EPA Region 5 Records Ctr.
225243

RESTATED CERTIFICATE OF INCORPORATION

OF

THE MACKE COMPANY

The Macke Company, a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the corporation is The Macke Company.

The date of filing its original Certificate of Incorporation with the Secretary of State was October 15, 1934.

2. This Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the Certificate of Incorporation of this corporation as heretofore amended or supplemented and there is no discrepancy between those provisions and the provisions of this Restated Certificate of Incorporation.

3. The text of the Certificate of Incorporation as amended or supplemented heretofore is hereby restated without further amendments or changes to read as herein set forth in full:

FIRST. The name of the corporation is

THE MACKE COMPANY.

SECOND. Its principal office in the State of Delaware is located at No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name and address of its resident agent is The Corporation Trust Company, No. 100 West Tenth Street, Wilmington, Delaware.

THIRD. The purpose of the Corporation is to engage in, promote and carry on any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware, including but not limited to, the following:

To lease, sub-lease, locate, establish, maintain and operate automatic selling and vending machines and in connection therewith to sell and dispose of cigarettes, cigars, tobacco, chewing gum, candy, confections, food, soft drinks and any and all articles and products capable of being dispensed by or through automatic selling and vending machines.

To purchase or otherwise acquire, sell, deal in and deal with, at wholesale or retail, cigarettes, cigars, tobacco, food, beverages, candy, chewing gum and confections of all kinds and kindred products.

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To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of, letters patent, patent rights, domestic or foreign, inventions, improvements and processes in respect of automatic coin box vending machines and devices. To manufacture, or cause to be manufactured, and to sell, lease, sub-lease, locate, establish, license, rent, install, maintain, repair and generally deal in and deal with automatic vending machines.

To manufacture, purchase or otherwise acquire, sell, lease, deal in and deal with machinery devices, boxes, packages, wrappings and supplies, necessary or convenient for use in connection with and in carrying on the business herein mentioned or any part thereof.

To make, purchase or otherwise acquire, deal in and to carry out any contracts for or in relation to any of the foregoing businesses that may be deemed necessary and legal under the Act pursuant to which this corporation is organized.

To the extent permitted by law, to act as commercial, special or general agent or representative of domestic and foreign corporations, firms, associations, governments, bodies politic, syndicates, individuals and others, and

as such to develop, improve and extend the property, trade and business interests thereof, and to aid any lawful enterprises in connection therewith.

To manufacture, purchase or otherwise acquire, own, mortgage, pledge, sell, assign and transfer, or otherwise dispose of, to invest, trade, deal in and deal with goods, wares and merchandise and personal property of every class and description.

To acquire, and pay for in cash, stock or bonds of this corporation, or otherwise, the good will, rights, assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.

To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of letters patent of the United States or any foreign country, patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trade-marks and trade names, relating to or useful in connection with any business of this corporation.

To guarantee, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of shares of the capital stock of, or any bonds, securities or evidences

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of indebtedness created by any other corporation or corporations organized under the laws of this state or any other state, country, nation or government, and while the owner thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

To enter into, make and perform contracts of every kind and description with any person, firm, association, corporation, municipality, county, state, body politic or government or colony or dependency thereof.

To borrow or raise moneys for any of the purposes of the corporation and, from time to time, without limit as to amount, to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment of any thereof and of the interest thereon by mortgage upon or pledge, conveyance or assignment in trust of the whole or any part of the property of the corporation, whether at the time owned or thereafter acquired and to sell, pledge or otherwise dispose of such bonds or other obligations of the corporation for its corporate purposes.

To purchase, hold, sell and transfer the shares of its own capital stock; provided it shall not use its

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funds or property for the purchase of its own shares of capital stock when such use would cause any impairment of its capital except as otherwise permitted by law, and provided further that shares of its own capital stock belonging to it shall not be voted upon directly or indirectly.

To have one or more offices, to carry on all or any of its operations and business and without restriction or limit as to amount to purchase or otherwise acquire, hold, own, mortgage, sell, convey, or otherwise dispose of real and personal property of every class and description in any of the States, Districts, Territories or Colonies of the United States, and in any and all foreign countries, subject to the laws of such State, District, Territory, Colony or Country.

