

TRADEMARK LICENSE AGREEMENT

Agreement made this 14th day of July, 1981, between Borg-Warner Corporation, a Delaware corporation, (hereinafter referred to as "Borg-Warner") and The Echlin Manufacturing Company, a Connecticut corporation, (hereinafter referred to as "Echlin");

W I T N E S S E T H:

WHEREAS, Borg-Warner and Echlin have entered into an Agreement for Sale of Assets, dated as of February 28, 1981; and

WHEREAS, Borg-Warner has agreed to grant to Echlin a license to use certain Borg-Warner Trademarks (as defined in Section 1) on, and in connection with the marketing and sale of, Automotive Products (as defined in Section 1) in the Automotive Aftermarket (as defined in Section 1).

NOW THEREFORE, the parties hereto do hereby agree as follows:

SECTION 1 DEFINITIONS

1.1 Automotive Products The term "Automotive Products", as used in this Agreement, means parts, assemblies and components used in, or designed for use in, passenger cars, vans, light and heavy duty trucks, trailers, fork trucks, off-highway motive equipment, tractors and other agricultural vehicles: (1) within the product lines heretofore manufactured and/or sold by Borg-Warner's Ballwin/Washington and Ottawa Divisions; (2) within the product lines heretofore manufactured or sold by Echlin, but only as set forth in Schedule A; (3) within the product lines heretofore sold

by Borg-Warner's Automotive Parts Division (APD) and Borg-Warner's Automotive Parts Division International (APDI), and then only to the extent that such parts, assemblies and components are: (a) manufactured by Borg-Warner or (b) manufactured by suppliers which are currently approved sources for APD and/or APDI, and in all such cases manufactured to the quality standards set forth in Paragraph 4.1 herein; and (4) such additional parts, assemblies and components, other than those described in subparagraphs (1), (2) and (3) above, as approved in writing by Borg-Warner, which approval will not be unreasonably withheld.

1.2 Automotive Aftermarket The term "Automotive Aftermarket", as used in this Agreement, means the class of customers constituted by warehouse distributors, fleet specialist distributors, jobbers and others performing the same marketing functions, and also rebuilders.

1.3 Borg-Warner Trademarks The term "Borg-Warner Trademarks", as used in this Agreement, means the trademarks and trade dress listed in Schedule B of this Agreement, and no others.

1.4 Borg-Warner Unit The term "Borg-Warner Unit", as used in this Agreement, means an operating unit owned or controlled by Borg-Warner, including divisions, subsidiaries, subsidiaries and divisions of subsidiaries, affiliated companies, joint ventures or partnerships, whether in existence at Closing or created after Closing.

1.5 Closing The term "Closing", as used in this Agreement, means the Closing Date as defined in the Agreement for Sale of Assets.

1.6 Primary Territory The term "Primary Territory", as used in this Agreement, means the United States and Canada.

1.7 Secondary Territory The term "Secondary Territory", as used in this Agreement, means all other countries of the world.

SECTION 2 GRANT

2.1 For the term of this Agreement, and subject to faithful performance of the terms hereof by Echlin, Borg-Warner grants to Echlin:

- (a) an exclusive right and license, subject to Paragraphs 2.2 and 3.1 herein, to use the Borg-Warner Trademarks on, and in connection with the marketing and sale of, Automotive Products in the Automotive Aftermarket in the Primary Territory;
- (b) a non-exclusive right and license, subject to Paragraph 2.2 herein, to use the Borg-Warner Trademarks on, and in connection with the marketing and sale of, Automotive Products in the Automotive Aftermarket in the Secondary Territory, except that in the case of Chile, Ecuador, Peru,

Bolivia, Brazil, Colombia and Venezuela such right and license shall be limited to Automotive Products other than clutches and clutch parts and in respect to Mexico, Australia and New Zealand, such right and license shall be limited to Automotive Products being supplied to such countries by APDI as of Closing.

