

SUNCOR ENERGY INC
Form 6-K
April 07, 2004

FORM 6-K

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

**Report of Foreign Private Issuer
Pursuant to Rule 13a - 16 or 15d - 16 of
the Securities Exchange Act of 1934**

For the month of: April 2004

Commission File Number: 1-12384

SUNCOR ENERGY INC.

(Name of registrant)

112 Fourth Avenue S.W.
P.O. Box 38
Calgary, Alberta
Canada, T2P 2V5

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F:

Form 20-F Form 40-F

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the SEC pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934:

Yes No

If Yes is marked, indicate the number assigned to the registrant in connection with Rule 12g3-2(b):

N/A

SIGNATURES

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

SUNCOR ENERGY INC.

Date: April 7, 2004

By: */s/* JANICE B. ODEGAARD
JANICE B. ODEGAARD
Vice President, Associate
General Counsel and
Corporate Secretary

EXHIBIT INDEX

Exhibit	Description of Exhibit
1	President's Letter to Shareholders dated April 7, 2004, Notice of Meeting and Management Proxy Circular, dated March 8, 2004
2	Form of Proxy
3	NI54-102 Return Card

3

m"> 7,144

of which unfunded pension obligations

74 60 64 141 156 164 81 80 73 42 39 39 338 335 340

of which funded pension obligations

1,486 1,331 1,368 4,276 4,030 3,984 442 434 730 524 517 463 224 231 259 6,952 6,543 6,804

Fair value of plan assets

(890) (807) (788) (3,760) (3,957) (3,838) (359) (353) (598) (586) (562) (553) (258) (261) (291) (5,853) (5

Net obligation

670 584 644 516 73 146 224 237 296 19 35 (17) 8 9 7 1,437 938 1,076

Amount at December 31,

670 584 644 516 73 146 224 237 296 19 35 (17) 8 9 7 1,437 938 1,076

of which pension provision (+)

670 584 644 522 97 173 224 237 296 83 83 74 53 55 60 1,552 1,056 1,247

of which pension asset (-)

(6) (24) (27) (64) (48) (91) (45) (46) (53) (115) (118) (171)

Defined Contribution Plans

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

The total of all pension costs relating to defined contribution plans for the six months ended June 30, 2017 amounted to 103 million (2016: 200 million, 2015: 210 million; 2014: 176 million). Of this amount, contributions to state pension schemes for the six months ended June 30, 2017 amounted to 60 million (2016: 124 million, 2015: 122 million; 2014: 88 million).

-431-

Table of Contents

For further information on Linde's pension obligations, see Note 21 to the Group's consolidated financial statements beginning on page F.3-17 of this document.

Contractual Obligations

The table below summarizes the Group's debt, future minimum lease obligations on its operating leases and other commitments as of December 31, 2016:

in million	2017	2018	2019	2020	2021	Thereafter	Total
Long-term debt obligations ⁽¹⁾							
Debt	1,239	1,519	934	1,110	643	2,471	7,916
Capitalized lease maturities	22	15	12	9	4	52	114
Contractual interest	213	164	122	106	84	197	886
Operating leases	131	90	70	56	46	145	538
Purchase Obligations ⁽²⁾	208	25	3	14			250
Other long-term liabilities							
Retirement obligations ⁽³⁾	78	78	78	78	78	392	782
Derivatives with negative fair values ⁽⁴⁾	40	52	63	47	46	442	690
Total contractual obligations	1,931	1,943	1,282	1,420	901	3,699	11,176

(1) The assumed interest rate for floating-rate debt was the rate in effect at December 31, 2016.

(2) Purchase Obligations include contractual payment obligations for tangible fixed assets and intangible assets, but do not include obligations from supply contracts with minimum purchase volume (take-or-pay contracts).

(3) Retirement obligations include estimates of pension plan contributions and expected future benefit payments for unfunded pension plans. Annual retirement obligations through 2026 are estimated to be at the level forecasted for 2017. Estimates of retirement obligations after 2026 are not included, because the timing for their resolution cannot be reasonably estimated.

(4) Net cash payments for interest rate derivatives.

Off-Balance Sheet Arrangements

The following table shows Linde's off-balance sheet arrangements as of December 31, 2016, 2015 and 2014 and as of June 30, 2017:

in million	June 30, 2017	December 31, 2016	December 31, 2015	December 31, 2014
Guarantees			4	3
Other contingent liabilities	71	73	54	64
Total	71	73	58	67

Guarantee Agreements

Off-balance sheet arrangements relate to guarantee agreements and other contingent liabilities. In rare cases, Linde enters into guarantee agreements with banks to secure loans of unconsolidated entities.

Other Contingencies

The Engineering Division regularly enters into contracts with consortium partners to build turnkey industrial plants, under which the consortium partners assume joint and several liability to the customer for the total volume of the contract. There are contractual provisions as to how the liability should be split between the partners. In the six months ended June 30, 2017, there are plant construction orders with one of the Group's consortium partners totaling 693 million (2016: 773 million; 2015: 736 million; 2014: 693 million). Linde

Table of Contents

currently anticipates that there will be no joint and several liability claim and has therefore not recorded any provision or included an amount in the table above in respect of these contracts.

Warranties

Linde recognized contingent liabilities from warranties of 1 million as of June 30, 2017 (December 31, 2016: 1 million; December 31, 2015: 8 million; December 31, 2014: 15 million).

Non-IFRS Financial Measures

The Linde Group uses the following non-IFRS performance indicators to measure the medium-term and long-term financial success of its operations:

Segment group operating profit from continuing operations; and

return on capital employed for the Group's continuing operations.

These measures are intended to supplement investors' understanding of The Linde Group's financial information by providing information which investors, financial analysts and management use to help evaluate The Linde Group's operating performance and return on capital employed. The key financial measures relating to The Linde Group are presented below after adjusting for special items. Definitions of these non-IFRS measures may not be comparable to similar definitions used by other companies and are not a substitute for IFRS measures.

The following are the non-IFRS measures presented under Summary Selected Historical Consolidated Financial Information of Linde and Selected Historical Financial Information of Linde for the indicated periods.

in million	Three Months Ended		Six Months		2016	2015	2014	2013	2012
	June 30,	June 30,	Ended	Ended					
	2017	2016	2017	2016					
Segment group operating profit from continuing operations ⁽¹⁾	1,082	1,051	2,123	2,036	4,098	4,087	3,859	3,908	3,619
Return on capital employed from continuing operations in %			8.8	8.9	8.9	8.7	8.3	9.8	10.3
Return on capital employed from continuing operations (before special items) in % ⁽²⁾			9.8	9.3	9.4	9.5	9.6	9.8	10.3

Table of Contents

- (1) The following table presents the reconciliation from profit of the period from continuing operations to Segment group operating profit from continuing operations, as well as from segment operating profit to Segment group operating profit from continuing operations for the periods presented:

In million	Three Months Ended		Six Months Ended						
	June 30,		June 30,		2016	2015	2014	2013	2012
	2017	2016	2017	2016					
Profit of the period from continuing operations	312	347	656	680	1,327	1,236	1,139	1,411	1,321
Income tax expense	90	113	207	222	424	396	353	357	381
Net financial result	(70)	(94)	(144)	(183)	(324)	(397)	(365)	(377)	(321)
Net profit on operating activities from continuing operations	472	554	1,007	1,085	2,075	2,029	1,857	2,145	2,023
Amortization of intangible assets/Depreciation of tangible assets	471	458	955	912	1,897	1,866	1,707	1,763	1,596
Special items	139	39	161	39	126	192	295		
Thereof restructuring expenses	103	30	114	30	106	162	52		
Thereof impairment of assets and other structural and consulting costs	11	9	20	9	10	30	243		
Thereof merger costs	25		27		10				
Segment group operating profit from continuing operations	1,082	1,051	2,123	2,036	4,098	4,087	3,859	3,908	3,619
Thereof EMEA	462	498	924	928	1,807	1,790	1,778	1,759	1,722
Thereof Asia/Pacific	347	259	615	513	1,084	1,063	1,010	1,005	996
Thereof Americas	304	330	627	652	1,319	1,298	1,047	1,082	848
Thereof Engineering Division	44	43	97	89	196	216	300	319	312
Thereof elimination and other items ^(a)	(75)	(79)	(140)	(146)	(308)	(280)	(276)	(257)	(259)

(a) Elimination and other items include consolidation effects and corporate activities.

Table of Contents

(2) The following table presents the components of return on capital employed for the Group:

in million	Six Months Ended June 30, 2017	Six Months Ended June 30, 2016	2016	2015	2014	2013	2012
Net profit on operating activities from continuing operations	1,007	1,085	2,075	2,029	1,857	2,145	2,023
Special items	161	39	126	192	295		
Return before special items	1,168	1,124	2,201	2,221	2,152	2,145	2,023

	As of June 30, 2017	2016	2016	2015	As of December 31, 2014	2013	2012
Equity including non-controlling interests (as reported)	14,578	14,380	15,480	15,449	14,267	13,586	13,658
Plus: Financial debt	8,926	10,493	8,528	9,483	9,856	9,577	10,581
Plus: Liabilities from finance leases	61	70	74	78	74	78	80
Less: Receivables from finance leases	183	235	214	269	298	327	440
Less: Cash, cash equivalents and securities	1,808	2,867	1,594	1,838	1,658	1,348	2,108
Plus: Net pension obligations	1,362	1,562	1,449	950	1,094	784	838
Capital employed (as reported)	22,936	23,403	23,723	23,853	23,335	23,350	22,609
Less: Adjustment for discontinued operations^(b)	408	492	399	559	509	506	531
Capital employed continuing operations	22,528	22,911	23,324	23,294	22,826	21,844	22,078
Plus: Special items (after taxes)	119	31	95	139	270		
Capital employed continuing operations (before special items)	22,647	22,942	23,419	23,433	23,096	21,844	22,078
Return on capital employed from continuing operations in %^(a)	8.8	8.9	8.9	8.7	8.3	9.8	10.3
Return on capital employed from continuing operations (before special items) in %^(a)	9.8	9.3	9.4	9.5	9.6	9.8	10.3

(a) Return on capital employed is calculated as return of the current year divided by the average of the capital employed as of December 31 of the current year and December 31 of the prior year. For the twelve months ended June 30, 2017, return on capital employed is calculated as return of the last twelve months divided by the average capital employed as of June 30, 2017 (22,720 million and 22,795 million before special items) and June 30, 2016 (23,422 million and 23,490 million before special items).

(b) For consistency purposes the denominator is also adjusted by the discontinued operation. The line item Less: Adjustments for discontinued operations contains the capital employed related balance sheet positions of the discontinued operation.

Quantitative and Qualitative Disclosures About Market Risk**Interest Rate Risks**

Interest rate risks arise from market fluctuations in interest rates. As a result of its financing activities, The Linde Group is exposed to a risk from interest rate changes. At December 31, 2016, The Linde Group held interest-bearing instruments (net, including interest rate derivatives/hedges) totaling 7,190 million (2015: 7,829 million; 2014: 8,139 million). Of these, 2,618 million (2015: 2,586 million; 2014: 3,112 million) related to instruments bearing interest at variable interest rates and 4,572 million (2015: 5,243 million; 2014: 5,028 million) to instruments bearing interest at fixed rates. This is equivalent to a Group-wide fixed-rate ratio of 64% (2015: 67%; 2014: 62%).

Linde has used forward payer swaps to provide an element of hedging against exposure to rising interest rates with regard to future bond issues.

Based on instruments bearing interest at variable rates and financial instruments hedging interest rate risks which The Linde Group holds or has issued (these are mainly held or were issued in euro, British pound, U.S. dollar or Australian dollar), a hypothetical change in the interest rates (in basis points, which are herein referred

Table of Contents

to as bps) applicable to the respective instruments would have had the following effects (if exchange rates remained constant):

Currency, in million	Change	2016		2015		2014	
		Recognized in profit or loss	Directly in equity	Recognized in profit or loss	Directly in equity	Recognized in profit or loss	Directly in equity
EUR	+ 100 bps	(38)	82	(22)	89	(25)	104
	(100) bps	38	(87)	22	(95)	25	(112)
GBP	+ 100 bps	12	(3)	1	(6)		(9)
	(100) bps	(12)	3	(1)	6		9
USD	+ 100 bps	(3)	52	(2)	68	(3)	75
	(100) bps	3	(53)	2	(69)	3	(76)
AUD	+ 100 bps		11	(3)	8	(3)	8
	(100) bps		(11)	3	(8)	3	(8)
Other currencies	+ 100 bps	3	7	1	7		4
	(100) bps	(3)	(7)	(1)	(7)		(4)

Exchange Rate Risks

Due to its activities as an international group, The Linde Group is exposed to exchange rate risks. Its broad spread of activities over many different currency areas and its local business model result in a low concentration of risk for the Group.

The Linde Group monitors and manages its exchange rate risk related to financial instruments, which is a risk that has an impact on its operations. The gross exchange rate risk encompasses all the operating activities of the Group. This gross exchange rate risk is reduced by around 78% (2015: 82%; 2014: 86%) as a result of hedging activities, *i.e.*, entering into forward exchange rate contracts which offset the volatility of the foreign currency exposure of the hedged risk position. Therefore, The Linde Group was exposed at December 31, 2016 to a net exchange rate risk from operating activities involving foreign currency corresponding to 22% (December 31, 2015: 18%; December 31, 2014: 14%) of the original unsecured risk.

The risk of exchange rate movements is monitored for internal management purposes on the basis of a value-at-risk, which relates to positions in currencies other than the relevant functional currency.

The value-at-risk is calculated on the basis of historical data (250 working days) in accordance with international banking standards. The value-at-risk presents the maximum potential loss based on a probability of 97.5% for a holding period of twelve months. The calculation takes into account correlations between the transactions being considered; the risk of a portfolio is generally lower than the total of the respective individual risks.

At December 31, 2016, the value-at-risk was 31 million (2015: 26 million; 2014: 17 million).

Other Market Price Risks

As a result of its energy purchases, The Linde Group is exposed to risks arising from changes in commodity prices. The Linde Group monitors and manages these commodity price risks arising from the purchase of electricity, natural

gas and propane for use in production. These hedging operations are governed by strict risk management guidelines, compliance with which is constantly being monitored. Commodity price risks are hedged primarily by long-term supply contracts or limited by the form and structure of sales contracts. Derivatives are also used to a much lesser extent to hedge against the exposure to changes in the price of electricity, natural gas and propane gas. The commodity price risk from financial instruments is therefore not material.

Table of Contents

Hedging

The Linde Group hedges cash flows at both Group and subsidiary company levels, based on agreed minimum hedging rates. At the subsidiary company level, future transactions, which are highly probable, are hedged against foreign exchange risks. A rolling 15-month budget or the budgets for individual customer-specific projects are used for this purpose. See Note 27 to the Group's consolidated financial statements beginning on page F. 3-17 of this document.

Linde generally only uses derivative hedging products to hedge against transaction related foreign currency exchange rate effects in its large scale plant construction business. Any foreign currency amounts above certain thresholds are fully hedged as soon as they arise, generally by entering into forward exchange transactions. However, the Group generally engages in a natural hedging strategy within its foreign currency activities, including the matching of revenues and costs, for example, by purchasing supplies and services in the currency of the contract.

As far as translation risks are concerned, only currency-related fluctuations in net asset values at Group level are hedged selectively within a framework of authorized ranges. Forward exchange transactions, cross-currency interest rate swaps, currency options and foreign currency loans are all used within this framework. The main currencies are U.S. dollars, British pounds, Australian dollars and some Eastern European, South American and Asian currencies. In the Linde Gases Division, the Group also uses financial instruments, especially to hedge against exposure to changes in the price of electricity, natural gas and propane gas.

Critical Accounting Policies

Certain accounting policies are considered by Linde's management to be critical. Their application places significant importance on management's judgment as a result of the need to make estimates of matters that are inherently uncertain. Linde's financial position, results of operations and cash flows could be materially affected if actual results differ from estimates made. These policies are determined by management and have been reviewed by Linde's audit committee. Such policies include management's judgment whether Linde exercises control, joint control or significant influence over another entity, estimates of fair values in connection with business combinations and assets held for sale, the useful lives and impairment review of intangible and tangible assets, provisions for pensions and similar obligations, other provisions, revenue recognition on construction contracts, income taxes and accounting for leases.

See Note 5 to the Group's consolidated financial statements beginning on page F.3-17 of this document for a description of the Group's critical accounting policies.

New Accounting Standards

See Note 5 to the Group's consolidated financial statements beginning on page F.3-17 of this document for information concerning new accounting standards and the impact of the implementation of these standards on the Group's financial statements beginning on page F.3-17 of this document.

Table of Contents**REGULATORY ENVIRONMENT**

The operations and products of Praxair and Linde are, and following completion of the business combination the operations and products of the combined group will be, subject to a number of regulations imposed by the various jurisdictions in which the companies operate. Specifically, the companies' operations and products, as well as the activities of their officers, directors, employees, contractors and agents, are and/or will be subject to U.S. federal, state, and local laws and regulations, in addition to laws and regulations of the European Union, Germany, Ireland and other jurisdictions around the globe. These laws and regulations include data privacy requirements, import and trade restrictions and export requirements, environmental laws and regulations, medical gas and medical device laws and regulations, food and beverage laws and regulations, and laws and regulations pertaining to labor and employment, tax, antitrust and competition, environmental protection, and corruption and bribery. The regulatory requirements applicable to Praxair's and/or Linde's business activities and the requirements that will be applicable to the combined group's business activities following completion of the business combination, are subject to change, as they are continuously modified at all levels.

The following contains a brief overview of select regulations applicable to Praxair, Linde and, following completion of the business combination, the combined group. This section should be read together with the section "Risk Factors - Risks Relating to Regulatory Environment and Legal Risks," "Risk Factors - Risks Relating to Tax Matters," Note 17 of Praxair's consolidated financial statements beginning on page F.2-27 of this document, and "Business and Certain Information About Linde - Legal Proceedings."

United States***Environmental Matters***

Praxair's and Linde's principal operations relate to the production and distribution of atmospheric and other industrial gases, which are subject to U.S. federal and state regulation, in particular environmental regulations regarding the reduction or mitigation of perceived adverse effects of greenhouse gas (which is herein referred to as "GHG") emissions, as well as contamination and disposal, off-site storage, treatment, recycling or disposal of hazardous materials. Praxair's and Linde's operations historically have not had a significant impact on the environment. However, costs relating to environmental protection may continue to grow due to increasingly stringent laws and regulations, and Praxair's and Linde's ongoing commitment to rigorous internal standards.

Climate Change

Praxair and Linde operate in jurisdictions that have, or are developing, laws and/or regulations to reduce or mitigate the perceived adverse effects of GHG emissions and face a highly uncertain regulatory environment in this area, including the Federal Clean Air Act, the National Emissions Standards for Hazardous Air Pollutants, stratospheric ozone regulations to phase out the use of ozone depleting substances, as well as state laws and regulations impacting air emissions. For example, the U.S. Environmental Protection Agency (which is herein referred to as the "EPA") has promulgated rules requiring reporting of GHG emissions, and Praxair, Linde and many of their respective suppliers and customers are subject to these rules. The EPA has also promulgated regulations to restrict GHG emissions, including final rules regulating GHG emissions from light-duty vehicles and certain large manufacturing facilities, many of which are Praxair and Linde suppliers or customers. More recently, the EPA promulgated carbon dioxide regulations for both new and existing power plants, which require controls on GHG emissions from certain suppliers of power to Praxair's and Linde's operations.

Praxair and Linde anticipate continued growth in their hydrogen production businesses, as hydrogen is essential to refineries that use it to remove sulfur from transportation fuels in order to meet ambient air quality standards in the United States. Hydrogen production plants and a large number of other manufacturing and electricity-generating plants have been identified under California law as a source of carbon dioxide emissions and these plants are subject to cap-and-trade regulations in that state. Praxair and Linde believe they will be able to mitigate the costs of these regulations through the terms of their product supply contracts. However, legislation that limits GHG emissions may impact growth by increasing operating costs and/or decreasing demand.

Table of Contents

Contamination and Disposal

Praxair and Linde engage in activities, particularly manufacturing activities relating to their gases businesses in the U.S., that fall within the scope of the environmental protection legislation of the United States regarding contamination and disposal, off-site storage, treatment, recycling or disposal of hazardous materials. Regulations that may have an impact on the companies include:

Comprehensive Environmental Response, Compensation and Liability Act The Comprehensive Environmental Response, Compensation and Liability Act (which is herein referred to as CERCLA) governs the discharge of materials into the environment or otherwise relate to environmental protection. For example, Praxair's and Linde's operations and production facilities in the United States are subject to CERCLA. CERCLA is implemented by the EPA's Office of Solid Waste and Emergency Response and addresses soil and groundwater contamination. Many states have enacted comparable laws that meet and sometimes surpass CERCLA's liability provisions. These regulations establish a framework of contaminated facility liability, allow the government and private parties to recover site investigation and clean-up costs from a range of potentially responsible parties, including current and prior owners and operators of contaminated property. The EPA has authority to issue unilateral administrative orders compelling potentially responsible parties to investigate and clean up certain contaminated sites. Parties who do not comply may face treble damages.

Resource Conservation and Recovery Act The Resource Conservation and Recovery Act (which is herein referred to as RCRA) gives the EPA and delegated state agencies broad authority to regulate the treatment, storage, transportation and disposal of hazardous waste. Generators, transporters and those who treat or dispose of hazardous waste must comply with a complex set of requirements. For example, certain of Linde's facilities in the United States qualify as hazardous waste facilities, which requires Linde to develop emergency plans, obtain sufficient insurance and financial assurance, train employees to handle hazards, obtain RCRA permits from the EPA or an authorized state. These regulations are strictly enforced and non-compliance can result in administrative compliance orders, penalties and criminal liability.

Clean Water Act Certain operations and production facilities of Praxair and Linde are required to obtain permits for point source discharges of wastewater and/or storm water. The EPA and states delegated with authority by the EPA administer these permits, which may include limits on pollutant discharges and requirements for treatment or pretreatment of effluent streams. These requirements are enforced by the applicable regulatory authority, but may also be the subject of a citizen suit, which may result in both penalties and injunctive relief. Facilities with cooling water intake structures are subject to special requirements under the Clean Water Act to prevent impingement and entrainment of aquatic species, which may involve significant costs for required studies and potential capital improvements.

Oil Pollution Prevention Act Facilities that store significant quantities of oil are required to establish Spill Prevention Control and Countermeasures plans, which act as an emergency response plan in the event of an oil spill. The EPA and U.S. Coast Guard have jurisdiction to enforce this law and assess penalties in the event of a release of oil into navigable waters.

Clean Air Act Certain operations and production facilities of Praxair and Linde are required to obtain permits or other approvals for emissions of air pollutants. Depending on the nature and volume of air emissions, a production facility may have to comply with operational and air emission limits, and report noncompliance to the EPA and/or the applicable regulatory authority.

Chemical Facility Anti-Terrorism Standard Operations and production facilities of Praxair and Linde that handle significant volume of specified chemicals are required to report chemical information to the Department of Homeland Security, evaluate security risks, and develop and implement security plans. The security plans under this law may require improvements to security measures, including cameras, personnel, and containment structures, as well as additional training and certification.

If Praxair or Linde violates or fails to comply with applicable environmental laws or regulations, Praxair or Linde could face fines, disruption of their businesses, and/or other sanctions. In certain circumstances, these laws

Table of Contents

may impose strict liability, rendering the respective company liable for environmental and natural resource damages without regard to negligence or fault.

Healthcare Regulations

In the United States, the production, distribution, and sale of medical gases and medical devices are regulated by the U.S. federal government under the Federal Food, Drug and Cosmetic Act and regulations promulgated thereunder, as well as by state and local laws and other regulations. Linde is subject to extensive U.S. federal and state regulation in the field of healthcare, including numerous laws directed at preventing fraud and abuse and laws regulating the dispensing of durable medical equipment and related supplies (which is herein referred to as DME) and the reimbursement of such DME under various government programs. The marketing, billing, documenting and other practices of healthcare companies are subject to government scrutiny, including the right to audit patient records on which submitted claims are based.

As a provider of home oxygen, respiratory and other chronic therapy services to the home healthcare market, Linde participates in, among other programs, Medicare Part B, the U.S. medical insurance program, which covers certain medically necessary products and services furnished to Americans over 65 years of age or otherwise disabled. Linde and other providers of home oxygen and other respiratory therapy services in the United States have historically been heavily dependent on Medicare reimbursement due to the high proportion of elderly persons suffering from respiratory disease. DME, including oxygen equipment, is traditionally reimbursed by Medicare based on fixed fee schedules.

The Patient Protection and Affordable Care Act of 2010 (which is herein referred to as ACA), the Medicare Improvements for Patients and Providers Act of 2008, the Medicare, Medicaid and SCHIP Extension Act of 2007, the Deficit Reduction Act of 2005 and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (which is herein referred to as MMA), contain provisions that directly impact reimbursement for the primary respiratory and other DME products provided by Linde.

Through the MMA, Congress established a competitive bidding program for certain DME products in select geographic regions within the United States. Through the ACA, Congress, in turn, mandated the use of information obtained from the competitive bidding program to adjust fee schedules in regions not subject competitive bidding. Under the competitive bidding program, suppliers compete for the right to provide certain DME items to Medicare beneficiaries in defined regions. Bids are evaluated based on the supplier's meeting eligibility and financial requirements, and contracts are awarded to eligible Medicare suppliers that offer the best price.

Linde experienced severe price cuts for healthcare services in the United States in 2016 due to the Medicare fee schedule being reduced in non-competitive bid areas on certain DME items. While these cuts were supposed to be stepped up further with effect from July 1, 2016, under the 21st Century Cures Act of 2016, the cuts were partly postponed until the beginning of January 2017.

Numerous U.S. federal and state laws and regulations, including the Federal Health Insurance Portability And Accountability Act of 1996 and the Health Information Technology For Economic and Clinical Health Act, govern the collection, dissemination, security, use and confidentiality of patient-identifiable health information. As part of Linde's provision of, and billing for, healthcare equipment and services, Linde is required to collect and maintain patient-identifiable health information. Linde's operations are also subject to laws and rules covering the repackaging, dispensing and storage of drugs (including medical oxygen) and regulating interstate motor-carrier transportation. The facilities operated by Linde must comply with applicable federal and state laws, regulations, and licensing standards. Many of Linde's employees must maintain clinical licenses to provide some of the services offered by Linde. In

addition, Linde's operations are subject to various U.S. state laws, rules and regulations (most notably licensing and controlled substances registrations) governing pharmacies, nursing services and certain types of home health agency activities.

Healthcare is an area of rapid legal and regulatory change. Changes in the laws and regulations and new interpretations of existing laws and regulations may affect permissible activities, the relative costs associated

Table of Contents

with doing business, and reimbursement amounts paid by U.S. federal, state and other third-party payors. Linde cannot predict the future of U.S. federal, state and local regulation or legislation, including Medicare and Medicaid statutes and regulations, the ACA, or possible changes in national healthcare policies, in particular in light of recent changes in the composition of the U.S. Federal Government.

Occupational Health and Safety Requirements

Praxair's and Linde's business activities are subject to occupational health and safety laws that are aimed at preventing health risks for employees in the workplace and providing protection against accidents and occupational diseases. The Occupational Safety & Health Administration (which is herein referred to as OSHA), under the U.S. Department of Labor has promulgated regulations to develop workplace health and safety standards. To that end, OSHA sets and enforces standards to which employers must comply. Under the Occupational Safety and Health Act of 1970, employers are responsible for providing a safe and healthful workplace. Employers must also comply with the General Duty Clause of the Occupational Safety and Health Act of 1970, which requires employers to keep their workplace free of serious recognized hazards. In addition, certain facilities are subject to OSHA's Process Safety Management rule (which is herein referred to as PSM), which requires rigorous standards for managing process safety information, establishing operating procedures, ensuring mechanical integrity, performing an analysis of process hazards, investigating process safety incidents, and auditing compliance with these and other required elements. Similar requirements may be imposed by the EPA under the Risk Management Plan rule, which was established by the Clean Air Act Amendments of 1990. OSHA inspections can lead to citations with costly penalties for employers. For example, under the National Emphasis Program for Chemical Facilities, OSHA has conducted comprehensive and lengthy inspections of facilities covered by PSM, which have required dedication of significant resources. Citations OSHA has issued to facilities in the chemical industry in connection with these inspections have resulted in significant penalties.

States have also enacted laws to protect employees from workplace accidents and other occupational health risks. The occupational health and safety requirements under state laws vary from state to state.

Product Liability and Contractual Liability

Since Praxair and Linde offer their products in the United States, the companies are subject to the laws and regulations of each state in which they have a sufficient connection, including liability arising from contracts related to the sale of their products and services. Most states adhere to some variation of the model Uniform Commercial Code (which is herein referred to as UCC), with respect to contracts for the sale of goods (including intangibles such as gas). UCC Article 2, which governs the sale of goods (as opposed to services or real estate), covers such matters as contract formation, contractual obligations of the seller and the buyer including implied and express warranties of merchantability, rules for performing on a contract, what constitutes breach of contract, and remedies for breach of contract. However, not all states have adopted all sections of the current model UCC. Moreover, the model UCC specifically leaves it to individual states to determine the precise wording of certain sections. States generally follow common law with respect to contracts for services. The common law of each state varies.

Product liability laws may expose the companies to strict liability. For example, these laws typically cover manufacturers, distributors, and sellers, and would apply to the sale by Praxair of hard goods and equipment used in welding and related applications. The tests used to impose strict liability on product sellers are based on state law and often vary among jurisdictions. Most states have adopted strict liability, often based on Section 402A of the Restatement (Second) of Torts (Second Restatement), which provides that a seller of any product in a defective condition that is unreasonably dangerous to the user may be subject to liability for personal injury or property damage caused by the product defect. Sections 1 and 2 of the Restatement (Third) of Torts, which has been adopted in only a

few states, also creates a cause of action for product defects. The Third Restatement adopts a reasonableness, negligence-like standard for design and warnings claims while maintaining a true strict liability regime for manufacturing defects. To the extent that such liability ought to be imposed on Praxair and Linde as the seller of products, state laws and contractual arrangements may be available to shift liability to the manufacturer.

Table of Contents

Anti-Bribery and Corruption Regulations

Praxair and Linde are subject to the Foreign Corrupt Practices Act (which is herein referred to as the FCPA), and similar worldwide anti-bribery laws, which generally prohibit companies and their intermediaries from engaging in bribery or making other improper payments to foreign officials for the purpose of obtaining or retaining business or gaining an unfair business advantage. The FCPA also requires proper record keeping and characterization of such payments in Praxair's reports filed with the SEC.

Praxair's and Linde's agents are required to comply with these laws. Despite the companies' commitment to legal compliance and corporate ethics, neither can ensure that its policies and procedures will always protect it from intentional, reckless or negligent acts committed by employees or agents. Violations of these laws, or allegations of such violations, could disrupt the companies' businesses and result in financial penalties, debarment from government contracts and other consequences that may have a material adverse effect on the companies' reputation, business, financial condition or results of operations. Future changes in anti-bribery or economic sanctions laws and enforcement could also result in increased compliance requirements and related expenses that may also have a material adverse effect on the companies' business, financial condition or results of operations.

Sarbanes-Oxley Act of 2002 and Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

The Sarbanes-Oxley Act of 2002 imposes a stringent set of corporate governance, internal controls, reporting and other requirements on both U.S. and non-U.S. publicly listed companies. Significant resources are necessary for publicly listed companies to come into and remain in compliance with the requirements of the Sarbanes-Oxley Act. The SEC and the Public Company Accounting Oversight Board have taken steps to reduce some of the compliance issues for publicly listed companies, including revisions to the rules relating to internal control over financial reporting established under Section 404 of the Sarbanes Oxley Act, rules that facilitate the delisting and deregistration of securities issued by some non-U.S. companies and rules that exempt some non-U.S. companies from U.S. GAAP reconciliation requirements.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 includes several corporate governance and executive compensation reforms. To the extent these laws and regulations have been implemented or will be implemented in light of recent changes in the composition of the U.S. Federal Government, the companies may need to expend effort and resources to ensure that the corporate governance, reporting and other business activities of each of them are in compliance with such requirements.

European Union

Environmental Matters

Under EU law and subsequent national legislation, the production and distribution of industrial gases as well as the construction and operation of gas and other industrial plants are subject to stringent and comprehensive environmental regulations. Laws applicable to Praxair's and Linde's business activities relate to emission control, GHG reduction, water and soil protection, waste disposal, chemical substances control, and other environmental matters. The following is a brief outline of select environmental law aspects of potential relevance to Praxair's and Linde's operations in Europe, particularly in Germany.

Emission Control

EU and national legislation restricts the level of permissible emissions caused by Praxair's and Linde's production facilities for industrial gases. Statutory and administrative restrictions apply to all emissions which may cause harmful effects to the environment or otherwise endanger the general public or the surrounding neighborhood, *e.g.*, in the form of airborne pollutants or noise. At the European level, the regulatory framework for emission control and the preservation of clean air is set out, *inter alia*, by Directive 2008/50/EC on ambient air quality and cleaner air and Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control).

-442-

Table of Contents

In Linde's home jurisdiction, Germany, these directives have been transposed into national law by the Federal Emission Control Act (*Bundes-Immissionsschutzgesetz*) and subsequent ordinances. Under this emission control regime, operators of production facilities for industrial gases require an emission control permit for the construction and operation of the plant. Such permit is only granted if potential harmful effects caused by the facility fall below specific thresholds defined in statutes and binding technical guidelines. Any major alteration to an existing facility requires approval by the competent authority. For certain large-scale projects with potentially significant environmental effects, Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment and the German Environmental Impact Assessment Act (*Gesetz über die Umweltverträglichkeitsprüfung*) require that a comprehensive environmental impact assessment be conducted prior to the competent authority's decision to issue an emission control permit. This assessment includes a public participation procedure with ensuing rights of action for affected members of the public and certain accredited environmental groups.

Compliance with the terms and conditions of an emission control permit is monitored by the competent local environmental authority. In addition, permit applications, issued permits, and monitoring results are publicly accessible. Where a facility is constructed, altered or operated without a valid permit, the competent authority may, as a matter of last resort, shut it down; the operator and its responsible agents may be subject to significant fines or even criminal prosecution.

Reduction of GHG (Climate Protection)

As an operator of production plants which, directly and indirectly, emit significant amounts of GHG, Praxair and Linde are also subject to the European Union emissions trading system (which is herein referred to as ETS). Introduced by Directive 2003/87/EC and transposed into German law by the Greenhouse Gas Emissions Trading Act (*Treibhausgas-Emissionshandelsgesetz*), the ETS is a cornerstone of the EU's efforts to prevent climate change. It aims at reducing GHG emission by establishing a cap and trade system for GHG emission allowances. The ETS defines an overall emissions limit for industry sectors producing high levels of GHG. This cap is reduced over time. The GHG emitting companies that fall into the scope of the ETS must acquire sufficient allowances to cover their emissions. Under a distribution mechanism a certain amount of allowances is allocated free of charge to electricity-intensive industries. Additional allowances can be acquired on the market; likewise, excess allowances may be sold freely. Emitting companies are thus given an economic incentive to reduce their emissions and realize profits from the sale of unused emission allowances. Where an operator exceeds the annual volume of emissions covered by the acquired allowances, a fine of EUR 100 per ton of GHG emitted in excess of the allowances will be imposed and the company name will be published.

The ETS is currently in its third phase (trading period 2013 to 2020). Phase 4 of the ETS covering the years 2021 to 2030, which will bring about a further reduction of both the free allocation and the overall amount of emission allowances, is expected to be adopted in the course of 2017.

In Germany, efforts to prevent progressing climate change also include the promotion of renewable energy sources. To this end, the recently revised Renewable Energy Sources Act (*Erneuerbare-Energien-Gesetz*), *inter alia*, adds a statutory surcharge to the market price of electricity in order to compensate for the higher production costs of renewable energy. In order to preserve their competitiveness on the world market, certain electricity-intensive industries may seek partial exemption from this surcharge. To the extent Praxair's and Linde's facilities for the production of industrial gases exceed applicable energy consumption thresholds, certain Praxair and Linde companies are currently eligible to benefit from such exemption. However, the price regulation framework for renewable energy is constantly evolving and the renewable energy surcharge is a matter of ongoing political debate.

Water Protection

As Praxair and Linde manufacture and handle substances which are potentially harmful to water, abstract surface and groundwater, and discharge wastewater on some of their production sites, Praxair and Linde are subject to EU as well as German federal and state legislation on water protection.

-443-

Table of Contents

At EU level, water quality standards are primarily regulated by Directive 2000/60/EC (which is herein referred to as Water Framework Directive), which addresses both diffuse and point-source pollution, and establishes binding targets for water quantity and quality in relation to a wide range of water bodies. According to the directive, the EU member states aim to achieve good surface water status, covering inland, coastal and transitional waters by ensuring a balance between abstraction and recharging of groundwater including a binding obligation to prevent the deterioration of water and to enhance water quality. Among other requirements, the EU member states are obliged to enact emission controls based on best available techniques as well as emission limit values in order to ensure the control of discharges into surface waters, to cease or phase out the discharge, emission or loss of priority hazardous substances, and to progressively reduce intrinsically hazardous substances, such as heavy metals. In addition to the Water Framework Directive, Directive 2008/105/EC on environmental quality standards in the field of water policy and the Directive 2006/118/EC on the protection of groundwater against pollution and deterioration lay down regulations on specific issues of water preservation.

In Linde's home jurisdiction, Germany, the requirements of EU law regarding water quality and the protection of groundwater are transposed by the Federal Water Act (*Wasserhaushaltsgesetz*) and the water laws of the federal states. Under the water laws of the federal states certain kinds of use of water, e.g. the abstraction of groundwater and the discharge of wastewater, is subject to governmental approval. Under the Federal Water Act, installations for handling substances hazardous to water must be built and operated in such a manner that no contamination of water or any other detrimental change of its properties is to be feared. Currently, specific technical requirements for such installations including reporting and safety requirements as well as the obligations of operators are regulated by the ordinance on installations for the handling of water-hazardous substances. Installations handling substances hazardous to water must be tested and classified with respect to their properties.

The Federal Water Act also provides for a strict personal liability for damages resulting from a detrimental change of the water. To this end, anyone who introduces or discharges substances into a body of water, or who by other means detrimentally changes the properties of the water is obligated to compensate for the damages thereby caused to another. Apart from water-specific provisions, any environmental damage caused by business activities may result in liability pursuant to general rules of German environmental laws, namely the Federal Environmental Damage Act (*Umwelthaftungsgesetz*) and the Environmental Liability Act (*Umweltschadensgesetz*).

Soil Contamination

Praxair and Linde own and occupy production sites which, due to the historical and current use for industrial purposes, generally have a certain likelihood of being contaminated with substances hazardous to soil and groundwater.

Whereas the EU aims at initiating respective legislation in the future, there is currently no harmonized legal framework at EU level on protection of soil including inspection and remediation duties.

Under German law, liability for environmental contamination is mainly governed by the Federal Soil Protection Act (*Bundes-Bodenschutzgesetz*). Its provisions apply to currently existing and future soil contaminations or other harmful impacts on soil functions that are able to bring about hazards, considerable disadvantages or considerable nuisances for individuals or the general public, such as excessive compression or dehydration of the soil. The ensuing remediation liability does not require involvement, fault or knowledge of such contamination. It applies to, among others, the polluter, a universal legal successor, the occupant and current or former owner of the real property, and persons or entities that gave up ownership of such properties. The decision to issue inspection and remediation orders is subject to the competent authority's discretion, guided by the principle of efficiency.

As soon as contaminated soil is excavated in the course of construction or remediation works, it no longer falls within the scope of the Federal Soil Protection Act. Instead, it may qualify as waste pursuant to the Waste Management Act (*Kreislaufwirtschaftsgesetz*), which may result in additional disposal costs.

Table of Contents*Waste Disposal*

As regards the EU regulation of waste, the operations and products of Praxair and Linde are subject to the provisions of Directive 2008/98/EC (herein referred to as the Waste Framework Directive). The directive applies to waste defined as any substance or object which the holder discards or intends or is required to discard . Excluded from the scope of the directive are, among others, gaseous effluents emitted into the atmosphere, the land, and the uncontaminated soil, materials covered by other EU legislation (e.g. wastewater, animal by-products, and mining waste) as well as by-products of industrial processes if they can be used without any further normal industrial processing, are produced as an integral part of the production process and further use is lawful. Material is no longer considered waste if it meets certain criteria, such as whether a market exists for the material, or if it has undergone a recovery operation, including recycling.

Under the Waste Framework Directive, EU Member States must take appropriate measures to ensure that waste management is carried out without endangering human health or harming the environment. In addition, they are obliged to prohibit the abandonment, dumping or uncontrolled management of waste. The Directive lays down a certain priority order in waste prevention and management legislation and policy. In descending order, the waste hierarchy is: waste prevention; preparing for reuse; recycling; other recovery such as energy recovery; and disposal. In addition to the Waste Framework Directive, Regulation (EC) No. 1013/2006 (Waste Shipment Regulation), Directive 94/62/EC (Packaging Waste Directive), and Directive 2000/53/EC (End-of-Life Vehicles Directive) contain supplementary producer responsibility regimes applicable to Praxair's and Linde's business activities.

As regards Linde's home jurisdiction of Germany, waste law is provided by the Waste Management Act (*Kreislaufwirtschaftsgesetz*) and various ordinances regulating the handling and disposal of waste. The German statutes adopt the concept of waste hierarchy given in the Waste Framework Directive. Waste that is not recycled has to be disposed of in accordance with basic principles of waste management guided by public interest. To ensure such disposal, records of proper waste management must be prepared. Special regulations apply to the disposal of certain waste substances not regulated by the Waste Management Act, for instance, nuclear fuel and radioactive substances or wastewater, which is subject to the Federal Water Act.

Chemical and Hazardous Substances Control

At EU level, the production, import and handling of chemical substances are subject to the extensive regime of Regulation (EC) No. 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (which is herein referred to as REACH). In principle, REACH applies to all chemical substances used in industrial processes or day-to-day products. Also Praxair's and Linde's gases divisions produce and distribute certain gases which fall in the scope of REACH, for instance oxygen, nitrogen, argon, hydrogen, carbon dioxide, and carbon monoxide. Thus, the regulation also has an impact on operations and production facilities of Praxair and Linde that handle a significant volume of chemicals. REACH establishes obligations for the entire supply chain.

In general, to comply with REACH, Praxair and Linde must identify and manage the risks linked to the substances they manufacture and market in the EU. In particular, they have to demonstrate to the European Chemical Agency (which is herein referred to as ECHA) how the substances can safely be used and must communicate risk management measures to users. To this end, REACH establishes procedures for collecting and assessing information on the properties and hazards of substances. Chemical substances that are already regulated by other legislations, such as medicines or radioactive substances, are partially or completely exempted from REACH requirements. Furthermore, substances notified under the Dangerous Substances Directive are considered registered under REACH. Under a special transitional regime for substances which were already manufactured or placed on the market before REACH entered into force (phase-in substances), the deadline for registering substances manufactured or imported at 1-100

tons per year is May 31, 2018.

After evaluating the information submitted by companies to examine the quality of the registration dossiers and testing proposals, and to clarify whether a given substance constitutes a risk to human health or the

Table of Contents

environment, ECHA can require authorization of a substance. The authorization procedure aims at assuring that the risks from substances of very high concern (which is herein referred to as SVHCs) are properly controlled and that these substances are gradually replaced by appropriate substitutes. A decision of ECHA identifying substances as SVHCs, among other things, creates information obligations in relation to third parties and may result in an authorization requirement for the marketing or use of these substances.

As an integral part of the REACH process, the classification and labelling of substances and mixtures have to comply with the standard of the Regulation (EC) No. 1272/2008 on Classification, Labelling and Packaging of Substances and Mixtures. The regulation redefines the classification criteria for the physical, toxicological and environmental properties of substances and mixtures and harmonizes hazards-related communications.

With regards to Linde's home jurisdiction, the German Chemicals Act (*Chemikaliengesetz*), the Ordinance on Banned Chemicals (*Chemikalien-Verbotsverordnung*), the Ordinance on Hazardous Substances (*Gefahrstoffverordnung*), the Technical Rules for Hazardous Substances (*Technische Regeln für Gefahrstoffe*), the Ordinance on Industrial Safety (*Betriebssicherheitsverordnung*) and the Technical Rules for Safety in Work Places (*Technische Regeln für Betriebssicherheit*) establish a comprehensive system of environmental regulations on the handling, storage, use and transport of hazardous materials required for Praxair's and Linde's business activities. Among other things, the regulations set forth numerous requirements for the protection of employees, consumers and the environment.

Praxair and Linde, as operators of production plants for potentially hazardous industrial gases, have to prepare a comprehensive risk assessment determining the necessary occupational safety measures for the working place described. As employers, Praxair and Linde also have to appoint duly qualified responsible persons observing compliance with labor safety and protection regulations. Facilities handling substantial quantities of harmful substances are also subject to the additional requirements of the recently amended Ordinance on Major-accident Hazards (*Zwölfte Verordnung zur Durchführung des Bundes-Immissionsschutzgesetzes, Störfall-Verordnung*), which transposes Directive 2012/18/EU into German law. These include precautions to prevent hazardous incidents and enhanced safety measures as well as notification and reporting obligations. To this end, the ordinance provides general guidelines to prevent major accidents in such areas.

The transport of dangerous goods is also subject to special regulations under German law, including the Dangerous Goods Transportation Act (*Gefahrgutbeförderungsgesetz*), and is generally only permitted if specific safety requirements are fulfilled. As concerns Praxair's and Linde's gases business, the transportation of gases is subject to these special regulations pertaining to, for instance, labelling, and specific protection measures.

Occupational Health & Safety Requirements

Praxair and Linde must comply with applicable laws and regulations to protect employees against occupational injuries. Under such laws and regulations, employers typically must establish the conditions and the flow of work in a manner that effectively prevents dangers to employees. In particular, employers must observe certain medical and hygienic standards and comply with certain occupational health and safety requirements, such as permissible maximum levels for noise at the work place, the use of personal protective equipment and requirements relating to maximum temperatures and air ventilation.

At the EU level, Directive 89/391/EEC guarantees minimum safety and health requirements throughout the EU while the member states are allowed to maintain or establish more stringent measures.

In Linde's home jurisdiction, Germany, general health and safety requirements for employees are laid down by the Working Conditions Act (*Arbeitsschutzgesetz*), the Occupational Safety Act (*Arbeitssicherheitsgesetz*) and the

Ordinance on Industrial Safety (*Betriebsicherheitsverordnung*). For the provision and use of working equipment, the Product Safety Act (*Produktsicherheitsgesetz*) applies, along with the Ordinance on Health and Safety at Work (*Arbeitsstättenverordnung*) and the Ordinance on Construction Sites (*Baustellenverordnung*). As regards exposure to hazardous substances, the Ordinance on Hazardous Substances (*Gefahrstoffverordnung*) and

Table of Contents

the Technical Rules for Hazardous Substances (*Technische Regel für Gefahrstoffe 900*) set out limits for workplaces.

Healthcare Regulations

The provision of healthcare products and services is one of the most densely regulated industry sectors in the European Union as well as at the national level. Applicable laws and regulations pertain to, *inter alia*, research and manufacturing, marketing authorization and safety requirements, financing in the social security system and compliance. In addition, the advertising, promotion, sale and distribution of these products and services are subject to extensive and ongoing regulatory requirements.

Linde manufactures healthcare gases such as oxygen, which qualify as medicinal products under EU and German laws. At the EU level, the legal framework for medicinal products is mainly set forth by (i) Regulation (EC) No. 726/2004 as last amended by Regulation (EU) No. 1027/2012, which lays down procedures for the centralized authorization and supervision of medicinal products, and (ii) Directive 2001/83/EC as last amended by Directive 2012/26/EU, which provides a common European code relating to medicinal products for human use. The latter has been implemented into German law by the Medicines Act (*Arzneimittelgesetz*). At the national level, the Medicines Act contains the central set of rules on, in particular, quality, efficacy and safety standards for medicines in the German market.

Under this legal framework, a medicinal product must obtain a marketing authorization by a competent authority before it can be placed on the market. In the EU regulatory system, a manufacturer of medicinal products can seek marketing authorization at either the European level under Regulation (EC) No. 726/2004 (centralized procedure) or at the national level pursuant to Directive 2001/83/EC and its national transpositions (via the national, decentralized and mutual recognition procedures). The applicable procedure depends on the type of medicine and/or the manufacturer's choice. An authorization granted in the centralized procedure is valid in the entire EU, whereas a national authorization is limited to the respective member state's market. However, the principle of mutual recognition provides that, in principle, all EU member states may rely on the positive assessment of the member state which has first issued a marketing authorization in a national procedure. Unlike the centralized procedure, the mutual recognition procedure and the decentralized marketing authorization procedure require separate applications to, and lead to separate approvals by, the competent authorities of each EU member state in which the product is to be marketed. Once authorized, the holder of a marketing authorization is responsible for ensuring compliance with detailed requirements relating to manufacturing, distribution and sale of the products as well as for safety reporting and other safety requirement (pharmacovigilance requirements). Compliance with these requirements is monitored and routinely inspected by competent authorities.

Pricing and reimbursement for the treatment of patients with medicinal products in the EU member states is governed by complex mechanisms established on a national level in each country. These mechanisms vary widely among the EU member states. The funding of healthcare products and services within the German social security system is governed in particular by Volume V of the Social Security Code (*Fünftes Buch Sozialgesetzbuch*) and subsequent ordinances and guidelines issued by public authorities and bodies of self-governance. Authorized medicinal products prescribed to patients who are insured with a statutory health insurance fund (which is herein referred to as SHI) are provided and paid for by the respective SHI (subject to a minor deductible). Approximately 90% of the German population is a member of an SHI. The SHIs are funded by way of income-related contributions. In order to ensure the stability of this system, the marketing of medicinal products is governed by a complex and restrictive price regulation regime. Applicable instruments of price regulation in the German market include reference prices, mandatory discounts and tender proceedings. Patients insured with a private health insurance company in Germany generally pay upfront for prescribed medications and then seek reimbursement from their insurer.

