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RECORDATION NO. 20271-9, K, L FILED  
DEC 4 - '97 4-36PM

**Morgan, Lewis  
& Bockius LLP**  
COUNSELORS AT LAW

Dennis N. Barnes  
202-467-7060

December 4, 1997

BY HAND DELIVERY

Mr. Vernon A. Williams, Secretary  
Surface Transportation Board  
Washington, D.C.

Re: Quantum Chemical Corporation - Railcar Lease  
Recordation Number: 20271-20271A

Dear Mr. Williams:

I have enclosed two originals of each of the documents described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code:

- (1) the Amended and Restated Purchase and Master Lease Agreement dated as of December 1, 1997 among the Lessors referred to therein, Sumitomo Bank Leasing and Finance, Inc. as agent for the Lessors, and Equistar Chemicals, LP;
- (2) the Lease Receivable Purchase Agreement dated as of December 1, 1997 between Sumitomo Bank Leasing and Finance, Inc. and ECLP Funding Corp.; and
- (3) the Intercreditor and Security Agreement dated as of December 1, 1997 among Equistar Chemicals, LP, Sumitomo Bank Leasing and Finance, Inc., ECLP Funding Corp., Madison Funding Corporation, and The Sumitomo Bank, Limited, New York Branch.

1. The Amended and Restated Lease Agreement, whereby the original lease and the nine Lease Supplements thereto are amended by substituting a new lessee, is a secondary document, dated as of December 1, 1997.

RECEIVED  
SURFACE TRANSPORTATION  
BOARD  
DEC 4 4 36 PM '97

*Quantum Chemical*

(i) **Partial Purchase.** If, under any provision of this Lease, Lessee shall purchase one or more Items of Equipment, but less than all of the Equipment then subject to this Lease, such purchase shall be effected as follows: (x) the Lessee shall pay to the Agent for the account of the Lessors by wire transfer of immediately available funds an amount equal to (I) the Aggregate Lease Investment Balance of such Item or Items of Equipment, **plus** (II) any Base Rent accrued with respect thereto and unpaid and any other amounts then due under the Operative Documents (including, without limitation, any Taxes resulting from such purchase), **minus** (III) if, at the time any insurance proceeds are being held by the Agent with respect to any Equipment pursuant to Section 17 hereof, the amount of such insurance proceeds then held by the Agent (including the net earnings thereon), which insurance proceeds (and net earnings) shall (but not in excess of the total of the amounts referred to in clause (I) of this paragraph) no longer be subject to the provisions of Section 17 hereof and shall be deemed to be part of the purchase price paid by the Lessee, (y) the Agent, on behalf of the Lessors, shall transfer to Lessee, on an as-is, where-is, basis, without any representation or warranty of any kind, express or implied, whatever title to the Equipment leased by Lessee it may have (except that the Agent shall warrant the Agent's Representations) and (z) Lessee shall be subrogated to the Agent's and the Lessors' rights in connection with or related to such Equipment and the Agent (on behalf of the Lessors) shall execute and deliver (I) such assignments and instruments of further assurance as may be reasonably necessary to enable Lessee to collect any unpaid insurance proceeds relating to such Equipment and otherwise to receive the benefits of such rights and (II) such UCC termination statements and other documents reasonably requested by the Lessee to terminate the security interest granted pursuant to this Lease. Upon such transfer, the lease of the Equipment under this Agreement shall terminate and the Equipment shall cease to be Equipment hereunder.

(ii) **Full Purchase.** If, under any provision of this Lease, Lessee shall purchase all, but not less than all, of the Equipment then subject to this Lease, such purchase shall be effected as follows: (x) the Lessee shall pay to the Agent for the account of the Lessors by wire transfer of immediately available funds an amount equal to (I) the Aggregate Lease Investment Balance and all other amounts then due under the Operative Documents (including, without limitation, any Taxes resulting from such purchase, provided that the Agent shall have invoiced the Lessee for such Taxes within 15 days prior to such purchase and the Lessee shall have not furnished the Agent (for the benefit of the Lessors) a certificate evidencing an exemption available to the Agent from such Taxes), **plus** (II) any Base Rent accrued and unpaid, **plus** (III) any other amounts due under the Operative Documents, **minus** (IV) if, at such time any insurance proceeds are being held by the Agent with respect to any Equipment pursuant to Section 17 hereof, the amount of such insurance proceeds then held by the Agent (including the net earnings thereon), which insurance proceeds (and net earnings) shall (but not in excess of the total of the amounts referred to in clauses (I) and (II) of this paragraph) no longer be subject to the provisions of Section 17 hereof and shall be deemed to be part of the purchase price paid by the Lessee, (y) the Agent, on behalf of the Lessors, shall transfer to Lessee, on an

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The names and addresses of the parties to the document are as follows:

Lessor: Sumitomo Bank Leasing and Finance, Inc., as Agent  
277 Park Avenue  
New York, New York 10172

Lessee: Equistar Chemicals, LP  
One Houston Center  
1221 McKinney Street  
P.O. Box 3646  
Houston, Texas 77253-3646

A description of the equipment and documents covered by the Amended and Restated Lease Agreement (as defined below) follows:

One hundred and twenty-five 6011 CF aluminum covered hopper cars and five hundred and thirty-two 5851 CF steel covered hopper cars, each having quadruple hoppers, stub center sill and pneumatic discharge outlets (the "Equipment"). The hopper cars, which are designed in accordance with AAR Standard S-259-94, have a capacity of 6,011 and 5,851 cubic feet, respectively. Each of the cars bears an identifying mark that reads "QCCX".

A short summary of the Amended and Restated Lease Agreement to appear in the index follows:

Amended and Restated Purchase and Master Lease Agreement dated as of September 13, 1996 and amended and restated as of December 1, 1997 (the "Lease") among the Lessors referred to therein, Sumitomo Bank Leasing and Finance, Inc. as agent for the Lessors, and Equistar Chemicals, LP, as Lessee, covering one hundred and twenty-five 6011 CF aluminum covered hopper cars and five hundred and thirty-two 5851 CF steel covered hopper cars, and all replacement equipment thereto, and all appliances, appurtenances, accessions, furnishings, materials and parts forming a part thereof and (i) all contracts relating to the purchase, operation and maintenance of the Equipment, including all warranties, (ii) any rebate (excluding sales or use tax refunds to Lessee), offset or other similar rights under a purchase order, invoice or purchase agreement with any manufacturer or vendor of any Equipment to the extent such rebate relates to the Equipment, (iii) all books, manuals, logs, records, writings, data bases, information and other property (x) relating solely to, used or useful solely in connection with, or evidencing, embodying or incorporating any of the foregoing or (y) which include the maintenance or alteration records of the Equipment, and (iv) all accessions to and

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proceeds of and from any and all of the foregoing Equipment (including proceeds which constitute property of the types described in clauses (i), (ii) and (iii) above) and, to the extent not otherwise included, all payments under insurance (whether or not the Lessor, in its capacity as Lessor or as Agent is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing, but excluding any property (and any proceeds thereof) incorporated or installed in or attached to any item of Equipment in connection with a modification, improvement and/or addition to such item of Equipment made by a Lessee as permitted by Section 10(b) of the Lease, without such property becoming Equipment for purposes of the Lease pursuant to the last sentence of Section 10(b) thereof.

2. The Lease Receivable Purchase Agreement is a secondary document, dated as of December 1, 1997.

The names and addresses of the parties to the document are as follows:

Seller: Sumitomo Bank Leasing and Finance, Inc., as Agent  
277 Park Avenue  
New York, New York 10172

Purchaser: ECLP Funding Corp.  
One International Place  
Boston, Massachusetts 02110

A description of the equipment and documents covered by the Amended and Restated Lease Agreement (as defined below) follows:

One hundred and twenty-five 6011 CF aluminum covered hopper cars and five hundred and thirty-two 5851 CF steel covered hopper cars, each having quadruple hoppers, stub center sill and pneumatic discharge outlets (the "Equipment"). The hopper cars, which are designed in accordance with AAR Standard S-259-94, have a capacity of 6,011 and 5,851 cubic feet, respectively. Each of the cars bears an identifying mark that reads "QCCX".

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covered hopper cars, and all replacement equipment thereto, and all appliances, appurtenances, accessions, furnishings, materials and parts forming a part thereof and (i) all contracts relating to the purchase, operation and maintenance of the Equipment, including all warranties, (ii) any rebate (excluding sales or use tax refunds to the Lessee under that certain Amended and Restated Purchase and Master Lease Agreement dated as of September 13, 1996 and amended and restated as of December 1, 1997 (the "Lease") among the Lessors referred to therein, Sumitomo Bank Leasing and Finance, Inc. as agent for the Lessors, and Equistar Chemicals, LP, as Lessee), offset or other similar rights under a purchase order, invoice or purchase agreement with any manufacturer or vendor of any Equipment to the extent such rebate relates to the Equipment, (iii) all books, manuals, logs, records, writings, data bases, information and other property (x) relating solely to, used or useful solely in connection with, or evidencing, embodying or incorporating any of the foregoing or (y) which include the maintenance or alteration records of the Equipment, and (iv) all accessions to and proceeds of and from any and all of the foregoing Equipment (including proceeds which constitute property of the types described in clauses (i), (ii) and (iii) above) and, to the extent not otherwise included, all payments under insurance (whether or not the Lessor, in its capacity as Lessor or as Agent is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing, but excluding any property (and any proceeds thereof) incorporated or installed in or attached to any item of Equipment in connection with a modification, improvement and/or addition to such item of Equipment made by a Lessee.

3. The Amended and Restated Lease Agreement, whereby the original lease and the nine Lease Supplements thereto are amended by substituting a new lessee, is a secondary document, dated as of December 1, 1997.

The names and addresses of the parties to the document are as follows:

Lessor: Sumitomo Bank Leasing and Finance, Inc., as Agent  
277 Park Avenue  
New York, New York 10172

Lessee: Equistar Chemicals, LP  
One Houston Center  
1221 McKinney Street  
P.O. Box 3646  
Houston, Texas 77253-3646

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Purchaser: ECLP Funding Corp.  
One International Place  
Boston, Massachusetts 02110

Secured Party: Madison Funding Corporation  
c/o First National Bank of Chicago  
One First National Plaza  
Chicago, Illinois 60670

Collateral Agent: The Sumitomo Bank, Limited  
New York Branch  
277 Park Avenue  
New York, New York 10172

A description of the equipment and documents covered by the Intercreditor and Security Agreement (as defined below) follows:

One hundred and twenty-five 6011 CF aluminum covered hopper cars and five hundred and thirty-two 5851 CF steel covered hopper cars, each having quadruple hoppers, stub center sill and pneumatic discharge outlets (the "Equipment"). The hopper cars, which are designed in accordance with AAR Standard S-259-94, have a capacity of 6,011 and 5,851 cubic feet, respectively. Each of the cars bears an identifying mark that reads "QCCX".

A short summary of the Intercreditor and Security Agreement to appear in the index follows:

Intercreditor and Security Agreement dated as of December 1, 1997 among Equistar Chemicals, LP, Sumitomo Bank Leasing and Finance, Inc., ECLP Funding Corp., Madison Funding Corporation, and The Sumitomo Bank, Limited, New York Branch, covering one hundred and twenty-five 6011 CF aluminum covered hopper cars and five hundred and thirty-two 5851 CF steel covered hopper cars, and all replacement equipment thereto, and all appliances, appurtenances, accessions, furnishings, materials and parts forming a part thereof and (i) all contracts relating to the purchase, operation and maintenance of the Equipment, including all warranties, (ii) any rebate (excluding sales or use tax refunds to Lessee under that certain Amended and Restated Purchase and Master Lease Agreement dated as of September 13, 1996 and amended and restated as of December 1, 1997 (the "Lease") among the Lessors referred to therein, Sumitomo Bank Leasing and Finance, Inc. as agent for the Lessors, and Equistar Chemicals, LP, as Lessee), offset or other similar rights under a purchase

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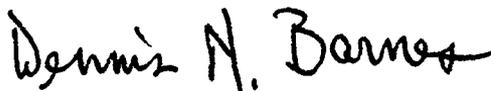
order, invoice or purchase agreement with any manufacturer or vendor of any Equipment to the extent such rebate relates to the Equipment, (iii) all books, manuals, logs, records, writings, data bases, information and other property (x) relating solely to, used or useful solely in connection with, or evidencing, embodying or incorporating any of the foregoing or (y) which include the maintenance or alteration records of the Equipment, and (iv) all accessions to and proceeds of and from any and all of the foregoing Equipment (including proceeds which constitute property of the types described in clauses (i), (ii) and (iii) above) and, to the extent not otherwise included, all payments under insurance (whether or not the Lessor, in its capacity as Lessor or as Agent is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing, but excluding any property (and any proceeds thereof) incorporated or installed in or attached to any item of Equipment in connection with a modification, improvement and/or addition to such item of Equipment made by a Lessee.

A fee of \$72 is enclosed. Please return one original of each agreement and any extra copies not needed by the Board for recordation to:

Morgan, Lewis & Bockius LLP  
101 Park Avenue  
New York, New York 10178  
Attention: Ian Shrank, Esq.

If you have any questions with respect to the enclosed, please feel free to call me at (212) 309-7047.

Very truly yours,



Dennis N. Barnes  
Attorney for Sumitomo Bank  
Leasing and Finance, Inc.

Enclosures

DNB:ll

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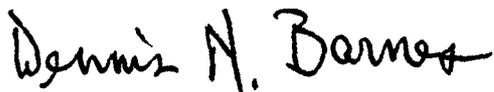
order, invoice or purchase agreement with any manufacturer or vendor of any Equipment to the extent such rebate relates to the Equipment, (iii) all books, manuals, logs, records, writings, data bases, information and other property (x) relating solely to, used or useful solely in connection with, or evidencing, embodying or incorporating any of the foregoing or (y) which include the maintenance or alteration records of the Equipment, and (iv) all accessions to and proceeds of and from any and all of the foregoing Equipment (including proceeds which constitute property of the types described in clauses (i), (ii) and (iii) above) and, to the extent not otherwise included, all payments under insurance (whether or not the Lessor, in its capacity as Lessor or as Agent is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing, but excluding any property (and any proceeds thereof) incorporated or installed in or attached to any item of Equipment in connection with a modification, improvement and/or addition to such item of Equipment made by a Lessee.

A fee of \$72 is enclosed. Please return one original of each agreement and any extra copies not needed by the Board for recordation to:

Morgan, Lewis & Bockius LLP  
101 Park Avenue  
New York, New York 10178  
Attention: Ian Shrank, Esq.

If you have any questions with respect to the enclosed, please feel free to call me at (212) 309-7047.

Very truly yours,



Dennis N. Barnes  
Attorney for Sumitomo Bank  
Leasing and Finance, Inc.

Enclosures

DNB:ll

RECORDATION NO. 20271-K FILED

DEC 4 - '97

4-36 PM

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LEASE RECEIVABLE PURCHASE AGREEMENT

Dated as of December 1, 1997

Between

SUMITOMO BANK LEASING AND FINANCE, INC.  
as Seller

and

ECLP FUNDING CORP.  
as Purchaser

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## LEASE RECEIVABLE PURCHASE AGREEMENT

THIS LEASE RECEIVABLE PURCHASE AGREEMENT, dated as of December 1, 1997 (this "Agreement"), is entered into between SUMITOMO BANK LEASING AND FINANCE, INC., a Delaware corporation, as Agent ("Seller"), and ECLP FUNDING CORP., a Delaware corporation ("Purchaser").

### W I T N E S S E T H:

WHEREAS, Seller is the lessor of certain personal property to Equistar Chemicals, LP, a Delaware limited partnership (the "Lessee"), pursuant to that certain Amended and Restated Purchase and Master Lease Agreement, dated as of December 1, 1997 (as amended, modified or supplemented from time to time, the "Lease"), between Seller, the Lessors named therein and the Lessee; and

WHEREAS, Seller desires to sell and assign to Purchaser an undivided percentage interest in certain rent due from the Lessee under the Lease and certain related rights, and Purchaser desires to purchase such rent and related rights, subject to the terms and conditions of this Agreement; and

WHEREAS, unless otherwise indicated, capitalized terms used in this Agreement are defined in the Lease; and the rules of interpretation set forth in the Lease shall apply to this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, the parties hereto agree as follows:

### ARTICLE I

#### THE COMMITMENT

1.1. Commitment. On the terms and subject to the conditions set forth in this Agreement, on the Restatement Effective Date and each Closing Date Purchaser shall purchase from Seller the Purchaser's Interest (as defined below) not yet purchased by Purchaser.

1.2. Purchase Procedures.

(a) Notice of Purchase. The purchase of Purchaser's Interest from Seller by Purchaser on each Closing Date shall be made by delivery of a copy of the Closing Date Notice delivered under the Lease to the Liquidity Agent not later than 10:00 a.m. (New York time) on the fourth Business Day next preceding the proposed Closing Date.

(b) Amount of Purchase. The amount of the purchase of Purchaser's Interest payable by Purchaser on the Restatement Effective Date and each Closing Date (the "Purchase Price") shall be equal to the lesser of (x) the Relevant Percentage of the amount of the related requested Advance or, in the case of the Restatement Effective Date, \$42,117,405.12 and (y) the aggregate Commitments of the Lenders minus the aggregate Purchase Prices previously paid by Purchaser.

(c) Funding of Purchase. Not later than 12:00 noon (New York time) on the Restatement Effective Date and each Closing Date, Purchaser shall, upon satisfaction of the applicable conditions set forth in Article III, make available to the Agent for the Lessors the amount of the related Purchase Price in same day funds, and after receipt by the Agent for the Lessors of such funds, the Agent for the Lessors will make such funds immediately available to Seller at such office, or at such other place as Seller may direct in writing.

1.3. Funding. Purchaser shall fund and maintain its purchases by borrowing Loans pursuant to the Committed Loan Agreement and the Uncommitted Loan Agreements.

## ARTICLE II

### PURCHASER'S INTEREST

2.1. Purchaser's Interest. By making each purchase hereunder, Purchaser shall own, with respect to the Leased Property to which the purchase relates, (i) all rights to receive, demand, collect, sue for and retain (A) the Base Rent related to the Debt Contribution, (B) all of the Aggregate Guaranteed Residual Value, (C) that portion of the Lease Investment Balance equal to Aggregate Guaranteed Residual Value paid pursuant to the Lease, (D) all overdue interest charges related to the foregoing and (E) all Rent (other than Base Rent) due from Lessee under the Operative Documents to the extent related to Purchaser or the foregoing amounts (collectively, the "Lease Receivable"), (ii) all rights, interests and claims of Seller pursuant to the Lease and the other Operative Documents with respect to the Lease Receivable, whether now or hereafter existing, owned or acquired, (iii) all rights, interests and claims of Seller with respect to such Leased Property (as more particularly described on Schedule 2.1 hereto), wherever located, and whether now or hereafter existing, owned or acquired and (iv) all proceeds of any and all of the foregoing (the foregoing collectively called the "Purchaser's Interest"), in each case subject to the terms of the Intercreditor Agreement.

2.2. Assignment. As of the Restatement Effective Date and each Closing Date, subject to the payment of the Purchase Price, Seller hereby assigns, sells, transfers and conveys to Purchaser, and Purchaser hereby purchases and acquires from Seller, the Purchaser's Interest with respect to the Advance related to the Restatement Effective Date and such Closing Date.

2.3. Commitment Fee. In consideration of the Purchaser entering into this Agreement, Seller hereby assigns, sells, transfers and conveys to Purchaser, and Purchaser hereby purchases and

acquires from Seller, without any additional consideration, all of Seller's right, title and interest in the Liquidity Commitment Fee with respect to the unused Commitments of the Lenders.

### ARTICLE III

#### CONDITIONS OF PURCHASE

3.1. Conditions Precedent to Initial Purchase. The initial purchase hereunder is subject to the condition precedent that Purchaser (or the Collateral Agent, on behalf of Purchaser) shall have received on or before the date of such purchase the following, each (unless otherwise indicated) dated such date, in form and substance satisfactory to Purchaser:

- (a) A copy of each of the Operative Documents, duly executed by the parties thereto;
- (b) Good standing certificate for Seller issued by the Secretary of State of Delaware;
- (c) A certificate of the Secretary or Assistant Secretary of Seller certifying the names and true signatures of the officers authorized on Seller's behalf to sign this Agreement and the other documents to be delivered by Seller hereunder (on which certificate Purchaser may conclusively rely until such time as Purchaser shall receive from Seller a revised certificate meeting the requirements of this subsection (c));
- (d) Seller's certificate of incorporation, together with a copy of Seller's by-laws, each duly certified by the Secretary or an Assistant Secretary of Seller;
- (e) Acknowledgment copies of proper financing statements (Form UCC-1), filed on or prior to the date of the initial purchase hereunder, with the Secretary of State of New York, naming Seller as the debtor and seller of the Purchaser's Interest and Purchaser, as the secured party, and evidence of the recording of this Agreement and the Intercreditor Agreement with the STB and the Registrar General of Canada, or other, similar instruments or documents, as may be necessary or, in the opinion of Purchaser, desirable under the UCC or any comparable law of all appropriate jurisdictions to perfect Purchaser's Interest;
- (f) An opinion of counsel to Seller as to such matters as Purchaser may request, which Seller expressly instructs such counsel to give; and
- (g) Evidence that the original Lease has been delivered to the Collateral Agent.

3.2. Conditions Precedent to Purchase. Each purchase (including the initial purchase) hereunder shall be subject to the further conditions precedent that on the related Closing Date the following statements shall be true (and Seller by accepting the amount of such purchase shall be deemed to have certified that):

(i) The representations and warranties contained in Section 4.1 are true and correct in all material respects on and as of such day as though made on and as of such day and shall be deemed to have been made on such day,

(ii) Each condition precedent to the related Advance set forth in Section 3 of the Lease has been satisfied,

(iii) No event has occurred and is continuing or would result from such purchase that constitutes a Termination Event, and

(iv) The Loan Commitment Period has not expired.

#### ARTICLE IV

#### REPRESENTATIONS AND WARRANTIES

4.1. Representations and Warranties of Seller. Seller represents and warrants to Purchaser as follows:

(a) Organization and Good Standing. Seller has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Delaware, with power and authority to own its properties and to conduct its business as such properties are presently owned and such business is presently conducted, and has all necessary corporate power to enter into, and perform its obligations under, this Agreement and the other Operative Documents.

(b) Due Qualification. Seller is duly qualified to do business as a foreign corporation in good standing, and has obtained all necessary licenses and approvals, in the State of New York and in all jurisdictions where the failure to preserve and maintain such qualification, licenses or approvals would have a material adverse effect on Seller's ability to perform its obligations under this Agreement or any other Operative Document, on the validity, enforceability, perfection or priority of the Purchaser's Interest, or on the validity, enforceability or collectibility of the Operative Documents or the Lease Receivable (a "Material Adverse Effect").

(c) Power and Authority; Due Authorization. Seller (i) has all necessary corporate power, authority and legal right to (A) execute and deliver this Agreement and the other Operative Documents to be executed and delivered by Seller; (B) perform the terms of the Operative Documents to which it is a party and (C) sell and assign the Purchaser's Interest on the terms and conditions herein provided and (ii) has duly authorized by all necessary corporate action the execution, delivery, and performance of this Agreement and the other Operative Documents and the sale and assignment of the Purchaser's Interest on the terms and conditions herein provided.

(d) Valid Sale; Binding Obligations. This Agreement constitutes a valid sale, transfer and assignment of the Purchaser's Interest to Purchaser, enforceable against creditors of, and purchasers from, Seller; and this Agreement constitutes, and each other Operative Document to be signed by Seller when duly executed and delivered will constitute, a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors rights generally and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) No Violation. The consummation of the transactions contemplated by this Agreement and the other Operative Documents and the fulfillment of the terms hereof and thereof will not (i) conflict with, result in any breach of any of the terms and provisions of, or constitute (with or without notice or lapse of time or both) a default under or a violation of, Seller's certificate of incorporation, or any indenture, loan agreement, mortgage, deed of trust, agreement or instrument for borrowed money or the sale of receivables, lease or any other agreement or security to which Seller is a party or by which it or any of its properties is bound, which conflict, default or violation would have a Material Adverse Effect, (ii) result in the creation or imposition of any Lien upon any of Seller's properties pursuant to the terms of any such indenture, loan agreement, mortgage, deed of trust, other agreement or instrument for borrowed money or the sale of receivables, lease or any other agreement or security, other than this Agreement and the Intercreditor Agreement, or (iii) violate any law, rule, regulation or order applicable to Seller of any court or of any federal or state regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over Seller or any of its properties, which violation would have a Material Adverse Effect.

(f) No Proceedings. There are no proceedings or investigations pending or, to the best of Seller's knowledge, threatened against Seller before any court, regulatory body, administrative agency, or other tribunal or governmental instrumentality (i) asserting the invalidity of this Agreement or any other Operative Document, (ii) seeking to prevent the sale and assignment of the Purchaser's Interest, or the consummation of any of the other transactions contemplated by this Agreement or any other Operative Document, or (iii) that have resulted or are reasonably likely to result in a Material Adverse Effect.

(g) Government Approvals. No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by Seller of this Agreement or any other Operative Document, except for the filing of the UCC financing statements and other documents referred to in Article III, all of which, at the time required in Article III, shall have been duly made and shall be in full force and effect.

(h) Margin Regulations. The use of all funds obtained by Seller under this Agreement will not conflict with or contravene any of Regulations G, T, U and X promulgated by the Board of Governors of the Federal Reserve System from time to time.

(i) Quality of Title. The Lease Receivable, together with the Lease and all other Operative Documents related to such Lease Receivable, is, prior to the transfer to Purchaser hereunder, owned by Seller free and clear of any Lien; when Purchaser makes each purchase hereunder it shall have acquired a valid and perfected first priority interest in the Purchaser's Interest, free and clear of any Lien (other than any Lien arising solely as the result of any action taken by Purchaser or any assignee thereof); and no effective financing statement or other instrument similar in effect covering the Purchaser's Interest, or any portion thereof, is on file in any recording office except such as may be filed in favor of Purchaser in accordance with this Agreement or in connection with any Lien arising solely as the result of any action taken by Purchaser or any assignee thereof.

(j) Offices. The chief place of business and chief executive office of Seller are located at the address of Seller referred to in Section 8.2.

(k) Solvency. After giving effect to each purchase hereunder, Seller is solvent.

(l) Investment Company Act; Public Utility Holding Company Act. Seller is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended. Seller is not a "holding company," or a "subsidiary company" of a "holding company," or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company" within the meaning of the Public Utility Holding Company Act of 1935, as amended.

## ARTICLE V

### GENERAL COVENANTS

5.1. Affirmative Covenants of Seller. From the date hereof until the date after the termination of Purchaser's commitment hereunder on which Purchaser and its assignees have received the portion of each Lease Investment Balance equal to the Guaranteed Residual Value, all Rent due to any of them and all other amounts due to Purchaser hereunder (the "End Date"), unless Purchaser shall otherwise consent in writing:

(a) Keeping of Records and Books of Account. Seller will maintain and implement administrative and operating procedures, and keep and maintain, all documents, books, records and other information reasonably necessary or advisable for the collection of the Lease Receivable (including, without limitation, records adequate to permit the identification of all payments of and adjustments to the Lease Receivable).

(b) Performance and Compliance with Contracts. Seller will, at its expense, timely and fully perform and comply with all provisions, covenants and other promises required to be observed by it under the Lease and the other Operative Documents.

(c) Location of Records. Seller will keep its chief place of business and chief executive office, and the offices where it keeps its records concerning the Lease Receivable and all Operative Documents (and all original documents relating thereto), at the address of Seller referred to in Section 4.1(j) or, upon 30 days' prior notice to Purchaser, at such other locations in jurisdictions where all action necessary to maintain the priority and perfection of Purchaser in the Purchaser's Interest shall have been taken and completed.

(d) Payments. Seller shall direct the Lessee to make all payments under the Lease of Base Rent, Guaranteed Residual Value and Lease Investment Balance to the Collateral Agent in the manner required by the Lease, which payments shall be distributed pursuant to the Intercreditor Agreement. To the extent that Seller receives any payments directly from the Lessee of Base Rent, Guaranteed Residual Value and Lease Investment Balance or any other payments with respect to, or proceeds of, the Purchaser's Interest or any Leased Property, Seller shall turn such payment over to the Collateral Agent on the Business Day of receipt for distribution pursuant to the Intercreditor Agreement.

(e) Further Assurances. Seller will from time to time, at its expense, promptly execute and deliver all further instruments and documents, and take all further action that Purchaser may reasonably request in order to perfect, protect or more fully evidence the purchases hereunder of Purchaser's Interest, or to enable Purchaser to exercise or enforce any of its rights hereunder or under the other Operative Documents. Without limiting the generality of the foregoing, Seller will (i) upon the request of Purchaser, execute and file such financing or continuation statements, or amendments thereto or assignments thereof, and such other instruments or notices, as may be necessary or appropriate and (ii) mark its books and records evidencing the Lease Receivable with a legend to the effect that such Lease Receivable has been sold in accordance with this Agreement.

5.2. Reporting Requirements of Seller. From the date hereof until the End Date, Seller will, unless Purchaser shall otherwise consent in writing, furnish to Purchaser:

(a) Promptly following receipt or delivery, copies of all financial statements, notices, certificates and reports delivered to or by Seller under the Lease or the other Operative Documents;

(b) On or before the last day of each month, a report setting forth the outstanding Advances and the allocation thereof to CP Tranches, Base Rate Tranches and Eurodollar Tranches as of the fifteenth day of such month; and

(c) Such additional information as Purchaser may reasonably request concerning Seller, the Lessee or the Leased Property.

5.3. Negative Covenants of Seller. From the date hereof until the End Date, without the prior written consent of Purchaser:

(a) Sales, Liens, Etc. Seller will not, except as otherwise provided herein, sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Lien upon or with respect to, the Purchaser's Interest, or any part thereof, or assign any right to receive income from or in respect of any of the foregoing, except pursuant to this Agreement and the Intercreditor Agreement.

(b) Extension or Amendment of Lease. Seller will not extend, amend or otherwise modify the terms of the Lease Receivable, or amend, modify or waive any term or condition of, or exercise any remedy under, any Operative Document, except as set forth in the Intercreditor Agreement.

(c) Inconsistent Agreements. Seller will not enter into any contract, agreement or other arrangement that would prohibit Seller from transferring the Purchaser's Interest pursuant hereto or otherwise prohibit Seller from performing its obligations under any Operative Document.

## ARTICLE VI

### TERMINATION EVENTS

6.1. Termination Events. Each of the following events shall be a "Termination Event" hereunder:

(a) Seller shall fail to make any payment or deposit to be made by it hereunder or under the Intercreditor Agreement when due, and such failure continues for five Business Days; or

(b) Any representation or warranty made or deemed to be made by Seller under or in connection with this Agreement or other information or report delivered pursuant hereto shall prove to have been false or incorrect in any material respect when made and shall not be remedied for 30 days after written notice thereof shall have been given by Purchaser to Seller; or

(c) Seller shall fail to perform or observe any other term, covenant or agreement contained in this Agreement on its part to be performed or observed and any such failure shall remain unremedied for 30 days after written notice thereof shall have been given by Purchaser to Seller; or

(d) A case or other proceeding shall be commenced, without the application or consent of Seller, in any court, seeking the liquidation, reorganization, debt arrangement, dissolution, winding up, or composition or readjustment of debts of Seller, the appointment of a trustee, receiver, custodian, liquidator, assignee, sequestrator or the like for Seller or all or substantially all of its assets, or any similar action with respect to Seller under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of sixty (60) consecutive days; or an

order for relief in respect of Seller shall be entered in an involuntary case under the federal bankruptcy laws or other similar laws now or hereafter in effect; or

(e) Seller shall commence a voluntary case or other proceeding under any applicable bankruptcy, insolvency, reorganization, debt arrangement, dissolution or other similar law now or hereafter in effect, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) for, Seller or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall be adjudicated insolvent; or

(f) An Event of Default shall have occurred and is continuing.

#### 6.2. Remedies.

(a) Optional Termination. Upon the occurrence and during the continuance of a Termination Event (other than a Termination Event described in subsection (d) or (e) of Section 6.1), Purchaser may, by notice to Seller, declare a Termination Event to have occurred.

(b) Automatic Termination. Upon the occurrence and during the continuance of a Termination Event described in subsection (d) or (e) of Section 6.1, a Termination Event shall be deemed to have occurred automatically upon the occurrence of such event.

(c) Remedies. Upon any Termination Event pursuant to this Section 6.2, Purchaser shall have no further obligation to make purchases hereunder and shall have, in addition to all other rights and remedies under this Agreement or otherwise, all other rights and remedies provided under the UCC of each applicable jurisdiction and other applicable laws, which rights shall be cumulative. Without limiting the foregoing, the occurrence of a Termination Event shall not deny to Purchaser any remedy to which Purchaser may be otherwise appropriately entitled, whether at law or in equity.

## ARTICLE VII

### ASSIGNMENT OF INTERESTS

7.1. Restrictions on Assignments. Seller may not assign its rights or obligations hereunder without the prior written consent of Purchaser. Seller acknowledges that Purchaser has assigned its rights and interests hereunder to the Collateral Agent pursuant to the Intercreditor Agreement, and hereby consents to such assignment. Except pursuant to the foregoing sentence and as contemplated or permitted by the Intercreditor Agreement, Purchaser may not assign its rights or obligations hereunder without the prior written consent of Seller, which consent shall not be unreasonably withheld.

Notwithstanding anything to the contrary in this Agreement, there shall never be more than five total Lessors, Receivable Purchasers, Lenders and Liquidity Providers (not including Sumitomo Bank or any of its Affiliates) and any sale or assignment pursuant to the preceding paragraph shall be for not less than \$5,000,000 of the Aggregate Lease Investment Balance.

7.2. Rights of Assignee. Upon the assignment by Purchaser of all or any portion of Purchaser's Interests pursuant to this Article VII, the respective assignee receiving such assignment shall have all of the rights of Purchaser hereunder with respect to the Purchaser's Interests or the portion thereof so assigned, as the case may be.

ARTICLE VIII

MISCELLANEOUS

8.1. Amendments, Etc.

(a) No amendment or waiver of any provision of this Agreement nor consent to any departure by Seller or Purchaser therefrom shall in any event be effective unless the same shall be in writing and signed by (i) Seller and Purchaser (with respect to an amendment) or (ii) Purchaser (with respect to a waiver or consent by it) or Seller (with respect to a waiver or consent by it), as the case may be. Each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Notwithstanding anything to the contrary in this Agreement, no provision of this Agreement may, without the prior written consent of the Lessee, be amended, waived, discharged, terminated or otherwise varied if such amendment, waiver, discharge, termination or other variation would materially adversely affect, alter or change the rights and privileges of the Lessee under this Agreement.

(b) No recourse under any obligation, covenant or agreement of Purchaser contained in this Agreement shall be had against J H Management Corporation ("JHM") or any incorporator, stockholder, officer, director or employee of Purchaser or JHM, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement is solely a corporate obligation of Purchaser, and that no personal liability whatsoever shall attach to or be incurred by the incorporators, stockholders, officers, directors or employees of Purchaser or JHM, or any of them under or by reason of any of the obligations, covenants or agreements of Purchaser contained in this Agreement, or implied therefrom, and that any and all personal liability for breaches by Purchaser of any such obligations, covenants or agreements either at common law or at equity, or by statute or constitution, of JHM and every such incorporator, stockholder, officer, director or employee is hereby expressly waived as a condition of and in consideration for the execution of this Agreement.

8.2. Notices, Etc. All notices and other communications provided for hereunder shall, unless otherwise stated herein, be in writing (including facsimile communication) and shall be

personally delivered or sent by United States certified mail, postage prepaid, or overnight courier or by facsimile, to the intended party at the address or facsimile number of such party set forth opposite its name on Schedule I hereto or at such other address or facsimile number as shall be designated by such party in a notice to the other parties hereto as herein provided. All such notices and communications shall be effective, (i) if personally delivered, when received, (ii) if sent by certified mail, three Business Days after having been deposited in the United States mail, postage prepaid, (iii) if sent by overnight courier, one Business Day after having been sent, and (iv) if transmitted by facsimile during business hours on a Business Day, when sent, receipt confirmed by telephone or electronic means (and if sent after hours or on a day other than a Business Day, on the next Business Day).

8.3. No Waiver; Remedies. No failure on the part of Purchaser or any other holder of the Purchaser's Interest or any portion thereof to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

8.4. Binding Effect; Survival. This Agreement shall be binding upon and inure to the benefit of Seller, Purchaser and their respective successors and assigns; provided, however, nothing in the foregoing shall be deemed to authorize any assignment not permitted by Section 7.1. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms, and shall remain in full force and effect until the End Date.

8.5. Integration. This Agreement, together with the other Operative Documents, contains a final and complete integration of all prior expressions by the parties hereto with respect to the subject matter hereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof, superseding all prior oral or written understandings.

8.6. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK.

8.7. Costs and Expenses. Seller agrees to pay on demand all costs and expenses of Purchaser in connection with the enforcement of this Agreement or the other Operative Documents against Seller or any breach by Seller of this Agreement or any other Operative Document, including, without limitation, the reasonable fees and expenses of counsel, incurred by Purchaser in connection with such enforcement or breach.

8.8. Captions and Cross References. The various captions (including, without limitation, the table of contents) in this Agreement are provided solely for convenience of reference and shall not affect the meaning or interpretation of any provision of this Agreement. References in this Agreement to any underscored Section, Schedule or Exhibit are to such Section or Exhibit of this Agreement, as the case may be.

8.9. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

8.10. WAIVER OF JURY TRIAL. SELLER AND PURCHASER HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT, ANY OTHER OPERATIVE DOCUMENT OR UNDER ANY AMENDMENT, INSTRUMENT OR DOCUMENT DELIVERED OR WHICH MAY BE IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER OPERATIVE DOCUMENT AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT A JURY TRIAL.

8.11. No Proceedings. Seller hereby agrees that it will not institute against Purchaser, or join any other Person in instituting against Purchaser, any insolvency proceeding (namely, any proceeding of the type referred to in Section 6.1(d) or (e)).

8.12. Beneficiary. The parties hereto agree and acknowledge that the agreements and covenants contained in this Agreement which expressly grant rights to the Lessee are intended for the direct and irrevocable benefit of the Lessee and that the Lessee, although not a party to this Agreement, shall be and is a direct and irrevocable third-party beneficiary of such agreements and covenants and will have the right to enforce such agreements and covenants against the parties hereto, as the case may be, in all respects fully and to the same extent as if such Lessee were a party hereto.

IN WITNESS WHEREOF, the parties have caused this Lease Receivable Purchase Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

SUMITOMO BANK LEASING AND FINANCE, INC.  
as Agent and Seller

By: \_\_\_\_\_

Name: **William M. Ginn**  
Title: **President**

ECLP FUNDING CORP.  
as Purchaser

By: \_\_\_\_\_

Name:  
Title:



IN WITNESS WHEREOF, the parties have caused this Lease Receivable Purchase Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

SUMITOMO BANK LEASING AND FINANCE, INC.  
as Agent and Seller

By: \_\_\_\_\_  
Name:  
Title:

ECLP FUNDING CORP.  
as Purchaser

By: *Dolores A. Bitar*  
Name: DOLORES A. BITAR  
Title: Vice President

SCHEDULE 2.1

Equipment Description

<u>Type</u>	<u>Quantity</u>	<u>Car Numbers</u>
6011 CF Aluminum Covered Hopper Car	125	QCCX 1000-1124
5851 CF Steel Covered Hopper Car	532	QCCX 2000-2531

SCHEDULE 8.2

Notice Information

ECLP Funding Corp.  
One International Plaza  
Boston, Massachusetts 02110  
Facsimile No.: 617/951-7050  
Telephone No.: 617/951-7000  
Attention: Tiffany Percival

Sumitomo Bank Leasing and Finance, Inc.  
277 Park Avenue  
New York, New York 10172  
Attention: Chief Credit Officer  
Facsimile No.: (212) 224-5222  
Telephone No.: (212) 224-5200

**ACKNOWLEDGEMENT**

I, Carl J. Morales, certify that I am the Assistant Vice Pres. of Sumitomo Bank Leasing and Finance, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act of and deed of the corporation. I further declare under penalty of perjury that the foregoing is true and correct. Executed on December 3, 1997.



Name: Carl J. Morales

Title: Assistant Vice President

ALL-PURPOSE ACKNOWLEDGMENT

State of New York )  
County of Queens )

On December 3, 1997 before me, Jeannette Carmona, Notary Public  
Date Name, Title of Officer, e.g., "Jane Doe,"  
Notary Public

personally appeared Carl J. Morales

- personally known to me - OR -
- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.  
Jeannette Carmona  
Signature of Notary

**JEANNETTE CARMONA**  
Notary Public, State of New York  
No 01CA5072806  
Qualified in Queens County  
Commission Expires Feb. 10, 1999

CAPACITY CLAIMED BY SIGNER:

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)

- INDIVIDUAL(S)
- CORPORATE OFFICER(S)  
Assistant Vice President  
TITLE  
\_\_\_\_\_  
TITLE
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- SUBSCRIBING WITNESS
- GUARDIAN/CONSERVATOR
- OTHER \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Switomo Bank Leasing & Finance, Inc.