In general, to carry on any other business in connection with the foregoing, and to have and exercise all the powers conferred by the laws of Delaware upon corporations formed under the act hereinafter referred to, and to do any or all of the things hereinbefore set forth to the same extent as natural persons might or could do.

The objects and purposes specified in the foregoing clauses shall, except where otherwise expressed, be in nowise limited or restricted by reference to, or

interference from, the terms of any other clause in this certificate of incorporation, but the objects and purposes specified in each of the foregoing clauses of this article shall be regarded as independent objects and purposes.

FOURTH. The total number of shares of capital stock of all classifications which the Corporation shall have authority to issue is Seven Million Five Hundred Thousand (7,500,000) shares which shall be divided as follows:

(a) Seven Million (7,000,000) shares of Common Stock, par value One Dollar ($1.00) per share; and

(b) Five Hundred Thousand (500,000) shares of Preference Stock, par value One Dollar ($1.00) per share.

The designations, voting powers, preferences, optional or other special rights and qualifications, limitations, or restrictions of the above classifications of stock shall be as follows:

SECTION I - PREFERENCE STOCK

A. Shares of the Preference Stock may be issued in one or more series at such time or times and for such consideration or considerations as the Board of Directors may determine. All shares of any one series shall be of equal rank and identical in all respects.

B. Authority is hereby expressly granted to the Board of Directors to fix from time to time, by resolution or resolutions providing for the issue of any series of Preference Stock, the designation of such series and the powers, preferences and rights of the shares of such series, and the qualifications, limitations or restrictions thereof, including the following:

(1) The distinctive designation and number of shares comprising such series, which number may (except where otherwise provided by the Board of Directors in creating such series) be increased or decreased (but not below the number of shares then outstanding) from time to time by action of the Board of Directors;

(2) The dividend rate on the shares of that series, whether dividends shall be cumulative and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of that series over shares of any other series;

(3) Whether the shares of that series shall be redeemable and, if so, the terms and conditions of such redemption, including the

date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(4) Whether that series shall have a sinking fund for the redemption or purchase of shares of that series and, if so, the terms and amounts payable into such sinking fund;

(5) The rights to which the holders of the shares of that series shall be entitled in the event of voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up of the Corporation, and the relative rights of priority, if any, of payment of shares of that series;

(6) Whether the shares of that series shall be convertible into or exchangeable for shares of stock of any class or any other series of Preference Stock, and if so, the terms and conditions of such conversion or exchange, including the method of adjusting the rates of conversion or exchange in the event of a stock split, stock dividend, combination of shares or similar event;

(7) Whether the shares of that series shall have voting rights, in addition to the voting rights provided by law and, if so, the terms of such voting rights;

(8) Whether the issuance of any additional shares of such series, or of any shares of any other series, shall be subject to restrictions as to issuance, or as to the powers, preferences or rights of any such other series;

(9) Any other preferences, privileges and powers, and relative, participating, optional or other special rights, and qualifications, limitations or restrictions of such series, as the Board of Directors may deem advisable and as shall not be inconsistent with the provisions of this Certificate of Incorporation and to the full extent now or hereafter permitted by the laws of Delaware.

C. Payment of dividends shall be as follows:

(1) The holders of Preference Stock of each series designated as cumulative in respect of dividends, in preference to the holders of the Common Stock, shall be entitled to receive, as and when declared by the Board of Directors out of funds legally available therefor, cash dividends, at the rate for such series fixed in accordance with the provisions of Section I of this Article FOURTH and no more;

(2) The holders of Preference Stock of each series designated as non-cumulative in respect of dividends, in preference to the holders of the Common Stock, shall be entitled to receive, as and when declared by the Board of Directors out of funds legally available therefor, cash dividends, at the rate for such series fixed in accordance with the provisions of Section I of this Article FOURTH and no more;

(3) No dividend shall be paid upon, or declared or set aside for, any share of Preference Stock with respect to any dividend

period unless at the same time a like proportionate dividend with respect to the same dividend period, ratably in proportion to the respective annual dividend rates fixed therefor, shall be paid upon, or declared and set apart for, all shares of Preference Stock of all series then issued and outstanding and entitled to receive such dividend;

