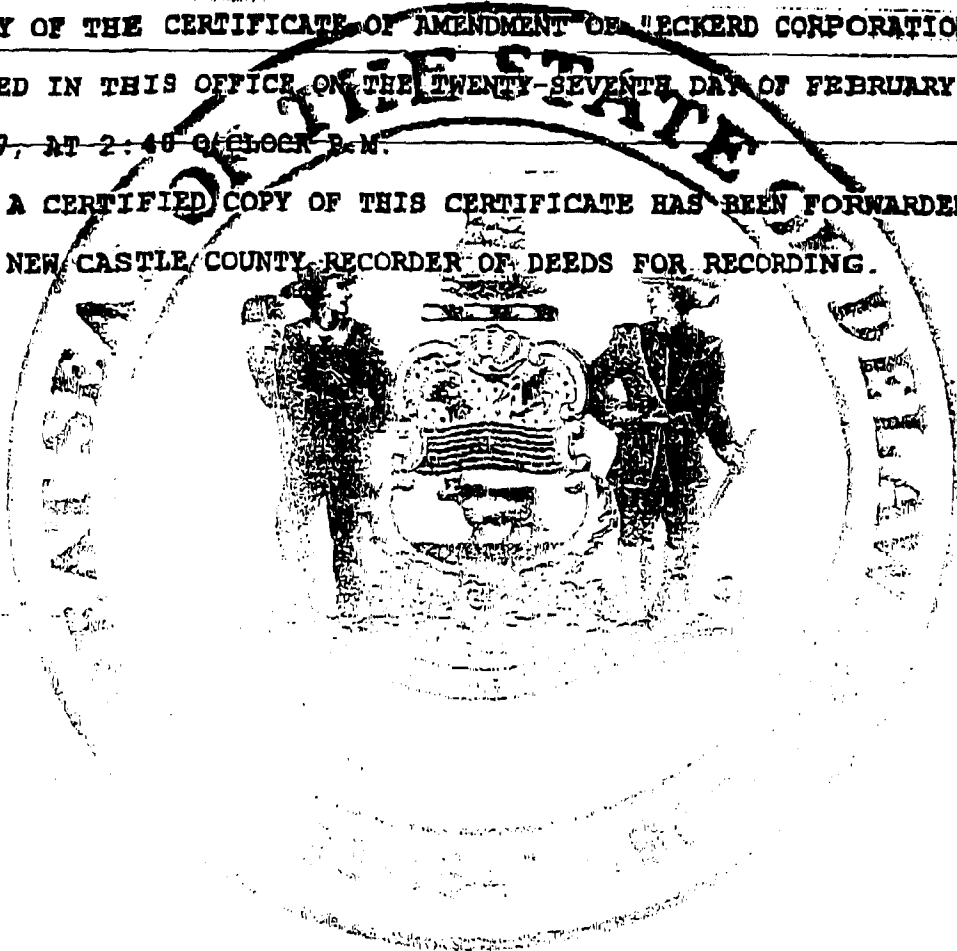
ATTEST:

By: 
James M. Santo
Secretary

State of Delaware
Office of the Secretary of State PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "ECKARD CORPORATION", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF FEBRUARY, A.D. 1997, AT 2:48 O'CLOCK P.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS FOR RECORDING.



Edward J. Freel

Edward J. Freel, Secretary of State

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971065878

AUTHENTICATION: 8351503

DATE: 02-27-97

STATE OF DELAWARE
SECRETARY OF STATE
DIVISION OF CORPORATIONS
FILED 02:40 PM 02/27/1997
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FIRST AMENDMENT
to
CERTIFICATE OF INCORPORATION
of
ECKERD CORPORATION

~~This First Amendment to Certificate of Incorporation of~~
~~Eckerd Corporation, a Delaware corporation~~
~~(the "Corporation"), has been duly adopted, approved and prepared~~
~~for filing in the State of Delaware in accordance with the~~
~~provisions of Section 242 of the Delaware General Corporation Law.~~

FIRST: The original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on October 31, 1996.

SECOND: Article ELEVENTH of said Certificate of Incorporation is hereby amended as follows:

1. Article ELEVENTH of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

ELEVENTH. 1. The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives. The right to indemnification conferred in this Article ELEVENTH shall include the right to be paid by this Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition.

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2. The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation who are not directors or officers similar to those conferred in this Article ELEVENTH to directors and officers of the Corporation.

3. The rights to indemnification and to the advancement of expenses conferred in this Article ELEVENTH shall not be exclusive of any other right which any person may have or hereafter acquire under this Certificate of Incorporation, the Bylaws, any statute, agreement, vote of stockholders or disinterested directors, or otherwise.

4. Any repeal or modification of this Article ELEVENTH by the stockholders of the Corporation shall not adversely affect any rights to indemnification and advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

IN WITNESS WHEREOF, the undersigned has executed this amendment as of the 25th day of February, 1997.

By: D. A. McKay
Name: D. A. McKay
Title: President