In its homecare business Linde also distributes medical devices for the application of respiratory treatments, such as air concentrators or ventilators. At the European level, production and distribution of such medical devices

Table of Contents

are, among others, governed by Directive 93/42/EEC as last amended by Directive 2007/47/EC and transposed into German law by the Medical Products Act (*Medizinproduktegesetz*) which establishes a uniform procedure for the entry of medical devices into the European market. In order to be marketable, a medical device's conformity with the essential requirements defined in Annex 1 of Directive 93/42/EEC must be certified (so-called CE marking). If the manufacturer has issued or obtained such certification and placed the appliance on the market, a distributor such as Linde may generally rely on the CE marking and does not require further authorization or certification. This legal framework will change in the near future as the new EU Regulation (EU) No 2017/745 on medical devices and Regulation (EU) No 2017/746 on in vitro diagnostic medical devices have been published in the Official Journal of the European Union in May 2017 and will enter into force in three years for medical devices (2020), and in five years for in vitro diagnostic devices (2022). The regulations will maintain the principle of market access based on conformity assessment and CE marking. However, for the first time, distributors of medical devices will now be subject to new requirements and oversight by the competent authorities.

Also, in its hospital care business, Linde distributes a number of different medical devices. In addition, Linde itself places medical devices on the market as a legal manufacturer under Directive 93/42/EEC. For these devices Linde has to comply with requirements that are similar to, but less stringent than, those requirements that apply to medicinal products. This will change, however, when Regulation (EU) No 2017/745 will come into effect in May 2020 as Linde will be subject to more stringent requirements that will, broadly speaking, be more in line with those that apply to medicinal products.

As for medicinal products, pricing and reimbursement for the treatment of patients with medical devices in the EU member states is governed on a national level in each country and varies widely among the EU member states. Within the German statutory social security system, the abovementioned medical devices fall into the category of therapeutic appliances (*Heilmittel*). The SHIs provide their members with such appliances to the extent this is medically indicated. The SHIs procure the required therapeutic appliances by way of supply contracts with service providers such as Linde. The service providers may be selected in competitive tender proceedings. The national umbrella organization of SHIs has the authority to determine maximum reimbursement amounts for specific categories of therapeutic appliances. In the field of respiratory appliances, such fixed amounts are currently not in force. Remuneration for these appliances is negotiated between the service provider and the SHIs.

As a service provider within the social security system, Linde as well as its employees and representatives are subject to a number of anti-corruption and other compliance regulations. These provisions aim at ensuring fair competition in the healthcare sector and protecting the integrity of the social security system. To this end, *inter alia*, applicable social security laws pose restrictions on cooperation agreements between service providers and physicians. Failure to comply with these standards is sanctioned by the SHIs and can result in the exclusion of the service provider from the statutory health insurance system. In addition, under the German Criminal Code (*Strafgesetzbuch*) it is a criminal offence to grant or promise monetary or other benefits to a physician in order to gain a competitive advantage in the context of prescription of medicines or therapeutic appliances.

Finally, Linde's Remeo-brand nursing centers in Germany, Sweden and the U.K. for providing respiratory and certain additional care services for chronically ill patients are subject to a sector-specific framework of national laws and regulations for healthcare providers. In Germany, for instance, the provision of nursing services within the social security system is primarily governed by Volume XI of the Social Security Code (*Elftes Buch Sozialgesetzbuch*). Persons in need of regular care are, depending on the degree of their physical impairment, entitled to certain nursing services, including inpatient care in nursing homes such as Linde's Remeo centers. Such services are in part financed by statutory care insurance funds which are, comparable to the SHIs, funded by way of income-related contributions. In order to perform services at the expense of these insurance funds, a provider of nursing services needs to enter into admission contracts with the care insurance funds. As a general rule, a qualified and efficient service provider is

entitled to be admitted to the social security system. Remuneration for inpatient and outpatient services is subject to negotiation within statutory boundaries. Adherence to detailed quality and safety standards is routinely monitored by the care insurance funds.

-448-

Table of Contents

DESCRIPTION OF LINDE PLC SHARES

The following is a description of the material terms of the shares of Linde plc. You should also refer to the form of the Linde plc constitution, and the applicable provisions of Irish law. It is possible, however, that this form will change in connection with obtaining the required regulatory approvals for the business combination.

Current Authorized and Issued Share Capital

Immediately prior to the completion of the business combination, the authorized share capital of Linde plc will be 1,775,000 divided into 25,000 A ordinary shares of nominal value 1.00 each and 1,750,000,000 ordinary shares of nominal value 0.001 each.

Linde plc may issue shares subject to the maximum authorized share capital contained in the Linde plc constitution. The authorized share capital may be increased or reduced by a resolution approved by a simple majority of the votes of Linde plc shareholders cast at a general meeting (which is referred to under Irish law as an ordinary resolution). The shares comprising the authorized share capital of Linde plc may be divided into shares of such nominal value as such resolution shall prescribe. As a matter of Irish company law, the directors of a company may issue new ordinary or preferred shares without shareholder approval once authorized to do so by the Linde plc constitution or by an ordinary resolution adopted by the shareholders at a general meeting. The authorization may be granted for a maximum period of five years, so it must be renewed by the shareholders by an ordinary resolution on or before the expiry of this term (if Linde plc wishes to issue shares). The Linde plc constitution authorizes the Linde plc board of directors to allot new ordinary or preferred shares without shareholder approval for a period of five years from the date of adoption of such Linde plc constitution, which is expected to be effective as of the completion of the business combination.

The 25,000 A ordinary shares of 1.00 each in the capital of Linde plc were issued at Linde plc's incorporation at a premium for the purposes of capitalizing Linde plc to the minimum level required by Irish company law and for the purposes of funding Linde plc to make a capital contribution to Linde Holding GmbH. The A ordinary shares will, upon adoption of the Linde plc constitution immediately prior to completion of the business combination, be converted and re-designated into deferred shares that do not carry voting or dividend rights. Immediately following the settlement of the exchange offer and prior to the effective time of the merger, the aggregate nominal value of the Linde plc ordinary shares in issue will exceed the minimum capitalization requirement under Irish company law and the deferred shares will be acquired and cancelled by Linde plc for nil consideration.

The rights and restrictions to which the ordinary shares will be subject will be prescribed in the Linde plc constitution. The Linde plc constitution permits the board of directors, without shareholder approval, to determine certain terms of each series of the preferred shares issued by Linde plc, including the number of shares, designations, dividend rights, liquidation and other rights and redemption, repurchase or exchange rights.

The holders of Linde plc shares are entitled to one vote for each share upon all matters presented to the Linde plc shareholders. Subject to any preferences granted to other classes of Linde plc securities that may be outstanding in the future (including any preferred shares), there are no voting right restrictions or preferences with respect to shareholders of Linde plc.

Irish law does not recognize fractional shares held of record. Accordingly, the Linde plc constitution will not provide for the issuance of fractional shares of Linde plc, and the register of members of Linde plc (which is herein referred as the Linde plc register of members) will not reflect any fractional shares.

Whenever an alteration or reorganization of the share capital of Linde plc would result in any Linde plc shareholder becoming entitled to fractions of a share, the Linde plc board of directors may, on behalf of those shareholders that would become entitled to fractions of a share, arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion among the shareholders who would have been entitled to the fractions.

Table of Contents**Issued Share Capital After Completion of the Business Combination**

The 25,000 A ordinary shares of 1.00 each were initially issued on Linde plc's incorporation as 25,000 ordinary shares of 1.00 each. Those shares were subsequently re-designated as 25,000 A ordinary shares to avoid confusion with the ordinary shares of 0.001 each. Save for this re-designation, there have been no changes to the issued share capital of Linde plc between its date of incorporation and the date of this document.

Based on the number of Praxair shares outstanding as of August 8, 2017, Linde plc is expected to issue approximately 286,065,119 ordinary shares with a nominal value of 0.001 per share to the former shareholders of Praxair on completion of the merger. Based on the number of Linde shares outstanding as of the record date and assuming all Linde shares are tendered, Linde plc is expected to issue approximately 285,882,630 ordinary shares with a nominal value of 0.001 per share to the former shareholders of Linde on completion of the exchange offer. All shares issued upon consummation of the business combination will be issued as fully paid-up and non-assessable shares.

Transfer of Linde plc Shares

The transfer agent for Linde plc will maintain the Linde plc register of members outside the U.K. Pursuant to the Companies Act, the register of members must be kept at either (a) the registered office of Linde plc or (b) another place within Ireland. The Linde plc shares will be deposited upon issuance in a securities account on behalf of DTC in order to cover the holdings of DTC, and registered in the name of the Nominee. The Nominee will become the direct and legal owner of the Linde plc shares. A transfer of Linde plc shares from a seller who holds shares beneficially (*i.e.* through DTC) to a buyer who holds the acquired shares beneficially will not be registered in the Linde plc register of members. With respect to the Linde plc shares issued as exchange offer consideration for the tendered Linde shares, DTC will credit Clearstream's DTC participant account with such shares and Clearstream will in turn credit interests in such shares to the account of the settlement agent at Clearstream in favor of the former Linde shareholders. The settlement agent will arrange for the transfer of interests in the Linde plc shares through Clearstream to the custodian banks.

A written instrument of transfer is required under Irish law in order to register on the Linde plc register of members any transfer of shares (i) from a person who holds Linde plc shares directly to any other person, (ii) from a person who holds Linde plc shares beneficially to a person who holds Linde plc shares directly or (iii) from a person who holds Linde plc shares beneficially to another person who holds Linde plc shares beneficially where the transfer involves a change in the depository or other nominee that is the record owner of the transferred shares. An instrument of transfer is also required for a Linde plc shareholder who directly holds Linde plc shares to transfer those shares into his or her own broker account (or vice versa). Such instruments of transfer may give rise to Irish stamp duty, which must be paid prior to registration of the transfer on the Linde plc register of members. However, a Linde plc shareholder who directly holds shares may transfer those shares into his or her own broker account (or vice versa) without giving rise to Irish stamp duty, provided there is no change in the ultimate beneficial ownership of the shares as a result of the transfer and the transfer is not in contemplation of a sale of the shares.

Any transfer of Linde plc shares that is subject to Irish stamp duty will not be registered in the name of the buyer unless an instrument of transfer is duly stamped and provided to the transfer agent. Linde plc expects that it may be required to assume the obligations for paying the stamp duty liability with respect to certain transfers of Linde plc shares as a result of arrangements entered into with DTC. The Linde plc constitution allows the board of directors of Linde plc, in its absolute discretion, to approve an instrument of transfer and pay (or procure the payment of) any stamp duty, which is the legal obligation of a buyer. In the event of any such payment, Linde plc is (on behalf of itself or its subsidiaries) entitled to (i) seek reimbursement from the buyer (at its discretion), (ii) set off the amount of the stamp duty against future dividends payable to the buyer (at its discretion) and (iii) claim a lien against the Linde plc

shares on which it has paid the stamp duty. Parties to a share transfer may assume that any stamp duty arising in respect of a transaction in Linde plc shares has been paid unless one or both of such parties is otherwise notified by Linde plc.

-450-

Table of Contents

The Linde plc constitution, as it will be in effect as of the effective time of the business combination, will delegate to Linde plc's secretary the authority to execute an instrument of transfer on behalf of a transferring party.

In order to help ensure that the Linde plc register of members is regularly updated to reflect trading of Linde plc shares occurring through normal electronic systems, Linde plc intends to regularly produce any required instruments of transfer in connection with any transactions for which it pays stamp duty (subject to the reimbursement and set-off rights described above). In the event that Linde plc notifies one or both of the parties to a share transfer that it believes stamp duty is required to be paid in connection with the transfer and that it will not pay the stamp duty, the parties may either themselves arrange for the execution of the required instrument of transfer (and may request a form of instrument of transfer from Linde plc for this purpose) or request that Linde plc execute an instrument of transfer on behalf of the transferring party in a form determined by Linde plc. In either event, if the parties to the share transfer have the instrument of transfer duly stamped (to the extent required) and then provide it to Linde plc's transfer agent, the buyer will be registered as the legal owner of the relevant shares on Linde plc's official Irish register of members (subject to the matters described below).

The directors may suspend registration of transfers from time to time, not exceeding 30 days in aggregate each year.

Linde plc Register of Members

Linde plc will procure that the transfer agent maintains the Linde plc register of members outside the U.K. Pursuant to the Companies Act, the register of members must be kept at either (a) the registered office of Linde plc or (b) another place within Ireland. It will be updated following completion of the business combination to reflect the allotment and issuance of Linde plc shares in connection with the exchange offer and the merger. The Linde plc register of members must be kept available for inspection at the registered office of Linde plc or at an alternative location specified under law.

Shares in an Irish public limited company such as Linde plc can, in principle, be issued and held either in a so-called certificated (*i.e.*, hard copy share certificates are issued to shareholders) or a so-called uncertificated (*i.e.*, dematerialized) form. All shareholders' names must be entered into the register of members maintained by an Irish public limited company in order to acquire legal title to the shares.

To make shares in an Irish public limited company deliverable for trading on an exchange, the shares are required to be issued in uncertificated form. To achieve this, Linde plc will allot shares to the Nominee instead of directly to the shareholder. The Nominee will become the registered legal holder of the Linde plc shares as well as the legal holder of all rights associated with such shares.

Pre-emption Rights

Under Irish law, certain statutory pre-emption rights apply automatically in favor of shareholders where shares are to be issued for cash. However, Linde plc has opted out of these pre-emption rights in the Linde plc constitution as permitted under Irish company law. Generally, this opt-out to be renewed at least every five years by a resolution approved by not less than 75% of the votes of the Linde plc shareholders cast at a general meeting (which is referred to under Irish law as a "special resolution"). If the opt-out is not renewed, as a general rule, shares issued for cash must be offered to existing Linde plc shareholders on a pro rata basis to their existing shareholding before any Linde plc shares may be issued to any new shareholders. Statutory pre-emption rights do not apply (i) where shares are issued wholly or partly for non-cash consideration (such as in a stock-for-stock acquisition), (ii) to the issue of non-equity shares (that is, shares that have the right to participate only up to a specified amount in any income or capital distribution) or (iii) where shares are issued pursuant to an employee option or similar equity plan.

Table of Contents

Reduction of Share Capital

Linde plc may reduce its authorized share capital in any manner permitted by the Companies Act. Linde plc also may, by special resolution and subject to confirmation by the Irish High Court, reduce or cancel its issued share capital in any manner permitted by the Companies Act.

Acquisition of Own Shares

Under Irish law, a company may issue redeemable shares and redeem them out of distributable reserves or the proceeds of a new issue of shares for that purpose. All redeemable shares must also be fully paid. Redeemable shares may, upon redemption, be cancelled or held in treasury. The Linde plc constitution provides that shareholder approval will not be required to deem Linde plc shares redeemable.

Linde plc may also be given an additional general authority by its shareholders to purchase its own shares on-market which would take effect on the same terms and be subject to the same conditions as applicable to purchases by Linde plc's subsidiaries as described below.

Repurchased and redeemed shares may be cancelled or held as treasury shares. The nominal value of treasury shares held by Linde plc at any time must not exceed 10% of the nominal value of the issued share capital of Linde plc. Linde plc may not exercise any voting rights in respect of any shares held as treasury shares. Treasury shares may be cancelled by Linde plc or re-issued subject to certain conditions.

Under Irish law, an Irish or non-Irish subsidiary may purchase shares of Linde plc either on-market or off-market. For a subsidiary of Linde plc to make on-market purchases of Linde plc shares, the Linde plc shareholders must provide general authorization for such purchase by way of ordinary resolution. However, as long as this general authority has been granted, no specific shareholder authority for a particular on-market purchase by a subsidiary of Linde plc shares is required. For an off-market purchase by a subsidiary of Linde plc, the proposed purchase contract must be authorized by special resolution of the Linde plc shareholders before the contract is entered into. This authority must specify the date on which the authority is to expire which shall not be more than 18 months from the date the special resolution was passed. The person whose Linde plc shares are to be bought cannot vote in favor of the special resolution and, for at least 21 days prior to the special resolution being passed, the purchase contract must be on display or must be available for inspection by Linde plc shareholders at the registered office of Linde plc.

In order for a subsidiary of Linde plc to make an on-market purchase of Linde plc shares, such shares must be purchased on a regulated market or recognized stock exchange and be subject to marketing arrangements. The regulated market of the Frankfurt Stock Exchange and the NYSE, on which the shares of Linde plc will be listed following the closing, qualify as a regulated market and a recognized stock exchange respectively.

The number of Linde plc shares held by the subsidiaries of Linde plc at any time will count as treasury shares and will be included in any calculation of the permitted treasury share threshold of 10% of the nominal value of the issued share capital of Linde plc. While a subsidiary holds Linde plc shares, it cannot exercise any voting rights in respect of those shares. The acquisition of the Linde plc shares by a subsidiary must be funded out of distributable reserves of the subsidiary.

General Meetings of Shareholders

Linde plc will be required to hold an annual general meeting within 18 months of incorporation and at intervals of no more than 15 months thereafter, provided that an annual general meeting is held in each calendar year following the

first annual general meeting and no more than nine months after Linde plc's fiscal year-end.

Notice of an annual general meeting must be given to all Linde plc shareholders and to the auditors of Linde plc. The Linde plc constitution provides for a minimum notice period for an annual general meeting of 21 days, which is the minimum permitted under Irish law.

Table of Contents

Generally speaking, the only matters which must, as a matter of Irish company law, be transacted at an annual general meeting are the presentation of the annual statutory financial statements, balance sheet and reports of the directors and auditors, the appointment of new auditors and the fixing of the auditor's remuneration (or delegation of same). If no resolution is made in respect of the reappointment of an existing auditor at an annual general meeting, the existing auditor will be deemed to have continued in office.

As provided under Irish law, extraordinary general meetings of Linde plc may be convened (i) by the Linde plc board of directors, (ii) by request of Linde plc shareholders holding not less than 5% of the paid up share capital of Linde plc carrying voting rights for so long as Linde plc's shares are admitted to trading on a regulated market in any member state of the European Union, (iii) by request of Linde plc shareholders holding not less than 10% of the paid up share capital of Linde plc carrying voting rights for so long as Linde plc's shares are not admitted to trading on a regulated market in any member state of the European Union, (iv) by request of Linde plc's statutory auditor in connection with its resignation or (v) in exceptional cases, by court order.

Notice of an extraordinary general meeting must be given to all Linde plc shareholders and to the auditors of Linde plc. Under Irish law and the Linde plc constitution, the minimum notice period of 21 days' prior written notice applies, except that in the case of an extraordinary general meeting, if the company offers facilities to members to vote by electronic means and shareholders have passed a special resolution at the immediately preceding general meeting approving such shortened notice period, an extraordinary general meeting can be called with 14 days' prior written notice (provided that no special resolutions are proposed to be put to a vote at that meeting). The notice periods prescribed for the convening of general meetings are on the basis of 'clear' days, meaning the deemed date of receipt of the notice and the date of the meeting itself are not counted towards the minimum number of days' notice required.

In the case of an extraordinary general meeting convened by Linde plc shareholders, the proposed purpose of the meeting must be set out in the requisition notice. Upon receipt of any such valid requisition notice, the Linde plc board of directors has 21 days to convene a meeting of Linde plc shareholders to vote on the matters set out in the requisition notice. This meeting must be held within two months of the receipt of the requisition notice. If the Linde plc board of directors does not convene the meeting within such 21-day period, the requisitioning shareholders, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, which meeting must be held within three months of Linde plc's receipt of the requisition notice.

If the Linde plc board of directors becomes aware that the net assets of Linde plc are not greater than half of the amount of Linde plc's called-up share capital, the directors of Linde plc must convene an extraordinary general meeting of Linde plc shareholders not later than 28 days from the date that they learn of this fact to consider how to address the situation.

Quorum and Voting

The Linde plc constitution provides that no business shall be transacted at any general meeting unless a quorum is present. A quorum shall be two or more persons holding or representing by proxy more than 50% of the total issued voting rights of Linde plc shares.

At any meeting of Linde plc, all resolutions put to the Linde plc shareholders will be decided on a poll.

In accordance with the Linde plc constitution, the Linde plc board of directors may from time to time authorize Linde plc to issue preferred shares. The Linde plc board of directors may prescribe voting rights to such preferred shares. Treasury shares or shares of Linde plc that are held by its subsidiaries will not be entitled to be voted at general meetings of shareholders.

Irish company law requires a special resolution of the shareholders (approval by not less than 75% of the votes cast at a general meeting of Linde plc's shareholders) to approve certain matters. Examples of matters requiring special resolutions include:

- (i) amending the Linde plc constitution;

-453-

Table of Contents

- (ii) approving a change of name of Linde plc;
- (iii) authorizing the entering into of a guarantee or provision of security in connection with a loan, quasi-loan or credit transaction to a director or connected person;
- (iv) opting out of pre-emption rights on the issuance of new shares for cash;
- (v) re-registration of Linde plc from a public limited company to a private company;
- (vi) variation of class rights attaching to classes of shares (where the Linde plc constitution does not provide otherwise);
- (vii) purchase of own shares off-market;
- (viii) reduction of issued share capital;
- (ix) sanctioning a compromise/scheme of arrangement;
- (x) resolving that Linde plc be wound up by the Irish courts;
- (xi) resolving in favor of a shareholders voluntary winding-up;
- (xii) re-designation of shares into different share classes; and
- (xiii) setting the re-issue price of treasury shares.

Different Classes of Shares

Without prejudice to any rights attached to any existing shares, Linde plc may issue shares with such rights or restrictions as determined by Linde plc by an ordinary resolution approved by its shareholders. As a matter of Irish company law, the directors of a company may issue new ordinary or preferred shares without shareholder approval once authorized to do so by the constitution or by an ordinary resolution adopted by the shareholders at a general meeting. The authorization may be granted for a maximum period of five years, at which point it must be renewed by the shareholders by an ordinary resolution (if Linde plc wishes to issue shares). The Linde plc constitution authorizes the Linde plc board of directors to issue new ordinary or preferred shares without shareholder approval for a period of five years from the date of adoption of such constitution, which is expected to be effective as of the completion of the business combination. Linde plc may also issue shares which are, or are liable to be, redeemed at the option of Linde plc or the holder.

Whenever the share capital of Linde plc is divided into different classes of shares, the special rights attached to any class may be varied or abrogated either with the written consent of the holders of 75% in nominal value of the issued shares of the class (excluding shares held as treasury shares) or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of the class (but not otherwise), and may be so varied or abrogated either while Linde plc is a going concern or during or in contemplation of a winding-up.

The rights conferred upon the holders of any class of shares issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by a purchase or redemption by Linde plc of its own shares or by the creation or issue of further shares ranking pari passu therewith or subordinate thereto. In addition, the Linde plc constitution provides that (i) the redemption or purchase of preferred shares or any class or series of preferred shares shall not constitute a variation of rights of the holders of preferred shares; (ii) the issue, redemption or purchase of any of the preferred shares shall not constitute a variation of the rights of the holders of ordinary shares; (iii) the issue of preferred shares or any class or series of preferred shares which rank pari passu with, or junior to, any existing preferred shares or class of preferred shares shall not constitute a variation of the existing preferred shares or class of preferred shares; and (iv) the rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.

Dividends

Linde plc may, by ordinary resolution, declare final dividends to be paid to its shareholders. However, no dividend shall exceed the amount recommended by the Linde plc board of directors. The Linde plc board of

Table of Contents

directors may also pay to the shareholders such dividends as interim or final dividends as appear to the directors to be justified by the profits of the Company.

General Provisions Governing a Liquidation; Liquidation Distributions

Linde plc's duration will be unlimited. Linde plc may be dissolved and wound up at any time by way of a shareholders voluntary winding up or a creditors winding up. In the case of a shareholders voluntary winding-up, a special resolution of Linde plc shareholders is required. Linde plc may also be dissolved by way of court order on the application of a creditor, or by the Companies Registration Office as an enforcement measure where Linde plc has failed to file certain returns.

The rights of the shareholders to a return of Linde plc's assets on dissolution or winding up, following the settlement of all claims of creditors, are prescribed in the Linde plc constitution and may be further prescribed in the terms of any preferred shares issued by Linde plc from time to time. The holders of preferred shares in particular may have the right to priority in a dissolution or winding up of Linde plc. The Linde plc constitution provides that, subject to the priorities of any creditors, the assets will be distributed to Linde plc shareholders in proportion to the paid-up nominal value of the shares held by such shareholder. The Linde plc constitution provides that the Linde plc shareholders are entitled to participate pro rata in a winding up, but their right to do so is subject to the rights of any holders of the shares issued upon special terms and conditions to participate under the terms of any series or class of such shares.

Amendment of Constitution

Irish company law requires a special resolution of the Linde plc shareholders (approval by not less than 75% of the votes cast at a general meeting of Linde plc's shareholders) to approve any amendments to the Linde plc constitution.

Disclosure of Information Upon Listing

As an Irish company whose shares will be listed on the NYSE and the Frankfurt Stock Exchange, Linde plc will be subject to certain disclosure obligations under U.S., German and Irish law.

Periodic Reporting Under U.S. Securities Law

Linde plc will be required to publicly file with the SEC an annual report on Form 10-K within 90, 75 or 60 days of the end of the fiscal year covered by the report, with the time period determined based on Linde plc's aggregate worldwide market value, the period of time for which it has been subject to SEC reporting requirements and certain other factors. In addition, Linde plc will be required to publicly file with the SEC quarterly reports on Form 10-Q within 45 or 40 days (depending on the same factors) of the end of the applicable fiscal quarter. Linde plc will also be required to publicly file with the SEC current reports on Form 8-K typically within four business days after the occurrence of specified significant events, and under Regulation FD, Linde plc will be required to simultaneously or promptly make public disclosure of any material nonpublic information shared with securities market professionals or Linde plc shareholders who are reasonably likely to trade on the basis of the information.

Periodic Reporting Under EU/Irish Law and the Exchange Rules for the Frankfurt Stock Exchange

Linde plc is an Irish company whose shares will be listed on the regulated market of the Frankfurt Stock Exchange and on the sub-segment of the regulated market with additional obligations arising from admission (*Prime Standard*). As such, it will be required to prepare and publish audited consolidated annual financial statements within four months of the end of its fiscal year, Linde plc will also be required to prepare and publish half year and quarterly

group statements or quarterly consolidated financial statements for the first half of the fiscal year within three months of the end of the first half of its fiscal year and for the first and the third quarters of its fiscal year within two months of the end of such quarter. Furthermore, Linde plc is required to inform the

-455-

Table of Contents

public as soon as possible of any inside information which directly concerns Linde plc in accordance with Regulation (EU) No 596/2014 of the European Parliament and of the Council of April 16, 2014 on market abuse (which is herein referred to as the "EU Market Abuse Regulation").

Rules of the New York Stock Exchange

For so long as its shares are listed on the NYSE, Linde plc will be required to meet certain requirements relating to ongoing shareholder communication and disclosure, including a requirement to make any annual report filed with the SEC available on or through Linde plc's website and to comply with the "immediate release policy" of the NYSE with respect to earnings and dividend announcements, business combination transactions, stock splits, major management changes and any substantive items of an unusual or non-recurrent nature. Issuers listing shares on the NYSE must also meet certain corporate governance standards, such as those relating to annual meetings, board independence, the formation and composition of nominating/corporate governance, compensation and audit committees and shareholder approval of certain transactions.

Insider Trading and Market Manipulation

U.S. and European Union laws contain specific rules intended to prevent insider trading and market manipulation.

Pursuant to the applicable rules on insider trading and market manipulation, Linde plc has adopted a policy on insider trading and communications for transactions in its securities.

United States

The "insider trading" doctrine under United States securities laws generally prohibits any person from:

trading in a security while in possession of material, non-public information regarding the issuer of the security;

tipping such information to others;

recommending the purchase or sale of securities while in possession of such information; or

assisting someone who is engaged in any of the above activities.

The laws cover not only those who trade, but also those who tip material, non-public information or recommend transactions in securities while in possession of such information. A "security" includes not just equity securities, but any security (*e.g.*, derivatives). Thus, members of the Linde plc board of directors, and the officers and other employees of the combined group may not purchase or sell Linde plc shares or other securities when he or she has personal knowledge of material, non-public information about the combined group's business, prospects or financial condition, nor may they tip any other person by disclosing non-public information about Linde plc.

European Union

The applicable insider trading rules (Articles 7, 8, 10 and 14 of the EU Market Abuse Regulation) prohibit a person from (a) engaging or attempting to engage in insider dealing; (b) recommending that another person engage in insider dealing or inducing another person to engage in insider dealing; and (c) unlawfully disclosing inside information. Insider dealing arises where a person possesses inside information and uses that information by acquiring or disposing of, for its own account or for the account of a third party, directly or indirectly, financial instruments to which that information relates. The prohibition of market manipulation and attempted market manipulation (Articles 12 and 15 of the EU Market Abuse Regulation) forbids the giving of false or misleading signals as to the supply of, demand for, or price of the Linde plc shares by means of disseminating information, entering into a transaction or any other behavior. Failure to comply with these requirements could lead to the imposition of fines or imprisonment.

Table of Contents

Applicable Takeover Rules

Introduction

As a public limited company incorporated in Ireland with securities to be admitted to trading on the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*), BaFin will be the primary regulator of Linde plc insofar as related to takeover rules. Linde plc will be subject to the provisions of the German Takeover Act, the Irish Takeover Panel Act 1997 (which is herein referred to as the *Takeover Panel Act*) and the Irish Takeover Rules 2013, as amended (which are herein referred to as the *Takeover Rules* or the *Irish Takeover Rules*), all of which will apply to any offers made to Linde plc shareholders to acquire their shares.

German Takeover Rules

Pursuant to Section 1(3) of the German Takeover Act, the German Takeover Act is applicable to any public offer regarding Linde plc shares, provided that at the time the public offer is made (i) the public offer is a European Offer pursuant to Section 2(1a) of the German Takeover Act, and (ii) Linde plc shares are admitted to trading on an organized market in Germany, e.g. on the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*), as contemplated. In this case, pursuant to Section 1(3) sentence 2 of the German Takeover Act, the German takeover rules as set forth in the German Takeover Act will apply in respect of the consideration, the content of the offer document and the procedural matters for any public offer. Pursuant to Section 4(1) sentence 1 of the German Takeover Act, BaFin is the competent authority for the supervision of any aforementioned public offer.

Irish Takeover Rules

The Irish Takeover Panel (which is herein referred to as the *Panel*), which administers the Takeover Rules, has responsibility for regulating matters relating to company law (e.g. determining the appropriate threshold for *squeeze-out* provisions relating to the compulsory purchase of a dissenting minority in an offer, the threshold for a change of control requiring a mandatory takeover bid, the information to be provided to employees, as well as the conditions under which the Linde plc board of directors may undertake any action which might result in the frustration of an offer).

The Takeover Rules are built on the following General Principles which will apply to any transaction regulated by the Panel, and will be considered by the Panel even where it shares jurisdiction with another takeover regulator. The General Principles provide that:

in the event of an offer, all holders of securities of the target company should be afforded equivalent treatment and, if a person acquires control of a company, the other holders of securities must be protected;

the holders of the securities in the target company must have sufficient time and information to enable them to reach a properly informed decision on the offer; where it advises the holders of securities, the board of the target company must give its views on the effects of implementation of the offer on employment, conditions of employment and the locations of the target company's places of business;

the board of the target company must act in the interests of the company as a whole and must not deny the holders of securities the opportunity to decide on the merits of the offer;

false markets must not be created in the securities of the target company, the bidder or of any other company concerned by the offer in such a way that the rise or fall of the prices of the securities becomes artificial and the normal functioning of the markets is distorted;

a bidder must announce an offer only after ensuring that he or she can fulfill in full, any cash consideration, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration;

Table of Contents

a target company must not be hindered in the conduct of its affairs for longer than is reasonable by an offer for its securities; and

a substantial acquisition of securities (whether such acquisition is to be effected by one transaction or a series of transactions) shall take place only at an acceptable speed and shall be subject to adequate and timely disclosure.

Since Linde plc will be subject to Directive 2004/25/EC of the European Parliament and of the Council of April 21, 2004 on takeover bids if it is the subject company of a squeeze-out transaction, the bidder can compulsorily acquire minority shareholdings under Regulation 23 of the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006. To do this, the bidder must receive a level of 90% acceptances in value and voting rights of the Linde plc shares subject to a takeover bid. The bidder has three months from the last closing date of the offer in which to give notice to the dissenting Linde plc shareholders that it intends to exercise its rights under Regulation 23. Once a notice has been served, a dissenting Linde plc shareholder has 21 days to apply to court. If a court application is made, the compulsory acquisition will be delayed until the outcome of that application, including any appeal. There is no time limit within which the court application must be dealt with.

Under the Takeover Rules, the Linde plc board of directors is not permitted to take any action which might frustrate an offer for the Linde plc shares once it has received an approach which may lead to an offer or has reason to believe an offer is imminent, subject to certain exceptions. Potentially frustrating actions such as (i) the issue of shares, options or convertible securities, (ii) material acquisitions or disposals, (iii) entering into contracts other than in the ordinary course of business or (iv) any action, other than seeking alternative offers, which may result in frustration of an offer, are prohibited during the course of an offer or at any time during which the Linde plc board of directors has reason to believe an offer is imminent. Exceptions to this prohibition are available where:

(i) the action is approved by the Linde plc shareholders at a general meeting; or

(ii) the Panel has given its consent, where:

it is satisfied that the action would not constitute frustrating action;

Linde plc shareholders who hold more than 50% of the voting rights state in writing that they approve the proposed action and would vote in favor of it at a general meeting;

the action is taken in accordance with a contract entered into prior to the announcement of the offer; or

the decision to take such action was made before the announcement of the offer and either has been at least partially implemented or is in the ordinary course of business.

Certain other provisions of Irish law or the Linde plc constitution may be considered to have anti-takeover effects, including those described under the following captions: Description of Linde plc shares Current Authorized and Issued Share Capital (regarding issuance of preferred shares), Description of Linde plc shares Pre-emption Rights,

Description of Linde plc shares Reporting Requirements for Shareholders, Directors and Officers, Comparison of Shareholder Rights Before and After the Business Combination Removal of Directors, Comparison of Shareholder Rights Before and After the Business Combination Amendments to Bylaws or other Governing Documents and Articles of Association, Comparison of Shareholder Rights Before and After the Business Combination Special Meeting of Shareholders, Comparison of Shareholder Rights Before and After the Business Combination Annual Meeting of Shareholders, Comparison of Shareholder Rights Before and After the Business Combination Shareholder Proposals and Comparison of Shareholder Rights Before and After the Business Combination (Anti-)Takeover Legislation and Provisions.

U.S. Takeover Rules

Because the Linde plc shares will be registered with the SEC under the Exchange Act, any offer for the Linde plc shares will need to comply with the U.S. tender offer rules set out in Sections 14(d) and 14(e) of the

Table of Contents

Exchange Act and Regulations 14D and 14E thereunder (which are herein referred to as the U.S. tender offer rules). The principal U.S. tender offer rules relate to, among other things: (1) the initial offer period remaining open for acceptances for a period of at least 20 U.S. business days following commencement; (2) the extension of withdrawal rights to Linde plc shareholders in certain circumstances; (3) application of the all-holder and best-price rules (which together require that all Linde plc shareholders receive the same/highest price offered for Linde plc shares); (4) prompt payment of consideration (*i.e.*, three-day settlement); and (5) restrictions on a bidder's ability to acquire Linde plc shares outside of the exchange offer.

Reporting Requirements for Shareholders, Directors and Officers***U.S. Law***

Holders of Linde plc shares are subject to certain reporting requirements under the Exchange Act.

Shareholders owning more than five percent of any class of equity securities registered pursuant to Section 12 of the Exchange Act must comply with disclosure obligations under Section 13 of the Exchange Act. Section 13(d) of the Exchange Act requires any person or group of persons who owns or acquires beneficial ownership of more than five percent of certain classes of equity securities to file ownership reports with the SEC on either Schedule 13D or (for certain qualified investors) the short form Schedule 13G.

If the shareholder is required to file a report on Schedule 13D, such a report must include information on, among other things, the acquisition of securities by which the shareholder exceeded the five percent threshold, and be filed within ten days after the acquisition. The schedule is filed with the SEC and is provided to the issuer, as well as to each stock exchange on which the security is traded. Schedule 13D is often filed in connection with a tender offer. Any material changes in the facts contained in the schedule necessitates the prompt filing of an amendment. Schedule 13G is a shorter alternative to Schedule 13D, which is available to certain qualified investors, including beneficial owners of more than five percent of a class of securities that are considered passive investors. Generally, passive investors are investors that do not intend to control or change the control of a company. A Schedule 13G filing has different information and timing requirements than a Schedule 13D filing.

A filer must, among other things, amend a Schedule 13G promptly upon acquiring beneficial ownership of more than ten percent of a registered class of equity securities and must thereafter promptly amend the Schedule 13G upon increasing or decreasing its beneficial ownership by more than five percent of the class. A Schedule 13G filer must change to filing Schedule 13D within ten days after beneficial ownership first equals or exceeds 20 percent of the class and is prohibited from voting or acquiring additional securities of the class until ten days after the Schedule 13D is filed. Directors and officers of the issuer are generally not eligible to use Schedule 13G.

Directors and officers of the issuer with a registered class of equity securities, and any person or group that has beneficial ownership of more than ten percent of such class, face additional requirements regarding the disclosure of ownership and equity trading. Each such director, officer, person or group will be considered an insider under Section 16(a) of the Exchange Act and the rules and regulations promulgated thereunder. Insiders must make an initial filing on Form 3 within ten days after the filer's becoming an insider and must disclose beneficial ownership of all securities of the issuer. Insiders must also file Form 4 reports disclosing transactions resulting in a change in beneficial ownership within two business days following the execution date of the transaction, except for limited types of transactions eligible for deferred reporting on Form 5. In addition, insiders are required to report on Form 5 within 45 days after the issuer's fiscal year-end any transactions or holdings that should have been, but were not, reported on Form 3 or 4 during the issuer's most recent fiscal year and any transactions eligible for deferred reporting.

German Law

Linde plc is subject to certain provisions of the German Securities Trading Act (*Wertpapierhandelsgesetz*), which governs disclosure to shareholders and reporting duties. These provisions state, for domestic issuers whose

Table of Contents

home state is not Germany, but another member state of the European Union or the European Economic Area, among other things, that Linde plc must publish voting rights notifications received from shareholders stating that their shareholding in Linde plc reached, exceeded or fell below one of the thresholds applicable under the issuer's home state regulations governing shareholders' disclosure duties immediately, but no later than within three trading days after receiving them, via media outlets or outlets where it can be assumed that the notice will be disseminated in the European Union and the non-European Union parties to the agreement on the European Economic Area and inform the BaFin. Linde plc must also transmit the notification to the German Company Register (*Unternehmensregister*).

EU/Irish Law

Under the Companies Act and the Irish Transparency (Directive 2004/109/EC) Regulations 2007, there is a notification requirement for shareholders who acquire or cease to be interested in 3% of the shares of an Irish public limited company. A Linde plc shareholder therefore must make such a notification to Linde plc if, as a result of a transaction, the Linde plc shareholder will be interested in 3% or more of the shares of Linde plc; or if, as a result of a transaction, a Linde plc shareholder who was interested in more than 3% of the shares of Linde plc ceases to be so interested. Once 3% is exceeded, the notification obligation arises for each change of the percentage level in whole numbers, with fractions of a percentage being rounded down.

Where a Linde plc shareholder is interested in more than 3% of the shares of Linde plc, any alteration of his or her interest that brings his or her total holding through the nearest whole percentage number, whether an increase or a reduction, must be notified to Linde plc. The relevant percentage figure is calculated by reference to the aggregate nominal value of the shares in which the Linde plc shareholder is interested as a proportion of the entire nominal value of Linde plc's share capital. Where the percentage level of the Linde plc shareholder's interest does not amount to a whole percentage, this figure may be rounded down to the next whole number. All such disclosures should be notified to Linde plc within five business days of the transaction or alteration of the shareholder's interests that gave rise to the requirement to notify.

Where a person fails to comply with the notification requirements described above, no right or interest of any kind whatsoever in respect of any shares in Linde plc concerned, held by such person, shall be enforceable by such person, whether directly or indirectly, by action or legal proceeding. However, such person may apply to the court to have the rights attaching to the shares concerned reinstated.

In addition to the above disclosure requirement, if at any time the Linde plc board of directors are satisfied that any Linde plc shareholder, or any other person appearing to be interested in shares held by such Linde plc shareholder, has been duly served with a notice pursuant to the Linde plc constitution (which is herein referred to as a "Section 1062 Notice") and is in default for the prescribed period in supplying to Linde plc the information required, or, in purported compliance with such a notice, has made a statement which is false or inadequate in a material particular, then the directors may, in their absolute discretion at any time thereafter by notice (which is herein referred to as a "Direction Notice") to such Linde plc shareholder direct (a) that the Linde plc shareholder shall not be entitled to attend or to vote at a general meeting either personally or by proxy in respect of the Linde plc shares in relation to which the default occurred (which are herein referred to as "Default Shares") or to exercise any other right conferred by holding Linde plc shares in relation to meetings of Linde plc; (b) that, where the nominal value of the Default Shares represents at least 0.25% of the nominal value of the issued shares of that class: (i) no payment shall be made of any sums due from Linde plc on the Default Shares and Linde plc shall not have any liability to pay interest on any such payment when it is finally paid (in each case except in a liquidation of Linde plc); (ii) no other distribution shall be made on the Default Shares; or (iii) no transfer of any of the Default Shares held by such Linde plc shareholder shall be registered unless (A) the Linde plc shareholder is not itself in default as regards supplying the information requested; or (B) the transfer is an approved transfer (as defined in the Linde plc constitution).

Any Direction Notice shall cease to have effect (a) in relation to any Linde plc shares which are transferred by such Linde plc shareholder by means of an approved transfer; or (b) when the Linde plc board of directors is

Table of Contents

satisfied that such Linde plc shareholder (and any other person appearing to be interested in shares held by such Linde plc shareholder) has provided Linde plc with the information required in the Section 1062 Notice. The Linde plc board of directors may at any time give notice cancelling a Direction Notice.

In the event Linde plc is in an offer period pursuant to the Irish Takeover Rules, accelerated disclosure provisions apply for persons holding an interest in Linde plc shares of 1% or more.

All persons discharging managerial responsibilities in Linde plc and persons closely associated with such persons must, pursuant to Article 19 of the EU Market Abuse Regulation, notify Linde plc and the CBI in writing of every transaction in Linde plc shares or related financial instruments conducted on their own account within three business days of the transaction. Linde plc is then required to publish such notification within three business days after the date of the transaction and to inform the BaFin about such publication. Furthermore, Linde plc will transmit such information to the German company register without undue delay after its publication. Persons discharging managerial responsibilities are: (1) members of any management, administrative or supervisory body of Linde plc; and (2) a senior executive who is not a member of these bodies, who has regular access to inside information relating directly or indirectly to Linde plc and power to take managerial decisions affecting the future developments and business prospects of Linde plc. Persons closely associated are (a) spouses or partners considered to be equivalent to a spouse in accordance with national law, (b) dependent children, in accordance with national law, (c) other relatives who have shared the same household for at least one year on the date of the transaction concerned and (d) legal persons, trusts or partnerships, the managerial responsibilities of which are discharged by a person discharging managerial responsibilities or by a person referred to in point (a), (b) or (c), or which is directly or indirectly controlled by such a person, or which is set up for the benefit of such a person, or the economic interests of which are substantially equivalent to those of such a person. Dealings below an aggregate volume of 5,000 per calendar year (calculated separately for the person discharging managerial responsibilities and the person closely associated) are exempted from the disclosure obligation.

Table of Contents**COMPARISON OF SHAREHOLDER RIGHTS BEFORE AND AFTER THE BUSINESS COMBINATION**

This section describes the material differences between the rights of Linde shareholders and Praxair shareholders before completion of the business combination, and the rights of holders of the Linde plc shares after the business combination. The differences between the rights of these respective shareholders result from the differences among German, Delaware and Irish law and the respective governing documents of Praxair, Inc, Linde AG and Linde plc.

This section does not include a complete description of all differences among the rights of these respective shareholders, nor does it include a complete description of their specific rights. Furthermore, the identification of some of the differences of these rights as material is not intended to indicate that other differences that may be equally important do not exist. All Praxair shareholders and Linde shareholders are urged to carefully read the relevant provisions of the Delaware General Corporation Law (which is herein referred to as the "DGCL"), the German Stock Corporation Act, the Companies Act, the Praxair, Inc. certificate of incorporation and bylaws, the Linde AG articles of incorporation, and the form of the Linde plc constitution that will be in effect upon completion of the business combination. It is possible that the form of the Linde plc constitution will change in connection with obtaining the required regulatory approvals for the business combination.

The following discussion of Linde plc shareholder rights relates to the rights of tendering Linde shareholders upon completion of the exchange offer and direct registered shareholders. The Nominee of DTC will become the direct and legal owner of the Linde plc shares. See also "Form and Certification; Transfer Agent and Registrar." By means of DTC crediting Clearstream's DTC participant account with such shares and Clearstream in turn crediting interests in such shares to the account of the settlement agent at Clearstream and the transfer through Clearstream to the custodian banks, the former Linde shareholders will obtain the rights in the Linde plc shares as described below.

Copies of the Praxair, Inc. certificate of incorporation and bylaws and the Linde AG articles of incorporation are available to Praxair shareholders and Linde shareholders upon request. See "General Information Where You Can Find More Information; Documents Available for Inspection."

Praxair Shareholders	Linde Shareholders	Linde plc Shareholders
Amount and Classification of Share Capital		
<p><i>Common Stock.</i> Praxair, Inc. is authorized to issue up to 800,000,000 Praxair shares, with a par value of \$0.01 per share. As of August 8, 2017, there were 286,065,119 Praxair shares outstanding.</p> <p><i>Preferred Stock.</i> Praxair, Inc. is authorized to issue up to 25,000,000 shares of preferred stock, with a par value of \$0.01 per share. Currently, no shares of Praxair, Inc. preferred stock are outstanding.</p>	<p><i>Common Shares:</i> The share capital (<i>Grundkapital</i>) of Linde AG amounts to 475,476,940.80 and consists of 185,733,180 bearer shares without par value, each representing a pro rata amount of the share capital of 2.56. As of August 8, 2017, there were 185,638,071 Linde shares outstanding.</p> <p><i>Preferred Shares:</i> Linde AG has no preferred shares.</p>	<p>The current authorized share capital of Linde plc is 1,775,000 divided into 25,000 A ordinary shares of nominal value of 1.00 each and 1,750,000,000 ordinary shares of nominal value of 0.001 each. Upon completion of the business combination, Linde plc expects its authorized share capital to be 1,800,000 divided into 1,750,000,000 ordinary shares of 0.001 each, 25,000 deferred shares of 1.00 each and 25,000,000 preferred shares of 0.001 each.</p>

Authorized Capital: The executive board of Linde AG is authorized, with the consent of the supervisory board, to (i) increase

-462-

Table of Contents**Praxair Shareholders****Linde Shareholders**

the share capital until May 28, 2018 by up to 47,000,000 by issuing (once or several times) a total of up to 18,359,375 new no-par-value bearer shares with a proportionate interest in the share capital of 2.56 each against a cash contribution and/or a contribution in kind (which is herein referred to as Authorized Capital I) and (ii) increase the share capital until May 2, 2021 by up to 47,000,000 by issuing (once or several times) a total of up to 18,359,375 new no-par-value bearer shares with a proportionate interest in the share capital of 2.56 each against a cash contribution and/or a contribution in kind (which is herein referred to as Authorized Capital II

In principle, the new no-par-value shares have to be offered to the shareholders for subscription. However, the executive board is authorized, with the consent of the supervisory board, to exclude the subscription rights subject to applicable law and, in particular in the case of capital increases against contributions in kind, where such capital increases are effected for the purpose of acquiring businesses, parts of businesses or stakes in business entities or in the course of corporate mergers and, with regard to the Authorized Capital I, for an amount up to 3,500,000 to the extent necessary in order to issue shares to employees of Linde AG and/or its affiliates.

Conditional Capital: Based on two additional shareholder resolutions,

Linde plc Shareholders

25,000 ordinary shares of 1.00 each in the capital of Linde plc were issued at Linde plc's incorporation for the purposes of capitalizing Linde plc to the minimum level required by Irish company law and for the purposes of funding Linde plc to make a capital contribution to Linde Holding GmbH. On July 25, 2017, the 25,000 ordinary shares of 1.00 each issued on incorporation were converted and re-designated as 25,000 A ordinary shares of 1.00 each. The A ordinary shares will, upon adoption of the Linde plc constitution immediately prior to completion of the business combination, be converted and re-designated into deferred shares that do not carry voting or dividend rights. Immediately following the settlement of the exchange offer and prior to the effective time of the merger, the aggregate nominal value of the Linde plc ordinary shares in issue will exceed the minimum capitalization requirement under Irish company law and the deferred shares will be acquired and cancelled by Linde plc for nil consideration.

Under Irish law, the directors of a company may issue new ordinary or preferred shares without shareholder approval once authorized to do so by the constitution or by an ordinary resolution adopted by the shareholders at a general meeting. The authorization may be granted for a maximum

Linde AG's share capital has also been increased conditionally by (i) up to period of five years, at which point it must be renewed by the shareholders by an ordinary

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders

47,000,000 by issuing up to 18,359,375 new no-par-value bearer shares with a pro rata amount of 2.56 (which is herein referred to as Conditional Capital 2013) and (ii) up to 10,240,000 by the issuance of up to 4,000,000 new no-par-value bearer shares with a pro rata amount of 2.56

(which is herein referred to as

Conditional Capital 2012). The Conditional Capital 2013 may only be used for the satisfaction of the exercise of conversion and/or option rights attached to convertible bonds or bonds with warrants or for bearers or holders obligated to convert their convertible bonds may fulfill their conversion obligation provided, however, that, in each case, no treasury shares are used. The Conditional Capital 2012 may only be used for satisfying subscription rights (share options) by members of the executive board, members of management bodies of affiliates or other selected executives.

resolution (if Linde plc wishes to issue shares). Because of this requirement of Irish law, the Linde plc constitution authorizes the Linde plc board of directors to issue new ordinary or preferred shares without shareholder approval for a period of five years from the date of adoption of such constitution (which will become effective as of the completion of the business combination).

Dividends/Distributions

The DGCL provides that, subject to any restrictions in a corporation's certificate of incorporation, dividends may be declared from the corporation's surplus, or if there is no surplus, from its net profits for the fiscal year in which the dividend is declared and for the preceding fiscal year. Dividends may not be declared out of net profits, however, if the corporation's capital has been diminished to an amount less than the aggregate amount of all capital represented by the issued and outstanding stock of all classes having a

Under the German Stock Corporation Act, dividends may only be paid out of the corporation's distributable profits as determined by resolution of the shareholders at the general meeting of shareholders for the preceding fiscal year.

