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Articles of Association

Linde Aktiengesellschaft

Munich

9 March 2009

I. General Rules

1. **Company Name, Principal Place of Business**

1.1 The Company is named Linde Aktiengesellschaft.

1.2 The principal place of business of the Company is Munich.

2. **Object of the Company**

2.1 The object of the Company is

a) the manufacture and sale of industrial and other gases and their secondary products and the construction, acquisition, sale and operation of plants in which industrial and other gases are manufactured or used;

b) the manufacture and sale of products in the field of apparatus and mechanical engineering, and

c) the design and construction, acquisition, sale and operation of industrial process and other industrial plants, including plants for research purposes.

2.2 The Company is entitled to take any measures and actions that are related or appropriate to directly or indirectly serve the object of the Company. This includes research and development as well as cooperation with third parties in the fields stated in 2.1 above. The Company is entitled to trade and provide services of any kind in the fields named in 2.1 above. It can also limit its activities to individual fields stated in 2.1 above. The Company can establish branch offices in Germany and abroad, establish, acquire and invest in other companies, especially companies that are engaged, in whole or in part, in the aforementioned fields. The Company can change the structure of companies in which it owns investments, unite such companies under common management, or restrict its activities to their management or administration, and dispose of holdings and investments. It can outsource its operations to affiliates, in whole or in part.

### **3. Share Capital and Shares**

- 3.1 The share capital is EUR 431,340,789.76.
- 3.2 The share capital is divided into 168,492,496 no-par value shares.
- 3.3 All shares are bearer shares. Shareholders are not entitled to charter their shareholding.
- 3.4 By subscribing for or acquiring shares or scrip, shareholders submit to the normal place of jurisdiction for the Company in all disputes with the Company or the Company's executive bodies.
- 3.5 In capital increases, participation of the new shares in profits may be regulated at variance with section 60 para. 2 German Stock Corporation Act.
- 3.6 The Executive Board is authorized until 7 June 2010 to increase, subject to the approval of the Supervisory Board, the share capital by up to EUR 25,106,534.40 through one-time or recurring emissions of new bearer shares against cash contributions (Authorized Capital I). Shareholders must thereby be granted subscription rights. However, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude residual amounts from the shareholders' subscription rights, to also exclude the subscription rights to the extent necessary in order to grant holders of convertible bonds or option certificates emitted by Linde AG or its affiliated companies in which it directly or indirectly holds a majority of shares a subscription right to new shares in the amount to which they would be entitled after execution of the conversion or option rights or after discharge of the conversion obligation, and to also exclude the subscription right for an amount of EUR 3,500,000 to the extent that this is necessary in order to issue employee shares under exclusion of the shareholders' subscription right. The Executive Board is also authorized, subject to the approval of the Supervisory Board, to exclude the subscription right for an amount of up to 10% of the share capital available at the time of the adoption of the resolution about the utilization of the Authorized Capital I if the issuance amount of the new shares is not significantly below the market price of the shares already listed on the stock exchange at the time of the final determination of the issuance amount, which should take place as close in time to the placement of the shares as possible. The upper limit of 10% of the share capital is lowered by the proportional amount of the share capital that is attributed to the treasury shares of the Company that were divested after creation of this Authorized Capital I under exclusion of the shareholders' subscription right according to sections 71 para. 1, no. 8, sentence 5 and 186 para. 3, sentence 4 of the German Stock Corporation Act, as well as by the proportional

amount of the share capital that is attributed to rights to purchase shares that originated under exclusion of the subscription right according to sections 221 para. 4 and 186 para. 3, sentence 4 of the German Stock Corporation Act. The Executive Board is further authorized to establish, subject to the approval of the Supervisory Board, the additional details of the capital increase and its execution. The new shares can also be subscribed to by credit institutes specified by the Executive Board with the obligatory stipulation that they offer them to the shareholders (indirect subscription right).

- 3.7 The Executive Board is authorized, subject to the approval of the Supervisory Board, to increase until 4 June 2012 the share capital by up to EUR 80,000,000 by issuing once or more than once a total of up to 31,250,000 new no-par value bearer shares with a pro rata amount of the share capital attributable to each share of EUR 2.56 against cash contribution or contribution in kind (Authorized Capital II). The new no-par value shares shall in general be offered to shareholders for subscription.

The Executive Board is however authorized, subject to the approval of the Supervisory Board, to exclude fractional amounts from the shareholders' subscription right and also to exclude the subscription right as far as is necessary to grant to holders of option and/or conversion rights issued by Linde AG or its direct or indirect subsidiaries a subscription right for new no-par value shares in the amount that they would be entitled to after exercising the option or conversion rights or after fulfillment of a conversion requirement.

Furthermore, the Executive Board is authorized, subject to the approval of the Supervisory Board, to exclude the shareholders' subscription right if in the case of a capital increase against cash contribution the new shares are issued at an issue price which does not fall substantially below the stock exchange price of the no-par value shares already listed at a stock exchange at the time of final determination of the issue price, which shall be determined at a time close to the public placement of the no-par value shares, and the pro rata amount of the share capital attributable to the issued shares does not exceed ten percent of the share capital either at the time at which this authorization becomes effective or at the time at which it is exercised. This capital limit will include the pro rata amount of share capital attributable to those shares which are to be issued to service option and/or convertible bonds. Such inclusion shall, however, take place only in so far as the option or convertible bonds are issued under exclusion of the shareholders' subscription right in corresponding application of section 186 para. 3 sentence 4 German Stock Corporation Act during the term of this authorization. Likewise to be included is the pro rata amount of share capital attributable to those shares which are issued on the basis of authorized capital or sold after repurchase as treasury shares in each case in (corresponding)

application of section 186 para. 3 sentence 4 German Stock Corporation Act during the term of this authorization.

The Executive Board is also authorized, subject to the approval of the Supervisory Board, to exclude the subscription right in the case of capital increases against contributions in kind, in particular in the context of the acquisition of business entities, parts of business entities and participating interests in business entities or of corporate mergers.

The Executive Board is authorized, subject to the approval of the Supervisory Board, to specify the further details of the capital increase and its implementation. The new shares may also be acquired by banks designated by the Executive Board with the obligation to offer them to shareholders (indirect subscription right).

- 3.8 The share capital is conditionally increased (Conditional Capital 2005) by up to EUR 50,000,000 through the issuance of up to 19,531,250 new no-par value shares, each with a pro rata amount of the share capital attributable to such share of EUR 2.56. The conditional capital increase will be executed only to the extent that the
- a) holders or creditors of conversion rights or option certificates that attach to the warrant-linked or convertible bonds (to be issued from 8 June 2005 until 7 June 2010, by Linde AG or its affiliated companies in which it directly or indirectly holds a majority of shares based on the General Meeting's authorization of the Executive Board) exercise their conversion or option rights; or the
  - b) holders or creditors of the warrant-linked bonds (to be issued from 8 June 2005 until 7 June 2010, by Linde AG or its affiliated companies in which it directly or indirectly holds a majority of shares, based on the General Meeting's authorization of the Executive Board) who are obligated to conversion, perform their conversion obligation.

The issuance of new shares will occur according to the terms of the aforementioned resolution of authorization at the respectively defined conversion or option price.

The new shares will start participating in profits from the beginning of the business year in which they arise through the exercising of conversion or option rights or through discharge of conversion obligations.

- 3.9 The share capital is conditionally increased by up to EUR 25,071,910.40. The conditional capital increase will be executed only to the extent that the

- a) holders of conversion rights or warrants attached to convertible or option bonds to be issued by Linde AG or companies in which Linde AG directly or indirectly holds the majority by 16 May 2005 exercise their conversion or option rights or as
- b) holders under obligation to conversion of convertible bonds to be issued by Linde AG or companies in which Linde AG directly or indirectly holds the majority by 16 May 2005 fulfill their obligation to conversion.

The new shares are entitled to participate in profits from the beginning of the business year in which they come into being due to exercising conversion or option rights or fulfilling obligations to conversion.

- 3.10 The share capital is conditionally increased by up to EUR 9,318,842.88, divided into a total of 3,640,173 new no-par value shares (Contingent Capital 2002). The conditional capital increase will be executed only to the extent that the holders of option rights issued by the Company pursuant to the authorization granted to the Executive Board by resolution of the General Meeting of 14 May 2002 exercise their option rights and the Company does not fulfil these option rights by transfer of treasury shares or by way of cash payment. The new shares to be issued as a result of holders exercising their option rights shall first be entitled to dividend payments for the business year for which at the time of their issue a resolution has yet to be made by the General Meeting with regard to the appropriation of unappropriated profit.
- 3.11 The share capital is conditionally increased by up to EUR 9,000,000 by the issuance of up to 3,515,625 new no-par value bearer shares with a pro rata amount of the share capital attributable to each share of EUR 2,56 (Conditional Capital 2007). The conditional capital increase is resolved solely for the purpose of granting subscription rights (share options) to members of the Executive Board of the Company and further managerial staff of the Company and subordinate affiliated entities in Germany and abroad, including members of management bodies (hereinafter "Beneficiaries") in accordance with the authorization resolution of the General Meeting of 5 June 2007. It shall only be implemented if and to the extent subscription rights are exercised in accordance with this authorization resolution and the Company does not pay cash or grant treasury shares in return. The new shares shall be entitled to participate in the profit from the beginning of the business year in which they are created by issuance. If issued after the end of a business year, but before the Supervisory Board meeting resolving on the appropriation of the profit, the new shares shall also be entitled to participate in the profit for the last completed business year.
- 3.12 The share capital is conditionally increased by up to EUR 85,000,000.00 by issuing up to 33,203,125 new no par value bearer shares, with a pro-rata amount of the Company's registered share capital attributable to each share of EUR 2.56 (Conditional Capital 2008). The conditional capital increase shall be implemented only to the extent that (i) bearers or creditors of conversion or warrant rights associated with convertible bonds and/or warrant-linked bonds issued by the Company or by Group

Affiliates under the management of the Company on or before 2 June 2013 in accordance with the authorisation resolution adopted at the General Meeting on 3 June 2008 exercise their conversion or warrant rights, or (ii) bearers or creditors of convertible bonds issued by the Company or by Group Affiliates under the management of the Company on or before 2 June 2013 in accordance with the authorisation resolution adopted at the General Meeting on 3 June 2008 comply with their conversion obligations, unless treasury shares are used to service bondholders in case (i) or (ii). New shares shall be issued for payment of the warrant exercise or conversion price as determined in accordance with the above-referenced authorisation resolution. New shares shall be entitled to participate in the profit since the beginning of the financial year in which they are created as a result of the exercise of conversion or warrant rights or as a result of compliance with conversion obligations. The Executive Board is authorised, with the consent of the Supervisory Board, to determine the remaining details for implementation of the conditional capital increase.

## **II. Constitution and Management of the Company**

### **4. Company executive bodies**

The executive bodies of the Company are:

- The Executive Board
- The Supervisory Board
- The General Meeting

### **Executive Board**

#### **5. Composition, Resolutions**

- 5.1 The Executive Board is composed of a multiple number of members. The number of members of the Executive Board is determined by the Supervisory Board.
- 5.2 The Supervisory Board can appoint one member of the Executive Board as the Chairman and one member as the Deputy Chairman of the Executive Board.
- 5.3 Votes taken in the Executive Board are decided by simple majority. If voting is equal, the vote is decided by the vote of the Chairman, who is responsible for presiding at the meetings of the Executive Board.

## 6. Representation

The Company is legally represented by two members of the Executive Board or by one member of the Executive Board and one agent holding power of attorney (Prokurist). For the rest the Company is represented by agents holding power of attorney and other agents holding signature authorization as determined fully by the Executive Board.

### Supervisory Board

## 7. Composition, Election, Reserve Members

- 7.1 Until the close of the General Meeting deciding on the formal approval of the acts of the members of the Supervisory Board for the business year 2007, the Supervisory Board is composed of sixteen members, i.e. eight shareholders' Supervisory Board members elected in accordance with the German Stock Corporation Act and eight employees' Supervisory Board members elected in accordance with the German Co-Determination Act. From the close of the General Meeting deciding on the formal approval of the acts of the members of the Supervisory Board for the business year 2007, the Supervisory Board is composed of the minimum number of members required by applicable law. Also the election of the members shall be governed by applicable law.
- 7.2 All members of the Supervisory Board are elected for the period until conclusion of the General Meeting deciding on the formal approval of the acts of the members of the Supervisory Board for the fourth business year following the commencement of their term of office, not counting the business year in which the term of office commences. The General meeting can elect shareholder members of the Supervisory Board to serve a shorter term of office. Replacements for prematurely retiring members of the Supervisory Board are elected for the remaining term of office of the retiring member or members.
- 7.3 Together with the ordinary members of the Supervisory Board, a maximum of four reserve members are to be elected by shareholders. The reserve members take the place of prematurely retiring shareholders' members of the Supervisory Board (including retirement due to challenging of election) according to the order determined at the time of election insofar as no other member has been appointed for the retiring member of the Supervisory Board by the Registry Court (Registergericht) or the General Meeting within ten days of the retirement. The term of office of a reserve member acceding to the Supervisory Board terminates as soon as his or her place is taken by a member of the Supervisory Board elected by the General Meeting, however not later than on expiry of the term of office of the retiring member of the Supervisory Board.

7.4 Each member of the Supervisory Board may resign his or her office without an important reason by declaring resignation with at least two months notice. Said notice may be waived subject to the approval of the Chairman of the Supervisory Board. These rules apply in like manner to reserve members.

## **8. Chairman, Committees**

8.1 At a meeting convened without separate invitation immediately following the General Meeting upon the conclusion of which the new term of office commences, the Supervisory Board elects among its members a Chairman and a Deputy Chairman for the respective term of office in accordance with the provisions of the German Co-Determination Act.

The Supervisory Board also elects an additional Deputy Chairman. If the Chairman of the Supervisory Board or a Deputy Chairman retires prior to expiry of the term of office, the Supervisory Board is required to elect without delay a replacement for the retiring Chairman or Deputy Chairman for the remaining term of office.

8.2 Declarations of intent of the Supervisory Board and its Committees are made by the Chairman of the Supervisory Board or, if unable to do so, by a Deputy Chairman.

8.3 The Supervisory Board may form Supervisory Board Committees from among its members and establish the duties and rights of said Committees in Rules of Procedure. Where permitted by law, the Committees of the Supervisory Board may be assigned the powers of voting on resolutions.

## **9. Resolutions**

9.1 Resolutions of the Supervisory Board are usually made at meetings. Meetings and adopting resolutions in writing, by telephone, or with the aid of other means of telecommunication are acceptable if the chairman of the Supervisory Board decides this in a specific case. There is no right to raise an objection against this method of adopting resolutions. This applies accordingly to the adoption of resolutions at Supervisory Board committees meetings.

9.2 The Chairman of the Supervisory Board calls meetings of the Supervisory Board and appoints the place of meeting.

9.3 The Supervisory Board has the necessary quorum if at least half of the members, from which the Supervisory Body has to be made up, take part in the adoption of the resolution. If an equal number of shareholder members and employee members do not take part in the adoption of a resolution, or if the

chairman of the Supervisory Board does not take part, four members of the Supervisory Board can request jointly that the adoption of a resolution on individual or all matters on the agenda be deferred. Further postponement of the adoption of a resolution on such matters on the agenda can only be demanded by a majority of the members of the Supervisory Board at a new, properly called meeting.

- 9.4 Insofar as not subject to other provisions under law, resolutions of the Supervisory Board and its Committees are decided by simple majority vote. The form of voting is determined by the member presiding at the meeting. If voting is equal and insofar as not conflicting with binding provisions under law, each member of the Supervisory Board or Committee is entitled to demand renewed vote on the same item. If voting is equal on renewed vote, the vote of the Chairman of the Supervisory Board counts double.
- 9.5 The Supervisory Board is empowered to make amendments to the Company's Articles of Association restricted to their wording.
- 9.6 The members of the Supervisory Board are not bound to orders and instructions. Their obligations to exercise care and maintain secrecy and their responsibility are subject to the provisions of sections 116, 93 German Stock Corporation Act.

## **10. Rules of Procedure**

- 10.1 The Supervisory Board establishes for itself Rules of Procedure within the provisions of statute law and the Company's Articles of Association.
- 10.2 The Supervisory Board determines which steps the Executive Board should take only with its consent.

## **11. Remuneration**

- 11.1 Each member of the Supervisory Board receives a fixed yearly remuneration of EUR 50,000.00 per annum.

This fixed remuneration will increase, on the one hand, by EUR 300 for every profit dividend of EUR 0.01 per share resolved by the General Meeting payable to the shareholders in excess of EUR 0.50 per share with full dividend entitlement and on the other hand by EUR 450 for each 0.1 percentage-points by which the return achieved on the average capital employed (ROCE) during the respective business year within the Linde Group exceeds the rate of seven percent.

In doing so, the ROCE is to be determined as follows on the basis of the data in the respective audited Group Financial Statements according to IFRS (International Financial Reporting Standards): Profit before income taxes, before financial income and financial expenses, and before special items as shown in the accounts, but including income from associates and joint ventures, and adjusted for depreciation on hidden reserves realized in purchase price allocations, divided by the Capital Employed. The Capital Employed shall be the total equity, financial debt, liabilities from financial services and net pension obligations less cash and cash equivalents, securities and receivables from financial services, with each item being the average of the reference date values of the past business year and the business year preceding it.

- 11.2 The Chairman of the Supervisory Board receives three times the amount, while each Deputy Chairman and each member of the Standing Committee receives one and a half times the amount to be granted according to 11.1. The Chairman of the Audit Committee receives EUR 40,000.00 and every other member of the Audit Committee receives EUR 20,000.00 in addition to the remuneration defined in 11.1. If a member of the Supervisory Board holds, at the same time, several offices that are granted an elevated level of remuneration, he or she receives only the remuneration for the office granting the highest remuneration.
- 11.3 The yearly fixed remuneration and remuneration based on the Company's success according to 11.1 and 11.2 will be paid for the first time for the business year 2007.

Members of the Supervisory Board who belonged to the Supervisory Board or a committee for only a portion of the business year are paid pro rata temporis.

- 11.4 In addition, every member of the Supervisory Board receives an attendance fee of EUR 500.00 for every meeting of the Supervisory Board and its committees in which he or she participates.

The Company can conclude for the benefit of the members of the Supervisory Board liability insurance that will cover the legal liability from their service on the Supervisory Board.

Linde AG reimburses the members of the Supervisory Board, in addition to their disbursements, the sales tax applied to their compensation.

## General Meeting

### **12. Convening Notice, Right to Attend, Authorization**

- 12.1 The General Meeting shall be convened by the Executive Board or the Supervisory Board.
- 12.2 Convening of the meeting must be announced, stating the agenda, at least 30 days prior to the day by the end of which the shareholders have to register for the General Meeting pursuant to 12.3 of the Articles of Association.
- 12.3 Shareholders who wish to attend the General Meeting or exercise their voting rights must register prior to the meeting in text form in German or English language. The registration must be received by the Company at the address stated for this purpose in the convening notice on the seventh day prior to the General Meeting at the latest.
- 12.4 The shareholders must also provide proof of their right to attend the General Meeting and exercise their voting rights. Proof requires confirmation of ownership of the shares in text form in German or English language provided by the depository bank or financial services institution. Proof of ownership of the shares must relate to ownership at the beginning of the twenty-first day prior to the General Meeting and must be received by the Company at the address stated for this purpose in the invitation on the seventh day prior to the General Meeting at the latest.
- 12.5 Voting rights can be exercised by proxy. Powers of attorney other than those granted to a financial institution or to a shareholders' association shall be granted in writing. In case the Company names proxy voters, power of attorney to such proxy voters may also be granted by electronic means if the Company so determines; the Company may define the details of such procedure.

### **13. Voting Rights, Resolutions**

- 13.1 Each no-par value share has one vote at the General Meeting.
- 13.2 Insofar as not conflicting with binding provisions under law, resolutions are decided by the General Meeting by simple majority of the votes cast and, where a capital majority is required, by simple majority of the share capital represented at the time of voting on the resolution.

**14. President at the General Meeting, Voting**

- 14.1 The Chairman of the Supervisory Board or another shareholders' member of the Supervisory Board appointed by the Chairman shall preside over the General Meeting. If neither the Chairman nor another member of the Supervisory Board appointed by the Chairman for this purpose is present, the shareholders' members of the Supervisory Board present shall elect the person to preside at the General Meeting.
- 14.2 The person presiding determines the sequence of consideration of the items on the agenda and of voting. The person presiding also determines the form of voting. The result of voting is normally determined by deducting the number of yes or no votes and abstentions from the total number of votes attributed to eligible voters. The person presiding may order a different procedure.
- 14.3 The person presiding determines the sequence of speakers. The person presiding may reasonably limit the time for shareholders to speak and ask questions. The person presiding is particularly empowered to set a reasonable time limit at the beginning or during the General Meeting for the entire General Meeting, for individual items on the agenda, and for individual questions and statements.
- 14.4 The person presiding may permit the General Meeting to be recorded and broadcast by electronic media.

**III. Business Year, Financial Statements, Notices**

**15. Business Year**

The business year is the calendar year.

**16. Company Financial Statements, Group Financial Statements, Reviews of Operations**

- 16.1 The Executive Board is annually required to prepare the Company financial statements, Group financial statements and reviews of operations for the preceding business year and to submit them to the auditor. The Executive Board is also required to submit the said statements and reviews together with the distribution of net disposable profit to be proposed at the General Meeting to the Supervisory Board.

16.2 The Company financial statements are passed as final when approved by the Supervisory Board.

**17. Announcements, transmission of information**

17.1 The Company's announcements shall be published in the electronic Federal Gazette.

17.2 The Company may transmit information to shareholders by remote data transmission in case the respective shareholder has granted its consent to such transmission.