

EUROMEDIC UNITED KINGDOM LIMITED

MEMORANDUM  
AND ARTICLES  
OF ASSOCIATION

The Companies Act 2006

Incorporated on 17th April 2008

Company Number 06569624

Greyfnars Court  
Paradise Square  
Oxford  
Oxfordshire  
OX1 1BE  
England

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COMPANIES HOUSE

THE COMPANIES ACTS 1985, 1989 AND 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES of ASSOCIATION

OF

EUROMEDIC UNITED KINGDOM LIMITED (FORMERLY CALLED DEREHAMBAY LIMITED)

AMENDED BY SPECIAL RESOLUTION PASSED ON 1st January 2014

## **1 DEFINITIONS AND INTERPRETATION**

1.1 The following words and expressions shall bear the following meanings in these Articles

**"Act"** means the Companies Act 1985,

**"A" Ordinary Shareholder** means a person entered in the register of members of the Company as the holder from time to time of an "A" Ordinary Share,

**"A" Ordinary Shares** has the meaning set out in Article 3,

**"Asset Sale"** means a sale by EIHBV or any Group Holding Company (or any other member of the Group) on bona fide arms' length terms of all, or substantially all, of the Group's business assets and undertaking (other than pursuant to an intra-group reorganisation) subject to and conditional upon the distribution of the proceeds of such sale (net of tax and expenses) to the holders of ordinary shares in EIHBV or the relevant Group Holding Company,

**"Auditors"** means KPNG or the auditors of the Company from time to time,

**"B" Ordinary Shareholder** means a person entered in the register of members of the Company as the holder from time to time of a "B" Ordinary Share,

**"B" Ordinary Shares** has the meaning set out in Article 3,

**"Bad Leaver"** means a Leaver whose employment with, or consultancy to, a Group Company is terminated by reason of his resignation or in circumstances Justifying summary dismissal in accordance with his employment or consultancy agreement,

**"Board"** means the board of directors of the Company from time to time or any duly authorised committee of such board,

**"Business Day"** means a day other than a Saturday, Sunday or public holiday in England and Wales,

**"Cessation Date"** means, in relation to a Leaver

- (a) (subject to (b) below) where employment or a contract for services ceases by virtue of notice given by the Leaver or by the relevant Group Company, the date On which such notice is given whether or not the Leaver' is placed on Garden Leave,
- (b) where a payment is made in lieu of notice, the date on which that payment is made,
- (c) If the Leaver dies, the date of his death or certification of such death (If the date of death is unknown), and
- (d) In any other circumstances, the date on which the leaver' ceases to be employed or engaged by a Group Company,

**"Company"** means Euromedic United Kingdom Limited, formerly called Derehambay Limited (registered no 6569624),

**"Compulsory Transfer Notice"** has the meaning set out in Article 8 2,

**"Compulsory Transfer Shares"** has the meaning set out In Article 8 3,

**"connected"** in the context of determining whether one person is connected with another shall be determined in accordance with the provisions of section 839 of ICTA and a "person connected" with another person shall be construed accordingly,

**"Deferred Consideration"** means any consideration which is deferred or contingent including if held in escrow or other contingent rights, to receive payment in the future (not including Illiquid Securities

**"EIH BV"** means Euromedic International Holdings B V, a private company with limited liability incorporated under the laws of The Netherlands (registered no 34 14 03 42),

**"Employee Trust"** means any trust established to enable or facilitate the holding of shares by, or for the benefit of, all or most of the bona fide employees of any member of the Group,

**"Encumbrance"** means a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, other encumbrance or security interest of any kind, or another type of agreement or arrangement having similar effect,

**"Euromedic"** means Euromedic International B V , a public company incorporated under the laws of The Netherlands (registered no 34 11 92 13) or the relevant company or companies in the Group holding Shares in the Company

**"Euromedic Director"** has the meaning given in Article 5 1,

**"FSMA"** means the Financial Services and Markets Act 2000,

**"Garden Leave"** means the period in respect of which a person who is employed or engaged by a Group Company is given a direction to perform no duties under his employment contract or contract for services during the notice period under that contract,

**"Good Leaver"** means a Leaver whose employment with, or consultancy to, a Group Company is terminated due to his redundancy (as defined in Section 139(1) of the Employment Rights Act 1996), his death, permanent ill-health or incapacity or retirement at normal retirement age or who is or otherwise determined in writing by the Board in its absolute discretion to be a Good Leaver,

**"Group"** means EHBV and its direct and indirect Subsidiary undertakings from time to time (and any holding company of EHBV inserted for the purposes of planning for an Organic Change, in which the share capital structure of the Company is replicated in all material respects) and **"member of the Group"** or **"Group Company"** is to be construed accordingly,

**"Group Holding Company"** means any holding company of EHBV which is incorporated for the purposes of the Project Danube Sale or otherwise for the purposes of being the holding company of the Group,

**"ICTA"** means the Income and Corporation Taxes Act 1988,

**"Illiquid Securities"** means any securities which are not Marketable Securities including, without limitation, unregistered equity securities or Options or warrants to acquire such securities, notes and other debt obligations or other similar rights under contract,

**"Independent Accountant"** means a firm of accountants of international repute appointed by the Board,

**"Intermediate Leaver"** means a Leaver whose employment with, or consultancy to, a Group Company is terminated and who is not a Good Leaver or a Bad Leaver,

**"Issue Price"** means the aggregate of the amount paid up (or credited as paid up) and any amount credited to the share premium account on the relevant Share in the capital of the Company,

**"Leaver"** has the meaning set out in Article 8 1,

**"Marketable Securities"** means securities which are freely tradable without any restriction (other than restrictions agreed to by the relevant holder pursuant to an underwriting agreement, lock-up agreement or otherwise provided they do not exceed 12 months), or saleable pursuant to registration rights within 12 months of the date of receipt, on any Recognised Investment Exchange,

**"Market Value"** in relation to a Share means the price agreed between the Compulsory Transferor and the Board or, if they do not agree a price within fourteen days of the date of the Compulsory Transfer Notice, the price which the Auditors (or if they are unwilling or unable to act, an Independent Accountant) confirm writing to be in their opinion the market value of the Shares concerned on a sale as between a willing seller and a willing purchaser and, in determining such market value, the Auditors (or the Independent Accountant) shall be instructed in particular

- (a) to have regard to the rights and restrictions attached to such Shares in respect of income and capital,

- (b) in the case of the "B" Ordinary Shares, without taking into account whether such Shares represent a minority or a majority interest as appropriate, and
- (c) if the Company is then carrying on business as a going concern to assume that it will continue to do so,

**"Ordinary Shareholders"** means together the "A" Ordinary Shareholders and the "B" Ordinary Shareholders,

**"Ordinary Shares"** means the "A" and "B" Ordinary Shares in issue from time to time taken together,

**"Organic Change"** means (a) an Asset Sale, (b) a Sale, (c) any liquidation, dissolution or winding up of EIHBV or any Group Holding Company, whether voluntary or involuntary, or (d) a Public Offering,

**"person"** means, without limitation, a reference to any individual, firm, company, corporation or other body corporate, government, state or agency of a state or any joint venture, association or partnership, works council or employee representative body (whether or not having a separate legal personality),

**"Project Danube Sale"** means the sale process relating to Euromedic Holdings being conducted by the shareholders of Euromedic Holdings on or about June 2008 and known as "Project Danube",

**"Proportionate Percentage"** means  $x$  dividend by  $y$  multiplied by 100, where " $x$ " equals the number of "B" Ordinary Shares held by the relevant "B" Ordinary Shareholder and " $y$ " equals the total number of "B" Ordinary Shares in issue at the relevant time,

**"Public Offering"** means the initial public offering of shares in EIHBV or any Group Holding Company,

**"Recognised Investment Exchange"** has the meaning ascribed thereto in section 285(1)(a) FSMA,

**"Sale"** means bona fide arms' length transfer (whether through a single transaction or a series of transactions) of more than 50 percent of the "A" Ordinary Shares in EIHBV in issue or more than 50 per cent of the Issued ordinary share capital of any Group Holding Company, to a person (or any other person who is connected person of that first person or with whom he is acting in concert) other than a transfer to

- (a) an existing shareholder of EIHBV or an affiliate of such person, or
- (b) a new holding company of EIHBV which is inserted for the purposes of Organic Change planning, in which the share capital structure of EIHBV is replicated in all material respects, or

(c) the successful bidder in the Project Danube Sale,

"Share" means any share in the capital of the Company from time to time,

"Shareholders' Agreement" means the Subscription and Shareholders' Agreement dated 23 May 2008 made between (1) the Company (2) Euromedic International B V ,

(3) Euromedic International Holdings B V and (4) the Managers (as defined *therein*), as amended from time to time,

"Shareholder' Majority" means the holders of more than 50% of the Ordinary Shares

from time to time in issue,

"Table A" means Table A in the schedule to the Companies (Tables A to F) Regulations [1985 (S I 1985 No 805) (as amended by the Companies (Tables A to F) (Amendment) Regulations 1985 (S I 1985 No 1052))],

"transfer" means, in relation to any Share or any legal or beneficial interest in any Share, to

- (a) sell, assign, transfer or otherwise dispose of it,
- (b) create or permit to subsist any Encumbrance over it,
- (c) direct (by way of renunciation or otherwise) that another person should, or assign any right to, receive it,
- (d) enter into any agreement in respect of the votes or any other rights attached to the Share, or
- (e) agree, whether or not subject to any condition precedent or subsequent, to do any of the foregoing, and "transferred" shall be construed accordingly, and

"Vest" has the meaning set out in Article 87, and "Vested" shall be construed accordingly

- 1 2 In these Articles a reference to a "subsidiary undertaking" or a "group undertaking" is to be construed in accordance with sections 1161 and 1162 respectively of the Companies Act 2006 and a reference to a "subsidiary" or "holding company" is to be construed in accordance with section 736 of the Act,
- 1 3 The headings in these Articles shall not affect the construction of these Articles
- 1 4 Unless the contrary intention appears, words importing the singular number include the plural number and vice versa, words importing one gender include all genders and words importing person include bodies corporate and unincorporated associations
- 1 5 Where an ordinary resolution of the Company is required for any purpose, a special or an extraordinary resolution is also effective for that purpose, and where an extraordinary resolution is required for any purpose, a special resolution is also effective for that purpose

- 1 6 The courts of England have exclusive jurisdiction to settle any dispute arising from or connected with these Articles or otherwise arising between the Company and any of its members (or any former member or any person claiming title or interest under or by virtue of any member or former member) (each a “Disputant”) relating to any way to the past or present or alleged membership of the Company or otherwise under the Memorandum of Association or the Articles of Association for the time being of the Company or under the Act (a “Dispute”) including a dispute regarding the existence, validity or termination of membership of the Company or the consequences of its nullity
- 1 7 The Company and each Disputant agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and, accordingly, that they will not argue to the contrary
- 1 8 Notwithstanding Article 1 5 and Article 1 6 this clause does not prevent the Company from taking proceedings relating to a Dispute (“Proceedings”) in any other courts with jurisdiction To the extent allowed by law, the Company may take concurrent Proceedings in any number of jurisdictions
- 1 9 Unless the context otherwise requires, reference in these Articles to any English term for any action, remedy, method of judicial proceedings, legal document, legal status, Court, legislation, official or any legal concept or thing shall, in respect of any jurisdiction other than England and Wales, be deemed to include what most nearly approximates in that jurisdiction to the relevant English term

## 2 TABLE A

- 2 1 The regulations contained in Table A apply to the Company except to the extent that they are excluded or modified by these Articles
- 2 2 The first sentence of regulation 24 and regulation 38, 50, 60, 61, 64, 73 to 78 (inclusive), 80, 81, 90, 94 to 98 (inclusive), 115 and 118 do not apply

## 3 SHARE CAPITAL

- 3 1 The authorised share capital of the Company at the date of adoption of these Articles is £6,002,010 divided into

200,000 A Ordinary shares of £0 01 each (the A shares)

1,000 B Ordinary shares of £0 01 each (the B shares)

6,000,000 C Ordinary shares of £1 00 each (the C shares)

## 4 “A” AND “B” ORDINARY SHARES

- 4 1 Except as otherwise provided in these Articles the “A” Ordinary Shares and the “B” Ordinary Shares rank *pari passu* but they each constitute a separate class of Shares

- 4 2 The pre-emption provisions in S89(1) of the Act shall not apply to any issue of Shares or any right to subscribe for the allotment of Shares or any right to subscribe for the issue or allotment of any securities convertible into Shares

**5 EUROMEDIC DIRECTOR**

- 5 1 The Shareholder majority is entitled to appoint such number of directors to the Board as it may direct, one of whom may be nominated the "**Euromedic Director**" and is entitled to remove an such director and appoint another person in that director's place The initial appointment of the Euromedic Director shall be made pursuant to the Shareholders' Agreement Subsequent appointments and removals shall be made by written notice served on the Company Each such appointment and removal shall take effect forthwith upon such notice being received by the Company

- 5 2 The Shareholder majority shall have the right to appoint the Euromedic Director and such other number of directors as it may direct to the board of directors of any subsidiary undertaking of the Company and to any committee of the board of any member of the Group and the provisions of Article 5 1 relating to notice shall apply mutatis mutandis to any such appointment

**6 PROVISIONS APPLYING ON EVERY TRANSFER OF "A" AND "B" ORDINARY SHARES**

- 6 1 The directors shall not register a transfer of "A" Ordinary Shares or "B" Ordinary Shares unless

6 1 1 the transfer is permitted by Article 7 or 10 or has been made in accordance with Article 8, and

6 1 2 the proposed transferee has entered into a deed of adherence to the Shareholders' Agreement, in the form required by that agreement

- 6 2 The "A" Ordinary Shareholders are not entitled to transfer "A" Ordinary Shares unless the transfer is permitted by Article 10

- 6 3 The "B" Ordinary Shareholders are not entitled to transfer "B" Ordinary Shares unless the transfer is permitted by Article 7 or has been made in accordance with Article 8

- 6 4 For the purpose of ensuring that a transfer of "A" Ordinary Shares or "B" Ordinary Shares is permitted under these Articles, the Board may, and shall if so requested by a Euromedic Director, require any shareholder to procure that such person as the Board or a Euromedic Director may reasonably believe to have information relevant to such purpose, provided the Company with such information and evidence as the Board (or a Euromedic Director) may think fit regarding any matter which they deem relevant to such purpose Pending the provision of any such information the Board shall be entitled to refuse to register any relevant transfer

**7 TRANSFER RESTRICTIONS FOR "B" ORDINARY SHAREHOLDERS**

- 7 1 No "B" Ordinary Share may be transferred other than as follows



- 7 1 1 with the written consent of a Shareholder Majority,
- 7 1 2 when required by Article 8,
- 7 1 3 to the personal representatives of a "B" Ordinary Shareholder who has died and who was an employee of the Company or any of its Subsidiary undertakings once the "B" Ordinary Shareholder's personal representatives can no longer be bound to sell those Shares pursuant to Article 8,
- 7 1 4 to the Company in accordance with the provisions of the Act

## 8 COMPULSORYTRANSFER

- 8 1 Article 8 applies when an employee or director of, or consultant to, any Group Company who either
  - 8 1 1 is an "B" Ordinary Shareholder, or
  - 8 1 2 has Transferred "B" Ordinary Shares in accordance With Articles 7 1 1 or 7 1 3,ceases for any reason to be an employee or director of, or consultant to, a Group Company or is placed on Garden Leave and does not continue as an employee or director of, or consultant to, any other Group Company (such employee, director or consultant being a "Leaver")
- 8 2 In the 3 months immediately following the Cessation Date, Euromedic may (but is not obliged to) serve written notice (a "Compulsory Transfer Notice") on each or any of
  - 8 2 1 the "B" Ordinary Shareholder who is a Leaver,
  - 8 2 2 any Shareholder to whom "B" Ordinary Shares have been transferred under Article 7 1 1,
  - 8 2 3 If the Leaver has died, his personal representatives or any other person who becomes beneficially entitled to "B" Ordinary Shares on the death of that Leaver, and
  - 8 2 4 If the Leaver has become bankrupt, any person who becomes entitled to "B" Ordinary Shares on in bankruptcy, (each a "Compulsory Transferor" and one or more of them, the "Compulsory Transferor(s) ")
- 8 3 A Compulsory Transfer Notice may (subject to Article 8 7 below) require the Compulsory Transferor(s) to transfer all of the "B" Ordinary Shares in respect of which they are the registered holder(s) and any additional Shares acquired by the Compulsory Transferor(s) or to which they are or may subsequently become entitled from time to time after the Cessation Date whether as a result of their "B" Ordinary Shareholding(s) or by virtue of the exercise of any right or option or otherwise, and whether or not such Shares were in issue at the Cessation Date (the "Compulsory Transfer Shares") on the terms set out in this Article 8 to such person(s) nominated by Euromedic, being (subject to Articles 8) anyone or more of

- 8 3 1 a person or persons intended to take the Leaver's place,
- 8 3 2 another director, officer or employee of, or consultant to a Group Company,
- 8 3 3 an Employee Trust,
- 8 3 4 the Company in accordance with the provisions of the Act, or
- 8 3 5 any other person(s) approved by Euromedic,

(each a "**Compulsory Transferee**" and one or more of them, the "**Compulsory Transferee(s)**") In the case of more than one "**Compulsory Transferee(s)**", in the proportions specified in the Compulsory Transfer Notice

- 8 4 The Compulsory Transfer Notice may reserve to Euromedic the right to finalise the identity of the Compulsory Transferee(s) once the price for the Compulsory Transfer Shares has been agreed in accordance with Article 8 6 or certified in accordance with Article 8 8
- 8 5 The Compulsory Transferor(s) shall then transfer the legal and beneficial title to the Compulsory Transfer Shares to the Compulsory Transferee(s), as Identified by Euromedic pursuant to Article 8 3 and 8 4, on the terms set out in this Article 8, together with all rights attaching to them, free from all Encumbrances and with full title guarantee
- 8 6 The price for each Compulsory Transfer Share (the "**Compulsory Transfer Price**") shall be the price determined by the Board acting in good faith to be
  - 8 6 1 If the Leaver is a Bad Leaver, the lower of (1) the Issue Price of each Compulsory Transfer Share and (2) the Market Value of each Compulsory Transfer Share on the Cessation Date (the "**Bad Leaver Price**"),
  - 8 6 2 If the Leaver is an Intermediate Leaver, the Bad Leaver Price in the 12 months following the date of the issue of each Compulsory Transfer Share, and thereafter the Market Value of each Compulsory Transfer Share on the cessation Date, or
  - 8 6 3 If the Leaver is a Good Leaver, the Issue Price for each Compulsory Transfer Share that has not Vested by the Cessation Date
- 8 7 A Compulsory Transfer Notice may not include any "B" Ordinary Shares that have Vested All "B" Ordinary Shares held by a Good Leaver (or any person to whom he has transferred such shares pursuant to Articles 7 1 1 or 7 1 3) shall Vest 12 months following the date of the issue to that Good Leaver
- 8 8 Within 7 days of the Compulsory Transfer Price being determined under Article 8 6
  - 8 8 1 the Board shall notify the Compulsory Transferor(s) of the names and addresses of the Compulsory Transferee(s) and the number of Compulsory Transfer Shares to be transferred to each, and
  - 8 8 2 the Board shall notify each Compulsory Transferee

- (a) specifying the number of Compulsory Transfer Shares available to be transferred to him,
- (b) indicating the Compulsory Transfer Price, and
- (c) specifying the date, between 7 and 14 days after the date of the notification, on which the sale and purchase of the Compulsory Transfer Shares is to be completed (the "**Completion Date**")

- 8 9 Each Compulsory Transferor shall deliver duly executed stock transfer form(s) to respect of the Compulsory Transfer Shares registered in its name, together with the relative share certificate(s) (or an indemnity in respect thereof in a form satisfactory to the Board to the Company on or before the Completion Date) Subject always to receipt thereof, on the completion Date the Company shall pay the compulsory transferor(s), on behalf of the Compulsory Transferee(s), the aggregate Compulsory Transfer Price due for the Compulsory Transfer Shares, to the extent that each compulsory Transferee has put the Company to the requisite cleared funds The Company's receipt for the aggregate Compulsory Transfer Price due shall be a good discharge to the Compulsory Transferee(s) who shall not be bound to see its application Pending compliance by the Compulsory Transferor(s) with this Article 8 9, the Company shall hold the aggregate Compulsory Transfer Price on trust for the defaulting Compulsory Transferor(s) without any obligation to pay interest Payment to the Compulsory Transferor(s) shall be made in such manner as is agreed between the Company and the Compulsory Transferor(s) and in the absence of such agreement, by cheque to the postal address notified to the Company by each Compulsory Transferor for such purpose and, in default of such notification, to the Compulsory Transferor's last known address
- 8 10 If a Compulsory Transferor fails to comply with its obligations under Article 8 9, the Board may (and shall, if requested by Euromedic) authorise any director to execute, complete and deliver as agent for and on behalf of that Compulsory Transferor a transfer of the relevant Compulsory Transfer Shares to the relevant Compulsory Transferee(s), to the extent that the relevant Compulsory Transferee has, by the transfer date, put the Company in cleared funds in respect of the aggregate compulsory Transfer Price for the Compulsory Transfer Shares to be transferred to him Subject to due stamping, the Board shall authorise registration of the transfer(s), after which the validity of such transfer(s) shall not be questioned by any person Each defaulting Compulsory Transferor shall surrender his share certificate(s) relating to the compulsory Transfer Shares (or provide an indemnity in respect thereof in a form satisfactory to the Board) to the Company On, but not before, such surrender or provision, the Compulsory Transferor(s) shall be entitled to the aggregate Compulsory Transfer Price for the Compulsory Transfer Shares transferred on by their behalf, without interest if such share certificate(s) relate to any Shares which a Compulsory Transferor is not bound to transfer under Article 8 3, the Company shall issue a fresh certificate for the balance
- 8 11 The Ordinary Shareholders acknowledge and agree that the authority conferred under Article 8 10 is necessary as security for the performance by the Compulsory Transferor(s) of their obligations under this Article 8

- 8 12 Euromedic may classify a person who is a Bad leaver or an Intermediate leaver as a Good leaver, provided that such classification is documented in the Compulsory Transfer Notice
- 8 13 Subject to Article 8 14, unless Euromedic otherwise agrees in writing, any Compulsory Transfer Shares held by a Compulsory Transferor on the cessation Date and from time to time thereafter shall automatically, and irrespective of whether a Compulsory Transfer Notice has been served on that Compulsory Transferor pursuant to Article 8 3
- 8 13 1 cease to confer the right to receive notice of or to attend or vote (either in person or by proxy and whether on a poll or on a show of hands) at any general meeting of the Company or (subject to the Act) at any meeting of the holders of any class of Shares in the capital of the Company with effect from the cessation Date (or, where appropriate, the date of acquisition of such Shares, if later),
- 8 13 2 not be counted in determining the total number of votes which may be cast at any such meeting, or required for the purposes to a written resolution of any members or any class of members, or for the purposes of any other consent required under these Articles, and
- 8 13 3 not be Transferred pursuant to Article 7 until the Compulsory Transferor(s) can no longer be bound to transfer them under Article 8 3
- 8 14 The rights referred to in Article 8 13 shall be restored, immediately upon the Company registering a transfer of the Compulsory Transfer' Shares in accordance with this Article 8

## **9 ORGANIC CHANGE**

- 9 1 Immediately prior to an Organic Change, Euromedic shall Issue a notice (the "Valuation Notice") to each "B" Ordinary Shareholder setting out each "B" Ordinary Shareholder's Proportionate Percentage of the Euromedic UK Equity Entitlement as determined in good faith by the supervisory board of EIHBV (or the relevant Group Holding Company) in accordance with the provisions of this Article 9
- 9 2 The Valuation Notice shall set out a time and date on which the "B" Ordinary Shareholders are to transfer their "B" Ordinary Shares to EIHBV (or the relevant Group Holding Company) and the consideration to be paid for each "B" Ordinary Share, such consideration to be paid no later than 3 Business Days following the Organic Change
- 9 3 The consideration will be settled in cash by Euromedic in the case of an Organic Change as set out in parts (a), (b) and (c) of the definition of Organic Change or in the case of Public Offering will be settled by the issue of shares in EIHBV (or the relevant Group Holding Company) (unless Euromedic elects to pay cash in its sole discretion) provided that the "B" Ordinary Shareholders agree that there shall be no obligation on EIHBV (or the relevant Group Holding Company) to issue shares unless the "B" Ordinary Shareholders execute an agreement containing customary lock up arrangements as determined by the underwriters of the Public Offering The shares to be Issued by EIHBV (or the relevant Group Holding Company) pursuant to this clause shall have an aggregate value equal to the Euromedic UK Equity Entitlement as determined in good faith by the supervisory board of EIHBV (or the

relevant Group Holding Company) and if so required the "B" Ordinary Shareholders agree to take such steps, execute such documents and do all other things as may be reasonably requested of them by the Board in order to effect the exchange of their "B" Ordinary Shares referred to above

- 9.4 If a "B" Ordinary Shareholder fails to execute a document (including without limitation a stock transfer form transferring this "B" Ordinary Shares to Euromedic) required pursuant to the Valuation Notice, the parties agree that the Board may authorise any director to execute, complete and deliver in the name of and on behalf of the relevant "B" Ordinary Shareholder such documents as the Board shall require

- 9.5 In this clause, the following definitions shall apply

**"EBITDA"** means earnings before interest, taxes, depreciation and amortisation as each is calculated in accordance with IFRS,

**"Euromedic Group EBITDA"** means the annualised EBITDA of the Group as determined by reference to the sum of the EBITDA in the last six full calendar months management accounts which are available immediately prior to the Orgal11c Change multiplied by two,

**"Euromedic Group Value"** means the value EIBV (or the relevant Group Holding Company) will have on the Organic Change determined as follows

- (a) in the case of a Public Offering, the price per share at which Ordinary shares in EIBV (or the relevant Group Holding Company) are to be sold or offered in connection with the Public Offering (in the case of all offer for sale, being the underwritten price or, if an offer for sale by tender, the striking price under such offer or, in the case of a placing, the price at which shares are sold under the placing) multiplied by the number of Ordinary shares which would be in issue immediately following such Public Offering, but excluding any ordinary shares issued for the purpose of raising additional or replacement capital for EIBV (or the relevant Group Holding Company) as part of the Public Offering arrangements (whether to refinance the payment of loans or for any other reason whatsoever) and adding the value of minority interests and net debt determined by reference to the most recently produced management accounts of the Group,
- (b) in the case of a Sale (including for these purposes a merger or consolidation to which EIBV (or the relevant Group Holding Company) is a party) the sum of (A) cash payable in respect of Ordinary shares in connection with the Sale and (B) the Fair Market Value of all other consideration payable in respect of Ordinary shares in connection with the Sale and adding the value of minority interests and net debt determined by reference to the most recently produced management accounts of the Group, provided that
- (i) to the extent a Sale includes a combination of forms of consideration, the applicable valuation principle set out in this definition shall be applied separately, as appropriate, to the relevant element of the consideration provided that if any element of the consideration is offered in the alternate,

the cash alternative, or the most liquid form of security, as applicable, shall be used for the purposes of determining the Euromedic Group Value, and

(11) for purposes of this definition, "Fair Market Value" of consideration other than immediately available cash means

(1) for Marketable Securities, the average closing price for such securities over the five trading days prior to the day on which the offer for or intention to acquire EIH BV (or the relevant Group Holding Company) is first announced by the proposed purchaser,

(2) for Illiquid Securities, the value of such security as determined by the Board in good faith, taking into account typical components of value including, but not limited to the liquidity of the securities, and in the case of equity securities, whether or not they represent a Minority Interest, and

(3) To Deferred Consideration, the value of such consideration as determined by the Board in good faith taking into account typical components of value

(c) In the Case of a liquidation, dissolution or winding-up of EIH BV (or the relevant Group Holding Company) whether or not following an Asset Sale the net distributions to be received by the holders of ordinary shares plus the amount of net debt determined by reference to the most recently produced management accounts of the Group

**"Euromedic Holdings Organic Change Multiple"** means the Euromedic Group Value divided by the Euromedic Group EBITDA,

**"Euromedic International Investment"** means the aggregate of all sums invested in the Company or any of its subsidiary undertakings by any person other than the "B" Ordinary Shareholders by way of equity, equity related instruments, shareholder loans or otherwise plus the amount of all debt assumed by the Company and its subsidiary undertakings (including by way of finance leases or other on-balance sheet financing),

**"Euromedic UK EBITDA"** means the annualised EBITDA of the Company and its Subsidiary undertakings as determined by reference to the sum of the EBITDA in the last six calendar months management accounts for the relevant entities which are available immediately prior to the Organic Change multiplied by two,

**"Euromedic UK Equity Entitlement"** means a sum equal to 20% of the Euromedic UK Value,

**"Euromedic UK Value"** means the Euromedic UK EBITDA multiplied by the Euromedic Holdings Organic Change Multiple less the Euromedic International Investment,

**10 TRANSFER RESTRICTIONS FOR "A" ORDINARY SHAREHOLDERS**

No "A" Ordinary Share may be transferred other than to any of the relevant shareholder's group undertakings

**11 VARIATION of CLASS RIGHTS**

11.1 The rights attaching to the "A" Ordinary Shares shall only be adversely varied with the consent in writing of the holders of not less than 75 per cent of the "A" Ordinary Shares or by an extraordinary resolution passed at a separate class meeting of the holders of the "A" Ordinary Shares

11.2 The rights attaching to the "B" Ordinary Shares shall only be adversely varied with the consent in writing of the holders of not less than 75 per cent of the "B" Ordinary Shares or by an extraordinary resolution passed at a separate class meeting of the holders of the "B" Ordinary Shares

11.3 Unless otherwise expressly provided by the terms of their Issue, the rights attaching to any class of Shares shall not be deemed to be varied or abrogated by the creation, allotment or issue of further Shares ranking subsequently to, *pari passu* with or in priority to them

11.4 The provisions of these Articles relating to general meetings of the Company or to the proceedings at such meetings shall, *mutatis mutandis* apply to any separate meeting of the holders of any class of Shares except that the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing all the shares of any class are registered in the name of a single shareholder in which case the quorum shall be that person, his proxy or duly authorised representative or such shareholder

11.5 At any adjourned meeting the necessary quorum shall be one person holding Shares of the class or his proxy Every holder of Shares of the class shall, on a poll, have one vote in respect of every Shares of the class held by him and a poll may be demanded by any one holder of Shares of the class whether present in person or by proxy

**12 GENERAL PROVISIONS**

**12.1 Share Certificates**

Regulation 6 of Table A is modified by the inclusion of the following words after the words "with the seal" in the second sentence of regulation 6 "or shall be signed by a directors and the secretary of the Company, or by two directors of the Company"

**12.2 Lien**

12.2.1 Regulation 8 of Table A is modified by the deletion of the words "(not being a fully paid Share)"

12.2.2 The lien conferred by regulation 8 of Table A shall apply to all Shares, whether fully paid or not, and to all Shares registered in the name of any person under a liability (whether actual or contingent) whether he shall be the sole registered holder of

such Shares or one of two or more joint holders of such Shares and regulation 8 of Table A shall be construed accordingly

**12 3 Purchase of Own Shares**

Regulation 35 of Table A shall be modified by the deletion of the words "otherwise than out of distributable profits of the company or the proceeds of a fresh issue of shares" and the substitution for the words ", whether out of its distributable profits or out of the proceeds of fresh issue of Shares or otherwise"

**12 4 General Meeting**

12 4 1 Regulation 37 of Table A is modified by the deletion of the words "eight weeks" and the substitution for them of the words "twenty-eight days" and by the insertion of the words "or a Euromedic Director acting alone" after the second word of that regulation

12 4 2 A general meeting may consist of a conference between members some or all of whom are in different places provided that each member who participates is able

- (a) to hear each of the other participating members addressing the meeting and
- (b) If he so wishes to address all of the other participating members simultaneously

Whether directly by conference telephone or by any other form of Communications equipment (whether in use when these Articles are adopted or not) or by a combination of those methods

12 4 3 A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of members required to form a quorum A meeting held in this way is deemed to take place at the place where the largest group of participating members is assembled or, If no such group is readily identifiable at the place from where the chairman of the meeting participates A resolution put to the vote of a meeting shall be decided by each member indicating to the chairman (in such manner as the chairman may direct) whether the member votes in favour of or against the resolution or abstains References in this Article to members shall include their duly appointed proxies and in the case of corporate members, their duly authorised representatives

**12 5 Notice of General Meetings**

12 5 1 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or an elective resolution must be called by at least twenty-one clear days' notice All other extraordinary general meetings must be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice If it is so agreed



- (a) in the case of an annual general meeting or a meeting called for the passing of an elective resolution, by all the members entitled to attend and vote at that meeting and
- (b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote, being a majority (1) together holding not less than such percentage in nominal value of the Shares giving that light as has been determined by elective resolution of the members in accordance with the Act, or (11) if no such elective resolution is in force, together holding not less than 95 per cent to nominal value of the Shares giving that right

12 5 2 The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify that the meeting is an annual general meeting

12 5 3 Subject to the provisions of the Articles and to any restrictions imposed on any Shares, the notice shall be given to all the members, to all persons entitled to a Share in consequences of the death or bankruptcy of a member and to the directors and auditors

#### **12 6 Votes of Members**

12 6 1 A proxy shall be entitled to vote on a show of hands and regulation 54 shall be construed accordingly

12 6 2 Regulation 57 of Table A is modified by the inclusion after the word "shall" of the phrase", unless the directors otherwise determine,"

12 6 3 Regulation 59 of Table A is modified by the addition at the end of the second sentence of the following sentence "Deposit of an instrument of proxy shall not preclude a member from attending and voting at the meeting or at any adjournment of it "

12 6 4 An Instrument appointing a proxy must be in writing in any usual form or in any other form which the directors may approve and must be executed by or on behalf of the appointor

12 6 5 Regulation 62 of Table A is modified by the deletion in paragraph (a) of the words "deposited at" and by the substitution for them of the words "left at or sent by post or by facsimile transmission to", by the substitution in paragraph (a) of the words "one hour" in place of "forty-eight hours" and by the substitution in paragraph (b) of the words "one hour" in place of "twenty-four hours"

#### **12 7 Number of Directors**

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) is not subject to any maximum and the minimum number is two

## **12 8 Delegation of Directors' Powers**

Regulation 72 of Table A is modified by the addition at the end of the regulation of the following sentence "Where a provision of the Articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee, the provision must be construed as permitting the exercise of the power, authority or discretion by the committee "

## **12 9 Appointment and Retirement of Directors**

12 9 1 The directors are not subject to retirement by rotation Regulations 73, 74 and 75 of Table A do not apply, and reference in regulations 67, 78 and 84 of Table A to retirement by rotation is to be disregarded

12 9 2 The Company may by Ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director

12 9 3 A person appointed by the directors to fill a vacancy or as an additional director is not required to retire from office at the annual general meeting next following his appointment and the last two sentences of regulation 79 of Table A are deleted

12 9 4 The holder or holders of more than half in normal value of the Shares giving the right to attend and vote at general meetings of the Company may by serving notice on the Company remove a director from office and appoint a person to be a director The notice may consist of several documents in similar form each signed by or on behalf of one or more holders and shall be left at, or sent by post or facsimile transmission to the registered office of the Company or such other place designated by the directors for the purpose A removal or appointment takes effect when the notice is received by the Company or on such later date (if any) specified in the notice This Article does not apply to the removal or appointment of a Euromedic Director

12 9 5 No person shall be or become incapable of being appointed a director by reason only of his having attained the age of 70 or any other age nor shall any special notice be required in connection with the appointment or the approval of the appointment of such person, and no director shall vacate his office at any time by reason only of the fact that he has attained the age of 70 or any other age Section 293 of the Act shall not apply to the Company

## **12 10 Disqualification and Removal of Directors**

12 10 1 The office of a director shall be vacated if

- (a) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director,
- (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally,

- (c) he becomes, in the opinion of all his co-directors, incapable by reason of mental disorder of discharging his duties as director,
- (d) he resigns his office by notice in writing to the Company,
- (e) he has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and his alternate director (if any) has not during that period attended any such meetings instead of him, and the directors resolve that his office be vacated,
- (f) (other than in the case of an Euromedic Director) he is removed from office by notice addressed to him at his last known address and signed by all his co-directors, or
- (g) (Other than in the case of an Euromedic Director) he is removed from office by notice given by a member or members under Article 12 9 4, or
- (h) being an executive director he shall, for whatever reason, cease to be employed by or have had his employment terminated (whether or not in breach) by any member of the Group and does not continue to be employed by any member of the Group

#### **12 11 Director's appointments and Interests**

12 11 1 Regulation 84 of Table A shall be modified by addition of the words "with the consent of the Euromedic" after the words "the directors" and before the words "may appoint" in the first sentence of regulation 84, and after the words "the directors" and before the word "determine" and after the words "as they" and before the words "think fit" in the second sentence of regulation 84

12 11 2 Regulation 85 of Table A shall be modified by the addition of the words "and except in the case of a Euromedic Director, to the consent of the Majority Investors" after the words "provisions of the Act" and before the words ", and provided that he has disclosed" in the first sentence of regulation 85

#### **12 12 Proceedings of Directors**

12 12 1 Regulation 88 of Table A is modified by the exclusion of the third sentence and the Substitution for it of the following sentences "Every director shall receive notice of a meeting, whether Or 110t he is absent from the United Kingdom A director may waive the requirement that notice be given to him of a meeting of directors or a committee of directors, either prospectively or retrospectively" and by the addition of the word "not" between the words "shall" and "have" in the fifth sentence

12 12 2 The quorum for the transaction of the business of the directors shall be two directors present throughout the meeting of whom one is a Euromedic Director, unless otherwise agreed in writing by the Euromedic Director

12 12 3 The directors with the consent of Euromedic may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office and regulation 91 shall be construed accordingly

12 12 4 A director or his alternate may validly participate in a meeting of the directors or a committee of directors through the medium of conference telephone or

similar form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting A person participating in this way is deemed to be present in-person at the meeting and is counted in a quorum and entitled to vote Subject to the Act, all business transacted in any way by the directors or a committee of the directors is for the purposes of the Articles deemed to be validly and effectively transacted at a meeting of the directors or of a committee of the directors although fewer than two directors or alternate directors are physically present at the same place The meeting is deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is

12 12 5 Meetings of the board of directors shall take place no less frequently than once each calendar month and at least ten working days' notice shall be given to each director of such a meeting provided that with the consent of a majority of the directors, including a Euromedic Director, board meetings may be held less frequently and/or convened on shorter notice

12 12 6 If and for so long as there is a sole director of the Company

- (a) he may exercise all the powers conferred on the directors by the Articles by any means permitted by the Articles or the Act,
- (b) for the purpose of regulation 89 of Table A the quorum for the transaction of business is one, and
- (c) all other provisions of the Articles apply with any necessary modification (unless the provision expressly provides otherwise)

12 12 7 Without prejudice to the obligation of any director to disclose his interest in accordance with section 317 of the Act, a director may vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty PROVIDED THAT he has first obtained the consent of Euromedic (unless the director concerned is a Euromedic Director, in which case no such consent shall be required) The director shall be counted in the quorum present when any such resolution is under consideration and if he votes, his vote shall be counted

## 12 13 Dividends

12 13 1 The directors may deduct from a dividend or other monies payable to a member on or in respect of a Share any amounts presently payable by him to the Company in respect of that Share

12 13 2 Regulation 103 of Table A shall be modified by the addition of the following words  
"with the consent of Euromedic" after the words "the directors" in the first  
sentence of regulation 103

**12 14 Capitalisation of Profits**

The directors may, with the authority of an Ordinary resolution of the Company, resolve that any Shares allotted under regulation 110 of Table A to any member in respect of a holding by him of any partly paid Shares shall, so long as those Shares remain partly paid, rank for dividends only to the extent that those partly paid Shares rank for dividend and regulation 110 of Table A shall be modified accordingly

**12 15 Notices**

12 15 1 Regulation 112 of Table A is modified by

- (a) the addition of the following sentence at the end of the first sentence of regulation 112 "Without prejudice to any provision of the Act or any other legislation or to any other provisions of these Articles requiring notices or documents to be delivered in a particular way, the Company may also give any notice to a member by fax (except for share certificates) to a fax number notified by the shareholder in writing or by electronic poll or by any other data transmission process (except for share certificates) to an address notified by the shareholder in writing for such purpose, and
- (b) by the deletion of the last sentence and the substitution for it of the following "A member whose registered address is not within the United Kingdom is entitled to have notices given to him at that address "

12 15 2 A notice sent to a member (or to another person entitled to receive notices under the Articles) by post to an address within the United Kingdom is deemed to be given

- (a) twenty-four hours after posting, if prepaid as first class, or
- (b) forty-eight hours after posting, if prepaid as second class,

and a notice communicated in an electronic communication shall be deemed to be given at the expiration of 48 hours after the time it was sent

A notice sent to a member (or to another person entitled to receive notices under the Articles) by post to an address outside the United Kingdom is deemed to be given 72 hours after posting, if prepaid as airmail Proof that an envelope enclosing the notice was properly addressed, pre-paid and posted is conclusive evidence that the notice was given A notice not sent by post but left at a member's registered address is deemed to have been given on the day it was left A notice or document (other than a share certificate) sent by fax is treated as being delivered at the time it was sent A notice or document (other than a share certificate) sent by electronic mail or by any other data transmission process is treated as being delivered at the time it was sent

12 15 3 Regulation 116 of Table A is modified by the deletion of the words "within the United Kingdom"

#### **12 16 Indemnity**

12 16 1 The Company may indemnify, out of the assets of the Company, any director of the Company or of any associated company against all losses and liabilities which he may sustain or incur in the execution of the duties of his office or otherwise in relation thereto, provided that this Article 12 16 shall only have effect insofar as its provisions are not void under sections 309A or 309B of the Act

12 16 2 Subject to sections 337(4) to (6) of the Act, the Company may provide a director of the Company with funds to meet expenditure incurred or to be incurred by him in defending any Civil or criminal proceedings brought or threatened against him in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the Company or in connection with any application under sections 144(3) or (4) or section 727 of the Act, and the Company shall be permitted to take or not to take any action or enter into any arrangement which would otherwise be prohibited under section 330 of the Act to enable a director to avoid incurring such expenditure

12 16 3 The Company shall be entitled to purchase and maintain 'insurance for any director of the Company or of any associated company against any liability attaching to any such person in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company or any such associated company

12 16 4 For the purpose of Articles 12 16 1 and 12 16 3 above, the expression "associated company" shall mean a company which is either a subsidiary or a holding company of the Company or a Subsidiary of such holding company as such terms are defined in the Act

#### **12 17 Borrowing Powers of Directors**

The directors may exercise all the powers of the Company to borrow and raise money and to mortgage and charge all or any part of the undertaking, property and uncalled capital of the Company and, subject to the provisions of the Act, to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party