Under Irish law, dividends and distributions may only be made from distributable reserves which are, generally, a company's accumulated realized profits less its accumulated realized losses. In addition, no distribution or dividend may be made if the net assets of Linde plc are not, or if making such distribution or dividend will cause the net assets of Linde plc to not be, equal to, or in excess of, the aggregate of Linde plc's

preference upon the distribution of assets until the deficiency in the amount of capital represented by the issued and

called up share capital plus undistributable reserves.

Undistributable reserves include the company's undenominated

Table of Contents

Praxair Shareholders

outstanding stock of all classes having a preference upon the distribution of assets is repaired.

Praxair shareholders are entitled to receive dividends when, as and if declared by the Praxair board of directors out of funds legally available for payment, subject to the rights of holders, if any, of Praxair, Inc. preferred stock. Praxair shareholders are entitled to share pro rata in the assets of Praxair, Inc. upon dissolution after provision has been made for all claims against, and obligations of, Praxair, Inc.

Linde Shareholders

Linde plc Shareholders

capital and the amount by which a company's accumulated unrealized profits exceeds its accumulated unrealized losses. The determination as to whether or not Linde plc has sufficient distributable reserves to fund a dividend must be made by reference to Linde plc's most recent unconsolidated annual audited financial statements or other financial statements properly prepared in accordance with the Companies Act. The relevant financial statements must be filed in the Companies Registration Office (the official public registry for companies in Ireland).

The Linde plc constitution authorizes the Linde plc board of directors to declare dividends without shareholder approval to the extent they appear justified by profits. The Linde plc board of directors may also recommend a dividend to be approved and declared by the shareholders at a general meeting, provided that no dividend issued may exceed the amount recommended by the directors.

Dividends may be declared and paid in the form of cash or non-cash assets and may be paid in euro, dollars or any other currency.

The Linde plc board of directors may deduct from any dividend payable to any shareholder any amounts payable by such shareholder to Linde plc in relation to the Linde plc shares.

Linde plc shareholders will receive dividends, when and if declared, pro rata subject to the

-465-

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders
rights of holders, if any, of Linde plc preferred shares.

The Linde plc constitution provides that, upon dissolution of Linde plc, subject to the priorities of any creditors, the assets of Linde plc will be distributed to Linde plc shareholders according to their rights and in proportion to the paid-up nominal value of the shares held by such shareholder. The Linde plc constitution provides that the Linde plc shareholders are entitled to participate pro rata in a winding up, but their right to do so is subject to the rights of any holders of the preferred shares issued upon special terms and conditions to participate under the terms of any series or class of such shares.

Annual Meeting of Shareholders

Under the DGCL, an annual meeting of shareholders must be held for the election of directors on a date and at a time designated by or in the manner provided in the corporation's bylaws. Any other proper business may be transacted at the annual meeting. Pursuant to the DGCL, any stockholder or director may petition the Court of Chancery to order a meeting to elect directors if the annual meeting has not been held (or directors were not otherwise elected by written consent) within 30 days of the date set for such meeting or, if no date has been set, 13 months following the date the previous annual meeting was held.

The Linde shareholders have a general meeting of shareholders to vote, *inter alia*, on the exoneration (*Entlastung*) of the members of the executive board and the supervisory board, on the appropriation of dividends, and on the appointment of the statutory auditor. The shareholder meeting also appoints the shareholders' representatives to the supervisory board. Only shareholders that have provided timely registration to Linde AG are eligible to participate in the meeting. Linde AG is required to publish the invitation to and agenda for any shareholder meeting in the German Federal Gazette (*Bundesanzeiger*).

As a matter of Irish law, Linde plc will be required to hold an annual general meeting within 18 months of incorporation and at intervals of no more than 15 months thereafter, provided that an annual general meeting is held in each calendar year following the first annual general meeting and no more than nine months after Linde plc's fiscal year end.

Except in respect of the statutory rights provided by the Companies Act, Praxair's, Inc. s

Under the Praxair, Inc. bylaws, annual meetings of shareholders are held for the election of directors at any date, time and place as may be designated by the Praxair board of directors from time to time.

The shareholder meeting is convened by the executive board or the supervisory board.

bylaws, Linde AG's articles of association and the Linde plc constitution have similar provisions with regard to the matters that may be brought before a meeting.

Notice of an annual general meeting must be given to all

Table of Contents

Praxair Shareholders

Under the Praxair, Inc. bylaws, notice of the place, day and hour of the meeting and the general nature of the business to be considered must be provided to each shareholder not less than 10 days and not more than 60 days before the meeting date.

Linde Shareholders

Linde plc Shareholders

Linde plc shareholders and the auditors of Linde plc. The Linde plc constitution provides for a minimum notice period for an annual general meeting of 21 days, which is the minimum permitted under Irish law.

The Linde plc constitution provides that meetings may be held in or outside of Ireland.

The provisions of the Linde plc constitution relating to general meetings will apply to every such general meeting of the holders of any class of shares.

Special Meeting of Shareholders

Special meetings of the shareholders may be called on any date, at any time and at any place as the board of directors may designate. Special meetings of shareholders may be called by, and only by, (i) the board of directors at any time pursuant to a resolution approved by a majority of the entire board of directors or (ii) by the Secretary of Praxair, Inc. upon the written request of holders of record of not less than 25% of the voting power of all outstanding shares of common stock of Praxair, Inc. stating the purpose of and reasons for such meeting and certain other information required by the bylaws of Praxair, Inc. If a special meeting is requested pursuant to the preceding clause (ii), the meeting must be held within 90 calendar days of delivery of such request to Praxair, Inc.

Under the German Stock Corporation Act, a special meeting of shareholders may be called if shareholders, whose shareholdings in the aggregate equal or exceed 5 percent of the share capital provide written demand to the Linde executive board stating the purpose of and reasons for such meeting.

As provided under Irish law, extraordinary general meetings of Linde plc may be convened (i) by the Linde plc board of directors, (ii) by request of Linde plc shareholders holding not less than 5% of the paid up share capital of Linde plc carrying voting rights, (iii) by request of Linde plc's statutory auditors in connection with their resignation or (iv) in exceptional cases, by court order. Extraordinary general meetings are generally held for the purpose of approving shareholder resolutions as may be required from time to time. At any extraordinary general meeting only such business shall be conducted as is set forth in the notice thereof.

A special meeting request will not be valid with respect to a requesting shareholder, and such shareholder's shares of common stock will be disregarded in determining if the requisite ownership threshold has

In the case of an extraordinary general meeting convened by the Linde plc shareholders, the proposed purpose of the meeting must be set out in the requisition notice. Upon receipt of any such valid requisition notice, the

Table of Contents

Praxair Shareholders

been reached, unless such shareholder is the holder of record of such shares on the request receipt date and either (a) such shareholder has been the holder of record of such shares continuously for a one-year period prior to the request receipt date or (b) the special meeting request is accompanied by evidence of such shareholder's continuous beneficial ownership (as defined for purposes of Section 13(d) of the Exchange Act, as amended) of such shares for such one-year period from one or more securities intermediaries in a form acceptable to the Praxair board of directors, acting in good faith.

Linde Shareholders

Linde plc Shareholders

Linde plc board of directors has 21 days to convene a meeting of Linde plc shareholders to vote on the matters set out in the requisition notice. If the Linde plc board of directors does not convene the meeting within such 21-day period, the requisitioning shareholders, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, which meeting must be held within three months of Linde plc's receipt of the requisition notice. If the Linde plc board of directors becomes aware that the net assets of Linde plc are not greater than half of the amount of Linde plc's called-up share capital, it must convene an extraordinary general meeting of Linde plc's shareholders not later than 28 days from the date that the directors learn of this fact to consider how to address the situation.

Voting Rights General

Each outstanding Praxair share entitles its holder to one vote.

The right to participate in and vote at the shareholder meeting is extended to all shareholders having registered in due time and having submitted proof of their shareholding. Each no-par value share entitles the holder to cast one vote at a shareholder meeting.

Under the Linde plc constitution, each Linde plc shareholder is entitled to one vote for each ordinary share that he or she holds as of the record date for the meeting. The Linde plc board of directors have the power to determine whether the *preferred shares* have voting powers, full or limited, or no voting powers, and, if any, the terms of such voting powers. The deferred shares have no voting rights.

The board of directors have the power to determine whether the *preferred shares* have voting powers, full or limited, or no voting powers, and, if any, the terms of such voting powers.

Unless mandatory rules of the German Stock Corporation Act provide to the contrary, resolutions of the shareholder meeting will be adopted with a simple majority of

Unless otherwise provided by the DGCL or in the certificate of incorporation or bylaws of Praxair, Inc., resolutions voted

on at a shareholder meeting will be decided by a majority of the votes present and entitled to vote thereon.

the votes cast. Voting rights may be exercised by proxy.

Except where a greater majority is required by the Companies Act or where there is a contested director election (in which case

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders

a plurality voting standard will apply), any question, business or resolution proposed at any general meeting shall be decided by a simple majority of the votes cast.

Quorums

Holders of a majority of the voting power of the outstanding shares of stock entitled to vote on a matter at a shareholder meeting constitutes a quorum.

Neither the German Stock Corporation Act nor Linde AG's articles of incorporation have any minimum quorum requirement applicable to shareholder meetings

The Linde plc constitution provides that a quorum shall be two or more persons holding or representing by proxy more than 50% of the total issued voting rights of Linde plc shares.

Approval of Extraordinary Transactions

Any merger, consolidation or sale of substantially all of the assets of a corporation must be approved by a resolution adopted by a majority of the directors and approved by a vote of a majority of the outstanding shares entitled to vote thereon, except that certain transactions with interested persons or affiliates of interested persons require approval of two-thirds of the outstanding shares entitled to vote (excluding any shares beneficially owned by such interested persons).

Under German law and the articles of association of Linde AG, certain resolutions of the meeting of shareholders require the approval of a majority of at least 75% of the votes cast and/or the share capital represented. Such resolutions include:

the exclusion of the shareholders' subscription rights in connection with capital increases;

amendment of the articles of association (*Satzung*) relating to a change of the business purpose of Linde AG (*Unternehmensgegenstand*);

measures taken pursuant to the German Act on Corporate Transformations;

Any merger, consolidation or sale of material assets of Linde plc with interested persons or affiliates of interested persons require approval of two-thirds of the outstanding shares entitled to vote (excluding any shares beneficially owned by such interested persons). Under Irish law, certain resolutions of the meeting of shareholders require the approval of a majority of at least 75 percent of the votes cast and/or the share capital represented. Such resolutions include:

effecting a members' voluntary winding up;

the treatment of pre-acquisition profits being treated in holding company's financial statements as profits available for distribution; and

entering into a domination and/or profit and loss transfer agreement; the making of loans to directors or connected persons.

approval of management measures for which the supervisory board denied its approval;

dissolution of Linde AG; and significant asset disposals which may jeopardize Linde AG's business objectives (so-called *Holz Müller-Resolutions*).

-469-

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders

Transfer Restrictions

There are no transfer restrictions on Praxair shares.

There are no transfer restrictions on Linde shares.

Linde plc shares are freely transferable in accordance with the legal requirements for registered shares, subject to the board of director's right to refuse to register a transfer in the following circumstances:

1. the instrument of transfer is not duly stamped, if required, and lodged, accompanied by the certificate (if any) for the shares to which it relates and such other evidence as the Linde plc board of directors may reasonably require to show the right of the transferor to make the transfer;
2. the instrument of transfer is in respect of more than one class of share;
3. the instrument of transfer is in favor of more than four persons jointly;
4. the Linde plc board of directors is not satisfied that all applicable consents, authorizations, permissions or approvals of any governmental body or agency in Ireland or any other applicable jurisdiction required to be obtained under relevant law prior to such transfer have been obtained; or

5. the Linde plc board of directors is not satisfied that the transfer would not violate the terms of any agreement to which Linde plc (or any of its subsidiaries) and the transferor are party or subject.

-470-

Table of Contents

Praxair Shareholders	Linde Shareholders	Linde plc Shareholders
	Shareholder Proposals	
<p>The proposal of business to be considered by the shareholders at an annual meeting may be made by any shareholder of Praxair, Inc. by giving notice to the corporate secretary of Praxair, Inc. within certain periods set out in Praxair, Inc.'s bylaws or Rule 14a-8 of the Exchange Act. Such business must also be a proper matter for shareholder action.</p> <p>A notice by a shareholder shall set forth as to each matter the shareholder proposes to bring before the annual general meeting: (a) a brief description of the business desired to be brought before the annual general meeting and the reasons for conducting such business at the meeting, (b) the name and address, as they appear on Praxair, Inc.'s books, of the shareholder proposing such business, (c) the class, series and number of shares of Praxair, Inc. which are beneficially owned by the shareholder, (d) certain information about derivatives, debt instruments and other interests related to Praxair, Inc. or its subsidiaries and (e) any material interest of the shareholder in such business.</p>	<p>Under the German Stock Corporation Act, one or more shareholders holding shares representing an aggregate of at least 5 percent of the issued share capital of Linde AG are entitled to request a meeting of shareholders be called. Shareholders holding ordinary shares representing an aggregate of at least 5 percent of the issued share capital or holding shares in an aggregate nominal amount of at least 500,000 are entitled to require that a matter be placed on the agenda of the general meeting of shareholders for resolution. The requests must be made in writing stating the purpose and the reasons for the request and must be addressed to the Linde executive board. A proper request will be published together with the notice of the meeting of shareholders and the agenda in the German Federal Gazette (<i>Bundesanzeiger</i>), or, if a request was made after the publication of the notice and agenda, will be published without undue delay. Additionally, each shareholder may submit, at or prior to the meeting of shareholders, counter proposals to the proposals submitted and published by the Linde executive board and the Linde supervisory board. Under certain circumstances, such counter proposals must be published in the German Federal Gazette prior to such meeting of shareholders.</p>	<p>The Companies Act grants Linde plc shareholders the right to (a) table items for inclusion on the agenda of an annual general meeting provided that each such item is accompanied by (i) stated grounds justifying its inclusion; or (ii) a draft resolution to be adopted at the meeting; and (b) table a draft resolution for an item on the agenda of a general meeting (whether an annual general meeting or extraordinary general meeting). Such right is subject to the shareholder or shareholders concerned holding at least 3% of the voting share capital and sending the information to the company at least 42 days before the meeting.</p> <p>In addition to the shareholder proposals permitted under the Companies Act, the Linde plc constitution provides that business may be brought before an annual general meeting by a shareholder if that shareholder has given timely notice thereof in writing to the secretary of Linde plc. Each such notice shall set forth as to each matter the shareholder proposes to bring before the annual general meeting: (a) a brief description of the business desired to be brought before the annual general meeting and the reasons for conducting such business at the meeting, (b) the name and address, as they appear on Linde plc's register of members, of the</p>

shareholder proposing such
business, (c) the class, series and
number of shares of Linde plc
which are beneficially owned by
the shareholder, (d) certain

Table of Contents

Praxair Shareholders

The number of Praxair, Inc. directors is 10 and may be changed and fixed from time to time by the Praxair board of directors pursuant to a resolution adopted by a majority of the directors then in office; provided however, that at no time will the number of directors be less than three.

Linde Shareholders

Governance

Linde AG has a two-tier board system consisting of the executive board and the supervisory board. The Linde executive board leads Linde and manages its business. It currently consists of five members, including the chief executive officer of Linde AG, who also serves as the chairman of the executive board. The supervisory board has authority to determine the number of members on the executive board subject to applicable law which requires a minimum of two members. The Linde supervisory board supervises and advises the Linde executive board in the management of Linde. The Linde executive board must obtain the Linde supervisory board's prior approval for certain transactions of particular importance, as determined by the supervisory board. There are currently 12 members on the Linde supervisory board, including six shareholder representatives and six employee representatives.

Linde plc Shareholders

information about derivatives, debt instruments and other interests related to Linde plc or its subsidiaries, and (e) any material interest of the shareholder in such business.

Immediately post-completion of the business combination, the number of Linde plc directors will be twelve. During the first three years following the completion of the business combination, six of the directors will be of Linde Class Directors, while the other six will be of Praxair Class Directors.

The number of Linde plc directors may be fixed from time to time by the Linde plc board of directors; provided, however, that at no time will the number of directors be less than four or greater than twelve.

Nomination and Appointment of Directors

Directors are elected by the shareholders at each annual meeting of shareholders.

The Linde supervisory board is responsible for the appointment of the members to the Linde executive

Directors are elected by the shareholders at each annual general meeting. Each director

Each director will be elected by the vote of the majority of the votes cast. In the event that the number of nominees exceeds the number of director seats to be filled, the nominees who will be elected to the board of directors are the nominees who receive the highest number of votes cast.

board and the revocations of such appointments. The shareholder representatives on the Linde supervisory board are elected for a term of office ending at the closing of the general meeting of shareholders which votes on the approval for the fourth fiscal year after the commencement of such

shall be elected by the vote of the majority of the votes cast. In the event that the number of nominees exceeds the number of director seat to be filled, the nominees who will be elected to the board of directors are the nominees who receive the highest number of votes cast.

Table of Contents

Praxair Shareholders

The nomination of a director for election may be made by any shareholder of Praxair, Inc. by giving notice to the Secretary of Praxair, Inc. within certain periods set out in Praxair, Inc.'s bylaws or Rule 14a-8 of the Exchange Act.

Any vacancy on the board of directors may be filled only by a majority vote of the remaining directors then in office.

Under the Praxair, Inc. bylaws, a shareholder or a group of up to 20 shareholders owning shares representing at least 3% of Praxair's common stock continuously for at least three years, may nominate and include in Praxair's proxy statement their own director nominee(s) constituting up to 20% of the total number of directors then serving on the board of directors (with a minimum of up to two director nominees), provided that the shareholder(s) and the nominee(s) satisfy the proxy access requirements in Praxair, Inc.'s by-laws.

Linde Shareholders

shareholder representative's term of office, not including such fiscal year in which the term of office has commenced. The general meeting of shareholders may, with regard to the shareholder representatives, set a shorter term of office for one or several shareholder representatives. Replacements for prematurely retiring members of the supervisory board are elected for the remaining term of office of the retiring member or members. The employee representatives are elected on the basis of applicable German co-determination laws.

Linde plc Shareholders

Any vacancy on the Linde plc board of directors may be filled by the remaining directors then in office. During the first three years following the completion of the business combination, any vacancy on the Linde plc board of directors shall be filled by a unanimous vote of the remaining directors, provided that, if the vacancy relates to a Linde Class Director, if the Linde plc board of directors fails to fill such vacancy within three months, such vacancy may be filled by an individual nominated and appointed by the remaining Linde Class Director, and if the vacancy relates to a Praxair Class Director, if the Linde plc board of directors fails to fill such vacancy within three months, such vacancy may be filled by an individual nominated and appointed by the remaining Praxair Class Directors.

The nomination of a director of Linde plc may be made:

(i) by the board of directors;

(ii) by holders of any class or series of shares in Linde plc then in issue having special rights to nominate or appoint directors in accordance with the terms of issue of such class or series, but only to the extent provided in such terms of issue;

(iii) by Linde plc shareholders provided certain conditions set forth in Linde plc's articles of association are satisfied;

(iv) by a Linde plc shareholder or a group of up to 20 Linde plc shareholders owning shares representing at least 3% of Linde plc's common stock

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders
 continuously for at least three years, and such director nominee(s) constituting up to 20% of the total number of directors then serving on the board of directors (with a minimum of up to two director nominees) may be included in Linde plc's proxy statement, provided that the shareholder(s) and the nominee(s) satisfy the proxy access requirements in Linde plc's articles of association.

During the first three years following the completion of the business combination, the board of directors shall nominate each of the Linde Class Directors and Praxair Class Directors (or his or her replacement) for re-election to the board of directors of Linde plc at each of Linde plc's annual general meetings as required to ensure that the Linde Class Directors and Praxair Class Directors (or his or her replacement) serve on the board of directors of Linde plc for the duration of the first three years following the completion of the business combination.

Removal of Directors

Any director may be removed from office with or without cause but only by the affirmative vote of a majority of the voting power of the outstanding voting shares, provided, however, that if a proposal to remove a director is made by or on behalf of an interested person or a director who is not an independent director, then such removal shall require

Under the German Stock Corporation Act, the Linde supervisory board has the authority to remove members of the executive board for cause. The meeting of shareholders of Linde can replace the shareholders' representatives on the supervisory board with a simple majority of the votes cast prior to

Under the Companies Act and notwithstanding anything contained in the Linde plc constitution or in any agreement between Linde plc and a director, the Linde plc shareholders may, by an ordinary resolution, remove a director from office before the

the affirmative vote of not less than a majority of the votes entitled to be cast by the holders of all the then outstanding voting shares, voting together as one class, excluding

the expiration of their respective terms of office. If a member of the Linde supervisory board ceases to be a member prior to the expiration of his term of office, a

expiration of his or her term, at a meeting held on no less than 28 days notice and at which the director is entitled to be heard.

During the first three years following the completion of the

Table of Contents

Praxair Shareholders

shares beneficially owned by such interested person.

Linde Shareholders

new member will be elected for the remaining term of office of the withdrawing member. Any member of the Linde supervisory board may, for cause or otherwise, resign from office by declaring resignation with at least two months notice which may be waived subject to the approval of the chairman of the Linde supervisory board.

Linde plc Shareholders

business combination, except for any removals by ordinary resolution of the Linde plc shareholders pursuant to the Companies Act, a director of Linde plc may be removed from office by a unanimous vote of all the other members of the Linde plc board of directors.

Amendments to Certificate of Incorporation and Memorandum of Association

Under the DGCL, a corporation may amend its certificate of incorporation upon the submission of a proposed amendment to shareholders by the board of directors and the subsequent receipt of the affirmative vote of a majority of its outstanding voting shares and the affirmative vote of a majority of the outstanding shares of each class entitled to vote thereon as a class.

The articles of association of Linde AG may only be amended by a resolution passed by a majority of 75% of the stock capital present at the relevant shareholder meeting. The Linde supervisory board is empowered to make amendments to the articles of association restricted to their wording.

The Linde plc memorandum of association may only be amended by a special resolution passed by not less than 75% of the Linde plc shareholders present at a general meeting.

The Praxair, Inc. certificate of incorporation provides that Praxair, Inc. reserves the right from time to time to amend or repeal any provision of the Praxair, Inc. certificate of incorporation and that all rights conferred thereby are granted subject to this right.

The affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by holders of the outstanding shares of capital stock of Praxair, Inc. entitled to vote generally in the election of directors, voting together as a single class, is required to approve certain amendments proposed by an interested person or director who is not an independent director.

Amendments to Bylaws or other Governing Documents and Articles of Association

The Praxair board of directors is expressly empowered to adopt, amend or repeal the Praxair, Inc. bylaws.

The Linde supervisory board may adopt and amend the rules of procedure of the Linde supervisory board and the Linde

The Linde plc constitution may only be amended by a special resolution passed by not less than 75% of the Linde plc

-475-

Table of Contents

Praxair Shareholders

The shareholders may adopt additional bylaws and amend, modify or repeal any bylaw whether or not adopted by them, by a majority of votes cast at a meeting by shareholders entitled to vote.

The affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by holders of the outstanding shares of capital stock of Praxair, Inc. entitled to vote generally in the election of directors voting together as a single class is required to approve any amendment proposed by an interested person or a director who is not an independent director.

Linde Shareholders

executive board with simple majority of the votes cast. The Linde executive board may adopt and amend the rules of procedure of the executive board by unanimous resolution, provided that the Linde supervisory board has not adopted such rules of procedure of the Linde executive board.

Linde plc Shareholders

shareholders present at a general meeting.

Appraisal or Dissenters Rights

Under the DGCL, a shareholder of a Delaware corporation generally has the right to dissent from a merger or consolidation in which the corporation is participating or a sale of all or substantially all of the assets of the corporation, subject to specified procedural requirements. The DGCL does not confer appraisal rights, however, if the corporation's stock is either:

listed on a national securities exchange; or

held of record by more than 2,000 holders; and further provided that no appraisal rights will be available for any shares of stock of the constituent corporation surviving a merger if the

An appraisal proceeding (*Spruchverfahren*) is available to Linde shareholders under the German Appraisal Proceedings Act (*Spruchverfahrensgesetz*). Under this Act, a court can be asked to determine the adequacy of the consideration or compensation paid to minority shareholders in certain corporate transactions, including (1) the conversion or merger of companies pursuant to the provisions of the German Transformation Act; (2) the conclusion of a domination and/or profit and loss transfer agreement; and (3) the squeeze-out of minority shareholders pursuant to Sections 327a *et seq.* of the German Stock Corporation Act or Section 62(5) of the German Transformation Act. In each of these circumstances, the shareholder seeking the adequacy determination must comply with the

Generally, under Irish law, shareholders of an Irish company do not have dissenters or appraisal rights. Under the European Communities (Cross-Border Mergers) Regulations 2008 governing the merger of an Irish public limited company such as Linde plc and a company incorporated in the European Economic Area, a shareholder (i) who voted against the special resolution approving a merger or (ii) of a company in which 90% of the shares are held by the other party to the merger, has the right to request that the company acquire his or her shares for cash at a price determined in accordance with the share exchange ratio set out in the transaction.

merger did not require for its approval the vote of the shareholders of the surviving corporation.

procedural requirements specified in the applicable statutory provision.

Under the Companies Act, which governs the merger of Irish companies limited by shares, such as Linde plc, a shareholder of either of the merging companies who voted against the special resolution

Even if a corporation's stock meets these requirements (as Praxair, Inc. currently does), the DGCL still provides appraisal rights if shareholders of the corporation are required

Table of Contents

Praxair Shareholders

to accept for their stock in any merger, consolidation or similar transaction anything other than:

shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock (or depository receipts in respect thereof) or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

cash in lieu of fractional shares or fractional depository receipts described in the foregoing; or

any combination of the foregoing.

Under the DGCL, shareholders have no pre-emption rights to subscribe for additional issues of stock or to any security convertible into such stock unless, and except to the extent that, such rights are expressly provided for in the certificate of incorporation.

The Praxair, Inc. certificate of incorporation does not provide for

Linde Shareholders

Pre-emption Rights

Under the German Stock Corporation Act, an existing shareholder in a stock corporation has a preferential right to subscribe for issues of new shares in proportion to the number of shares such shareholder holds in the corporation's existing share capital (pre-emption rights or subscription right (*Bezugsrechte*)). The German Stock Corporation Act allows companies to exclude this

Linde plc Shareholders

approving the merger, or any shareholder, other than the successor company, where the successor company held 90% or more of the voting shares in the transferor company, may, not later than 15 days after the shareholder meeting of the relevant merging company at which the merger was approved, request in writing that the successor company acquire his, her or its shares for cash.

Under Irish law, certain statutory pre-emption rights apply automatically in favor of shareholders where shares are to be issued for cash. However, Linde plc has opted out of these pre-emption rights in the Linde plc constitution as permitted under Irish law. Generally, this opt-out is renewed at least every five years by a resolution approved by not less than 75%

pre-emption rights.

preferential subscription right so provided in the same shareholder resolution that authorizes the accompanying capital increase or share issuance. At least 75% of the share capital represented at the meeting must vote to authorize the exclusion of subscription rights. Prior to approval by the shareholders, exclusion of subscription rights

of the votes cast at a general meeting of the Linde plc shareholders. If the opt-out is not renewed, as a general rule, shares issued for cash must be offered to existing Linde plc shareholders on a pro rata basis before any Linde plc shares may be issued to any new shareholders. Statutory pre-emption rights do not apply

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders

requires the Linde executive board to report on the reasons for the exclusion to the shareholders in writing. With regard to the Authorized Capital I and the Authorized Capital II, the Linde executive board may increase the share capital without offering subscription rights with the approval of the Linde supervisory board and subject to certain limitations.

(i) where shares are issued wholly or partly for non-cash consideration (such as in a stock-for-stock acquisition), (ii) to the issue of non-equity shares (that is, shares that have the right to participate only up to a specified amount in any income or capital distribution) or (iii) where shares are issued pursuant to an employee option or similar equity plan.

Under Irish law, Linde plc is prohibited from allotting shares at a discount to their nominal value. Accordingly, at least the nominal value of the shares issued underlying any restricted share award, restricted share unit, performance share awards, bonus shares or any other share-based grants must be paid pursuant to the Companies Act.

Acquisition of Treasury Shares and Reduction of Share Capital

Pursuant to the DGCL, a corporation may purchase, redeem, receive, take or otherwise acquire, own and hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own shares; provided, however, that no corporation shall: (i) purchase or redeem its own shares of capital stock for cash or other property when the capital of the corporation is impaired or when such purchase or redemption would cause any impairment of the capital of the corporation, except that a corporation may purchase or redeem out of capital any of its own shares which are entitled upon any distribution of its assets, whether by dividend or in liquidation, to

Linde AG may acquire its own shares on the basis of an authorization by the general meeting of shareholders which sets forth the lowest and the highest price for the shares, so long as it acquires no more than 10 percent of its issued shares. The Linde shareholders have granted such authorization to the Linde executive board until May 2, 2021. In addition, Linde AG may purchase its own shares for certain defined purposes (*e.g.*, if the acquisition is necessary to avoid severe and immediate damage to Linde AG, if the shares are to be offered for purchase to persons who are or were in an employment

Linde plc may reduce its authorized but unissued share capital in any manner permitted by the Companies Act. Linde plc also may, by special resolution (approved by not less than 75% of the votes cast at a general meeting of the Linde plc shareholders) and subject to confirmation by the Irish High Court, reduce its issued share capital in any way permitted by the Companies Act.

For purposes of Irish law, repurchases of Linde plc shares

a preference over another class or series of its stock, or, if no shares entitled to such a preference are outstanding, any of its own shares, if such shares will be retired upon their acquisition and the

relationship with Linde AG or an affiliate or if the acquisition is made to compensate shareholders in connection with corporate transactions).

may be effected by a redemption if the repurchased shares are redeemable shares or are deemed to be redeemable shares by Linde plc's constitution.

The Linde plc constitution provides that, unless the board of directors determines

Table of Contents**Praxair Shareholders**

capital of the corporation reduced; (ii) purchase, for more than the price at which they may then be redeemed, any of its shares which are redeemable at the option of the corporation; or (iii) redeem any of its shares if following such redemption, the corporation will not have one or more shares that have full voting power.

Generally, pursuant to the DGCL, a corporation has a right to resell any of its shares theretofore purchased or redeemed and which have not been retired, for such consideration as shall be fixed by the board of directors.

Linde Shareholders**Linde plc Shareholders**

otherwise, each Linde plc share shall be deemed to be a redeemable share on, and from the time of, the existence or creation of an agreement, transaction or trade between Linde plc and any person pursuant to which Linde plc acquires or will acquire Linde plc shares, or an interest in Linde plc shares, from the relevant person. Redeemable shares of Linde plc shall have the same characteristics as any other Linde plc share save that it shall be redeemable in accordance with the arrangement.

Shareholder Suits

Under the DGCL, a shareholder may bring a derivative action on behalf of the corporation to enforce the rights of the corporation. An individual shareholder also may commence a class action suit on behalf of itself and other similarly situated shareholders where the requirements for maintaining a class action under Delaware law have been met. A person may institute and maintain such a suit only if such person was a shareholder at the time of the transaction that is the subject of the suit.

Additionally, under Delaware case law, the plaintiff generally must be a shareholder not only at the time of the transaction that is the subject of the suit, but also throughout the duration of the derivative suit. Delaware law also requires that the derivative plaintiff make a demand on the directors of the corporation to assert the corporate claim before the suit may be prosecuted by the derivative plaintiff, unless such demand

Each shareholder who was present at the general meeting of the shareholders and has objected to any or all of the resolutions in the minutes may, within one month after adoption of the resolutions by the shareholder meeting, take actions against Linde AG to contest such resolutions (*Anfechtungsklage*).

However, German law does not provide for class actions and does not generally permit shareholder derivative suits, even in the case of a breach of duty by the members of the Linde executive board or of the Linde supervisory board. Company claims for compensatory damages against members of the Linde executive board or of the Linde supervisory board may, as a rule,

In Ireland, the decision to institute proceedings is generally taken by a company's board of directors, who will usually be empowered to manage the company's business. In certain limited circumstances, a shareholder may be entitled to bring a derivative action on behalf of the company. The central question at issue in deciding whether a minority shareholder may be permitted to bring a derivative action is whether, unless the action is brought, a wrong committed against the company would otherwise go un-redressed.

The principal case law in Ireland indicates that to bring a derivative action a person must first establish a prima facie case (i) that the company is entitled to

would be futile.

only be asserted by Linde AG itself, the relief claimed and (ii) that
in which case Linde AG is the action falls within one of the
represented by the Linde five exceptions derived from
supervisory board if claims are case law, as follows:
made against members of the

(i) where an ultra vires or illegal
act is perpetrated;

-479-

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders

Linde executive board and by the Linde executive board if claims are made against members of the Linde supervisory board.

(ii) where more than a bare majority is required to ratify the wrong complained of;

According to a ruling by the German Federal Court of Justice (*Bundesgerichtshof*), the Linde supervisory board is obligated to assert claims for compensatory damages against the Linde executive board that are likely to be successful, unless important company interests would conflict with such an assertion of claims and such grounds outweigh, or are at least comparable to, the grounds in favor of asserting claims. In the event that the relevant entity with powers of representation decides not to pursue such claims, then such claims of Linde AG for compensatory damages must nevertheless be asserted against members of the Linde executive board or the Linde supervisory board if the general meeting of shareholders passes a resolution to this effect by a simple majority vote.

(iii) where the shareholders personal rights are infringed;

(iv) where a fraud has been perpetrated upon a minority by those in control; or

(v) where the justice of the case requires a minority to be permitted to institute proceedings.

Any damage claims should be brought within six months from the date of the meeting of shareholders. The meeting of shareholders may appoint special representatives to assert a claim for damages. The court will, upon petition by shareholders whose aggregate holdings amount to at least 10 percent of the share capital or 1,000,000, appoint persons other than those appointed to represent Linde AG to assert the claim for

Shareholders may also bring proceedings against the company where the affairs of the company are being conducted, or the powers of the directors are being exercised, in a manner oppressive to the shareholders or in disregard of their interests. Oppression connotes conduct that is burdensome, harsh or wrong. Conduct must relate to the internal management of the company. This is an Irish statutory remedy and the court can grant any order it sees fit, usually providing for the purchase or transfer of the shares of any shareholder.

damages, if in the opinion of the court such appointment is appropriate for the proper assertion of such claim. Additionally, shareholders whose aggregate holdings amount to at least 1 percent of the share capital or 100,000 are entitled to request

-480-

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders

admission to file a claim for damages on behalf of Linde AG. The court will admit the claim if:

the shareholders exercising the right to file a claim for damages establish that (1) they have acquired the shares prior to the alleged breach of duty; and (2) they have demanded, to no avail, that Linde AG file the claim within a reasonable period of time;

facts have been presented that justify a suspicion that Linde AG has been damaged by improprieties or serious breaches of the law or the Linde articles of association; and

no overriding interests of Linde AG prevent the enforcement of the compensation claim.

Rights of Inspection

The DGCL requires that a corporation prepare a complete list of the stockholders entitled to vote at a meeting of stockholders, and make such list open for the examination of any stockholder for a period of at least 10 days prior to the meeting for any purpose germane to the meeting. The DGCL allows any stockholder in person or by attorney or other agent, upon written demand under oath stating the purpose thereof, during the usual hours for business to inspect for any proper purpose, and to make copies and extracts from: (i) a corporation's stock ledger, a list of its stockholders, and its other books and records; and

German law does not permit shareholders to inspect corporate books and records. However, Section 131 of the German Stock Corporation Act provides each shareholder with a right to information to the extent that such information is necessary to permit a proper evaluation of the relevant item on the agenda.

The right to information is a right only to oral information at a general meeting of the shareholders.

Under Irish law, Linde plc shareholders have the right to: (i) receive a copy of the constitution; (ii) inspect and obtain copies of the minutes of general meetings and resolutions of Linde plc; (iii) inspect and receive a copy of the Linde plc register of members, register of directors and secretaries, register of directors' interests, register of directors' service contracts and memoranda and other statutory registers maintained by Linde plc; (iv) receive copies of balance sheets and directors' and

(ii) any subsidiary's books and records, to the extent that: (a) the corporation has actual possession and control of such records of such subsidiary; or (b) the corporation could obtain such records

Information may be given in writing to shareholders, but they are neither entitled to receive written information nor to inspect any documents of Linde AG. As a practical matter, shareholders may receive certain written information about Linde AG through its public filings with

auditors' reports that have previously been sent to Linde plc shareholders prior to an annual general meeting; and (v) receive balance sheets of any subsidiary of Linde plc that have previously been sent to Linde

Table of Contents**Praxair Shareholders**

through the exercise of control over such subsidiary, provided that as of the date of the making of the demand: (x) the stockholder inspection of such books and records of the subsidiary would not constitute a breach of an agreement between the corporation or the subsidiary and a person or persons not affiliated with the corporation; and (y) the subsidiary would not have the right under the law applicable to it to deny the corporation access to such books and records upon demand by the corporation.

Linde Shareholders

the commercial register (*Handelsregister*), the company register (*Unternehmensregister*) and the electronic German Federal Gazette and other places where documents of Linde AG are made publicly available.

Linde plc Shareholders

plc shareholders prior to an annual general meeting for the preceding 10 years.

Conflict of Interest Transactions

The DGCL generally permits transactions involving a Delaware corporation and an interested director of that corporation if: (1) the material facts as to his or her relationship or interest are disclosed and a majority of disinterested directors consents; (2) the material facts are disclosed as to his or her relationship or interest and an affirmative vote of a majority of shares entitled to vote thereon is obtained; or (3) the transaction is fair to the corporation at the time it is authorized by the board of directors, a committee of the board of directors or the shareholders. The mere fact that an interested director is present and voting on a transaction in which he or she is interested will not itself make the transaction void. Under Delaware law, an interested director could be held liable for a transaction in which such director derived an improper personal benefit.

In addition, the DGCL provides that a corporation may lend money to, or guarantee any obligation incurred by, its officers or employees if, in the judgment of the board of directors, the loan or guarantee may reasonably be expected to benefit the corporation.

Under German law, the members of the Linde executive board are subject to a statutory non-compete provision. If this duty is breached, the member of the Linde executive board is liable for damages or Linde AG can demand to receive any profits or compensation the individual has received or will receive through the competing transaction.

Other conflicts of interest may have to be disclosed to the Linde supervisory board, in particular if the member of the Linde executive board is unable to perform his or her fiduciary duties. Any contract according to which a member of the Linde supervisory board is to provide services to Linde AG beyond his or her statutory duties as a Linde supervisory board member requires approval of the Linde supervisory board to be valid.

As a matter of Irish law, a director is under a general fiduciary duty to avoid conflicts of interest. Under Irish law, directors who have a personal interest in a contract or proposed contract with Linde plc are required to declare the nature of their interest at a meeting of the Linde plc board of directors. Linde plc is required to maintain a register of declared interests, which must be available for shareholder inspection.

The Linde plc constitution and Irish statutory law provide that a director must declare any interest he or she may have in a contract or proposed contract, transaction or arrangement with Linde plc at a meeting of the Linde plc board of directors or otherwise provide notice to the Linde plc board of directors. No director shall be prevented by his or her office from contracting with Linde plc, provided that he or she has declared the nature of

Any compensation received for such services must be repaid to Linde AG if the Linde supervisory board did not approve the underlying contract. In all other cases of conflicts of interests a Linde supervisory board member his or her interest in the contract and the contract or transaction has been approved by a majority of the disinterested directors.

Table of Contents

Praxair Shareholders

Linde Shareholders

is obligated to act according to his or her duties of care and loyalty. Beyond this there is no clear rule under German law for the treatment of such conflicts, but the German Corporate Governance Code stipulates that conflicts of interest are to be disclosed to the supervisory board and that permanent conflicts of interest will result in the termination of the conflicted board member's service agreement.

Linde plc Shareholders

Under the Linde plc constitution, a director of Linde plc may be a director of, other officer of, or otherwise interested in, any company promoted by Linde plc or in which Linde plc is interested, and such director will not be accountable to Linde plc for any remuneration received from such employment or other interest. The Linde plc constitution further provides that (i) no director will be prevented from contracting with Linde plc, (ii) any contract entered into between a director and Linde plc will not be subject to avoidance and (iii) no director will be liable to account to Linde plc for any profits realized by virtue of any contract between such director and Linde plc, because of his or her position as a director. A director of Linde plc will be at liberty to vote in respect of any transaction in which he or she is interested, provided that such director discloses the nature of his or her interest prior to consideration of the transaction and any vote thereon.

Action by Written Consent of Shareholders

The Praxair, Inc. certificate of incorporation provides that any action required or permitted to be taken by shareholders must be effected at a duly called annual or special meeting and may not be effected by written consent.

The German Stock Corporation Act does not permit shareholders to act by written consent outside a general meeting of shareholders.

The Linde plc constitution does not permit written resolutions of shareholders.

Limitation of Directors

The DGCL permits a corporation to include in its certificate of incorporation a provision eliminating or limiting a director's personal liability to the corporation or its shareholders for

Liability/Indemnification of Officers and Directors

Under the German Stock Corporation Act, a stock corporation is not allowed to limit or eliminate the personal liability of the members of either the Linde executive board

Pursuant to the Linde plc constitution, subject to the provisions of and so far as may be permitted by the Companies Act, a person who is or was a

monetary damages

or the Linde

director, officer or employee of

-483-

Table of Contents**Praxair Shareholders**

for breaches of fiduciary duty. However, the DGCL expressly provides that the liability of a director may not be eliminated or limited for: (1) breaches of his or her duty of loyalty to the corporation or its shareholders; (2) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (3) the unlawful purchase or redemption of stock or unlawful payment of dividends; or (4) any transaction from which the director derived an improper personal benefit. The DGCL further provides that no such provision will eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective.

Praxair, Inc.'s organizational documents provide for the indemnification of directors and executive officers to the fullest extent permitted by the DGCL.

Linde Shareholders

supervisory board for damages due to breach of duty in their official capacities. Linde AG may, however, waive its claims for damages due to a breach of duty or reach a settlement with regard to such claims if more than three years have passed after such claims have arisen, but only with the approval of the general meeting of the shareholders, provided that such waiver may not be granted and such settlement may not be reached if shareholders holding, in the aggregate, at least 10 percent of the issued shares file an objection to the protocol of the meeting of shareholders.

Under German law, Linde AG may indemnify its officers (*Leitende Angestellte*), and, under certain circumstances, German labor law requires a stock corporation to provide such indemnification. However, Linde AG may not, as a general matter, indemnify members of the Linde executive board or the Linde supervisory board where such members are liable to Linde AG for a breach of their fiduciary duties or other obligations to Linde AG.

A German stock corporation may, however, purchase directors and officers insurance. Such insurance is subject to mandatory restrictions imposed by German law, including a deductible of at least 10 percent of the damages (capped by 150 percent of the annual fixed salary of the respective member of the executive board) to be borne by the member of the board. Linde AG's articles of

Linde plc Shareholders

Linde plc, and each person who is or was serving at the request of Linde plc as a director, officer or employee of another company, partnership, joint venture or other enterprise shall generally be entitled to be indemnified by Linde plc against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto and furthermore Linde plc's constitution provide for the advancement of expenses incurred by such persons in defending any relevant proceedings.

The Companies Act prescribes that such an indemnity only permits a company to pay the costs or discharge the liability of a director or the secretary where judgment is given in any civil or criminal action in respect of such costs or liability, or where an Irish court grants relief because the director or secretary acted honestly and reasonably and ought fairly to be excused. Any provision whereby an Irish company seeks to commit in advance to indemnify its directors or secretary over and above the limitations imposed by the Companies Act will be void under Irish law, whether contained in the constitution or any contract between the company and the director or secretary. This restriction does not apply to Linde plc's executives who are not directors, the secretary or other persons

association provide that Linde AG who would be considered
may purchase and maintain such an officers within the meaning of
that term under the Companies
Act.

Table of Contents

Praxair Shareholders

Linde Shareholders

insurance policy for members of its supervisory board.

Linde plc Shareholders

Irish law permits to purchase and maintain insurance on behalf of its directors, the secretary and employees.

Given the director indemnification limitations arising under Irish law, it is expected Linde plc will procure that one or more of its subsidiaries will enter into indemnification agreements with each of the Linde plc directors indemnifying them in respect of any liability incurred by them while acting as a director of Linde plc

The Linde plc constitution includes a provision limiting the liability of the members of the Linde plc board of directors to either Linde plc or the Linde plc shareholders for monetary damages for the breach of fiduciary duty. However, the Linde plc constitution expressly provides that, subject to the provisions of and so far as may be permitted by the Companies Act, the liability of the members of the Linde plc board of directors is not eliminated or limited for: (1) breaches of his or her duty of loyalty to Linde plc or its shareholders; (2) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or (3) for any transaction for which such member of the Linde plc board of directors derived an improper

personal benefit.

(Anti-)Takeover Legislation and Provisions

Section 203 of the Delaware General Corporation Law generally provides that a Delaware corporation that has not opted out of coverage by this

The German Takeover Act, as amended, regulates all public offers to acquire certain market traded equity securities of

As a public limited company incorporated in Ireland with securities to be admitted to trading on the Frankfurt Stock

Table of Contents**Praxair Shareholders**

section in the prescribed manner may not engage in any business combination with an interested shareholder for a period of three years following the date that the shareholder became an interested shareholder unless:

prior to that time the corporation's board of directors approved either the business combination or the transaction that resulted in the shareholder becoming an interested shareholder;

upon completion of the transaction that resulted in the shareholder becoming an interested shareholder, the interested shareholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested shareholder) those shares owned by individuals who are directors and also officers and shares owned by employee stock ownership plans in which employee participants do not have the right to determine confidentially whether the shares held subject to the stock ownership plan will be tendered in a tender offer or exchange offer; or

at or subsequent to that time, the business combination is approved by the corporation's board of directors and authorized at an annual or special meeting of shareholders by the affirmative vote of holders of at least 66 2/3% of the outstanding voting stock that is

Linde Shareholders

German-based stock corporations, whose stock is admitted to trading on a regulated market in Germany or anywhere within the European Economic Area, whether for stock, cash or a combination thereof and irrespective of the size or purpose of the acquisition.

The German Takeover Act addresses publicly announced offers to acquire a target company's stock (or equity-backed securities) through a purchase or exchange from individual shareholders. Once a party decides to submit a public offer, it is obliged to publicly announce its intention promptly. Prior to the announcement, the offeror must notify BaFin and the relevant stock markets. Within four weeks, or in complicated cross-border offers within up to eight weeks, of such public announcement, the offeror is required to submit a detailed offer document to BaFin. The offering document may be publicly distributed only after its approval by BaFin. Once approved, the exchange offer document must be posted on the internet and either broadly distributed free of charge or published in the electronic German Federal Gazette. The offer must remain open for no less than four weeks and no more than 10 weeks. Such period will be extended automatically if the offer is modified within the last two weeks of the offer period or if during the offer period a third party makes a competing offer.

Linde plc Shareholders

Exchange (*Frankfurter Wertpapierbörse*), BaFin will be the primary regulator of Linde plc insofar as related to takeover rules. Linde plc will be subject to the provisions of the German Takeover Act, the Irish Takeover Panel Act and the Irish Takeover Rules, all of which will apply to any offers made to Linde plc shareholders to acquire their shares.

Pursuant to Section 1(3) of the German Takeover Act, the German Takeover Act is applicable to any public offer regarding Linde plc shares, provided that at the time the public offer is made (i) the public offer is a European Offer pursuant to Section 2(1a) of the German Takeover Act, and (ii) Linde plc shares are admitted to trading on an organized market in Germany, e.g. on the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*), as contemplated. In this case, pursuant to Section 1(3) sentence 2 of the German Takeover Act, the German takeover rules as set forth in the German Takeover Act will apply in respect of the consideration, the content of the offer document and the procedural matters for any public offer. Pursuant to Section 4(1) sentence 1 of the German Takeover Act, BaFin is the competent authority for the supervision of any aforementioned public offer.

Pursuant to the German Takeover Act, a bidder is deemed to have gained control if it holds at least 30 percent of the voting rights of a

The Irish Takeover Panel (which is herein referred to as the Panel), which administers the Takeover Rules, has

Table of Contents

Praxair Shareholders

not owned by the interested shareholder.

The three-year prohibition on business combinations with an interested shareholder does not apply under certain circumstances, including if the corporation does not have a class of voting stock that is:

listed on a national security exchange;
or

held of record by more than 2,000 shareholders;

unless, in each case, this result was directly or indirectly caused by the interested shareholder or from a transaction in which a person became an interested shareholder.

An interested shareholder generally means any person (and the affiliates and associates of such person) that:

is the owner of 15% or more of the outstanding voting stock of the corporation; or

is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within the

Linde Shareholders

company. The German Takeover Act provides that a takeover offer must be extended to all shareholders in a non-discriminatory manner. A limited takeover offer (*i.e.*, a takeover offer through which the offeror seeks to acquire 30 percent or more but less than 100 percent of the remaining outstanding voting shares) is forbidden. Further, the consideration offered for the shares must be adequate. The adequate consideration must be greater than the higher of the weighted average market price within the three-month period preceding the announcement of the offer and the price paid by the offeror (or such persons acting in concert with the offeror or their subsidiaries) for any shares acquired within a six-month period preceding the publication of the takeover or exchange offer document, including off-market block trades.

Pursuant to the German Takeover Act, during the period from publication of the decision to make a takeover offer through publication of the outcome of the offer, the executive board of the target company may not take any action which might prevent the success of the offer. This prohibition, however, does not apply to:

actions that would also have been performed by a diligent and prudent manager of a company that is not the target of a takeover offer;

Linde plc Shareholders

responsibility for regulating matters relating to company law (*e.g.* determining the appropriate threshold for squeeze-out provisions relating to the compulsory purchase of a dissenting minority in an offer, the threshold for a change of control requiring a mandatory takeover bid, the information to be provided to employees, as well as the conditions under which the Linde plc board of directors may undertake any action which might result in the frustration of an offer).

The Takeover Rules are built on the following General Principles which will apply to any transaction regulated by the Panel, and will be considered by the Panel even where it shares jurisdiction with another takeover regulator. The General Principles provide that:

in the event of an offer, all holders of securities of the target company should be afforded equivalent treatment and, if a person acquires control of a company, the other holders of securities must be protected;

the holders of the securities in the target company must have sufficient time and information to enable them to reach a properly informed decision on the offer; where it advises the

three-year period immediately prior to the date on which it is sought to be determined whether such affiliate or associate of the corporation is an interested shareholder.

the seeking of a competing offer; holders of securities, the board and of the target company must give its views on the effects of implementation of the offer on employment, conditions of employment and the locations of the target acts approved by the supervisory board of the target company.

The term "business combination" is defined to include a wide variety of transactions, including mergers, consolidations, sales or other dispositions of ten percent or more of a corporation's assets and various other transactions that may benefit an interested shareholder.

Table of Contents

Praxair Shareholders

The Praxair, Inc. certificate of incorporation and bylaws do not contain any provisions opting out of the restrictions prescribed by Section 203 of the Delaware General Corporation Law.

Linde Shareholders

Further, prior to the announcement of a takeover offer, the shareholders of a potential target may authorize the executive board to undertake specifically determined measures aimed at preventing the success of a future takeover offer with the approval of the supervisory board. Such authorization is valid for a maximum of 18 months.

Linde plc Shareholders

company's places of business;

the board of the target company must act in the interests of the company as a whole and must not deny the holders of securities the opportunity to decide on the merits of the offer;

If a person or a legal entity comes to hold, directly or indirectly, 30 percent or more of a target company and, therefore, obtains control over the target company according to the German Takeover Act, that person or legal entity is obligated to make a tender offer for all outstanding securities of the target company, which is referred to as a mandatory offer. A mandatory offer is not, however, required if the person or legal entity acquires control of a target company pursuant to a takeover offer. Mandatory offers are subject to the provisions on takeover offers and certain additional regulations. A person or legal entity that obtains, directly or indirectly, 30 percent or more of a target company is required to notify BaFin of its holding without undue delay, and in any event within seven calendar days of passing the 30 percent control threshold. The person or legal entity is also required to submit its offer document to BaFin within four weeks (or up to eight weeks in complicated cross-border offers) after such notification. Non-compliance will result in a forfeiture of its voting rights in the target company until both

false markets must not be created in the securities of the target company, the bidder or of any other company concerned by the offer in such a way that the rise or fall of the prices of the securities becomes artificial and the normal functioning of the markets is distorted;

a bidder must announce an offer only after ensuring that he or she can fulfill in full, any cash consideration, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration;

a target company must not be hindered in the conduct of its affairs for longer than is reasonable by an offer for its securities; and

a substantial acquisition of securities (whether such

obligations have been fulfilled.

acquisition is to be effected by one transaction or a series of transactions) shall take place only at an acceptable speed and shall be subject to adequate and timely disclosure.

Under the Takeover Rules, the Linde plc board of directors is not permitted to take any action which might frustrate an offer

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders
for the Linde plc shares once the board of directors has received an approach which may lead to an offer or has reason to believe an offer is imminent, subject to certain exceptions.

Any merger, consolidation or sale of substantially all or the assets of Linde plc with interested persons or affiliates of interested person require approval of two-thirds of the outstanding shares entitled to vote (excluding any shares beneficially owned by such interested persons).

Because the Linde plc shares will be registered with the SEC under the Exchange Act, any offer for the Linde plc shares will need to comply with the U.S. tender offer rules. The principal U.S. tender offer rules relate to, among other things: (1) the initial offer period remaining open for acceptances for a period of at least 20 U.S. business days following commencement; (2) the extension of withdrawal rights to Linde plc shareholders in certain circumstances; (3) application of the all-holder and best-price rules (which together require that all Linde plc shareholders receive the same/highest price offered for Linde plc shares); (4) prompt payment of consideration (i.e., three-day settlement); and (5) restrictions on a bidder's ability to acquire Linde plc

shares outside of the exchange offer.

Squeeze-Out Proceedings

Section 253 of the DGCL provides that a parent corporation owning at least 90% of each class of the stock of a subsidiary entitled to vote on a

A principal shareholder may commence a squeeze-out transaction with respect to Linde AG ordinary shares that the

If the subject company of the squeeze-out transaction is a company that is subject to the EU Directive 2004/25/EC on

Table of Contents

Praxair Shareholders

merger (without applying Section 253) can merge with that subsidiary without advance notice or consent of the minority shareholders upon approval by the parent's board of directors.

Linde Shareholders

principal shareholder does not already own.

A squeeze-out transaction may be effected pursuant to either Sections 327a *et seq.* of the German Stock Corporation Act (if the principal shareholder holds at least 95 percent of Linde AG's issued share capital, Sections 39a *et seq.* of the German Takeover Act (if the principal shareholder holds at least 95% of Linde AG's voting share capital in the context of a takeover), or Section 62(5) of the German Transformation Act (if the principal shareholder holds at least 90% of Linde AG's issued share capital). Following such squeeze-out transaction, ordinary shares of remaining Linde shareholders would be automatically converted into the right to receive compensation in cash or a combination of stock and cash, as applicable. German law does not allow for a squeeze-out transaction if Linde plc directly or indirectly holds an amount of Linde AG ordinary shares that is less than the percentages referred to above.

Linde plc Shareholders

takeover bids, as Linde plc will be, the bidder can compulsorily acquire minority shareholdings under Regulation 23 of the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006. To do this, the bidder must receive a level of 90% acceptances in value and voting rights of the shares subject to a takeover bid.

The bidder has three months from the last closing date of the offer in which to give notice to the dissenting shareholders that it intends to exercise its rights under Regulation 23. Once a notice has been served, a dissenting shareholder has 21 days to apply to court. If a court application is made, the compulsory acquisition will be delayed until the outcome of that application, including any appeal. There is no time limit within which the court application must be dealt with.

Disclosure of Significant Ownership of Shares

Shareholders of Praxair owning more than five percent of any class of equity securities registered pursuant to Section 12 of the Exchange Act must comply with disclosure obligations under Section 13 of the Exchange Act. Section 13(d) of the Exchange Act requires any person or group of persons who owns or acquires beneficial ownership of more than five percent of certain classes of equity securities to file ownership reports with the SEC on either Schedule 13D or

The German Securities Trading Act provides that any person whose voting interest in Linde AG (country of origin of which is the Federal Republic of Germany) reaches, exceeds or falls below the thresholds of 3 percent, 5 percent, 10 percent, 15 percent, 20 percent, 25 percent, 30 percent, 50 percent or 75 percent through acquisition, sale or other means must give written notification to Linde AG and to

Under the Companies Act and the Irish Transparency (Directive 2004/109/EC) Regulations 2007, there is a notification requirement for shareholders who acquire or cease to be interested in 3% of the shares of an Irish public limited company. A Linde plc shareholder therefore must make such a notification to Linde plc if, as a result of a transaction, the Linde

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

(for certain qualified investors) the short form Schedule 13G.

BaFin in writing without undue delay, but in any event within four trading days.

plc shareholder will be interested in 3% or more of the shares of Linde plc; or if, as a result of a transaction, a Linde

-490-

Table of Contents**Praxair Shareholders**

If the shareholder is required to file a report on Schedule 13D, such a report must include information on, inter alia, the acquisition of securities by which the shareholder exceeded the five percent threshold and be filed within ten days after the acquisition. The schedule is filed with the SEC and is provided to the issuer, as well as to each stock exchange on which the security is traded. Schedule 13D is often filed in connection with a tender offer. Any material changes in the facts contained in the schedule necessitates the prompt filing of an amendment.

Schedule 13G is a shorter alternative to Schedule 13D, which is available to certain qualified investors, including beneficial owners of more than five percent of a class of securities that are considered passive investors. Generally, passive investors are investors that do not intend to control or change the control of a company. A Schedule 13G filing has different information and timing requirements than a Schedule 13D filing.

A filer must, among other things, amend a Schedule 13G promptly upon acquiring beneficial ownership of more than 10 percent of a registered class of equity securities and must thereafter promptly amend the Schedule 13G upon increasing or decreasing its beneficial ownership by more than five percent of the class. A Schedule 13G filer must change to filing Schedule 13D within ten days after the filer's beneficial ownership first equals or exceeds 20 percent of the class and is prohibited from voting or acquiring additional securities of the class until ten

Linde Shareholders

The German Securities Trading Act also contains several provisions designed to ensure that shareholdings in listed companies are, for the purposes of calculating if the relevant disclosure thresholds are met, attributed to those persons who in fact control the voting rights associated with such shares. If a party subject to the notification requirement controls a third party that owns shares, such shares are attributed to the party subject to the notification requirement. If the third party holds shares on behalf of the party subject to the notification requirement or a company controlled by it, the shares are attributed to the party subject to the notification requirement. Further, anyone holding, directly or indirectly, instruments either (i) giving their holder the unconditional right or discretion to acquire already issued shares of Linde AG to which voting rights are attached, or (ii) relating to such shares and having a similar economic effect, whether or not conferring a right to a physical settlement, must, without undue delay, but in any event within four trading days, simultaneously notify the issuer and BaFin if such holder's holdings reach, exceed or fall below the thresholds of 5 percent, 10 percent, 15 percent, 20 percent, 25 percent, 30 percent, 50 percent or 75 percent.

Linde AG must publish such notifications without undue delay, and, in any event, within three trading days of receiving them. Linde AG must also, without undue

Linde plc Shareholders

plc shareholder who was interested in more than 3% of the shares of Linde plc ceases to be so interested.

Where a Linde plc shareholder is interested in more than 3% of the shares of Linde plc, any alteration of his or her interest that brings his or her total holding through the nearest whole percentage number, whether an increase or a reduction, must be notified to Linde plc. The relevant percentage figure is calculated by reference to the aggregate nominal value of the shares in which the Linde plc shareholder is interested as a proportion of the entire nominal value of Linde plc's share capital. Where the percentage level of the Linde plc shareholder's interest does not amount to a whole percentage this figure may be rounded down to the next whole number. All such disclosures should be notified to Linde plc within five business days of the transaction or alteration of the shareholder's interests that gave rise to the requirement to notify.

Where a person fails to comply with the notification requirements described above no right or interest of any kind whatsoever in respect of any shares in Linde plc concerned, held by such person, shall be enforceable by such person, whether directly or indirectly, by

days after the Schedule 13D is filed.
Directors and officers of the issuer are
not eligible to use Schedule 13G.

delay after publication, file such
notification with the companies
register and

action or legal proceeding.
However, such person may
apply to the court to have the
rights attaching to the shares
concerned reinstated.

Table of Contents**Praxair Shareholders****Linde Shareholders**

simultaneously report the publication to BaFin. Additionally, the German Takeover Act provides that any person whose voting interest in Linde AG reaches or exceeds 30 percent of the voting rights must, no later than the seventh calendar day following the day on which the 30 percent threshold is reached or exceeded, publish this fact, including the new percentage of such person's voting rights, unless granted an exemption. If no exemption has been granted, such person must also make a public mandatory offer to all shareholders of Linde AG.

Linde plc Shareholders

In addition to the above disclosure requirement, if at any time the Linde plc board of directors are satisfied that any Linde plc shareholder, or any other person appearing to be interested in shares held by such Linde plc shareholder, has been duly served with a notice pursuant to the Linde plc constitution (which is herein referred to as a Section 1062 Notice) and is in default for the prescribed period in supplying to Linde plc the information required, or, in purported compliance with such a notice, has made a statement which is false or inadequate in a material particular, then the directors may, in their absolute discretion at any time thereafter by notice (which is herein referred to as a Direction Notice) to such Linde plc shareholder direct (a) that the Linde plc shareholder shall not be entitled to attend or to vote at a general meeting either personally or by proxy in respect of the Linde plc shares in relation to which the default occurred (which are herein referred to as Default Shares) or to exercise any other right conferred by holding Linde plc shares in relation to meetings of Linde plc; (b) that, where the nominal value of the Default Shares represents at least 0.25% of the nominal value of the issued shares of that class: (i) no payment shall be made of any sums due from Linde plc on the Default Shares and Linde plc shall not have any liability to pay interest on any such payment when it is finally paid

(in each case except in a liquidation of Linde plc); (ii) no other distribution shall be made on the Default Shares; or (iii) no

Table of Contents

Praxair Shareholders

Linde Shareholders

Linde plc Shareholders
transfer of any of the Default Shares held by such Linde plc shareholder shall be registered unless (A) the Linde plc shareholder is not itself in default as regards supplying the information requested; or (B) the transfer is an approved transfer (as defined in the Linde plc constitution).

Any Direction Notice shall cease to have effect (a) in relation to any Linde plc shares which are transferred by such Linde plc shareholder by means of an approved transfer; or (b) when the Linde plc board of directors is satisfied that such Linde plc shareholder (and any other person appearing to be interested in shares held by such Linde plc shareholder) has provided Linde plc with the information required in the Section 1062 Notice. The Linde plc board of directors may at any time give notice cancelling a Direction Notice.

In the event Linde plc is in an offer period pursuant to the Irish Takeover Rules, accelerated disclosure provisions apply for persons holding an interest in Linde plc shares of 1% or more.

Table of Contents

MATERIAL TAX CONSIDERATIONS

The following section contains a discussion of (1) the material U.S. federal income tax consequences of the merger to U.S. holders and non-U.S. holders (as defined below) of Praxair common stock and the material Irish and U.K. tax considerations related to the merger and (2) the material U.S. federal income tax and material Irish and U.K. tax considerations related to the ownership and disposition of Linde plc shares received in the merger that, in each case, may be or may become relevant to holders of Praxair shares and/or Linde plc shares. This summary is of a general nature only and is not and does not purport to be a comprehensive or exhaustive description of all tax considerations that may be relevant to holders of Praxair shares or Linde plc shares. In particular, this summary does not address tax considerations that may apply to a shareholder that is a tax resident of a jurisdiction other than the United States, Ireland or the U.K.

Where reference is made to the tax residence of a shareholder, it is assumed that the tax residence for the purposes of the respective domestic tax law and for the purposes of any applicable income tax treaty is the same. However, exceptions may apply in certain cases.

Linde plc expects to be solely tax resident in the U.K. This summary therefore assumes that Linde plc is and remains exclusively resident in the U.K. for tax purposes, including for the purposes of applicable tax treaties. For the considerations regarding the tax residency of Linde plc and adverse tax consequences should Linde plc be or become a tax resident of a jurisdiction other than the U.K., reference is made to the risk factor *A change in Linde plc's tax residency could have a negative effect on Linde plc's future profitability, and may trigger taxes on dividends or exit charges.*

THIS SUMMARY IS NOT INTENDED TO BE, NOR SHOULD IT BE CONSTRUED AS LEGAL OR TAX ADVICE. SHAREHOLDERS OF PRAXAIR AND/OR LINDE AND/OR PROSPECTIVE SHAREHOLDERS OF LINDE PLC SHARES ARE THEREFORE STRONGLY ADVISED TO CONSULT THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES OF THE RECEIPT, OWNERSHIP OR DISPOSITION OF THE LINDE PLC SHARES ACQUIRED IN THE EXCHANGE OFFER. THE SPECIFIC TAX SITUATION OF EACH SHAREHOLDER CAN ONLY BE ADEQUATELY ADDRESSED BY INDIVIDUAL TAX ADVICE.

Material U.S. Federal Income Tax Considerations

The following discussion is a summary of the material U.S. federal income tax considerations of the merger to U.S. holders and non-U.S. holders (each as defined below) of Praxair shares and the U.S. federal income tax consequences to U.S. holders of the ownership and disposition of the Linde plc shares received upon the consummation of the merger. The discussion is based on and subject to the Code, the U.S. Treasury Regulations promulgated thereunder, administrative guidance and court decisions as of the date hereof, all of which are subject to change, possibly with retroactive effect, and to differing interpretations. The discussion assumes that Praxair shareholders hold their Praxair shares, and will hold their Linde plc shares, as capital assets within the meaning of Section 1221 of the Code (generally, property held for investment). The discussion does not constitute tax advice and does not address all aspects of U.S. federal income taxation that may be relevant to particular holders of Praxair shares in light of their personal circumstances, including any tax consequences arising under the Medicare contribution tax on net investment income or the alternative minimum tax, or to such shareholders subject to special treatment under the Code, such as:

banks, thrifts, mutual funds and other financial institutions,

real estate investment trusts and regulated investment companies,

traders in securities who elect to apply a mark-to-market method of accounting,

brokers or dealers in securities,

tax-exempt organizations and governmental organizations,

Table of Contents

insurance companies,

dealers or brokers in securities or foreign currency,

individual retirement and other deferred accounts,

U.S. holders whose functional currency is not the U.S. dollar,

U.S. expatriates and former citizens of the United States,

passive foreign investment companies or controlled foreign corporations, and corporations that accumulate earnings to avoid U.S. federal income tax,

U.S. holders who own or are deemed to own 10% or more of Linde plc's voting stock after completion of the merger,

shareholders who hold their shares as part of a straddle, hedging, conversion, constructive sale or other risk reduction transaction,

shareholders who purchase or sell their shares as part of a wash sale for tax purposes,

S corporations and shareholders thereof, and

shareholders who received their shares through the exercise of employee stock options or otherwise as compensation or through a tax-qualified retirement plan.

No rulings are intended to be sought from the IRS with respect to the merger and there can be no assurance that the IRS or a court will not take a contrary position regarding the tax consequences described herein.

The discussion does not address any non-income tax considerations or any non-U.S., state or local tax consequences. For purposes of this discussion, a U.S. holder means a beneficial owner of Praxair shares who is:

an individual who is a citizen or resident of the United States;

a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) created or organized in the United States or under the laws of the United States or any subdivision thereof;

an estate the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source; or

a trust if (1) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (2) the trust has a valid election in effect under applicable U.S. Treasury Regulations to be treated as a U.S. person for U.S. federal income tax purposes.

A non-U.S. holder means a beneficial owner of Praxair shares other than a U.S. holder.

This discussion assumes, as Praxair believes to be the case, that the Praxair shares are not U.S. real property interests within the meaning of Section 897 of the Code.

If an entity or arrangement that is treated as a partnership for U.S. federal income tax purposes holds Praxair shares the tax treatment of a partner in the partnership will generally depend upon the status of the partner and the activities of the partnership. A holder that is a partnership and the partners in such partnership are urged to consult their own tax advisors about the U.S. federal income tax consequences of the merger and the ownership and disposition of the Linde plc shares.

THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. HOLDERS OF PRAXAIR SHARES SHOULD CONSULT THEIR OWN TAX ADVISORS WITH

Table of Contents**RESPECT TO THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER TO THEM IN LIGHT OF THEIR PARTICULAR CIRCUMSTANCES, AS WELL AS ANY TAX CONSEQUENCES OF THE MERGER ARISING UNDER THE U.S. FEDERAL TAX LAWS OTHER THAN THOSE PERTAINING TO INCOME TAX, INCLUDING ESTATE OR GIFT TAX LAWS, OR UNDER ANY STATE, LOCAL OR NON-U.S. TAX LAWS OR UNDER ANY APPLICABLE INCOME TAX TREATY.**

Unless otherwise explicitly noted, the discussion in this section Material U.S. Federal Income Tax Considerations assumes that Linde plc will not be treated as a domestic corporation for U.S. federal income tax purposes under Section 7874 of the Code. For a further discussion, see the discussion under Tax Consequences of the Merger and Exchange Offer to Praxair and Linde plc Section 7874 Rule Regarding Residency of a Corporation.

Tax Consequences of the Merger and Exchange Offer to Praxair and Linde plc***U.S. Federal Income Tax Treatment of the Merger***

Neither the merger nor the exchange offer is expected to be taxable to Praxair or Linde plc. In conjunction with the merger and exchange offer, Linde plc and its affiliates will engage in certain additional intercompany transactions. The discussion herein does not address the U.S. federal income tax treatment of such transactions.

U.S. Federal Income Tax Classification of Linde plc as a Result of the Merger and the Exchange Offer

After the merger and exchange offer, Linde plc is expected to be treated as a foreign corporation for U.S. federal income tax purposes. However, as described further below, it is possible that the IRS will disagree with this conclusion. Should the IRS conclude that Linde plc is treated as a U.S. domestic corporation for U.S. federal income tax purposes as a result of the merger (and such conclusion is not overturned), Linde plc would be subject to tax on its worldwide income at U.S. tax rates, and would be subject to other provisions of the U.S. tax regime, including with respect to Linde plc subsidiaries that would be treated as controlled foreign corporations for U.S. tax purposes. Also, certain payments made by Linde plc to foreign stockholders, including dividend payments, would be subject to U.S. withholding tax at a statutory rate of 30% (or such lower rate specified by an applicable income tax treaty).

General Rule Regarding Residency of a Corporation

For U.S. federal income tax purposes, a corporation (i) is generally considered a domestic corporation (or U.S. tax resident) if it is organized in the United States or under the laws of the United States or of any state or political subdivision therein, and (ii) is generally considered a foreign corporation (or non-U.S. resident) if it is not considered a domestic corporation. Because Linde plc is an entity incorporated in Ireland, it would generally be considered a foreign corporation (and, therefore, a non-U.S. tax resident) under these rules.

Section 7874 Rule Regarding Residency of a Corporation

Under Section 7874 of the Code, Linde plc would generally be treated as a U.S. domestic corporation (that is, as a U.S. tax resident) for U.S. federal income tax purposes if the percentage (by vote or value) of Linde plc shares considered to be held by former holders of Praxair shares after the merger by reason of holding Praxair shares for purposes of Code Section 7874 (which is herein referred to as the Section 7874 Percentage) is 60% or more (if, as expected, the Third Country Rule (defined below) applies).

The Section 7874 Percentage is currently expected to be less than 60%. However, the calculation of the Section 7874 Percentage is complex, is calculated based on the facts as of the effective time of the merger, is subject to detailed

regulations (the application of which is uncertain in various respects) and is subject to factual uncertainties. Further, the rules for determining the Section 7874 Percentage are subject to change, possibly with retroactive effect.

Table of Contents

For example, the Section 7874 Percentage applicable in the case of the merger may be affected by the amount of any non-ordinary course distributions paid by Praxair to its shareholders in each of the three 12-month periods prior to the effective time of the merger. As defined under U.S. Treasury Regulations, the non-ordinary course distributions paid by Praxair will be equal to the excess of all distributions, including dividends and stock repurchases, made during a particular 12-month period by Praxair with respect to the Praxair shares over 110% of the average of such distributions during the 36-month period immediately preceding such 12-month period. The amount of any such excess would then increase the value of Praxair for purposes of the Section 7874 Percentage.

Fluctuations in the value of Praxair shares between the time of the execution of the Business Combination Agreement and the effective times of the merger may also affect the Section 7874 Percentage. For instance, such fluctuation could affect the number of Praxair stock options and Linde stock options that are in-the-money at the merger effective time, or the exchange offer closing date, respectively, and thus would affect the number of Linde plc shares that are taken into account in calculating the Section 7874 Percentage.

The regulations under Section 7874 of the Code (which are herein referred to as the 7874 Regulations) also include other rules that could impact the calculation of the Section 7874 Percentage.

In addition, the 7874 Regulations include a rule that generally provides that, if (i) there is an acquisition of a domestic company by a foreign acquiring company in which the Section 7874 Percentage is at least 60% (reduced from the general 80% threshold otherwise applicable under Section 7874 of the Code and the U.S. Treasury Regulations promulgated thereunder), and (ii) in a related acquisition, such foreign acquiring company acquires another foreign corporation and the foreign acquiring company is not subject to tax as a resident in the foreign country in which the acquired foreign corporation was subject to tax as a resident prior to the merger, then the foreign acquiring company will be treated as a U.S. domestic corporation for U.S. federal income tax purposes (which is herein referred to as the Third Country Rule). Because Linde plc is expected to be a tax resident of the United Kingdom and not a tax resident of Germany (where Linde is a tax resident), it is expected that Linde plc would be treated as a U.S. domestic corporation for U.S. federal income tax purposes under the Third Country Rule if the Section 7874 Percentage were at least 60%.

After taking into account the adjustments described above, the Section 7874 Percentage is currently expected to be less than 60% (as measured by vote and value). Accordingly, Linde plc is expected to be treated as a foreign corporation for U.S. federal income tax purposes, and the remainder of this disclosure assumes such treatment. However, should the IRS disagree with the conclusion that Section 7874 of the Code should not apply in such a manner so as to cause Linde plc to be treated as a U.S. domestic corporation for U.S. federal income tax purposes as a result of the merger, Linde plc would be subject to tax on its worldwide income at U.S. tax rates, and would be subject to other provisions of the U.S. tax regime, including with respect to Linde plc subsidiaries that are treated as controlled foreign corporations for U.S. tax purposes. Also, certain payments made by Linde plc to foreign shareholders, including dividend payments, would be subject to U.S. withholding tax at a statutory rate of 30% (or such lower rate specified by an applicable income tax treaty).

Tax Consequences of the Merger to Holders of Praxair Shares***Tax Consequences to U.S. Holders***

The merger is expected to be an exchange described in Section 351(a) of the Code and a reorganization within the meaning of Section 368(a) of the Code for U.S. federal income tax purposes. However, with respect to cross-border exchanges such as the merger, Section 367(a) of the Code and the U.S. Treasury Regulations promulgated thereunder generally require U.S. shareholders to recognize gain (but not loss) if stock of a domestic corporation is exchanged for

stock of a foreign corporation and the U.S. shareholders receive more than 50% (by vote or value) of the stock of the foreign corporation. Praxair shareholders will receive more than 50% of the Linde plc shares. Consequently, if a U.S. holder receives Linde plc shares with a fair market value in excess of

Table of Contents

the adjusted tax basis of such U.S. holder's Praxair shares exchanged in the merger, such U.S. holder will recognize capital gain, if any, to the extent of the difference. Subject to the discussion of fractional shares below, a U.S. holder will not recognize any loss on Praxair shares exchanged in the merger. Any such gain would be long-term capital gain if the holding period for Praxair shares exceeds one year at the effective date of the merger. Long-term capital gains of certain non-corporate U.S. holders, including individuals, generally are eligible for preferential rates of U.S. federal income tax. If a U.S. holder acquired different blocks of Praxair shares at different times or different prices, such U.S. holder must determine its adjusted tax basis and holding period separately with respect to each block of Praxair shares.

A U.S. holder who recognizes gain with respect to all of its Praxair shares exchanged in the merger will have an aggregate tax basis in the Linde plc shares received in the merger (including any fractional entitlement to Linde plc shares deemed received and exchanged for cash, as described below) that is equal to the fair market value of the Linde plc shares as of the effective date of the merger. In the case of a U.S. holder who does not recognize gain with respect to any of its Praxair shares exchanged in the merger, the aggregate basis of the Linde plc shares received in exchange for Praxair shares in the merger (including any fractional Linde plc shares deemed received and exchanged for cash, as described below) will be equal to the basis of Praxair shares exchanged. The holding period of Linde plc shares received by a U.S. holder will include the holding period of the Praxair shares surrendered in exchange therefor. U.S. holders who recognize gain only with respect to certain blocks of Praxair shares should consult their own tax advisors as to the determination of the bases and holding periods of the Linde plc shares received in the merger.

A holder of a fractional Praxair share who receives cash instead of a fractional Linde plc share in the merger will generally be treated as having received a fractional Linde plc share pursuant to the merger and then as having sold that fractional Linde plc share for cash. As a result, a holder of a fractional Praxair share will generally recognize gain or loss equal to the difference between the amount of cash received and the tax basis allocated to such fractional Praxair share. Gain or loss recognized with respect to cash received in lieu of a fractional share of Linde plc stock will generally be long-term capital gain if the holding period for the fractional Praxair share surrendered in the merger exceeds one year at the effective time of the merger. The deductibility of capital losses is subject to limitations.

Tax Consequences to Non-U.S. Holders

A non-U.S. holder will not be subject to U.S. federal income tax on any gain recognized in the merger, unless:

the gain is effectively connected with a U.S. trade or business of such non-U.S. holder (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment); or

such non-U.S. holder is an individual who is present in the U.S. for 183 days or more in the taxable year of the merger, and certain other conditions are met.

Unless an applicable treaty provides otherwise, the recognized gain described in the first bullet point above will be subject to U.S. federal income tax on a net income basis in the same manner as if such non-U.S. holder were a U.S. person (see the section entitled *Tax Consequences to U.S. Holders* of this document). A non-U.S. holder that is a corporation also may be subject to a branch profits tax equal to 30% (or such lower rate specified by an applicable income tax treaty) of its effectively connected earnings and profits for the taxable year, as adjusted for certain items. Non-U.S. holders should consult their own tax advisors regarding any applicable tax treaties that may provide for different rules. The non-U.S. holder described in the second bullet point above will be subject to a flat 30% tax (or such lower rate specified by an applicable income tax treaty) on the gain, which may be offset by certain U.S. source capital losses even though the non-U.S. holder is not considered a resident of the United States, provided that the

non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses.

Table of Contents***Tax Consequences to U.S. Holders of Holding Shares of Linde plc***

The following discussion is a summary of certain material U.S. federal income tax consequences of the ownership and disposition of Linde plc shares to U.S. holders who receive such Linde plc shares pursuant to the merger and assumes that (i) Linde plc will not be treated as a domestic corporation for U.S. federal income tax purposes under Section 7874 of the Code and that Linde plc will be resident exclusively in the U.K. for U.S. federal tax purposes, and (ii) Linde plc shares will be traded on both the New York Stock Exchange and the Frankfurt Stock Exchange.

Taxation of Dividends

Subject to the following discussion of special rules applicable to PFICs (as defined below), the gross amount of any dividend Linde plc pays out of its current or accumulated earnings and profits (as determined for United States federal income tax purposes) is subject to U.S. federal income tax. If such holder is a non-corporate U.S. holder, dividends that constitute qualified dividend income will be taxable at the preferential rates applicable to long-term capital gains provided that such holder holds the shares for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date and meets other holding period requirements. Dividends Linde plc pays with respect to the shares generally will be qualified dividend income provided that, in the year that such holder receives the dividend, Linde plc shares are readily tradable on an established securities market in the United States. The U.S. Department of the Treasury and the IRS have determined that common stock is considered readily tradable on an established securities market if it is listed on an established securities market in the United States. Accordingly, dividends received by non-corporate U.S. holders should be entitled to favorable treatment as dividends received with respect to stock of a qualified foreign corporation. Dividends paid by Linde plc will not qualify for the dividends received deduction generally allowed to U.S. corporations in respect of dividends received from other U.S. corporations. The dividend income would be treated as foreign source, passive income for U.S. federal foreign tax credit limitation purposes.

If Linde plc dividends are paid in Euro, the amount of the dividend that a U.S. holder must include in income will be the U.S. dollar value of the Euro payments made, determined at the spot Euro/U.S. dollar rate on the date the dividend is includible in such holder's income, regardless of whether the payment is in fact converted into U.S. dollars. Generally, any gain or loss resulting from currency exchange fluctuations during the period from the date such holder includes the dividend payment in income to the date such holder converts the payment into U.S. dollars will be treated as ordinary income or loss and will not be eligible for the special tax rate applicable to qualified dividend income. The gain or loss generally will be income or loss from sources within the United States for foreign tax credit limitation purposes. Special rules apply in determining the foreign tax credit limitation with respect to dividends that are subject to the preferential tax rates. To the extent a refund of any tax withheld is available to a U.S. holder under U.K. law or under the U.K.-U.S. income tax treaty, the amount of any such tax withheld that is refundable will not be eligible for credit against such holder's U.S. federal income tax liability.

To the extent that the amount of any dividend exceeds Linde plc's current and accumulated earnings and profits for a taxable year, the excess will first be treated as a tax-free return of capital, causing a reduction in the U.S. holder's adjusted basis in Linde plc shares. The balance of the excess, if any, will be taxed as capital gain, which would be long-term capital gain if the holder has held the Linde plc shares for more than one year at the time the dividend is received.

It is expected that Linde plc will be, at the effective time of the merger or at some future time thereafter, at least 50% owned by U.S. persons. Dividends paid by a foreign corporation that is at least 50% owned by U.S. persons may be treated as U.S. source income (rather than foreign source income) for foreign tax credit purposes to the extent the foreign corporation has more than an insignificant amount of U.S. source income. This rule, to the extent applicable, could result in a U.S. holder being able to credit a lower amount of foreign taxes than would be possible if dividends

from Linde plc were treated as foreign source income. U.S. holders are urged to consult their own tax advisors regarding the possible impact of this rule in their particular circumstances, including certain elective relief that may be available to holders entitled to benefits under the U.K.-U.S. income tax treaty.

Table of Contents*Sale, Exchange or Other Taxable Disposition*

Subject to the following discussion of special rules applicable to PFICs, a U.S. holder will recognize taxable gain or loss on the sale, exchange or other taxable disposition of Linde plc shares in an amount equal to the difference between the amount realized on such taxable disposition and the holder's tax basis in the Linde plc shares.

The source of any such gain or loss is determined by reference to the residence of the holder such that it will be treated as U.S. source income for foreign tax credit limitation purposes in the case of a sale, exchange or other taxable disposition by a U.S. holder. However, the Code permits a U.S. holder entitled to benefits under the U.K.-U.S. income tax treaty to elect to treat any gain or loss on the sale, exchange or other taxable disposition of Linde plc shares as foreign source income for foreign tax credit purposes if the gain or loss is sourced outside of the United States under the U.K.-U.S. income tax treaty and such gain or loss is separated from other income items for purposes of calculating the U.S. holder's foreign tax credit. U.S. holders should consult their own tax advisors about the desirability and method of making such an election.

Gain or loss realized on the sale, exchange or other taxable disposition of Linde plc shares will be capital gain or loss and will generally be long-term capital gain or loss if the Linde plc shares have been held for more than one year. A U.S. holder who recognizes gain with respect to all of its Praxair shares exchanged in the merger will have an aggregate tax basis in the Linde plc shares received in the merger (including any fractional entitlement to Linde plc shares deemed received and exchanged for cash) that is equal to the fair market value of the Linde plc shares as of the effective date of the merger. In the case of a U.S. holder who does not recognize gain with respect to any of its Praxair shares exchanged in the merger, the aggregate basis of Linde plc shares received in the merger (including any fractional entitlement to Linde plc shares deemed received and exchanged for cash) will be equal to the basis of Praxair shares exchanged. The holding period of Linde plc shares received by a U.S. holder will include the holding period of the Praxair shares surrendered in exchange therefor. Long-term capital gain of a non-corporate U.S. holder is generally taxed at preferential rates. The deduction of capital losses is subject to limitations.

Passive Foreign Investment Company Considerations

A foreign corporation is a passive foreign investment company (which is herein referred to as a PFIC) if, after the application of certain look-through rules, (1) at least 75% of its gross income is passive income as that term is defined in the relevant provisions of the Code and IRS rules, or (2) at least 50% of the average value of its assets produce passive income or are held for the production of passive income. The determination as to PFIC status is made annually. If a U.S. holder is treated as owning PFIC stock, the U.S. holder will be subject to special rules intended to reduce or eliminate the benefit of the deferral of U.S. federal income tax that results from investing in a foreign corporation that does not distribute all of its earnings on a current basis. Unless a U.S. holder elects to be taxed annually on a mark-to-market basis with respect to its Linde plc shares, gain realized on the sale or other disposition of the Linde plc shares would not be treated as capital gain. Instead, a U.S. holder would be treated as if it had realized such gain and certain excess distributions ratably over its holding period for the shares and would be taxed at the highest tax rate in effect for each such year to which the gain was allocated, together with an interest charge in respect of the tax attributable to each such year. In addition, dividends would not be eligible for the special tax rates applicable to qualified dividend income if Linde plc is treated as a PFIC with respect to the U.S. holder, but instead would be taxable at rates applicable to ordinary income. With certain exceptions, a U.S. holder's Linde plc shares will be treated as stock in a PFIC if Linde plc were to be a PFIC at any time during the U.S. holder's holding period in its shares. If a U.S. holder is treated as owning PFIC stock and the Linde plc shares are treated as marketable stock, the U.S. holder would not be subject to the PFIC rules if it makes a mark-to-market election. If the U.S. holder makes such election, the U.S. holder would include as ordinary income each year the excess, if any, of the fair market value of its Linde plc shares at the end of the taxable year over the U.S. holder's adjusted basis in its Linde plc shares. Linde

plc expects its shares to be marketable stock for these purposes, but this conclusion is a factual determination as to which there can be no assurance.

It is expected that Linde plc shares received by U.S. holders in the merger will not be treated as shares of a PFIC, and it is not expected that Linde plc will become a PFIC in the future. This conclusion is a factual

Table of Contents

determination that is made annually and thus may be subject to change. In addition, there can be no assurance that the IRS will not successfully challenge this position or that Linde plc will not become a PFIC at some future time as a result of changes in Linde plc's assets, income or business operations. U.S. holders should consult their own tax advisors about the determination of Linde plc's PFIC status and the U.S. federal income tax consequences of holding the Linde plc shares if Linde plc is considered a PFIC in any taxable year.

Information Reporting and Backup Withholding

In general, information reporting requirements will apply to dividends received by U.S. holders of the Linde plc shares and the proceeds received on the disposition of the Linde plc shares effected within the United States (and, in certain cases, outside the United States), paid to U.S. holders other than certain exempt recipients (such as corporations). Backup withholding may apply to such amounts if the U.S. holder fails to provide an accurate taxpayer identification number (on an IRS Form W-9 provided to the paying agent or the U.S. holder's broker) or is otherwise subject to backup withholding. The amount of any backup withholding from a payment to a U.S. holder will be allowed as a refund or credit against the U.S. holder's U.S. federal income tax liability, provided that the required information is timely furnished to the IRS.

Non-U.S. holders may be required to comply with certification and identification procedures in order to establish an exemption from information reporting and backup withholding.

CHANGES IN POLICY POSITIONS THAT MAY BE PROPOSED DURING THE NEW U.S. PRESIDENTIAL ADMINISTRATION, INCLUDING THE POSSIBILITY OF SIGNIFICANT TAX REFORM, COULD RESULT IN CHANGES TO THE TAX LAWS THAT WOULD AFFECT THE TREATMENT DESCRIBED ABOVE. YOU ARE URGED TO CONSULT YOUR OWN TAX ADVISORS REGARDING THE POTENTIAL IMPACT OF FUTURE TAX LAW CHANGES ON THE MERGER AND YOUR OWNERSHIP OF LINDE PLC SHARES.

Material U.K. Tax Considerations

The statements set out below reflect current U.K. tax law as applied in England and Wales and published HMRC guidance (which may not be binding on HMRC) as at the date of this document, which may be subject to change, possibly with retroactive effect. They are intended as a general guide and apply only to shareholders resident and, in the case of an individual, domiciled exclusively in the U.K. for U.K. tax purposes (except insofar as express reference is made to the treatment of non-U.K. residents), who hold shares as an investment (other than under an individual savings account or self-invested personal pension) and who are the absolute beneficial owners of the shares and any dividends paid thereon. (In particular, shareholders holding their shares through a depositary receipt system or clearance service should note that they may not always be regarded as the absolute beneficial owners of such shares.) This guidance does not address all possible tax consequences relating to an investment in the shares. Specifically, this guidance does not address: (i) special classes of shareholders such as, for example, dealers in securities, broker-dealers, intermediaries, insurance companies, pension funds, charities or collective investment schemes; (ii) shareholders who hold shares as part of hedging transactions; (iii) shareholders who have (or are deemed to have) acquired shares by virtue of an office or employment; (iv) shareholders that, either alone or together, with one or more associated persons, such as personal trusts and connected persons, control directly or indirectly at least 10 per cent. of the voting rights or of any class of share capital of the company, or (v) any person holding shares as a borrower under a stock loan or an interim holder under a repo.

Merger Taxation of Chargeable Gains

Exchange of Praxair Shares for Linde plc Shares Pursuant to the Merger

The exchange of Praxair shares for Linde plc shares pursuant to the merger will constitute a disposal of Praxair shares for U.K. tax purposes. A disposal of Praxair shares by a shareholder who is (at any time in the

Table of Contents

relevant U.K. tax year) resident and, in the case of an individual, domiciled exclusively in the U.K. for U.K. tax purposes, may, depending upon the shareholder's circumstances and subject to any available exemption or relief (such as the annual exempt amount for individuals, or indexation for corporate shareholders), give rise to a chargeable gain or an allowable loss for the purposes of U.K. taxation of chargeable gains.

Individual Shareholders

Chargeable gains are treated as the top slice of an individual's combined income and gains. Capital gains tax is charged at (i) 10 per cent. to the extent that gains accruing to an individual in any tax year (calculated after deducting the annual exempt amount and any capital losses) when aggregated with the individual's taxable income for that year (calculated after deduction of the personal allowance and other reliefs) are less than the upper limit of the income tax basic rate band; or (ii) 20 per cent. to the extent that gains accruing to an individual in any tax year (calculated after deducting the annual exempt amount and any capital losses) when aggregated with the individual's taxable income for that year (calculated after deduction of the personal allowance and other reliefs) exceed the upper limit of the income tax basic rate band.

Corporate Shareholders

A company subject to U.K. corporation tax that disposes of Praxair shares at a gain will be subject to U.K. corporation tax on chargeable gains after taking account of any losses available and subject to any available exemptions or reliefs. Such a company will be subject to corporation tax at the applicable rate (currently 19 per cent.) after taking account of any applicable indexation allowance. Indexation allowance may reduce the amount of chargeable gains subject to corporation tax, but may not create or increase any allowable loss.

Non U.K.-resident Praxair Shareholders

Provided that Praxair shares are not registered in a register maintained in the United Kingdom, Praxair shareholders who are not resident in the U.K. will not generally be subject to U.K. taxation of chargeable gains on the exchange of Praxair shares for Linde plc shares pursuant to the merger.

An individual shareholder who acquires Praxair shares while U.K. resident, ceases to be resident for tax purposes in the U.K. for a period of five years or less and disposes of all or part of his Praxair shares during the period in which he is non-U.K. resident may be liable to capital gains tax on his return to the U.K., where that shareholder was U.K. resident for all or part of at least four of the seven tax years immediately preceding the year of departure from the U.K. (subject to any available exemptions or reliefs). For these purposes, a tax year is the period from 6 April in a calendar year to 5 April in the following calendar year.

Merger Stamp Duty and Stamp Duty Reserve Tax

No stamp duty or stamp duty reserve tax (which is herein referred to as SDRT) should be payable on the cancellation of Praxair shares or the issue of Linde plc shares pursuant to the merger.

Linde plc Shares Taxation of Dividends

Withholding Tax

Dividend payments may be made by Linde plc without withholding or deduction for or on account of U.K. income tax.

Individual Shareholders

An individual shareholder who receives a dividend from Linde plc will pay no income tax on the first £5,000 of dividend income received in a year (which is herein referred to as the dividend allowance). The U.K.

Table of Contents

government has proposed reducing the dividend allowance to £2,000 from 6 April 2018, but this proposal has not yet been enacted in law. The rates of income tax for the tax year ending 5 April 2018 on dividends received above the dividend allowance are: (i) 7.5 per cent. for dividends taxed in the basic rate band; (ii) 32.5 per cent. for dividends taxed in the higher rate band; and (iii) 38.1 per cent. for dividends taxed in the additional rate band. An individual shareholder's dividend income that is within the dividend allowance counts towards an individual's basic or higher rate limits and will therefore affect the level of savings allowance to which they are entitled, and the rate of tax that is due on any dividend income in excess of this allowance. In calculating into which tax band or bands any dividend income over the dividend allowance falls, savings and dividend income are treated as the highest part of an individual's income. Where an individual has both savings and dividend income, the dividend income is treated as the top slice.

Corporate Shareholders

For corporate shareholders, it is likely that most dividends paid on the Linde plc shares will fall within one or more of the classes of dividend qualifying for exemption from corporation tax. However, the exemptions are not comprehensive and are also subject to anti-avoidance rules. Shareholders within the charge to U.K. corporation tax should consult their own professional advisors.

Linde plc Shares Taxation of Disposals

A disposal of Linde plc shares by a shareholder who is (at any time in the relevant U.K. tax year) resident and, in the case of an individual, domiciled exclusively in the U.K. for U.K. tax purposes, may, depending upon the shareholder's circumstances and subject to any available exemption or relief (such as the annual exempt amount for individuals, or indexation for corporate shareholders), give rise to a chargeable gain or an allowable loss for the purposes of U.K. taxation of chargeable gains.

Individual Shareholders

Chargeable gains are treated as the top slice of an individual's combined income and gains. Capital gains tax is charged at (i) 10 per cent. to the extent that gains accruing to an individual in any tax year (calculated after deducting the annual exempt amount and any capital losses) when aggregated with the individual's taxable income for that year (calculated after deduction of the personal allowance and other reliefs) are less than the upper limit of the income tax basic rate band; or (ii) 20 per cent. to the extent that gains accruing to an individual in any tax year (calculated after deducting the annual exempt amount and any capital losses) when aggregated with the individual's taxable income for that year (calculated after deduction of the personal allowance and other reliefs) exceed the upper limit of the income tax basic rate band.

Corporate Shareholders

A company subject to U.K. corporation tax that disposes of Linde plc shares at a gain will be subject to U.K. corporation tax on chargeable gains after taking account of any losses available and subject to any available exemptions or reliefs. Such a company will be subject to corporation tax at the applicable rate (currently 19 per cent.) after taking account of any applicable indexation allowance. Indexation allowance may reduce the amount of chargeable gains subject to corporation tax, but may not create or increase any allowable loss.

Non U.K.-resident Shareholders

Provided that Linde plc shares are not registered in a register maintained in the United Kingdom, shareholders who are not resident in the U.K. will not generally be subject to U.K. taxation of chargeable gains on disposal of Linde plc

shares.

An individual shareholder who acquires Linde plc shares while U.K. resident, ceases to be resident for tax purposes in the U.K. for a period of five years or less and disposes of all or part of his Linde plc shares during the

-503-

Table of Contents

period in which he is non-U.K. resident may be liable to capital gains tax on his return to the U.K., where that shareholder was U.K. resident for all or part of at least four of the seven tax years immediately preceding the year of departure from the U.K. (subject to any available exemptions or reliefs). For these purposes, a tax year is the period from 6 April in a calendar year to 5 April in the following calendar year.

Transfers of Linde plc Shares Stamp Duty and SDRT

Provided that the Linde plc shares are not registered in any register kept in the United Kingdom and are not required by the Linde plc constitution to be transferred as part of a unit with a share in a body corporate incorporated in the United Kingdom, no SDRT should be payable on any agreement to transfer the Linde plc shares.

No stamp duty should be payable on the transfer of Linde plc shares, provided that any instrument of transfer is not executed in the United Kingdom and does not relate to any property situate, or to any other matter or thing done or to be done, in the United Kingdom.

In any case, no stamp duty should be payable upon a transfer of Linde plc shares in dematerialized form, for instance within DTC.

Material Irish Tax Considerations

Scope of Discussion

The following is a general summary of the material Irish tax consequences for certain beneficial owners of Linde plc shares. It is based on existing Irish law, our understanding of the current practices of the Irish Revenue Commissioners and correspondence with the Irish Revenue Commissioners. Legislative, administrative or juridical changes may modify the tax consequences described below, possibly with retroactive effect. Furthermore, we can provide no assurance that the consequences contained in this summary will not be challenged by the Irish Revenue Commissioners or will be sustained by a court if challenged.

The statements do not constitute tax advice and are intended only as a general guide. Furthermore, this information applies only to the shares that are held as capital assets and does not apply to all categories of shareholders, such as dealers in securities, trustees, insurance companies, collective investment schemes or shareholders who have, or who are deemed to have, acquired their shares by virtue of an office or employment. This summary is not exhaustive and shareholders should consult their own tax advisors as to the tax consequences in Ireland or other relevant jurisdictions of the acquisition, ownership and disposition of Linde plc shares.

Linde plc intends to manage its affairs so that (1) Linde plc will not be resident in Ireland for Irish tax purposes, (2) Linde plc will not be liable to Irish corporation tax and (3) Linde plc dividends will not be subject to Irish dividend withholding tax or (for shareholders that have no connection with Ireland other than holding Linde plc shares) Irish income tax.

Irish Tax on Chargeable Gains

The rate of tax on chargeable gains (where applicable) in Ireland is 33 percent. The receipt by Praxair shareholders of Linde plc shares as consideration for the cancellation of their Praxair shares in the business combination will not give rise to a liability to Irish tax on chargeable gains for persons that are not resident or ordinarily resident in Ireland for Irish tax purposes and do not hold such shares in connection with a trade carried on by such holder in Ireland through a branch or agency.

Linde plc shareholders that are not resident or ordinarily resident in Ireland for Irish tax purposes and do not hold their shares in connection with a trade carried on by such holder in Ireland through a branch or agency will

-504-

Table of Contents

not be liable for Irish tax on chargeable gains realized on a subsequent disposal of their Linde plc shares. Linde plc shareholders that are resident or ordinarily resident in Ireland for Irish tax purposes or shareholders that hold their shares in connection with a trade carried on by such holder in Ireland through a branch or agency will, subject to the availability of exemptions and reliefs, be within the charge to Irish tax on chargeable gains arising on a subsequent disposal of their Linde plc shares. Individual shareholders who are temporarily non-resident in Ireland may, under Irish anti-avoidance legislation, be liable to Irish tax on any chargeable gain realized on a disposal during the period in which such individual is non-resident.

Capital Acquisitions Tax

Irish capital acquisitions tax (which is herein referred to as CAT) comprises principally of gift tax and inheritance tax. CAT could apply to a gift or inheritance of Linde plc ordinary shares irrespective of the place of residence, ordinary residence or domicile of the parties. This is because Linde plc ordinary shares are regarded as property situated in Ireland as the share register of Linde plc must be held in Ireland. The person who receives the gift or inheritance has primary liability for CAT; however, there are certain circumstances where another person such as an agent or personal representative may be accountable for the CAT.

CAT is currently levied at a rate of 33 percent above certain tax-free thresholds. The appropriate tax-free threshold is dependent upon (1) the relationship between the donor and the donee and (2) the aggregation of the values of previous gifts and inheritances received by the donee from persons within the same group threshold. Gifts and inheritances passing between spouses are exempt from CAT. Children have a tax free threshold of 310,000 per lifetime in respect of taxable gifts or inheritances received from their parents.

Stamp Duty

Irish stamp duty (if any) becomes payable in respect of transfers of Linde plc shares occurring after completion of the business combination.

Shareholders will not have a liability to stamp duty in respect of the business combination.

A transfer of Linde plc shares from a seller who holds shares beneficially (*i.e.*, through DTC or Clearstream) to a buyer who holds the acquired shares through DTC or Clearstream will not be subject to Irish stamp duty (unless the transfer involves a change in the nominee that is the record holder of the transferred shares).

A transfer of Linde plc shares by a seller who holds shares directly to any buyer, or by a seller who holds the shares beneficially to a buyer who holds the acquired shares directly, may be subject to Irish stamp duty (currently at the rate of 1 percent of the price paid or the market value of the shares acquired, if higher). