

FORM 10-Q  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

-----  
[X] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2001

OR

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

Commission file number 0-19621

APPLIANCE RECYCLING CENTERS OF AMERICA, INC.

MINNESOTA  
(State or other jurisdiction of  
incorporation or organization)  
7400 Excelsior Blvd.  
Minneapolis, Minnesota 55426-4517  
(Address of principal executive  
offices)

41-1454591  
(I.R.S. Employer  
Identification No.)

(952) 930-9000  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months, and (2) has been subject to such filing requirements for the past 90 days.

YES

NO

As of August 10, 2001, the number of shares outstanding of the registrant's no par value common stock was 2,287,369 shares.

APPLIANCE RECYCLING CENTERS OF AMERICA, INC.

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	June 30, 2001 (Unaudited)	December 30, 2000
<S>	<C>	<C>
<b>ASSETS</b>		
Current Assets		
Cash and cash equivalents	\$ 546,000	\$ 302,000
Accounts receivable, net of allowance of \$20,000	4,612,000	1,731,000
Inventories, net of reserves of \$486,000 and \$375,000, respectively	5,027,000	4,233,000
Deferred income taxes and other current assets	475,000	386,000
<b>Total current assets</b>	<b>10,660,000</b>	<b>6,652,000</b>
Property and Equipment, at cost		
Land	2,050,000	2,050,000
Buildings and improvements	3,687,000	3,550,000
Equipment	4,424,000	4,046,000
	10,161,000	9,646,000
Less accumulated depreciation	4,104,000	3,930,000
<b>Net property and equipment</b>	<b>6,057,000</b>	<b>5,716,000</b>
Other Assets		
Goodwill, net of amortization of \$133,000 and \$114,000, respectively	297,000	207,000
	57,000	76,000
<b>Total assets</b>	<b>\$ 17,071,000</b>	<b>\$ 12,651,000</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current Liabilities		
Line of credit	\$ 4,999,000	\$ 2,402,000
Current maturities of long-term obligations	315,000	275,000
Accounts payable	2,790,000	1,279,000
Accrued expenses (Note 2)	871,000	936,000
Deferred gain on building sale	24,000	60,000
Income taxes payable	222,000	517,000
<b>Total current liabilities</b>	<b>9,221,000</b>	<b>5,469,000</b>
Long-Term Obligations, less current maturities	4,390,000	4,431,000
<b>Total liabilities</b>	<b>13,611,000</b>	<b>9,900,000</b>
Shareholders' Equity		
Common stock, no par value; authorized 10,000,000 shares; issued and outstanding 2,287,000 shares	11,360,000	11,360,000
Accumulated deficit	(7,900,000)	(8,609,000)
<b>Total shareholders' equity</b>	<b>3,460,000</b>	<b>2,751,000</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 17,071,000</b>	<b>\$ 12,651,000</b>

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See Notes to Consolidated Financial Statements.

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Appliance Recycling Centers of America, Inc. and Subsidiaries  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(Unaudited)

<TABLE>  
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Ended	Three Months Ended		Six Months	
	June 30, 2001	July 1, 2000	June 30, 2001	
<S>	<C>	<C>	<C>	
<C>				
<b>Revenues</b>				
Retail	\$ 4,940,000	\$ 3,020,000	\$ 9,668,000	\$
5,227,000				
Recycling	4,885,000	2,553,000	7,751,000	
4,229,000				
Byproduct	270,000	246,000	440,000	
537,000				

Total revenues	10,095,000	5,819,000	17,859,000	
9,993,000				
Cost of Revenues	6,164,000	3,280,000	10,774,000	
5,450,000				
Gross profit	3,931,000	2,539,000	7,085,000	
4,543,000				
Selling, General and Administrative Expenses	3,009,000	1,734,000	5,399,000	
3,165,000				
Operating income	922,000	805,000	1,686,000	
1,378,000				
Other Income (Expense)				
Other income	26,000	7,000	47,000	
8,000				
Interest expense	(270,000)	(225,000)	(510,000)	
(412,000)				
Income before provision for income taxes	678,000	587,000	1,223,000	
974,000				
Provision for Income Taxes	285,000	246,000	514,000	
342,000				
Net income	\$ 393,000	\$ 341,000	\$ 709,000	\$
632,000				
Basic Earnings per Common Share	\$ 0.17	\$ 0.15	\$ 0.31	\$
0.28				
Diluted Earnings per Common Share	\$ 0.13	\$ 0.12	\$ 0.24	\$
0.22				
Weighted Average Number of Common Shares Outstanding:				
Basic	2,287,000	2,287,000	2,287,000	
2,287,000				
Diluted	2,957,000	2,920,000	2,910,000	
2,866,000				

See Notes to Consolidated Financial Statements.

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Appliance Recycling Centers of America, Inc. and Subsidiaries  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Unaudited)

<TABLE>  
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	Six Months Ended	
	June 30, 2001	July 1, 2000
Cash Flows from Operating Activities		
Net income	\$ 709,000	\$ 632,000
Adjustments to reconcile net income to net cash used in operating activities:		
Depreciation and amortization	215,000	189,000
Accretion of long-term debt discount	22,000	19,000
Loss on disposal of equipment	--	6,000
Changes in assets and liabilities:		
Receivables	(2,881,000)	(488,000)
Inventories	(794,000)	(1,692,000)
Other assets	(201,000)	(48,000)
Accounts payable	1,511,000	504,000
Income taxes payable	(295,000)	240,000
Deferred gain on building sale recognized	(36,000)	0
Accrued expenses	(65,000)	176,000
Net cash used in operating activities	(1,815,000)	(462,000)

Cash Flows from Investing Activities		
Purchase of property and equipment	(515,000)	(160,000)
-----		
Cash Flows from Financing Activities		
Net borrowings under line of credit	2,597,000	854,000
Payments on long-term obligations	(165,000)	(58,000)
Proceeds from long-term obligations	142,000	--
-----		
Net cash provided by financing activities	2,574,000	796,000
-----		
Increase in cash and cash equivalents	244,000	174,000
Cash and Cash Equivalents		
Beginning	302,000	220,000
=====		
Ending	\$ 546,000	\$ 394,000
=====		
Supplemental Disclosures of Cash Flow Information		
Cash payments for interest	\$ 489,000	\$ 305,000
Cash payments for income taxes	\$ 808,000	\$ 103,800
=====		

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See Notes to Consolidated Financial Statements.

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Appliance Recycling Centers of America, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

1. Financial Statements

In the opinion of management of the Company, the accompanying unaudited consolidated financial statements contain all adjustments (consisting of only normal, recurring accruals) necessary to present fairly the financial position of the Company and its subsidiaries as of June 30, 2001, and the results of operations for the three-month and six-month periods ended June 30, 2001 and July 1, 2000 and its cash flows for the six-month periods ended June 30, 2001 and July 1, 2000. The results of operations for any interim period are not necessarily indicative of the results for the year. These interim consolidated financial statements should be read in conjunction with the Company's annual consolidated financial statements and related notes in the Company's Annual Report on Form 10-K for the year ended December 30, 2000.

Certain information and footnote disclosures included in the annual consolidated financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted.

2. Accrued Expenses

Accrued expenses were as follows:

	June 30, 2001	December 30, 2000
Compensation	\$ 221,000	\$ 330,000
Warranty	202,000	188,000
Other	448,000	418,000
	-----	-----
	\$ 871,000	\$ 936,000
	=====	=====

3. Revenue Recognition

In the prior year, the Company reported consolidated recycling revenues and byproduct revenues together as recycling revenues. In the current year, the Company determined that byproduct revenues should be separately reported because of their significant dollar amount and since this revenue is a result of both retail and recycling activities. Prior periods have been reclassified to be consistent with this presentation.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED) - continued

4. Accounting Standards Issued Net Yet Adopted

In July 2001, the Financial Accounting Standards Board issued two new



In June 2001, the Company signed a contract ("the Appliance Early Retirement and Recycling Program") with the California Public Utilities Commission ("CPUC") to operate a refrigerator/freezer/room air conditioner recycling program in San Diego and surrounding areas; a six-county region in California's Central Valley, including the cities of Fresno and Stockton; and the seven-county Bay Area, including the city of San Francisco. The Company started taking customer orders for the Appliance Early Retirement and Recycling Program in San Diego in June. The program will be launched in the Central Valley and Bay Area in September. The CPUC has budgeted \$14 million to fund the recycling program. The budget allocation includes \$50 incentive payments to participants for refrigerators and freezers and \$25 incentive payments for room air conditioners. Initial significant revenues from the new program are anticipated in the second half of this year. The program is a one-year contract through May 31, 2002.

The recent energy crisis in California has not had a material adverse effect on the Company's operations. However, there can be no assurance that it will not have an adverse effect in the future if Edison is unable to perform under the terms of its contracts with the Company.

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#### RESULTS OF OPERATIONS - continued

Byproduct revenues for the three months ended June 30, 2001 increased to \$270,000 from \$246,000 in the same period of 2000. The increase was primarily due to an increase in the volume of CFCs offset by a decrease in scrap metal prices. Byproduct revenues for the six months ended June 30, 2001 decreased to \$440,000 from \$537,000 in the same period of 2000. The decrease was primarily due to a decrease in scrap metal prices.

Gross profit as a percentage of total revenues for the three and six months ended June 30, 2001 decreased to 39% and 40%, respectively, from 44% and 45%, respectively, for the three and six months ended July 1, 2000. The decreases were primarily due to higher retail sales of scratch and dent appliances which have a lower gross margin than sales of reconditioned appliances and additional non-recurring expenses related to the Summer Initiative contract. Gross profit as a percentage of total revenues for future periods can be affected favorably or unfavorably by numerous factors, including the volume of appliances recycled from the Edison contracts and the CPUC contract, the mix of retail product sold during the period and the price and volume of byproduct revenues. The Company believes that gross profit as a percentage of total revenues for the year 2001 will approximate the gross profit as a percentage of total revenues for the first six months of this year.

Selling, general and administrative expenses for the three and six months ended June 30, 2001 increased by \$1,275,000 or 74% and \$2,234,000 or 71%, respectively, from the same periods in 2000. Selling expenses for the three and six months ended June 30, 2001 increased by \$721,000 or 103% and \$1,515,000 or 129%, respectively, from the same periods in 2000. The increases in selling expenses were primarily due to opening three additional retail stores during the first six months of 2001 and increases in advertising and sales commissions and the expense of operating four additional stores in 2001 as compared to the same period in the previous year. General and administrative expenses for the three and six months ended June 30, 2001 increased by \$554,000 or 54% and \$719,000 or 36%, respectively, from the same periods in 2000. The increase in general and administrative expenses was primarily due to an increase in personnel costs.

Interest expense was \$270,000 for the three months and \$510,000 for the six months ended June 30, 2001 compared to \$225,000 and \$412,000 for the same periods in 2000. The increase in interest expense was due to a higher average borrowed amount for the three and six months ended June 30, 2001 than in the same periods in 2000 offset by a decrease in the effective interest rate on the line of credit.

The Company recorded a provision for income taxes for the three and six months ended June 30, 2001 of \$285,000 and \$514,000, respectively, compared to \$246,000 and \$342,000 in same periods in 2000. The increase was due to both greater pre-tax income and a higher effective tax rate for the three and six months ended June 30, 2001 compared to the same periods in the prior year.

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#### RESULTS OF OPERATIONS - continued

The Company has net operating loss carryovers of approximately \$8,514,000 at June 30, 2001, which are available to reduce taxable income and in turn income taxes payable in future years. However, future utilization of these loss carryforwards is subject to certain limitations under provisions of the Internal Revenue Code including limitations subject to Section 382, which relate to a 50 percent change in control over a three-year period, and are further dependent upon the Company maintaining profitable operations. The Company believes that the issuance of Common Stock during 1999 resulted in an "ownership change" under Section 382. Accordingly, the Company's ability to use net operating loss carryforwards generated prior to February 1999 may be limited to approximately \$46,000 per year. At June 30, 2001, the Company had recorded cumulative valuation allowances of approximately \$4,022,000 against its net deferred tax assets due to the undercertainty of their realization. The realization of deferred tax assets is dependent upon sufficient future taxable income during the periods when deductible temporary differences and carryforwards are expected to become available to reduce taxable income.

The Company recorded net income of \$393,000 or \$.13 per diluted share and \$708,000 or \$.24 per diluted share for the three months and six months ended June 30, 2001, respectively, compared to net income of \$341,000 or \$.12 per diluted share and \$632,000 or \$.22 per diluted share in the same periods of 2000. The increases in net income for the three and six months ended June 30, 2001 compared to the same periods in the previous year were primarily due to higher revenues together with selling, general and administrative expenses as a percentage of revenues remaining the same for the three and six months ended June 30, 2001 compared to the same periods in the previous year offset by a decrease in the gross profit as a percentage of total revenues.

#### LIQUIDITY AND CAPITAL RESOURCES

At June 30, 2001, the Company had working capital of \$1,439,000 compared to \$1,183,000 at December 30, 2000. Cash and cash equivalents increased to \$546,000 at June 30, 2001 from \$302,000 at December 30, 2000. Net cash used in operating activities was \$1,815,000 for the six months ended June 30, 2001 compared to \$462,000 in the same period of 2000. The cash used in operating activities was primarily due to an increase in receivables and inventories offset by an increase in accounts payable and net income for the period.

The Company's capital expenditures for the six months ended June 30, 2001 and July 1, 2000 were approximately \$515,000 and \$160,000, respectively. The 2001 capital expenditures were related to the continued upgrade of computer systems and the purchase of equipment related to the refrigerator recycling operation. The 2000 capital expenditures were primarily related to the purchase of computer equipment.

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#### LIQUIDITY AND CAPITAL RESOURCES - continued

As of June 30, 2001, the Company has a \$6.0 million line of credit with a lender. The interest rate as of June 30, 2001 was 10%. The amount of borrowings available under the line of credit is based on a formula using receivables and inventories. The line of credit has a stated maturity date of August 30, 2001, if not renewed, and provides that the lender may demand payment in full of the entire outstanding balance of the loan at any time. The line of credit is secured by substantially all of the Company's assets and requires minimum monthly interest payments of \$16,800 regardless of the outstanding principal balance. The lender also has an inventory repurchase agreement with Whirlpool Corporation that secures the line of credit. The line requires that the Company meet certain financial covenants, provides payment penalties for noncompliance, limits the amount of other debt the Company can incur, limits the amount of spending on fixed assets and limits payments of dividends. At June 30, 2001, the Company had unused borrowing capacity of \$434,000. Currently, the Company is investigating options to replace or renew its line of credit.

In June 2001, the Company amended its current line of credit to \$6,000,000 with its current lender. The terms under the amendment remain the same. In July 2001, the Company amended its current line of credit to \$6,300,000 with its current lender. The terms under the amendment remain the same.

In June 2001, the Company signed a contract ("the Appliance Early Retirement and Recycling Program") with the California Public Utilities Commission ("CPUC") to operate a refrigerator/freezer/room air conditioner recycling program in San Diego and surrounding areas; a

six-county region in California's Central Valley, including the cities of Fresno and Stockton; and the seven-county Bay Area, including the city of San Francisco. The Company started taking customer orders for the Appliance Early Retirement and Recycling Program in San Diego in June. The program will be launched in the Central Valley and Bay Area in September. The CPUC has budgeted \$14 million to fund the recycling program. The budget allocation includes \$50 incentive payments to participants for refrigerators and freezers and \$25 incentive payments for room air conditioners. Initial significant revenues from the new program are anticipated in this year's second half. The program is a one-year contract through May 31, 2002.

The recent energy crisis in California has not had a material adverse affect on the Company's operations. However there can be no assurance that it will not have had adverse effect in the future if Edison is unable to perform under them terms of its contracts with the Company

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#### LIQUIDITY AND CAPITAL RESOURCES - continued

The Company believes, based on the anticipated revenues from the Edison contract, the Summer Initiative contract, the CPUC contract, the anticipated sales per retail store and anticipated gross profit, that its cash balance, anticipated funds generated from operations and its current line of credit, if renewed in August 2001, will be sufficient to finance its operations and capital expenditures through December 2001. The Company's total capital requirements will depend on, among other things as discussed below, the recycling volumes generated from the Edison program, the Summer Initiative program and the CPUC program in 2001 and the number and size of retail stores operating during the fiscal year. Currently, the Company has three recycling centers and eight retail stores in operation. If revenues are lower than anticipated or expenses are higher than anticipated or the line of credit cannot be maintained after August 2001, the Company may require additional capital to finance operations. Sources of additional financing, if needed in the future, may include further debt financing or the sale of equity (common or preferred stock) or other securities. There can be no assurance that the line of credit will be renewed or replaced or such additional sources of financing will be available or available on terms satisfactory to the Company or permitted by the Company's current lender.

#### FORWARD-LOOKING STATEMENTS

Statements contained in this quarterly report regarding the Company's future operations, performance and results, and anticipated liquidity discussed herein are forward-looking and therefore are subject to certain risks and uncertainties, including, but not limited to, those discussed herein. Any forward-looking information regarding the operations of the Company will be affected primarily by the Company's continued ability to purchase product from Whirlpool at acceptable prices, the ability and timing of Edison to deliver units under both its contracts with the Company and the ability and timing of the CPUC to deliver units under its contract with the Company. In addition, any forward-looking information will also be affected by the ability of individual retail stores to meet planned revenue levels, the rate of sustainable growth in the number of retail stores, the speed at which individual retail stores reach profitability, costs and expenses being realized at higher than expected levels, the Company's ability to secure an adequate supply of special buy and used appliances for resale and the continued availability of the Company's current line of credit or the ability to replace the current line of credit.

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#### PART I: ITEM 3 QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

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##### MARKET RISK AND IMPACT OF INFLATION

The Company does not believe there is any significant risk related to interest rate fluctuations on its long-term debt since it has fixed rates. However, there is interest rate risk on the line of credit since its interest rate is based on the prime rate. Also, the Company believes that inflation has not had a material impact on the results of operations for the three and six-month periods ended June 30, 2001. However, there can be no assurance that future inflation will not have an adverse impact on the Company's operating results and financial condition.



## ITEM 1 - LEGAL PROCEEDINGS

The Company and its subsidiaries are involved in various legal proceedings arising in the normal course of business, none of which is expected to result in any material loss to the Company or any of its subsidiaries.

## ITEM 2 - CHANGES IN SECURITIES AND USE OF PROCEEDS - None

## ITEM 3 - DEFAULTS UPON SENIOR SECURITIES - None

## ITEM 4 - SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

On April 26, 2001 the Annual Meeting of Shareholders of Appliance Recycling Centers of America, Inc. was held to obtain the approval of shareholders of record as of March 16, 2001 in connection with the three matters indicated below. Proxies were mailed to the holders of 2,287,369 shares. Following is a brief description of each matter voted on at the meeting and the number of votes cast for, against or withheld, as well as the number of abstentions and broker nonvotes, as to each matter:

Matter	Vote	
	For	Withhold Authority
1. Election of Directors:		
Edward R. Cameron	2,032,165	6,808
George B. Bonniwell	2,032,165	6,808
Duane S. Carlson	2,032,090	6,883
Harry W. Spell	2,032,040	6,933
Marvin Goldstein	2,032,190	6,783

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## SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS - continued

## 2. Approval and adoption of Amendments to the 1997 Stock Option Plan.

Vote			
For	Against	Abstain	Not Voted
1,473,339	85,383	1,707	478,544

## 3. Ratification of McGladrey &amp; Pullen, LLP as independent public accountants for fiscal year 2001.

Vote			
For	Against	Abstain	Not Voted
2,031,433	6,301	1,239	0

## ITEM 5 - EXHIBITS AND REPORTS ON FORM 8-K

- (a) (i) Exhibit 10.1 - Agreement dated June 12, 2001 between the California Public Utilities Commission and Appliance Recycling Centers of America, Inc.
- (ii) Exhibit 10.2 - Agreement dated June 18, 2001 between Spectrum Commercial Services Company and Appliance Recycling Centers of America, Inc.
- (iii) Exhibit 10.3 - Agreement dated July 26, 2001 between Spectrum Commercial Services Company and Appliance Recycling Centers of America, Inc.
- (b) The Company filed a Form 8-K on June 25, 2001 announcing the agreement with the California Public Utilities Commission.

## ITEM 6 - OTHER INFORMATION - None

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Appliance Recycling Centers of America, Inc.  
-----  
Registrant

Date: August 10, 2001

/s/ Edward R. Cameron  
-----  
Edward R. Cameron  
President

Date: August 10, 2001

/s/ Linda Koenig  
-----  
Linda Koenig  
Controller

APPLIANCE EARLY RETIREMENT & RECYCLING AGREEMENT  
FOR REFRIGERATORS, FREEZERS, AND ROOM AIR CONDITIONERS

BETWEEN

APPLIANCE RECYCLING CENTERS OF AMERICA, INC.

AND

THE CALIFORNIA PUBLIC UTILITIES COMMISSION

APPLIANCE EARLY RETIREMENT & RECYCLING AGREEMENT  
FOR REFRIGERATORS, FREEZERS, AND ROOM AIR CONDITIONERS

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APPLIANCE EARLY RETIREMENT & RECYCLING AGREEMENT  
FOR REFRIGERATORS, FREEZERS, AND ROOM AIR CONDITIONERS

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THIS AGREEMENT ("Agreement") is made and entered into as of the 1st day of June, 2001, by and between THE CALIFORNIA PUBLIC UTILITIES COMMISSION, an agency of the State of California ("CPUC") and APPLIANCE RECYCLING CENTERS OF AMERICA, INC., a Minnesota corporation ("Contractor"). The CPUC and Contractor are also each individually referred to herein as "Party" and collectively as "Parties." The Term of this Agreement shall be from June 1, 2001 through May 31, 2002 and shall not exceed \$14,624,856 unless changed by an amendment to this Agreement.

RECITALS

WHEREAS, the Parties wish to enter into an agreement with respect to the early retirement and recycling of older inefficient refrigerators, freezers, and room air conditioners to achieve electric energy savings and peak load demand reductions under the terms set forth below for the period June 2001 through May 2002 (the "Agreement").

WHEREAS, the CPUC desires to ensure the safe, lawful recovery and recycling or lawful disposal, as necessary, of CFCs/HCFCs/HFCS, PCBs, mercury, and used oil ("Hazardous Materials") contained in refrigerators, freezers, and room air conditioners ("Appliances").

WHEREAS, in furtherance thereof, the CPUC desires to contract with Contractor for the turnkey implementation of its Statewide Appliance Early Retirement and Recycling Program for Refrigerators, Freezers, and Room Air Conditioners ("Program").

WHEREAS, Contractor desires to contract with the CPUC for the turnkey implementation of the Program, said implementation to include marketing/advertising, collection and dismantling of Appliances; removal of Hazardous Materials from collected Appliances; handling storage and legal disposal of Hazardous Materials; recycling of metals, CFCs/HCFCs/HFCs, mercury, and oil; proper disposal of PCB articles; providing Incentives to participating eligible jurisdictional electric Customers who relinquish working Appliances; conducting a customer survey; and providing reports and data to assist the CPUC in tracking program expenditures and evaluating the Program.

WHEREAS, Contractor represents (i) that it has knowledge of the federal Clean Air Act, the Resource Conservation and Recovery Act, and Toxic Substances Control Act as well as the California Health and Safety Act (Article 10.1, commencing with Section 25211 of Chapter 6.5 of Division 20), the California Public Resources Code (Chapter 3.5, commencing with Section 42160 of Part 3 of

Division 30), and all other applicable federal, state, and local regulations regarding the proper processing and recycling of Appliances and Hazardous Materials contained within the Appliances, (ii) that it has knowledge of the hazards associated with the removal, handling, storage, recycling, and legal disposal of Hazardous Materials, (iii) that it has experience and expertise in such removal, handling, storage, recycling, and legal disposal, (iv) that it uses only qualified personnel, (including subcontractor's and agent's personnel) who have been instructed and certified in the proper safety procedures to be used in such removal, handling, storage, recycling, or legal disposal, and (v) that it has established and will continue to operate and maintain its recycling center in the City of Compton or other areas acceptable to Contractor and the CPUC.

WHEREAS, the Parties hereto desire to set forth terms and conditions

under which the aforesaid turnkey implementation services shall be performed and which shall constitute the Parties' agreement.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants contained herein, the payments and agreement to be made and performed by the CPUC as set forth in the pricing schedule attached hereto as EXHIBIT A and incorporated by reference herein, the Parties agree as follows:

1. DEFINITIONS

- 1.1 Agreement: This document, the terms and conditions contained in this Agreement as amended from time to time.
- 1.2 Amendment: supplemental terms and conditions for performing the Work as mutually agreed to and signed by Contractor and the Commission's Project Manager.
- 1.3 CFCs/HCFCs/HFCs: Chlorofluorocarbons, hydrochlorofluorocarbons, and hydrofluorocarbons used as refrigerant gases in refrigerators, freezers, and room air conditioners.
- 1.4 CFC-11: Chlorofluorocarbons used as the blowing agent in the polyurethane foam insulation used in refrigerators and freezers.
- 1.5 Change Order: Document issued by the CPUC to Contractor to change a Purchase Order otherwise known as an Amendment.

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- 1.6 Contract Period: June 1, 2001 to May 31, 2002, or as extended by mutual agreement of the Parties and approved by the Commission's Executive Director or designee.
- 1.7 Disposition Code: Code assigned to each customer order that identifies whether a working Appliance was collected, or disabled with the customer's permission, if the order was cancelled by the customer and other similar details regarding each order.
- 1.8 Documentation: Specifications, procedures, instructions, reports, test results, analyses, calculations, manuals, and other data specified in the Purchase Order, Change Order, this Agreement, and any amendment to this Agreement, as required by any legal entity having jurisdiction over the Work.
- 1.9 Eligible Appliances: Refrigerators, Freezers, and Room Air Conditioners that meet the Program appliance eligibility criteria as set forth in Section 5.
- 1.10 Eligible Customers: Jurisdictional residential electric service customers who meet the customer eligibility criteria in Section 5.
- 1.11 Freezer: a free-standing freezer utilized by customer concurrently with primary refrigerator.
- 1.12 Hazardous Materials: Any substance or material which has been designated as hazardous or toxic by the U.S. Environmental Protection Agency, the California Department of Toxic Substances Control and/or any other governmental agency now or hereinafter authorized to regulate materials in the environment, including, but not limited to "Materials which require special handling" as defined in California Public Resources Code Section 42167, which is contained in or is derived from the Refrigerators, Freezers, or Room Air Conditioners.
- 1.13 Program: The Appliance Early Retirement and Recycling Program for Refrigerators, Freezers, and Room Air Conditioners as defined by this Agreement.
- 1.14 Program Participants: Eligible customers who turn in qualifying Refrigerators, Freezers, or Room Air Conditioners.
- 1.15 PCBS: Polychlorinated Biphenyls.

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- 1.16 Purchase Order: Amendment document issued by the CPUC to

Contractor and executed by the Parties, which contains additional terms and conditions for the Work described herein and approved by the Commission's Executive Director or designee.

- 1.17 Recycling Center: The site at which Contractor will process Appliances, remove CFCs/HCFCs/HFCs, PCBS, mercury, used oils and other Hazardous Materials, and recycle or legally dispose of Hazardous materials.
- 1.18 Basic Recycling Charge: Per-unit price for services performed by Contractor under scope of work, excluding marketing/advertising, CFC-11 recovery services, customer Incentives, and financing services.
- 1.19 Primary refrigerator: refrigerator currently in use by customer as the main refrigeration appliance.
- 1.20 Secondary refrigerator: Surplus refrigerator utilized by customer concurrently with primary refrigerator.
- 1.21 Room air conditioner: a window/wall air conditioner utilized by customer to provide space cooling in a room.
- 1.22 Subcontractor: Either an entity contracting directly with Contractor to furnish services or materials as part of or directly related to, the Work; or an entity contracting with Subcontractor of any tier to furnish services or materials as a part of, or directly related to, the Work.
- 1.23 Work: Any and all obligations of Contractor to be performed pursuant to this Agreement or a subsequent Purchase Order or Change Order incorporating this Agreement, such as Appliance marketing/advertising, customer services, Appliance collection, Appliance processing, handling, storing, recycling, and legal disposal, of Hazardous Materials and Documentation preparation.
- 1.24 Remote Area: a city or town that, because of its population and distance from the Contractor's base of operations, justifies the use of an extended timeframe (up to 25 business days from the initial customer contact) to complete collection when mutually agreed to by the parties.

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## 2. GENERAL TERMS

- 2.1 Contractor shall perform the Work and its associated obligations described below as an independent contractor.
- 2.2 This Agreement shall be supplemented by an Amendment containing additional terms and conditions for performing the work described below.

## 3. CONTRACT DOCUMENTS

- 3.1 This Agreement shall consist of the following documents: this Agreement, any amendments to this Agreement and Change Orders. In the event of any conflict or apparent conflict between any of the provisions of the documents comprising this Agreement, the following order of construction of the documents shall apply:
  - 3.1.1 Amendments to the Agreement in chronological order from the most recent to the earliest;
  - 3.1.2 Change Orders incorporating and reflecting any Amendments to the Agreement in chronological order from the most recent to the earliest; and
  - 3.1.3 This Agreement.
- 3.2 Each Party shall notify the other immediately upon the identification of any such conflict or inconsistency.

## 4. SCOPE OF WORK

- 4.1 Contractor shall be responsible for developing and placing advertising and marketing to inform all eligible residential customers of the Program. Advertising may include: television ads, radio ads, newspaper ads, bill inserts, brochures, postcards, and point-of-sale materials that are prepared in

both Spanish and English. Advertising and marketing materials shall be approved by the CPUC Project Manager prior to their use.

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Contractor shall be responsible for customer service activities, including providing inbound 800 telephone numbers for Customers, a webpage which allows Customer access for inquiries and/or qualification and signup 24 hours a day, seven days a week, (see Section 4.9), all communication services, verification of customer and appliance eligibility, scheduling collection appointments, documentation of customer data, and other activities.

Contractor shall be responsible, to the complete satisfaction of the CPUC, for the management of customer complaints and the Contractor shall undertake activities to resolve customer complaints in an expedited manner including: ensuring adequate levels of professional customer service staff, direct access of customer complaints to supervisory and/or management personnel and ensuring sufficient levels of delivery personnel expected during times of high volumes. Contractor shall provide on a monthly basis, information on the number, characterization and resolution of customer complaints.

Contractor shall also develop advertising and marketing suitable for use in encouraging Program by participating low- and moderate-income customers, as defined as federal poverty guidelines, which may include providing Program information to local organizations providing other energy or economic assistance services to the low- and moderate-income customers, direct mail to targeted zip codes in the Program service areas or other appropriate methods.

The CPUC agrees to provide assistance to the Program's marketing/advertising efforts by promoting Appliance Early Retirement & Recycling through press releases, Program-related events, Flex Your Power Campaign activities, and formal linkages to other Appliance energy efficiency/conservation programs under the jurisdiction of the CPUC.

4.2 Contractor shall

(i) collect all Eligible Appliances from Customers' residences within 20 business days from the date of initial customer contact (unless otherwise requested by the Customer). In Remote Areas, or as approved by the CPUC's Project Manager, collection shall be no later than 25 business days from the date of the initial customer contact, unless otherwise requested by Customer. In the event of unanticipated high demand (beyond the projected monthly participation estimates) for Program services, Contractor and the CPUC Project Manager shall, by mutual agreement, establish other appropriate time limitations as necessary. For purposes of this section, the Remote Areas shall be specified by Amendment to the Agreement to include individual cities and towns the

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Program services areas. EXHIBIT B shall be used to identify these agreed upon cities and towns (including zip codes) that the Parties agree are appropriate for inclusion in the Remote Area list.

(ii) ensure that the Eligible Appliance is an operating unit before removing it from a residence;

(iii) disable the unit prior to leaving pick-up location;

(iv) transport the Appliance to the Recycling Center.

4.3 Contractor shall be solely responsible for all methods, techniques, sequences, and procedures for the dismantling of Eligible Appliances, processing of metal panels and components, recycling of recovered scrap metal, removal, recycling, or lawful disposal of Hazardous Materials.

4.4 Contractor shall be solely responsible for all methods, techniques, sequences, and procedures for the removal and management of all Hazardous Materials found in Eligible

Appliances, and the removal and recycling or disposal Hazardous Materials from the time Contractor collects Eligible Appliances pursuant to this Agreement.

- 4.5 Contractor shall document and maintain records for services under this Agreement, or Amendment incorporating this Agreement, as follows:
- 4.5.1 A Customer Comment Tracking System for recording customer inquiries, complaints, and positive feedback.
- 4.5.2 Appliance Turn-in Order Form to collect data such as customer name, address, home and work phone numbers; utility distribution company name; Appliance manufacturer's name; Appliance model and style; defrost type; color, size (cubic footage for refrigerators and freezers or BTUs for room air conditioners), and estimated age of unit; location of Appliance within the residence; amperage, final disposition code (which indicates operating condition of Appliance and/or Incentive received) identification of units containing CFC-11; special pick-up instructions (if applicable) and signature of customer in the event Appliance is discovered not to be an Eligible Appliance as certified, customer acknowledges liability to the CPUC for program costs associated with the services received.

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- 4.5.3 Compilation of data in subsection 4.5.2 in electronic mode, employing a software program suitable for exchange of information with the CPUC, subject to the approval of CPUC's Project Manager.
- 4.6 Contractor shall conduct a customer survey, comparable to EXHIBIT C, which is attached and incorporated by reference herein, using a stratified purposeful sample of 5% to 20% of the Program Participants. The stratification and frequency of the survey may be modified periodically the CPUC, provided that an Amendment to this Agreement or a separate agreement shall be entered into if any such modification necessitates unreasonable labor, as substantiated by Contractor, requiring the negotiation of a charge separate from the Recycling Charge. The purpose of the survey shall be to elicit information such as appliance use, customer demographics and customer satisfaction. Survey questions and response selections may be modified periodically as determined by the CPUC provided modified survey is reasonably comparable to EXHIBIT C.
- 4.7 Contractor and the CPUC shall establish and implement a financial incentive service as follows:
- 4.7.1 Each Program Participant will be entitled to receive a check in the amount of fifty Dollars (\$50.00) for each refrigerator or freezer and twenty-five Dollars (\$25.00) for each room air conditioner.
- 4.7.2 Customer Incentive checks shall be processed and mailed via the U.S. Postal System within 20 business days of the date the Eligible Appliance was picked up.
- 4.7.3 Contractor shall provide the CPUC with a weekly listing of Customers qualifying for an Incentive. Customers qualifying for an Incentive are Program Participants who turn in an Eligible Appliance for which the Program will pay a per-unit price as set forth in Section 4.7.1.
- 4.7.4 Upon the CPUC's reimbursement of Contractor for the Incentives described in Section 7.4 of this Agreement, the CPUC shall be under no further obligation with respect to reimbursement of such amounts and such reimbursement shall constitute full payment to Contractor on behalf of the Program Participants entitled to Incentives. Moreover, upon the CPUC's payment to Contractor of such reimbursement, Contractor shall be deemed the holder of such property as far as the interests of the



Program Participants entitled thereto are concerned for any and all purposes, including, but not limited to, complying with the unclaimed property laws of California and any and all other applicable states. The CPUC shall not assume any responsibility for other disposition of the reimbursement payments after such reimbursement is paid to Contractor and shall not be entitled to the reversion of any amounts so paid.

- 4.7.5 On a weekly basis, in arrears, Contractor shall prepare an invoice for the CPUC to substantiate the charges due for Contractor's payment of Customer Incentives. The Invoice shall include an ATO report showing the payment of Incentives during the billing period. All invoices will be paid pursuant to Section 8.5.
- 4.8 Contractor shall provide the CPUC with reports for the services performed under this Agreement as follows:
- 4.8.1 A monthly report, provided no later than the 15th day of the month which shall contain the following:
- (a) the number of Eligible Appliances processed through the Recycling Center during the previous month and the size (in cubic feet for refrigerators and freezers and BTUs for room air conditioners), year of manufacture, style, and defrost type.
  - (b) environmental data such as an estimated breakdown of amount of CFCs/HCFCs/HFCs recovered; number of pounds of PCB articles removed; number of pounds of mercury articles removed; number and size of CFC-11 units recycled; amount of compressor oil recycled; and weight of metals materials sold for recycling; and the weight of non-recyclable materials disposed.
  - (c) the monthly Customer Comment Tracking System information required pursuant to Section 4.5.1.
- 4.8.2 A final report no later than thirty (30) days after the termination of this Agreement of all amounts paid by Contractor in compliance with any unclaimed property laws pursuant to Section 4.7.4 hereof.
- 4.8.3 Upon reasonable written request from an authorized representative of the CPUC, special and nonrecurring reports during the course of the Program shall be prepared by Contractor. Such report content will be developed by the Parties in anticipation of requests from the Governor, Legislature, internal audits, or compilation of data relevant to the activities of the CPUC. An amendment to this Agreement or a separate agreement shall be entered into only if any such report necessitates unreasonable labor, as substantiated by Contractor, requiring the negotiation of a charge separate from the Basic Recycling Charge.
- 4.8.4 The Contractor shall cooperate fully with an independent third-party monitoring and verification (M&V) report of the program. The report will address both impact and process evaluation aspects of the program. As part of the M&V report the CPUC will require a Total Resource Cost (TRC) Test analysis of the program cost effectiveness to be conducted.
- 4.8.5 Contractor shall utilize a computer software program designed to allow the Contractor's Appliance Turn-In Order Form ('ATO') to assign a disposition code for each customer order. In all cases, when Contractor picks up an Eligible Appliance from a Program Participant, Contractor shall obtain the Program Participant's signature on the Contractor's ATO.
- 4.8.6 On a weekly basis, Contractor shall prepare an

invoice for the CPUC to substantiate the fees due for Contractor's payment of Customer Incentives. The Invoice shall include an ATO report showing the payment of Incentives during the billing period. All Invoices will be paid pursuant to Section 8.5.

- 4.9 Contractor shall design and implement a website which enables potential customers to electronically submit information for pre-qualification and initiate scheduling appointments on a 24 hour, seven day a week basis. The website content shall be approved by the CPUC Project Manager. Any changes to the content must be reviewed and approved prior to implementation. The site shall match the "look and feel" of the CPUC server page, or the Flex Your Power server page, which shall host the link.

5. CUSTOMER AND APPLIANCE ELIGIBILITY

- 5.1 Customer eligibility for the Program shall depend on the following:

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- 5.1.1 Customer is a resident in the service territories identified by the CPUC in Section 5.5 and occupies a single-family residential (Domestic Rate) or multi-unit dwelling or mobile home. Eligible customers exclude Low-Income Energy Efficiency (LIEE) program participants receiving a new refrigerator and who are required to surrender their old refrigerator under the requirements of that program.
- 5.1.3 Customer is the owner of the Eligible Appliance or possesses written consent from the actual owner to turn in the Eligible Appliance.
- 5.1.4 Customer turns in no more than four appliances of any combination per household annually. Contractor will strive for an 80/20 split between refrigerators/freezers and room air conditioners as overall program goals subject to modification by mutual agreement.
- 5.2 Commercial electric service customers do not qualify for the Program. Landlords are considered commercial customers. At such time that landlords may be included in the program, an amendment will be issued outlining the terms and conditions of the program expansion.
- 5.3 Refrigerator, Freezer and Room Air Conditioner eligibility for the Program shall depend on the following:
- 5.3.1 Appliance must be capable of cooling or freezing, or both, as applicable, at time of collection.
- 5.3.2 Refrigerator or Freezer minimum size is 10 cubic feet and maximum size is 27 cubic feet.
- 5.3.3 Room air conditioners must be capable of blowing cooled air with size limitation determined by both parties.
- 5.4 Commercial refrigerators, ammonia-containing gas refrigerators, commercial freezers, central air conditioners, and window/wall evaporative coolers do not qualify for the Program.

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- 5.5. The Parties agree that eligible jurisdictional residential electric service customers of Investor Owned Utility companies residing in the following counties shall be eligible to participate in the Program, or as mutually agreed to by future Amendments to the Agreement:

SDG&E Service Territory: San Diego and South Orange Counties

PG&E Service Territory: Fresno, Kings, Madera, San Joaquin and Stanislaus Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara And Santa Cruz

6. OWNERSHIP AND CONFIDENTIALITY

- 6.1 All information disclosed by the CPUC during meetings or negotiations with regard to the Program, and any information contained in drawings, specifications, technical reports, and data provided by the CPUC to Contractor during performance of this Agreement shall be held in confidence by Contractor and used only for the performance of the Work pursuant to this Agreement.
- 6.2 Pursuant to Public Utilities Code 582 and General Order 66-C, Contractor, its employees, and any subcontractors shall not disclose any Program or customer information to any person other than the CPUC's personnel either during the term of this Agreement or after its completion, without Contractor having obtained the prior written consent of the CPUC, except as provided by lawful court order or subpoena and provided Contractor gives the CPUC advance written notice of such order or subpoena. Prior to any approved disclosure, persons receiving said information, including Contractor, its employees, or third parties, must enter into a nondisclosure agreement with the CPUC. Contractor agrees to require its employees and subcontractors to execute a nondisclosure agreement prior to performing any services under this Agreement. This provision, however, does not prohibit Contractor from disclosing non-confidential information concerning the Program in any CPUC proceeding, CPUC-sanctioned meeting or other public forum.
- 6.3 All materials provided by the CPUC to Contractor during the performance of this Agreement shall be returned to the CPUC after this Agreement is terminated or at the request of the CPUC. Contractor shall not duplicate any material furnished by the CPUC without prior written approval from the CPUC.

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- 6.4 All information, material, and documents prepared or caused to be prepared under this Agreement by Contractor shall become the property of the CPUC. Such information, or derivative information, materials, and documents, shall be used by Contractor only for work performed directly for the CPUC, and shall not be used in Contractor's general course of business, disclosed nor revealed in any way to a third party without the prior express written consent of the CPUC.
- 6.5 All information disclosed by Contractor to the CPUC during meetings or negotiations with regard to the Program, and any information contained in drawings, specifications, technical reports, and data provided by contractor to the CPUC during performance of this Agreement, shall be held in confidence by the CPUC, and used only in relation to the Work pursuant to this Agreement.
- 6.6 Except as required by the CPUC, the CPUC's employees and any subcontractors of the CPUC shall not disclose any confidential or proprietary information provided by Contractor ("Contractor's Confidential Information") to any person other than Contractor's personnel, either during the term of the Agreement, or after its completion, without having obtained the prior written consent of Contractor. By way of example, Contractor's Confidential Information shall include, without limitation, Contractor's systems for oil degassing, CFC recovery, CFC-11 recovery and Contractor's computer software. Prior to any approved disclosure, persons to receive Contractor's Confidential Information, including the CPUC, its employees or any third-party, must enter into a nondisclosure agreement with Contractor. The CPUC agrees to require its employees to execute appropriate nondisclosure agreements prior to any contact with, or evaluation of Contractor's Confidential Information.
- 6.7 The CPUC agrees that, without the prior written consent of Contractor, it will not, during the term or after termination of this Agreement, directly or indirectly, disclose to any individual, corporation, or other entity, or use for its own or such other's benefit, any of Contractor's Confidential Information, whether reduced to written or other tangible form, which:
- 6.7.1 Is not generally known to the public or in the industry;

6.7.2 Has been treated by Contractor or any of its subsidiaries as confidential or proprietary; and

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6.7.3 Is of a competitive advantage to Contractor or any of its subsidiaries and in the confidentiality of which Contractor or any of its subsidiaries has a legally protectable interest.

6.8 Contractor's Confidential Information that becomes generally known to the public or in the industry, or, in the confidentiality of which, Contractor and its subsidiaries cease to have a legally protectable interest, shall cease to be subject to the restrictions of this Section 6.

7. COMMERCIAL TERMS

7.1 Payment

No payment shall be made under this Agreement until the CPUC has received a signed Agreement from the Contractor and approval has been obtained from the Commission's Executive Director or designee. The CPUC shall pay to Contractor, as full compensation for completing the Work, the prices set forth in EXHIBIT A in accordance with the payment provisions set forth below in subsections 7.2 through 7.4.

7.2 Summary of Charges

7.2.1 Marketing/Advertising Charge. The CPUC shall pay to Contractor a per-unit Marketing/Advertising Charge for the number of units collected pursuant to this Agreement at the price or prices set forth in Section 8.3 below and shown in EXHIBIT A.

7.2.2 Customer Incentive Charge. The CPUC shall pay to Contractor a per-unit Customer Incentive Charge as set forth in Section 4.7.1 and shown in EXHIBIT A.

7.2.3 Basic Recycling Charge. The CPUC shall pay to Contractor a per-unit Basic Recycling Charge for the number of Appliances collected pursuant to this Agreement at the price or prices shown in EXHIBIT A. The Basic Recycling Charge covers the scope of work described in Section 4, excluding marketing/advertising, incentive purchasing, CFC-11 recovery, and financing services.

7.2.4 CFC-11 Recovery Charge. The CPUC shall pay to Contractor a per-unit CFC-11 Recovery Charge for the number of refrigerators and freezers collected pursuant to this Agreement at the price or prices shown in EXHIBIT A.

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7.2.5 Other Charges. All other costs for services shall be negotiated between the parties and implemented by an amendment to the Agreement.

7.2.5 Transportation Fuel Adjustment. The parties agree that Contractor shall be entitled to a per-unit price adjustment, as set forth in the following table, should diesel fuel costs, as measured by the U.S. Department of Energy, Energy Information Agency's PADD5 index for California, exceed certain benchmark prices during the term of this Agreement.

ADDITIONAL PRICE PER UNIT, IF THE PRICE PER GALLON EXCEEDS

\$1.00 per unit	\$2.00 per gallon
1.50 per unit	2.50 per gallon
2.00 per unit	3.00 per gallon

The per-unit price adjustment shall be reflected on all succeeding invoices until said prices for diesel fuel in California, as reported by the DOE PADD5 Index, drop below the established per-gallon benchmarks shown in the table in this Section.

- 7.2.6 Incentive Cost. The CPUC shall pay to Contractor Incentive costs as specified in Section 7.4 below.
- 7.3 Pricing Charges
  - 7.3.1 The per-unit Charges to be paid by the CPUC for the Contract Period shall be as set forth in EXHIBIT A.
- 7.4 Pricing Incentive Costs
  - 7.4.1 The CPUC shall reimburse Contractor for the cost of each Incentive payment distributed to Program Participants.
- 7.5 Miscellaneous

Contractor agrees that any agreement it has, or in which it may enter with other entities for similar services, shall not detrimentally affect Contractor's services under this Agreement.

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## 8. BILLING

- 8.1 Contractor shall submit a weekly invoice, in arrears, reflecting the per-unit charge for the Eligible Appliances collected, processed, and recycled, per-unit marketing/advertising costs, CFC-11 recovery services, and for the purchase of Incentives. Contractor shall apply a per-unit charge on units that have been disabled and only for the following transactions:
  - 8.1.1 Collection of an Eligible Appliance.
  - 8.1.2 Collection contact made for Eligible Appliance that cannot be removed due to obstruction because of size or structural barrier provided that Contractor obtains written permission from Customer to permanently disable said unit, and Contractor then permanently disables the unit.
  - 8.1.3 Collection of an Eligible Appliance that could not be inspected for eligibility confirmation only with prior approval in accordance with subsection 5.3.
- 8.2 Contractor shall submit a final invoice for the Contract Period in hard copy and in electronic format acceptable to the CPUC.
- 8.3 Contractor shall apply a 25% per unit discount to the Basic Recycling Charge to any additional units when two or more Eligible Appliances are removed during a single collection appointment from Customer's residence. In the event that the Customer turns in a refrigerator/freezer and a room air conditioner, the discount shall be applied to the Basic Recycling Charge for the room air conditioner. Said discount shall be clearly documented and identified in Contractor's invoice.
- 8.4 Contractor shall submit a weekly invoice for the purchase price of the incentive payments.
- 8.5 The CPUC shall make payment (less any unsubstantiated or incorrect charge):
  - 8.5.1 For Customer Incentives, within thirty days of receipt of an Invoice by the CPUC's Fiscal Office (NOTE: if checks are issued by the Controller, issuance will be within 45 days)
  - 8.5.2 For Marketing/Advertising, Basic Recycling, and CFC-11 Recovery Charges, within thirty days (see note above) of receipt of an Invoice from Contractor approved by the CPUC Program Administrator.

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- 8.5.3 For Incentive Financing Fees within thirty days (see note above) of receipt of an Invoice from Contractor

9. RIGHT TO AUDIT

For a period of three years after final payment of the Agreement, unless a longer records retention period is stipulated, the CPUC, Department of General Services or Bureau of State Audits, or Authorized Representatives, shall have the right and free access, at any reasonable time during normal business hours, to examine, audit, and copy all Contractor's records and books as related to Contractor's obligations under this Agreement, including, but not limited to, verification of charges to the CPUC, as claimed by Contractor.

10. CHANGES

Changes to this Agreement shall be made by mutual agreement of the Parties through a written amendment to the Agreement and approved by the Executive Director or designee. The amendment shall hereby be incorporated into the original Agreement.

11. PERMITS, CODES, AND STATUTES

11.1 Contractor shall perform the Work set forth in this Agreement in accordance with all applicable federal, state, and local laws, rules, and/or ordinances. Prior to performance of any services, Contractor shall, at its own cost, have obtained, and shall have required all Subcontractors to obtain, all licenses and permits required by law, rule, regulation, and ordinance, or any of them, to engage in the activities required in connection with this transaction. Contractor also represents and warrants that, to the best of its knowledge, based upon reasonable and prudent inquiry, any storage site and any disposal facility to which the Hazardous Materials may be moved are in compliance with any and all federal, state and local laws and regulations pertaining thereto and that such storage sites and disposal facilities are suitable and may lawfully receive and/or dispose of the Hazardous materials.

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11.2 Contractor shall comply with all applicable local, state, and federal safety and health laws in effect on the date of this Agreement, including, but not limited to, EPA, California EPA, RCRA, the Occupational Safety and Health Act of 1970 (OSHA), and all standards, rules, regulations, and orders issued pursuant to such local, state, and federal safety and health laws. Should any such law, rule, or regulation be enacted or promulgated subsequent to the date of this Agreement, which renders Contractor's performance impractical, Contractor and the CPUC shall, in good faith, negotiate an amendment to this Agreement reasonably compensating Contractor for its additional costs.

12. WARRANTY

12.1 Contractor warrants to the CPUC that the Work shall be performed in a competent manner, in accordance with this Agreement, and that the acceptance, handling, storage, recycling, and disposal of the Appliances and the Hazardous Materials shall be in accordance with (i) the requirements of this Agreement and (ii) the applicable local, state, and federal laws and regulations in effect at the time of the work performed.

13. TITLE

13.1 Title to the Hazardous Materials shall pass to Contractor when Contractor collects Eligible Appliances from customers.

13.2 Title of collected Appliances shall pass to Contractor.

14. INSURANCE

14.1 Without limiting Contractor's liability to the CPUC, including the requirements of Section 15, Indemnity, Contractor shall maintain for the work, and shall require that each Subcontractor of the first tier maintain, at all times during the work and at its own expense, valid and collectible insurance as described below. This insurance shall not be terminated, expire, not be materially altered, except on thirty days prior written notice to the CPUC. Contractor shall furnish the CPUC with certificates of insurance and forms acceptable to the CPUC and shall require each Subcontractor of

the first tier to furnish Contractor with certificates of insurance, as evidence that policies do provide the required coverage and limits of insurance listed below. Such certificates shall be furnished to the CPUC's Project Manager by Contractor upon receipt of the Purchase Order, and by Subcontractor for the first tier upon receipt of its

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subcontract, but in any event prior to start of its portion of the Work. Any other insurance carried by the CPUC, its officers, agents, and employees, which may be applicable, shall be deemed to be excess insurance, and Contractor's insurance shall be deemed primary for all purposes notwithstanding any conflicting provision in Contractor's policies to the contrary.

- (i) Workers' Compensation Insurance with statutory limits, as required by the state in which the Work is performed, and Employer's Liability Insurance with limits of not less than \$5,000,000. Carriers furnishing such insurance shall be required to waive all rights of subrogation against the CPUC, its officers, agents, employees, and other contractors and subcontractors.
- (ii) Comprehensive Bodily Injury and Property Damage Liability Insurance, including owners, and contractors' protective liability, product/completed operations liability, contractual liability, and coverage for liability incurred as a result of sudden and accidental discharge, dispersal, release or escape of polluting materials, (excluding automobile) with a combined single limit of not less than \$3,000,000 for each occurrence. Such insurance shall: (a) acknowledge the CPUC, its officers, agents, and employees, and additional insureds; (b) be primary for all purposes; and (c) contain standard cross-liability provisions.
- (iii) Automobile Bodily Injury and Property Damage Liability Insurance with a combined single limit of not less than \$3,000,000 for each occurrence. Such insurance shall cover liability arising out of the use by Contractor and Subcontractors of owned, non owned and hired automobiles in the performance of the Work. As used herein, the term "automobile" means vehicles licensed or required to be licensed under the Vehicle Code of the state in which the Work is performed. Such insurance shall acknowledge the CPUC as an additional insured and be primary for all purposes.
- (iv) Environmental Impairment Expense Insurance with a combined single limit of not less than \$5,000,000 for each occurrence and overall limits of \$10,000,000. Such insurance shall provide coverage for necessary costs or expense of removing, cleaning-up, transporting, nullifying, and rendering ineffective, or any of them, any substance which has caused

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environmental impairment and such insurance shall contain no exclusions for non-sudden and/or non-accidental discharge, release or escape of polluting materials. Such insurance shall acknowledge the CPUC as an additional insured and be primary for all purposes.

Contractor shall report immediately to the CPUC and confirm in writing any injury, loss, or damage incurred by Contractor or Subcontractors in excess of \$500.00, or its receipt of notice of any claim by a third party in excess of \$500.00, or any occurrence that might give rise to such claim.

If Contractor fails to comply with any of the provisions of this Section 14, Contractor shall, at its own cost, defend, indemnify, and hold harmless the CPUC, its officers, agents, employees, assigns,

and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, costs, including attorney's fees and expenses, or any of them, resulting from the death or injury to any person or damage to any property to the extent that the CPUC would have been protected had Contractor complied with all of the provisions of this Section.

15. INDEMNITY

15.1 Contractor shall, at its own cost, indemnify, defend, reimburse, and hold harmless the CPUC, its officers, directors, employees, agents, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, suits, demands, actions, causes of action, costs, expenses, including attorney's fees and expenses, or any of them resulting from the death or injury to any person or damage to or destruction of any property caused by Contractor, Subcontractors, and employees, officers and agents of either Contractor or Subcontractors, or any of them, and arising out of or attributable to the performance or nonperformance of Contractor's obligations under this Agreement and including, without limitation, failure to comply fully with every federal, state, or local law, statute, regulation, rule, ordinance, or government directive which directly or indirectly regulates or affects the handling, storage, recycling, or disposal of the Hazardous Materials to be managed by Contractor hereunder. In all cases of death or injury to employees, officers or agents of either Contractor or Subcontractors, whether or not caused by Contractor, the CPUC shall be indemnified by Contractor for any and all liability except to the extent such death or injury results from the negligence of the CPUC.

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15.2 Contractor shall, at its own cost, indemnify, defend, reimburse, and hold harmless the CPUC, its officers, directors, employees, and agents, assigns, and successors in interest, from and against any and all liability imposed upon, or to be imposed upon the CPUC, under any law imposing liability for the environmental clean-up of the Hazardous Materials at any location (other than the CPUC's property) where the Hazardous Materials have been placed, stored or disposed of in the performance or nonperformance of Contractor's obligations under this Agreement, or any other site to which the Hazardous Materials have migrated.

15.3 The indemnities set forth in this Section 15 shall not be limited by the insurance requirements set forth in Section 14.

16. TERM AND TERMINATION

16.1 This Agreement shall commence on June 1, 2001 and shall continue in effect until May 31, 2002, or until Contractor has picked up all units scheduled prior to May 31, 2002, whichever is later. This Agreement may be extended, by an Amendment to this Agreement signed by the Parties and approved by the Executive Director or designee.

16.2 Contractor shall notify the CPUC Project Manager in writing when a total of 80% of the funds budgeted for the Contractor's Program services have been invoiced to the CPUC for payment.

16.3 In the event of termination pursuant to this Section 16 or Section 19, Contractor and the CPUC shall work cooperatively to facilitate the termination of the Program.

16.4 Each Party shall immediately provide at no cost to the other any testimony, or any communications with the CPUC, or any board, division, committee or member thereof, which could reasonably be anticipated to affect the Program or which addresses it in any manner.

17. WRITTEN NOTICES

Any written notice, demand or request required or authorized in connection with this Agreement, shall be deemed properly given if delivered in person or sent by facsimile, nationally recognized overnight courier, or first class mail, postage prepaid, to the address specified below, or to another address specified in writing by the CPUC as follows:



CPUC: The California Public Utilities Commission  
 Attention: Stephen Hall, Project Manager  
 Energy Division, Appliance Retirement Program  
 505 Van Ness Avenue, 4th Floor  
 San Francisco, CA 94102  
 (415) 703-1975 telephone  
 (415) 703-2200 facsimile

CONTRACTOR: Appliance Recycling Centers of America, Inc.  
 Attention: Jack Cameron, President  
 7400 Excelsior Boulevard  
 Minneapolis, MN 55426  
 (952) 612-1717 telephone  
 (952) 612-1801 facsimile

17.1 Notices shall be deemed received (a) if personally or hand-delivered, upon the date of delivery to the address of the person to receive such notice if delivered before 5:00 p.m., or otherwise on the Business Day following personal delivery; (b) if mailed, three Business Days after the date the notice is postmarked; (c) if by facsimile, upon electronic confirmation of transmission, followed by telephone notification of transmission by the noticing Party; or (d) if by overnight courier: on the Business Day following delivery to the overnight courier within the time limits set by that courier for next-day delivery.

18. SUBCONTRACTS

18.1 Contractor shall contractually require each Subcontractor of the first tier providing service in connection with the Work to be bound by general terms and conditions protecting the CPUC that are equivalent to the terms and conditions of this Agreement.

18.2 Contractor shall, at all times, be responsible for the work, and acts and omissions, of Subcontractors and persons directly or indirectly employed by them for services in connection with the Work. The Purchase Order and this Agreement shall not constitute a contractual relationship between any Subcontractor and the CPUC nor any obligation for payment to any Subcontractor.

19. NON-WAIVER

None of the provisions of the Agreement shall be considered waived by either Party unless such waiver is specifically stated in writing.

20. ASSIGNMENT

The CPUC may be required to assign its rights, duties and obligations under this Agreement. Contractor hereby consents to such assignment. Other than the CPUC's assignment to another administrator, neither Party shall delegate or assign this Agreement or any part or interest thereof, without the prior written consent of the other Party, and any assignment without such consent shall be void and of no effect.

21. FORCE MAJEURE

Failure of Contractor to perform any of the provisions of this Agreement by reason of any of the following shall not constitute an event of default or breach of this Agreement: strikes, picket lines, boycott efforts, earthquakes, fires, floods, war (whether or not declared), revolution, riots, insurrections, acts of God, acts of government (including, without limitation, any agency or department of the United States of America), acts of the public enemy, scarcity or rationing of gasoline or other fuel or vital products, inability to obtain materials or labor, or other causes which are reasonably beyond the control of the Contractor.

22. GOVERNING LAW

The contract shall be interpreted, governed, and construed under the laws of the State of California as if executed and to be performed wholly within the State of California. Any action brought to enforce or interpret this Agreement shall be filed in San Francisco County,

California.

23. SECTION HEADINGS

Section headings appearing in this Agreement are for convenience only and shall not be construed as interpretations of text.

24. SURVIVAL

Notwithstanding completion or termination of the Work, of this Agreement or any amendment to the Agreement, the Parties shall continue to be bound by the provisions of this Agreement and any Amendment to this Agreement which by their nature shall survive such completion or termination. Such provisions shall include, but not be limited to, Contractor's indemnity protecting the CPUC from any liability for environmental clean up as provided in Section 16 of this Agreement.

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25. NONRELIANCE

Neither Party has relied upon any representation, warranty, projection, estimate or other communication from the other not specifically so identified in this Agreement.

26. COOPERATION

Each Party agrees to cooperate with the other Party in whatever manner reasonably required to facilitate the successful completion of the Agreement.

27. ENTIRE AGREEMENT

This Agreement contains the entire agreement and understanding between the Parties and merges and supersedes all prior representations and discussions pertaining to the Agreement, including Contractor's proposal. Any changes, exceptions, or different terms and conditions proposed by Contractor are hereby rejected unless expressly stated in this Agreement.

28. NON DISCRIMINATION CLAUSE

During the performance of this Agreement, contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer). Age (over age 40), marital status, and denial of family care leave. Contractor and subcontractors shall comply with provisions of the Fair Employment and Housing Act (GC Section 12990, a-D and the applicable regulations promulgated under CA Code of Regulations, Title 2 Section 7285 et seq hereby incorporated by reference in this Agreement.

29. CERTIFICATION CLAUSE

The Contractor Certification Clauses contained in document CCC201 are hereby incorporated by reference and made part of this Agreement by this reference.

30. CHILD SUPPORT COMPLIANCE ACT

For any Agreement in excess of \$100,000, the Contractor acknowledges in accordance with, that:

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- a. The contractor recognizes the importance of child and family support obligation and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to, disclosure of information and compliance earning assignment orders as provided in Chapter 8 (commencing with Section 5200) of Part 5 of division 9 of the Family Code and
- b. The contractor, to the best of its knowledge is fully complying with earnings assignment orders of all employees and is providing the names of all new employees to the New hire Registry maintained by the CA Employment Development Department.

31. UNION ORGANIZING

For all contracts, except fixed price contracts of \$50,000 or less, the Contractor acknowledges that by signing this Agreement the applicability of Government Code Section 16645 through Section 16649 to this Agreement and agrees to abide by the sections.

32. SETTLEMENT OF DISPUTES

In the event of a dispute, the contractor shall file a "Notice of Dispute" with the CPUC's Executive director or designee within 10 days of discovery of the problem. Within 10 days, the Executive Director or designee shall meet with the Contractor and Project Manager for purposes of resolving the dispute. The decision of the Executive Director or designee shall be final.

33. MEDIA RELATIONS

The Contractor and the Commission recognize that the programs funded by this Agreement benefit from advertisements, press coverage and other publicity designed to increase public awareness of energy efficiency programs, and in particular, the ones funded by this Agreement. The Contractor may publicize the programs funded by this Agreement through advertisements and other means of promoting public awareness, and may publicly discuss the programs that are funded by this Agreement, including with the press and/or other media, but shall not comment publicly on the Commission's policy regarding the terms of this Agreement or the administration of this Agreement, unless such comments are at a legislative hearing or in response to questions from the Commission.

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34. TERMINATION-BANKRUPTCY

In the event (i) a bankruptcy case is or a liquidation or insolvency proceeding is commenced by or against the Contractor, (ii) a custodian, receiver, trustee or other officer with similar powers is appointed with respect to the Contractor or a substantial part of its property, (iii) the Contractor makes an assignment for the benefit of its creditors or (iv) the Contractor is finally adjudicated insolvent or to be liquidated, the State may terminate this Contract by giving ten days' notice in writing to the Contractor

35. TERMINATION

This project may be terminated for any reason set forth below.

A. With Cause

In the event of any breach by the Contractor of the conditions set forth in this Agreement, the Commission may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon ten (10) days written notice to Contractor. The Commission agrees that prior to giving notice of its intent to terminate the contract for cause, it will notify the contractor of the problem and attempt to resolve the problem informally. In the event of such termination the State may proceed with the work in any reasonable manner deemed proper by the State. All appropriate and reasonable costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

B. Without Cause

The Commission or the Contractor may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the non-terminating party. If the Commission terminates this Agreement, the Contractor agrees to use all reasonable efforts to mitigate the Contractor's expenses and obligations hereunder after receipt of a valid notice of termination. Also in such event, the Commission shall pay the Contractor for all satisfactory services rendered and expenses incurred prior to such notice of termination which could not be reasonably avoided, but not in excess of the maximum payable under this Agreement.

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36. CONFLICT OF INTEREST

Contractor agrees to refrain from entering into any relationship that could result in a conflict of interest in the performance of this Agreement; and to notify the CPUC's Project Manager promptly of any potential conflict of interest, including subcontractors. The CPUC may exercise its option to terminate this Agreement if a conflict is found.

37. COUNTERPARTS

For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto. Each such counterpart shall, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same Agreement.

APPLIANCE RECYCLING  
CENTERS OF AMERICA, INC.

CALIFORNIA PUBLIC UTILITIES  
COMMISSION

By:  
Its:  
Date:

By:  
Its:  
Date:

## SIXTH AMENDED AND RESTATED REVOLVING NOTE

\$6,000,000.00

June 18, 2001  
Bloomington, Minnesota

FOR VALUE RECEIVED, the undersigned, APPLIANCE RECYCLING CENTERS OF AMERICA, INC. promises to pay to the order of SPECTRUM COMMERCIAL SERVICES COMPANY, a Minnesota corporation, (the "Lender") at its office in Bloomington, Minnesota, or at such other place as any present or future holder of this Note may designate from time to time, the principal sum of (i) Six Million and 00/100 Dollars (\$6,000,000.00), or (ii) the aggregate unpaid principal amount of all advances and/or extensions of credit made by the Lender to the undersigned pursuant to this Note as shown in the records of any present or future holder of this Note, whichever is less, plus interest thereon from the date of each advance in whole or in part included in such amount until this Note is fully paid. Interest shall be computed on the basis of the actual number of days elapsed and a 360-day year, at an annual rate equal to One and three-quarters percent (1.75%) per annum in excess of the Prime Rate of Wells Fargo Bank Minnesota, NA, and that shall change when and as said Prime Rate shall change; provided, however, that (i) in no event shall the interest rate in effect hereunder at any time be less than 10% per annum; and (ii) interest payable hereunder with respect to each calendar month shall not be less than \$16,800 regardless of the amount of loans, advances or other credit extensions that actually may have been outstanding during the month.. Interest is due and payable on the first day of each month and at maturity. The term "Prime Rate" means the rate established by Norwest Bank in its sole discretion from time to time as its Prime or Base Rate, and the undersigned acknowledges that Wells Fargo Bank and/or Lender may lend to its customers at rates that are at, above or below the Prime Rate. Notwithstanding the foregoing, after an Event of Default, this Note shall bear interest until fully paid at 5% per annum in excess of the rate otherwise then in effect, which rate shall continue to vary based on further changes in the Prime Rate; provided, however, that after an Event of Default, (i) in no event shall the interest rate in effect hereunder at any time be less than 15% per annum; and (ii) interest payable hereunder with respect to each calendar month shall not be less than \$26,400 regardless of the amount of loans, advances or other credit extensions that actually may have been outstanding during the month. The undersigned also shall pay the holder of this Note a late fee equal to 10% of any payment under this Note that is more than 10 days past due.

All interest, principal, and any other amounts owing hereunder are due on August 30, 2001 or earlier UPON DEMAND by Lender or any holder hereof, and Lender specifically reserves the absolute right to demand payment of all such amounts at any time, with or without advance notice, for any reason or no reason whatsoever. Lender's right to make such demand is not exclusive and Lender may coincidentally or separately from such demand make further demand for payment pursuant to the terms hereof (including but not limited to upon the occurrence of an Event of Default), and further, amounts may become due hereunder without a demand by Lender.

All or any part of the unpaid balance of this Note may be prepaid at any time, provided however, that if Borrower provide Lender with 60 days advance notice thereof. At the option of the then holder of this Note, any payment under this Note may be applied first to the payment of other charges, fees and expenses under this Note and any other agreement or writing in connection with this Note, second to the payment of interest accrued through the date of payment, and third to the payment of principal. Amounts may be advanced and readvanced under this Note at the Lender's sole and absolute discretion, provided the principal balance outstanding shall not exceed the amount first above

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written. Neither the Lender nor any other person has any obligation to make any advance or readvance under this Note.

The occurrence of any of the following events shall constitute an Event of Default under this Note: (i) any default in the payment of this Note; or (ii) any other default under the terms of any now existing or hereafter arising debt, obligation or liability of any maker, endorser, guarantor or surety of this Note or any other person providing security for this Note or for any guaranty of this Note, including, but not limited to, that certain General Credit and Security Agreement dated August 30, 1996 as it may have been subsequently amended and/or restated; or (iii) the insolvency (other than the insolvency of the undersigned), death dissolution, liquidation, merger or consolidation of any such maker, endorser, guarantor, surety or other person; or (iv) any appointment of a receiver, trustee or similar officer of any property of any such maker, endorser, guarantor, surety or other person; or (v) any assignment for the benefit of creditors of any such maker, endorser, guarantor, surety or other person; or (vi) any commencement of any proceeding under any bankruptcy,

insolvency, dissolution, liquidation or similar law by or against any such maker, endorser, guarantor, surety or other person, provided however, that if such a proceeding is commenced against the maker hereof or any Guarantor on an involuntary basis, then only if such action is not dismissed within 60 days of first being filed; or (vii) the sale, lease or other disposition (whether in one transaction or in a series of transactions) to one or more persons of all or a substantial part of the assets of any such maker, endorser, guarantor, surety or other person; or (viii) any such maker, endorser, guarantor, surety or other person takes any action to revoke or terminate any agreement, liability or security in favor of the Lender; or (ix) the entry of any judgment or other order for the payment of money in the amount of \$10,000.00 or more against any such maker, endorser, guarantor, surety or other person which judgment or order is not discharged or stayed in a manner acceptable to the then holder of this Note within 10 days after such entry; or (x) the issuance or levy of any writ, warrant, attachment, garnishment, execution or other process against any property of any such maker, endorser, guarantor, surety or other person; or (xi) the attachment of any tax lien to any property of any such maker, endorser, guarantor, surety or other person which is other than for taxes or assessments not yet due and payable; or (xii) any statement, representation or warranty made by any such maker, endorser, guarantor, surety or other person (or any representative of any such maker, endorser, guarantor, surety or other person) to any present or future holder of this Note at any time shall be false, incorrect or misleading in any material respect when made; or (xiii) there is a material adverse change in the condition (financial or otherwise), business or property of any such maker, endorser, guarantor, surety or other person. Upon the occurrence of an Event of Default and at any time thereafter while an Event of Default is continuing, the then holder of this Note may, at its option, declare this Note to be immediately due and payable and thereupon this Note shall become due and payable for the entire unpaid principal balance of this Note plus accrued interest and other charges on this Note without any presentment, demand, protest or other notice of any kind.

The undersigned: (i) waives demand, presentment, protest, notice of protest, notice of dishonor and notice of nonpayment of this Note; (ii) agrees to promptly provide all present and future holders of this Note from time to time with financial statements of the undersigned and such other information respecting the financial condition, business and property of the undersigned as any such holder of this Note may reasonably request, in form and substance acceptable to such holder of this Note; (iii) agrees that when or at any time after this Note becomes due the then holder of this note may offset or charge the full amount owing on this note against any account then maintained by the undersigned with such holder of this Note without notice; (iv) agrees to pay on demand all fees, costs and expenses of all present and future holders of this Note in connection with this Note and any security and guaranties for this Note, including but not limited to audit fees and expenses and reasonable attorneys' fees and legal expenses, plus interest on such amounts at the rate set forth in this Note; and (v) consents to the personal jurisdiction of the state and federal courts located in the

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State of Minnesota in connection with any controversy related in any way to this Note or any security of guaranty for this Note, waives any argument that venue in such forums is not convenient, and agrees that any litigation initiated by the undersigned against the Lender or any other present or future holder of this Note relating in any way to this Note or any security or guaranty for this Note shall be venued (at the sole option of Lender or the holder hereof) in either the District Court of Dakota or Hennepin County, Minnesota, or the United States District Court, District of Minnesota. Interest on any amount under this Note shall continue to accrue, at the option of any present or future holder of this Note, until such holder receives final payment of such amount in collected funds in form and substance acceptable to such holder. The maker agrees that, if it brings any action or proceeding arising out of or relating to this Agreement, it shall bring such action or proceeding in the District Court of Hennepin County, Minnesota.

No waiver of any right or remedy under this Note shall be valid unless in writing executed by the holder of this Note, and any such waiver shall be effective only in the specific instance and for the specific purpose given. All rights and remedies of all present and future holders of this Note shall be cumulative and may be exercised singly, concurrently or successively. The undersigned, if more than one, shall be jointly and severally liable under this Note, and the term "undersigned," wherever used in this Note, shall mean the undersigned or any one or more of them. This Note shall bind the undersigned and the successors and assigns of the undersigned. This Note shall be governed by and construed in accordance with the laws of the State of Minnesota.

This Note amends and restates, but does not repay, that certain Fifth Amended and Restated Revolving Note dated as of August 30, 2000 made by the undersigned payable to the order of Lender in the original principal amount of \$5,000,000.00.

THE UNDERSIGNED REPRESENTS, CERTIFIES, WARRANTS AND AGREES THAT THE UNDERSIGNED

HAS READ ALL OF THIS NOTE AND UNDERSTANDS ALL OF THE PROVISIONS OF THIS NOTE. THE UNDERSIGNED ALSO AGREES THAT COMPLIANCE BY ANY PRESENT OR FUTURE HOLDER OF THIS NOTE WITH THE EXPRESS PROVISIONS OF THIS NOTE SHALL CONSTITUTE GOOD FAITH AND SHALL BE CONSIDERED REASONABLE FOR ALL PURPOSES.

APPLIANCE RECYCLING CENTERS  
OF AMERICA, INC.

By /s/ Edward R. Cameron

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Edward R. Cameron  
President

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NINTH AMENDMENT TO  
GENERAL CREDIT AND SECURITY AGREEMENT

THIS AGREEMENT, dated and effective as of June 18, 2001 between SPECTRUM Commercial Services Company, a Minnesota Corporation, having its mailing address and principal place of business at Two Appletree Square, Suite 415, Bloomington, Minnesota 55425 (herein called "Lender" or "SCS"), and Appliance Recycling Centers of America, Inc., a Minnesota corporation, having the mailing address and principal place of business at 7400 Excelsior Boulevard, Minneapolis, MN 55426, (herein called "Borrower"), amends that certain General Credit and Security Agreement dated August 30, 1996, ("Credit Agreement") as amended. Where the provisions of this Agreement conflict with the Credit Agreement, the intent of this Agreement shall control.

1. The definition of "Maximum Principal Amount" under paragraph 2 of the Credit Agreement is hereby deleted and replaced with the following:

MAXIMUM PRINCIPAL AMOUNT shall mean, at any date,  
Six Million and No/100ths Dollars (\$6,000,000).

2. Paragraph 5 of the Credit Agreement which is entitled "Interest" is hereby deleted and replaced with the following:

TERMINATION. Subject to automatic termination of Borrower's ability to obtain additional Advances under this Agreement upon the occurrence of any Event of Default specified in Paragraphs 20(d), (e), (f) or (g) and to Lender's right to terminate Borrower's ability to obtain additional Advances under this Agreement upon the occurrence of any other Event of Default or upon demand, this Agreement shall have a term ending on the Termination Date provided, however, that Borrower may terminate this Agreement at any earlier time upon sixty days prior written notice and will incur no prepayment fee or charge thereafter. On the Termination Date, all obligations arising under this Agreement shall become immediately due and payable without further notice or demand. Lender's rights with respect to outstanding Obligations owing on or prior to the Termination Date will not be affected by termination and all of said rights including (without limitation) Lender's Security Interest in the Collateral existing on such Termination Date or acquired by Borrower thereafter, and the requirements of this Agreement that Borrower furnish schedules and confirmatory assignments of Receivables and Inventory and turn over to Lender all full and partial payments thereof shall continue to be operative until all such Obligations have been duly satisfied.

3. Paragraph 23 is amended in its entirety to read as follows

INTEREST. Borrower agrees to pay interest on the outstanding principal amount of the Note, at the close of each day at a fluctuating rate per annum (computed on the basis of actual number of days elapsed and a year of 360 days) which is at all times equal to One and three-quarters percent (1.75%) in excess of the Prime Rate; each change in such fluctuating rate caused by a change in the Prime Rate to occur simultaneously with the change in the Prime Rate; provided, however, that (i) in no event shall the interest rate in effect hereunder at any time be less than 10% per annum; and (ii) interest payable hereunder with respect to each calendar month shall not be less than \$16,800.00 regardless of the amount of loans, Advances or other credit extensions that actually may have been outstanding during the month. Interest accrued through the last day of each month will be due and payable to Lender on the next Monthly Payment Date. Interest shall also be payable on the Maturity Date or on any earlier

Termination Date. Interest accrued after the Maturity Date or earlier Termination Date shall be payable on Demand. Interest may be charged to Borrower's loan account as an Advance at Lender's option, whether or not Borrower then has the right to obtain an Advance pursuant to the terms of this Agreement. Notwithstanding the foregoing, after an Event of Default, this Note shall bear interest until paid at 5% per annum in excess of the rate otherwise then in effect, which rate shall continue to vary based on further changes in the Prime Rate; provided, however, that after an Event of Default, (i) in no event shall the interest rate in effect hereunder at any time be less than 15% per annum; and (ii) interest payable hereunder with respect to each calendar month shall not be less than \$26,400.00 regardless of the amount of loans, Advances or other credit extensions that actually may have been outstanding during the month.. The undersigned also shall pay the holder of this Note a late fee equal to 10% of any payment under this Note that is more than 10 days past due.

4. As an origination fee Borrower will pay to Lender the sum of \$5,000.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SPECTRUM COMMERCIAL SERVICES  
COMPANY

APPLIANCE RECYCLING CENTERS  
OF AMERICA, INC.

By /s/ Steven Lowenthal  
-----  
Steven I. Lowenthal, Principal

By /s/ Edward R. Cameron  
-----  
Edward R. Cameron, President



## SEVENTH AMENDED AND RESTATED REVOLVING NOTE

\$6,300,000.00

July 26, 2001  
Bloomington, Minnesota

FOR VALUE RECEIVED, the undersigned, APPLIANCE RECYCLING CENTERS OF AMERICA, INC. promises to pay to the order of SPECTRUM COMMERCIAL SERVICES COMPANY, a Minnesota corporation, (the "Lender") at its office in Bloomington, Minnesota, or at such other place as any present or future holder of this Note may designate from time to time, the principal sum of (i) Six Million Three Hundred Thousand and 00/100 Dollars (\$6,300,000.00), or (ii) the aggregate unpaid principal amount of all advances and/or extensions of credit made by the Lender to the undersigned pursuant to this Note as shown in the records of any present or future holder of this Note, whichever is less, plus interest thereon from the date of each advance in whole or in part included in such amount until this Note is fully paid. Interest shall be computed on the basis of the actual number of days elapsed and a 360-day year, at an annual rate equal to One and three-quarters percent (1.75%) per annum in excess of the Prime Rate of Wells Fargo Bank Minnesota, NA, and that shall change when and as said Prime Rate shall change; provided, however, that (i) in no event shall the interest rate in effect hereunder at any time be less than 10% per annum; and (ii) interest payable hereunder with respect to each calendar month shall not be less than \$16,800 regardless of the amount of loans, advances or other credit extensions that actually may have been outstanding during the month. Interest is due and payable on the first day of each month and at maturity. The term "Prime Rate" means the rate established by Norwest Bank in its sole discretion from time to time as its Prime or Base Rate, and the undersigned acknowledges that Wells Fargo Bank and/or Lender may lend to its customers at rates that are at, above or below the Prime Rate. Notwithstanding the foregoing, after an Event of Default, this Note shall bear interest until fully paid at 5% per annum in excess of the rate otherwise then in effect, which rate shall continue to vary based on further changes in the Prime Rate; provided, however, that after an Event of Default, (i) in no event shall the interest rate in effect hereunder at any time be less than 15% per annum; and (ii) interest payable hereunder with respect to each calendar month shall not be less than \$26,400 regardless of the amount of loans, advances or other credit extensions that actually may have been outstanding during the month. The undersigned also shall pay the holder of this Note a late fee equal to 10% of any payment under this Note that is more than 10 days past due.

All interest, principal, and any other amounts owing hereunder are due on August 30, 2001 or earlier UPON DEMAND by Lender or any holder hereof, and Lender specifically reserves the absolute right to demand payment of all such amounts at any time, with or without advance notice, for any reason or no reason whatsoever. Lender's right to make such demand is not exclusive and Lender may coincidentally or separately from such demand make further demand for payment pursuant to the terms hereof (including but not limited to upon the occurrence of an Event of Default), and further, amounts may become due hereunder without a demand by Lender.

All or any part of the unpaid balance of this Note may be prepaid at any time, provided however, that if Borrower provide Lender with 60 days advance notice thereof. At the option of the then holder of this Note, any payment under this Note may be applied first to the payment of other charges, fees and expenses under this Note and any other agreement or writing in connection with this Note, second to the payment of interest accrued through the date of payment, and third to the payment of principal. Amounts may be advanced and readvanced under this Note at the Lender's sole and absolute discretion, provided the principal balance outstanding shall not exceed the amount

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first above written. Neither the Lender nor any other person has any obligation to make any advance or readvance under this Note.

The occurrence of any of the following events shall constitute an Event of Default under this Note: (i) any default in the payment of this Note; or (ii) any other default under the terms of any now existing or hereafter arising debt, obligation or liability of any maker, endorser, guarantor or surety of this Note or any other person providing security for this Note or for any guaranty of this Note, including, but not limited to, that certain General Credit and Security Agreement dated August 30, 1996 as it may have been subsequently amended and/or restated; or (iii) the insolvency (other than the insolvency of the undersigned), death dissolution, liquidation, merger or consolidation of any such maker, endorser, guarantor, surety or other person; or (iv) any appointment of a receiver, trustee or similar officer of any property of any such maker, endorser, guarantor, surety or other person; or (v) any assignment for the benefit of creditors of any such maker, endorser, guarantor, surety or other person; or (vi) any commencement of any proceeding under any bankruptcy,

insolvency, dissolution, liquidation or similar law by or against any such maker, endorser, guarantor, surety or other person, provided however, that if such a proceeding is commenced against the maker hereof or any Guarantor on an involuntary basis, then only if such action is not dismissed within 60 days of first being filed; or (vii) the sale, lease or other disposition (whether in one transaction or in a series of transactions) to one or more persons of all or a substantial part of the assets of any such maker, endorser, guarantor, surety or other person; or (viii) any such maker, endorser, guarantor, surety or other person takes any action to revoke or terminate any agreement, liability or security in favor of the Lender; or (ix) the entry of any judgment or other order for the payment of money in the amount of \$10,000.00 or more against any such maker, endorser, guarantor, surety or other person which judgment or order is not discharged or stayed in a manner acceptable to the then holder of this Note within 10 days after such entry; or (x) the issuance or levy of any writ, warrant, attachment, garnishment, execution or other process against any property of any such maker, endorser, guarantor, surety or other person; or (xi) the attachment of any tax lien to any property of any such maker, endorser, guarantor, surety or other person which is other than for taxes or assessments not yet due and payable; or (xii) any statement, representation or warranty made by any such maker, endorser, guarantor, surety or other person (or any representative of any such maker, endorser, guarantor, surety or other person) to any present or future holder of this Note at any time shall be false, incorrect or misleading in any material respect when made; or (xiii) there is a material adverse change in the condition (financial or otherwise), business or property of any such maker, endorser, guarantor, surety or other person. Upon the occurrence of an Event of Default and at any time thereafter while an Event of Default is continuing, the then holder of this Note may, at its option, declare this Note to be immediately due and payable and thereupon this Note shall become due and payable for the entire unpaid principal balance of this Note plus accrued interest and other charges on this Note without any presentment, demand, protest or other notice of any kind.

The undersigned: (i) waives demand, presentment, protest, notice of protest, notice of dishonor and notice of nonpayment of this Note; (ii) agrees to promptly provide all present and future holders of this Note from time to time with financial statements of the undersigned and such other information respecting the financial condition, business and property of the undersigned as any such holder of this Note may reasonably request, in form and substance acceptable to such holder of this Note; (iii) agrees that when or at any time after this Note becomes due the then holder of this note may offset or charge the full amount owing on this note against any account then maintained by the undersigned with such holder of this Note without notice; (iv) agrees to pay on demand all fees, costs and expenses of all present and future holders of this Note in connection with this Note and any

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security and guaranties for this Note, including but not limited to audit fees and expenses and reasonable attorneys' fees and legal expenses, plus interest on such amounts at the rate set forth in this Note; and (v) consents to the personal jurisdiction of the state and federal courts located in the State of Minnesota in connection with any controversy related in any way to this Note or any security of guaranty for this Note, waives any argument that venue in such forums is not convenient, and agrees that any litigation initiated by the undersigned against the Lender or any other present or future holder of this Note relating in any way to this Note or any security or guaranty for this Note shall be venued (at the sole option of Lender or the holder hereof) in either the District Court of Dakota or Hennepin County, Minnesota, or the United States District Court, District of Minnesota. Interest on any amount under this Note shall continue to accrue, at the option of any present or future holder of this Note, until such holder receives final payment of such amount in collected funds in form and substance acceptable to such holder. The maker agrees that, if it brings any action or proceeding arising out of or relating to this Agreement, it shall bring such action or proceeding in the District Court of Hennepin County,

No waiver of any right or remedy under this Note shall be valid unless in writing executed by the holder of this Note, and any such waiver shall be effective only in the specific instance and for the specific purpose given. All rights and remedies of all present and future holders of this Note shall be cumulative and may be exercised singly, concurrently or successively. The undersigned, if more than one, shall be jointly and severally liable under this Note, and the term "undersigned," wherever used in this Note, shall mean the undersigned or any one or more of them. This Note shall bind the undersigned and the successors and assigns of the undersigned. This Note shall be governed by and construed in accordance with the laws of the State of Minnesota.

This Note amends and restates, but does not repay, that certain Sixth Amended and Restated Revolving Note dated as of June 18, 2001 made by the undersigned payable to the order of Lender in the original principal amount of \$6,000,000.00.

THE UNDERSIGNED REPRESENTS, CERTIFIES, WARRANTS AND AGREES THAT THE UNDERSIGNED HAS READ ALL OF THIS NOTE AND UNDERSTANDS ALL OF THE PROVISIONS OF THIS NOTE.

THE UNDERSIGNED ALSO AGREES THAT COMPLIANCE BY ANY PRESENT OR FUTURE HOLDER OF THIS NOTE WITH THE EXPRESS PROVISIONS OF THIS NOTE SHALL CONSTITUTE GOOD FAITH AND SHALL BE CONSIDERED REASONABLE FOR ALL PURPOSES.

APPLIANCE RECYCLING CENTERS  
OF AMERICA, INC.

By /s/ Edward R. Cameron  
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Its President  
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TENTH AMENDMENT TO  
GENERAL CREDIT AND SECURITY AGREEMENT

THIS AGREEMENT, dated and effective as of July 26, 2001 between SPECTRUM Commercial Services Company, a Minnesota Corporation, having its mailing address and principal place of business at Two Appletree Square, Suite 415, Bloomington, Minnesota 55425 (herein called "Lender" or "SCS"), and Appliance Recycling Centers of America, Inc., a Minnesota corporation, having the mailing address and principal place of business at 7400 Excelsior Boulevard, Minneapolis, NIN 55426, (herein called "Borrower"), amends that certain General Credit and Security Agreement dated August 30, 1996, ("Credit Agreement") as amended. Where the provisions of this Agreement conflict with the Credit Agreement, the intent of this Agreement shall control.

1. The definition of "Maximum Principal Amount" under paragraph 2 of the Credit Agreement is hereby deleted and replaced with the following:

MAXIMUM PRINCIPAL AMOUNT shall mean, at any date,  
Six Million Three Hundred Thousand and No/100ths  
Dollars (\$6,300,000).

2. As an origination fee Borrower will pay to Lender the sum of \$3,000.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SPECTRUM COMMERCIAL SERVICES  
COMPANY

APPLIANCE RECYCLING CENTERS  
OF AMERICA, INC.

By /s/ Steven Lowenthal  
-----  
Steven I. Lowenthal, Principal

By /s/ Edward R. Cameron  
-----  
Edward R. Cameron, President

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GUARANTOR ACKNOWLEDGMENT  
(TENTH AMENDMENT)

The undersigned (collectively the "Guarantor") has entered into certain Guaranties of various dates (collectively the "Guaranty;" capitalized terms not otherwise defined herein being used herein as therein defined), pursuant to which each Guarantor has guaranteed the payment and performance of certain Indebtedness of Appliance Recycling Centers of America, Inc., a Minnesota corporation ("Borrower") to SPECTRUM Commercial Services Company, a Minnesota corporation, ("SCS"), which Indebtedness includes, without limitation, all obligations of Borrower under that certain Revolving Note dated as of August 30, 1996 between the Borrower and SCS as subsequently amended and/or restated (as so amended the "Original Loan Agreement").

Each Guarantor hereby acknowledges that it has received a copy of: (a) the Tenth Amendment to General Credit and Security Agreement dated as of the date hereof (the "Loan Agreement") between the Borrower and SCS amending and restating the Original Loan Agreement;

Each Guarantor hereby:

(a) agrees and acknowledges that the Guaranty applicable to each Guarantor shall be of an UNLIMITED AMOUNT, including without limitation all of Lender's fees, costs, expenses and attorneys' fees incurred in enforcing the Guarantee; and

(b) confirms that:

(i) by the Guaranty, the Guarantor continues to guarantee the full payment and performance of all of the Indebtedness owed to SCS, including, without limitation, all obligations of Borrower under the Original Loan Agreement as amended and restated by the Loan Agreement; and

(ii) with respect to each corporate Guarantor, by such Guarantor's Subsidiary Security Agreement, such Guarantor continues to grant a security interest in the "Collateral" described in such Guarantor's Subsidiary Security Agreement to secure the payment and performance of the "obligations" described therein; and

(iii) the Guaranty remains in full force and effect, enforceable against the Guarantor in accordance with its terms.

Dated: July 26, 2001

ARCA-MARYLAND, INC.

By /s/ Edward R. Cameron

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Its President  
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APPLIANCE RECYCLING CENTERS  
OF AMERICA-CALIFORNIA, INC.

ARCA OF ST. LOUIS, INC.

By /s/ Edward R. Cameron

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Its President  
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By /s/ Edward R. Cameron

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Its President  
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