2.2 Notwithstanding the grant of the rights and licenses in Paragraph 2.1 herein, Echlin shall not have the right to use the Borg-Warner Trademarks on Automotive Products purchased from a third party which is not a Borg-Warner Unit if a Borg-Warner Unit (other than Borg-Warner's Ballwin/ Washington and Ottawa Divisions) was engaged in the manufacture of such Automotive Product as of the date of this Agreement and a Borg-Warner Unit is, at the time an order for such Automotive Product is placed, engaged in the manufacture of such Automotive Product; provided, however, that nothing in this Agreement shall be construed as requiring Echlin to purchase any product or service whatsoever from a Borg-Warner Unit; and provided further that Echlin shall have the right to use the Borg-Warner Trademarks on such Automotive Products manufactured by a Borg-Warner Unit if such Borg-Warner Unit is unable to deliver such Automotive Products for a period of more than thirty (30) days because of force majeure conditions or other forces beyond the control of Borg-Warner, including but not limited to strikes, wars, insurrection, floods, fires, Acts of God and governmental action, and such right shall continue until Borg-Warner is able to resume deliveries of such Automotive Products.

2.3 No other rights or licenses, express or implied, are granted under this Agreement.

SECTION 3 EXCEPTION TO EXCLUSIVE GRANT

3.1 Notwithstanding the grant of the exclusive right and license to Echlin under Paragraph 2.1(a), Borg-Warner shall have the right to:

(a) continue the use of the Borg-Warner Trademarks on, and in connection with the marketing and sale of, Automotive Products at all levels of distribution to existing customers (other than customers of Ballwin/Washington and Ottawa Divisions, APD and APDI), or their successors in the business operation, who were purchasing Automotive Products using one or more of the Borg-Warner Trademarks from a Borg-Warner Unit at or prior to Closing. This provision shall not apply to new Automotive Products unless they were under substantial development for market introduction by a Borg-Warner Unit prior to Closing or are Automotive Products which are substantially the same or within the same product lines as those sold prior to Closing.

(b) continue the use of the Borg-Warner Trademarks on, and in connection with the marketing and sale of, all products and services (including Automotive Products in the Automotive After-market) in the Commonwealth of Puerto Rico, unless Echlin acquires B-W Automotive of Puerto Rico, Inc.

- (c) continue the use of the Borg-Warner Trademarks on Automotive Products provided such use is for the purpose of manufacturer identification in respect to Automotive Products sold in bulk or packaged without the use of a Borg-Warner Trademark. For example, nothing in this Agreement shall require Borg-Warner to remove a Borg-Warner Trademark stamped or cast on a part supplied in bulk to an original equipment manufacturer for service parts or otherwise, or supplied to the Automotive Aftermarket in a package which does not contain any indicia indicating that the part was manufactured and/or sold by Borg-Warner.

SECTION 4 - QUALITY CONTROL AND TRADEMARK USAGE

4.1 All goods, labeling, advertising and promotional materials manufactured, distributed or used by Echlin pursuant to this Agreement shall strictly comply with at least the quality standards followed at Closing by Borg-Warner or presently required of suppliers to APD and APDI, or in accordance with quality standards acceptable by Borg-Warner as agreed to in writing between Borg-Warner and Echlin from time to time. Borg-Warner shall have final authority and responsibility for the establishment of all such quality standards, which authority and responsibility will not be unreasonably exercised.

4.2 If any new product lines are to be offered for sale pursuant to Paragraph 1.1(4), Echlin shall refrain from

using Borg-Warner Trademarks thereon until: (a) representative samples of products within such product lines are inspected and evaluated by Borg-Warner, which inspection and evaluation shall be promptly made by Borg-Warner and (b) written approval of Borg-Warner is obtained by Echlin, which written approval shall not be unreasonably delayed or withheld.

4.3 Echlin shall, upon request of Borg-Warner, submit, without charge, a reasonable number of samples of Automotive Products as manufactured and/or proposed to be marketed under the Borg-Warner Trademarks and shall, at all reasonable times, permit Borg-Warner or its authorized agent to examine the finished Automotive Products manufactured by or for Echlin (except for Automotive Products supplied by a Borg-Warner Unit) and all quality control test data pertaining thereto, in order that Borg-Warner may determine whether such Automotive Products conform to the quality standards established by Borg-Warner.

4.4 The manner in which the Borg-Warner Trademarks are used by Echlin in any way upon or in other relation to Automotive Products is subject to approval by Borg-Warner, and Echlin shall submit without charge to Borg-Warner for written approval prior to use all packages, labels, displays, literature, advertisements or other advertising or promotional materials on which the Borg-Warner Trademarks are used, and, if not approved, shall amend any such materials to the extent required for such approval before such materials are used. The approval contemplated by Borg-Warner herein shall not be unreasonably delayed or withheld.

4.5 Echlin shall comply with all applicable laws and regulations of the jurisdictions, including local and regional, within which Borg-Warner Trademarks may be used pursuant to this Agreement.

4.6 Echlin shall make available upon Borg-Warner's request all documentation within its custody and control relating to Automotive Products bearing Borg-Warner Trademarks and respecting product complaints, product disapprovals, product rejections or product recalls, and all actions taken with respect thereto.

4.7 In the event that the nature or quality of the goods, or advertising, labeling or other advertising and promotional materials being offered or distributed by Echlin are reasonably determined by Borg-Warner not to comply with the standards or other limitations established pursuant to this Agreement, Borg-Warner shall notify Echlin in writing specifically designating the alleged non-compliance. Echlin shall then cure any such non-compliance as soon as possible and, in any event, not more than sixty (60) days from the date of Borg-Warner's notification.

4.8 As examples of Echlin's responsibilities to properly use each of the Borg-Warner Trademarks, when used, Echlin undertakes:

- (a) To use each said Borg-Warner Trademark only as a trademark.
- (b) Where applicable, to indicate by appropriate notice, such as ®, that each said Borg-Warner Trademark is registered.

- (c) To give reasonable indication that each said Borg-Warner Trademark is the property of Borg-Warner.
- (d) To give reasonable indication that each said Borg-Warner Trademark is used under license or by the authority and under control of Borg-Warner; and
- (e) Not to do or, if within the control of Echlin, permit to be done, any act which will impair the rights of Borg-Warner in and to any of the Borg-Warner Trademarks or the reputation or good will of Borg-Warner.

4.9 Echlin will not use any of the Borg-Warner Trademarks with one or more other trademarks of Echlin or any other trademark, other than the trademarks assigned to Echlin in the Agreement for Sale of Assets, unless prior written consent is obtained from Borg-Warner.

SECTION 5 - OWNERSHIP AND MAINTENANCE OF BORG-WARNER TRADEMARKS

5.1 Echlin acknowledges that the Borg-Warner Trademarks and derivatives thereof and all registrations therefor recorded in Borg-Warner's name are valid and are the property of Borg-Warner, and that all use by Echlin of the Borg-Warner Trademarks shall inure to the benefit of Borg-Warner, and Echlin shall not represent or claim that it has any right, title or interest in said trademarks, or any registrations or applications thereof, other than those

rights granted herein; and Echlin further agrees never to contest, either directly or indirectly, the validity of Borg-Warner's rights in the Borg-Warner Trademarks or any registrations thereof, or to aid any other person, firm or corporation to infringe or contest such rights. Should Echlin develop, adopt or acquire, directly or indirectly, any right, title or interest in or to any of the Borg-Warner Trademarks, other of Borg-Warner's names or trademarks for identifying Automotive Products, any trade dress used in connection with said names or marks, or any good will developed in connection with same, Echlin shall hold such right as trustee for Borg-Warner subject to all of the above restrictions and shall not assign, license or otherwise dispose of said name or mark to any third party and, for a nominal consideration of ONE UNITED STATES DOLLAR (U.S. \$1.00), and upon request or demand by Borg-Warner, Echlin shall assign to Borg-Warner all right, title and interest in said name, mark or trade dress, together with the good will in connection with which said name, mark or trade dress is used.

5.2 Echlin shall, from time to time during the life of this Agreement, upon request of Borg-Warner, sign any papers or documents that Borg-Warner deems necessary or desirable to continue the rights granted by this Agreement in conformity with the laws of those jurisdictions in which Echlin may use said Trademarks, including whatever documents may be necessary to record Echlin as user of said Trademarks. All out-of-pocket expenses attributable to the registration, recording and processing of registered user or similar agreements shall be paid by Echlin.

5.3 Echlin shall comply with the trademark laws of all jurisdictions, including local or regional, in which Echlin is allowed by this Agreement to use the Borg-Warner Trademarks, with respect to the use of the Trademarks, and shall do whatever may be necessary in cooperation with Borg-Warner to preserve and maintain the rights and interests of Borg-Warner in the Borg-Warner Trademarks.

5.4 If Echlin shall become aware of any infringement or acts of unfair competition relating to the Borg-Warner Trademarks, Echlin shall promptly inform Borg-Warner thereof and shall cooperate when requested by Borg-Warner in any action against such acts of infringement or unfair competition. Borg-Warner shall have sole discretion in deciding what actions, if any, should be taken with regard to such acts of infringement or unfair competition. Borg-Warner shall determine which party shall make objections to any acts of infringement or unfair competition and to answer objections, if any, to the use by Echlin of the Borg-Warner Trademarks. All objections and legal proceedings respecting the Borg-Warner Trademarks or any acts of infringement or unfair competition relating thereto shall be under the direction and control of Borg-Warner. Legal fees and other expenses incurred shall be paid by Borg-Warner or in a manner otherwise agreed to in writing by the parties, and all recoveries of monies shall be the property of Borg-Warner unless otherwise agreed to in writing by the parties.

Section 6 - INDEMNIFICATION

6.1 Notwithstanding any other provisions contained in this Agreement, it is understood and agreed that Borg-Warner

shall not be liable for any defects in material or workmanship respecting Automotive Products manufactured by or for Echlin, or for any warranty respecting any Automotive Products manufactured by or for Echlin pursuant to this Agreement, and Echlin shall indemnify and save Borg-Warner harmless from any and all losses, liabilities, demands, expenses (including reasonable attorneys's fees), and claims of any character whatsoever which shall or may arise out of any activities of Echlin carried out pursuant to the terms of this Agreement, except as to claims contesting Echlin's right to use the Borg-Warner Trademarks; provided, however, that this Section shall not apply to claims arising out of products manufactured by Borg-Warner.

Section 7 - ASSIGNMENT

7.1 Echlin may not assign or otherwise transfer the rights granted to it under this Agreement without first receiving the prior written consent of Borg-Warner, but subject to this restriction, this Agreement shall be binding upon the parties, their successors and assigns.

SECTION 8 - TERM AND TERMINATION

8.1 The term of this Agreement shall be for fifteen (15) years and shall continue in force until terminated by either party giving the other party five (5) years prior written notice of termination, in accordance with paragraph 11.3 herein. Such notice may be given by either party at any time after the end of the tenth year of the 15 year term, to be effective five (5) years after it has been given.

8.2 During the five (5) year period after notice of termination has been served, Borg-Warner will cooperate with Echlin to assure an orderly transition of product designation while Echlin phases out the use of the Borg-Warner Trademarks, provided that the provisions of Paragraph 4.9 will not be affected.

8.3 This Agreement:

- (a) may be terminated forthwith at any time by mutual agreement between the parties;
- (b) may be terminated forthwith at any time by Borg-Warner in the event that Echlin commits a breach of any of the conditions or restrictions contained in this Agreement and does not remedy this breach within forty-five days after notice from Borg-Warner to Echlin in the manner provided for in Paragraph 11.3;
- (c) may be terminated forthwith if Borg-Warner has reasonable grounds to believe that Echlin is about:
 - (i) to cease doing business;
 - (ii) to enter, or enters into:
 - (a) voluntary or involuntary bankruptcy, and/or
 - (b) receivership, and/or
 - (c) a composition with creditors, and/or liquidation;
- (d) may be terminated forthwith by Borg-Warner if any government or agency thereof prohibits the performance of all or a substantial part of the obligations of either party hereto; and

(e) may be terminated forthwith by Borg-Warner if Echlin's assets, business, or a controlling number of its shares are confiscated, expropriated, seized, intervened or placed under trusteeship or similar control of any government, or agency or person acting or purporting to act under any governmental authority, or if Echlin is required to divest itself of the Automotive Aftermarket Operations, acquired by Echlin under the Agreement for Sale of Assets.

8.4 Immediately upon termination of this Agreement if terminated under Paragraph 8.3, or at the end of the phase-out period provided for in Paragraph 8.2 if terminated in accordance with Paragraph 8.1, Echlin shall immediately cease the use of all of Borg-Warner's names, trademarks, and trade dress including but not limited to the Borg-Warner Trademarks referred to in Schedule B or any near resemblance thereto as might deceive purchasers or prospective purchasers. Further, Echlin agrees, now and in the future, not to register or adopt any names, trademarks and trade dress similar to any of Borg-Warner's names, trademarks and trade dress. The term "Borg-Warner" as used in this Section includes Borg-Warner Corporation, its several divisions, subsidiaries and affiliated companies. The phrase "names, trademarks and trade dress", as used in this Section, includes corporate and trade names, trademarks, service marks symbols, designations, indicia, slogans, and other means of identifying products or services of Borg-Warner. Without limiting the foregoing, Echlin

agrees not to use the words "Borg" or "Warner" or the "X" logo displayed in Schedule B, or any combination thereof, either alone or with any other word or words as part of its corporate or trade name, nor to use the name or trademarks of any Borg-Warner division or subsidiary as part of its corporate name without having first obtained specific approval thereof in writing from Borg-Warner.

SECTION 9 - PAYMENTS

9.1 Royalty Payments Upon Closing, and on each anniversary thereafter as long as this Agreement is in effect, Echlin shall pay Borg-Warner a royalty in the amount of \$ 10,000.00.

9.2 Late Payment Interest at the then current commercial paper rate paid by Echlin shall be paid from the due date until the date of actual payment on all amounts past due under this Section.

SECTION 10 - WAIVER AND DEFENSES

10.1 None of the terms of this Agreement shall be deemed to be waived or modified except by an express agreement in writing signed by a person authorized to that effect by the party against whom enforcement of such waiver or modification is sought. This Agreement constitutes the entire Agreement between Borg-Warner and Echlin with respect to the Borg-Warner Trademarks and supersedes all prior arrangements or understandings with respect thereto. The failure or delay of a party hereto to assert or enforce any of its

rights under this Agreement shall not constitute a continuing waiver or modification by such party of any of its rights under this Agreement, and any prior failure or delay to assert or enforce any rights under this Agreement shall not constitute a defense to any claim or a right arising under this Agreement.

SECTION 11 - MISCELLANEOUS

11.1 Descriptive Headings Descriptive Section and Paragraph headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

11.2 Counterparts For the convenience of the parties, any number of counterparts of this Agreement may be executed by one or more parties hereto and each such executed counterpart shall be, and shall be deemed to be, an original instrument.

11.3 Notices All notices, consents, requests, instructions, approvals and other communications provided for herein and all legal process in regard hereto shall be validly given, made or served, if in writing and delivered personally, by telex (except for legal process) or sent by registered mail, postage prepaid, if to:

Borg-Warner:
Borg-Warner Corporation
200 South Michigan Avenue
Chicago, Illinois 60604
Attention: General Patent Counsel
Telex No. 25-3450

Echlin:
The Echlin Manufacturing Company
175 North Branford Road
Branford, Connecticut 06405
Attention: General Counsel
Telex No. 963519

or to such other address and telex number as any party hereto may, from time to time, designate in a written notice given in like manner. Notice given by telex shall be deemed delivered on the day the sender receives a telex confirmation that such notice was received at the telex number of the addressee. Notice given by mail as set out above shall be deemed delivered three days after the date the same is postmarked.

11.4 Law Applicable This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, Borg-Warner and Echlin have caused this Agreement to be duly executed in their respective corporate names by their respective officers, each of whom is duly and validly authorized and empowered, and their respective corporate seal to be affixed hereunto and attested by their respective Secretaries, all as of the day and year first above written.

BORG-WARNER CORPORATION

Samuel E. Mawdsley
VICE PRESIDENT

ATTEST:

Charles W. [Signature]
[Signature]
[Signature]

THE ECHLIN MANUFACTURING COMPANY

ATTEST:

[Signature]
Secretary

[Signature]
SECRETARY

SCHEDULE A

Hydraulic Brake Products, including:

- Wheel Cylinders
- Master Cylinders
- Disc Brake Rotors
- Disc Brake Calipers
- Brake Drums
- Brake Hardware
- Brake Hose Assemblies

Air Brake and Heavy Duty Electrical Products, including:

- Slack Adjusters
- Spring Brakes
- Air Valves
- Air Hose Assemblies
- Air Couplings
- Wheel Seals
- Trailer Connectors
- Junction Boxes
- Cable Assemblies
- Alternators
- Starter Motors

Ignition Wire and Cable Products, including:

- Ignition Wire Sets
- Battery Cables
- Jumper Cables

Automotive Diagnostic and Testing Equipment

SCHEDULE B

TRADE MARKS

BORG-WARNER & "X" Design:



"X" Design:



TRADE DRESS



SHURHIT



Borg-Warner Automotive Parts