(4) So long as any shares of Preference Stock shall be outstanding, in no event shall any dividend, whether in cash or property, be paid or declared, nor shall any distribution be made, on the Common Stock, nor shall any shares of the Common Stock be purchased, redeemed or otherwise acquired for value by the Corporation, unless all dividends on all cumulative series of Preference Stock with respect to all past dividend periods and unless all dividends on all series of Preference Stock for the then current dividend period shall have been paid or declared and a sum sufficient for the payment thereof set apart, and unless the Corporation shall not be in default with respect to any of its obligations with respect to any sinking fund for any series of Preference Stock. The foregoing provisions of this Paragraph (4) shall not, however, apply to a dividend payable in Common Stock;

(5) No dividends shall be deemed to have accrued on any share of Preference Stock of any series with respect to any period prior to the date of original issue of such share or the dividend payment

date immediately preceding or following such date of original issue, as may be provided in the resolution or resolutions of the Board of Directors creating such series. The Preference Stock shall not be entitled to participate in any dividends declared and paid on the Common Stock, whether payable in cash, stock or otherwise. Accruals of dividends shall not bear interest.

D. In the event of any voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up of the Corporation, the holders of the shares of each series of the Preference Stock then outstanding shall be entitled to receive out of the net assets of the Corporation, but only in accordance with the preferences, if any, provided for such series, before any distribution or payment shall be made to the holders of the Common Stock, the amount per share fixed by the resolution or resolutions of the Board of Directors to be received by the holders of shares of each such series on such voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up, as the case may be. If such payment shall have been made in full, to the holders of all outstanding Preference Stock of all series, or duly provided for, the remaining assets of the Corporation shall be available for distribution among the holders of the Common Stock (as provided in Section B.(2) of this Article FOURTH). If upon any such liquidation, dissolution, distribution of assets or winding-up, the net assets

of the Corporation available for distribution among the holders of any one or more series of the Preference Stock which (i) are entitled to a preference over the holders of the Common Stock upon such liquidation, dissolution, distribution of assets or winding-up, and (ii) rank equally in connection therewith, shall be insufficient to make payment in full of the preferential amount to which the holders of such shares shall be entitled, then such assets shall be distributed among the holders of each such series of the Preference Stock ratably according to the respective amounts to which they would be entitled in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

Neither the consolidation or merger of the Corporation, nor the sale, lease or conveyance (whether for cash, securities or other property) of all or part of its assets, shall be deemed a liquidation, dissolution, distribution of assets or winding-up of the Corporation within the meaning of the foregoing provisions.

E. Except to the extent otherwise required by law or provided in the resolution or resolutions of the Board of Directors adopted pursuant to authority granted in this Section I of Article FOURTH, the shares of Preference Stock shall have no voting power with respect to any matter whatsoever.

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In no event shall the Preference Stock be entitled to more than one vote in respect of each share of stock.

F. Shares of Preference Stock which have been redeemed, converted, exchanged, purchased, retired or surrendered to the Corporation, or which have been reacquired in any manner, shall have the status of authorized and unissued Preference Stock and may be reissued by the Board of Directors as shares of the same or any other series.

SECTION II - COMMON STOCK

Limitations, Relative Rights and Powers in Respect of Shares of Common Stock as a Class

(1) After the requirements with respect to preferential dividends, if any, on the Preference Stock (fixed pursuant to Paragraph B.(2) of Section I and as further provided for in Paragraph C of Section I, both of this Article FOURTH) shall have been met, and after the Corporation shall have complied with all the requirements, if any, with respect to the setting aside of sums in a sinking fund for the purchase or redemption of shares of any series of Preference Stock (fixed pursuant to Paragraph B.(3) and (4) of Section I of this Article FOURTH), then and not otherwise, the holders of Common Stock shall receive, to the extent permitted by law and subject to the limitations set

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forth in Section II.A. of this Article FOURTH, such dividends as may be declared from time to time by the Board of Directors;

(2) After distribution in full of the preferential amount, if any (fixed pursuant to Section I.B.(5) of this Article FOURTH), to be distributed to the holders of Preference Stock, in the event of the voluntary or involuntary liquidation, dissolution, distribution of assets or winding-up of the Corporation, the holders of the Common Stock shall be entitled to receive all the remaining assets of the Corporation of whatever kind available for distribution to stockholders ratably in proportion to the number of shares of Common Stock held by them respectively;

(3) Except as may be otherwise required by law or by this Certificate of Incorporation, each holder of Common Stock shall have one vote in respect of each share of such Stock held by him on all matters voted upon by the stockholders.

SECTION III - OTHER PROVISIONS

A. The stockholders of the Corporation are expressly denied the preemptive right to subscribe to any or all additional issues of stock of the Corporation of any or all classes or series thereof.

B. Any and all shares issued by the Corporation for which the full consideration has been paid or delivered, shall be deemed fully paid and non-assessable shares.

FIFTH. The amount of capital with which the corporation will commence business is One Thousand Dollars ($1,000.00).

SIXTH. The names and places of residence of the incorporators are as follows:

NAMES	RESIDENCES
C. S. Peabbles	Wilmington, Delaware
L. H. Herman	Wilmington, Delaware
Walter Lenz	Wilmington, Delaware

SEVENTH. The corporation is to have perpetual existence.

EIGHTH. The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

NINTH. In furtherance, and not in limitation of the powers conferred by statute, the board of directors is expressly authorized:

To make, alter or repeal the by-laws of the corporation.

To authorize and cause to be executed mortgages and liens upon the real and personal property of the corporation.

To set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose or to abolish any such reserve in the manner in which it was created.

By resolution or resolutions, passed by a majority of the whole board to designate one or more committees, each

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committee to consist of two or more of the directors of the corporation, which, to the extent provided in said resolution or resolutions or in the by-laws of the corporation, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the corporation or as may be determined from time to time by resolution adopted by the board of directors.

When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called for that purpose, or when authorized by the written consent of the holders of a majority of the voting stock issued and outstanding. to sell, lease or exchange all of the property and assets of the corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration, which may be in whole or in part shares of stock in, and/or other securities of, any other corporation or corporations, as its board of directors shall deem expedient and for the best interests of the corporation.

The corporation may in its by-laws confer powers upon its board of directors in addition to the foregoing, and in addition to the powers and authorities expressly conferred upon it by statute.

TENTH. Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them and/or between this corporation and its stockholders or any class of them, and court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this corporation, or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this corporation under the provisions of Section 3883 of the Revised Code of 1915 of said State, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of Section 43 of the General Corporation Law of the State of Delaware, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the said Court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of

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stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangements, the said reorganization shall, if sanctioned by the Court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all stockholders or class of stockholders, of this corporation, as the case may be, and also on this corporation.

ELEVENTH. Both stockholders and directors shall have power, if the by-laws so provide, to hold their meetings, and to have one or more offices within or without the State of Delaware, and to keep the books of this corporation (subject to the provisions of the statutes), outside of the State of Delaware at such places as may be from time to time designated by the board of directors.

TWELFTH. The Corporation reserves the right to amend, alter, change, or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to such reservation; provided, the amount of authorized stock of any class may be increased or decreased by the affirmative vote of the holders of the majority of the Common Stock of the Corporation entitled to vote.

4. This Restated Certificate of Incorporation was duly adopted by the Board of Directors in accordance with Section 245 of The General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, said The Macke Company has caused its corporate seal to be hereunto affixed and this certificate to be signed by Aaron Goldman, its President, and attested by Lawrence A. Miller, its Secretary, this 30th day of March, 1970.

(CORPORATE SEAL)

THE MACKE COMPANY

By _____
President

ATTEST:

_____
Secretary

STATE OF MARYLAND)
) ss:
COUNTY OF PRINCE GEORGE'S)

BE IT REMEMBERED that on this 30th day of March, 1970, personally came before me, a Notary Public in and for the County and State aforesaid, Aaron Goldman, President of The Macke Company, a corporation of the State of Delaware, and he duly executed said certificate before me and acknowledged the said certificate to be his act and deed and the act and

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deed of said corporation and the facts stated therein are true; and that the seal affixed to said certificate and attested by the Secretary of said corporation is the common or corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office the day and year aforesaid.

Patricia K. Stewart
Notary Public

(NOTARIAL SEAL)

My Commission Expires July 1, 1970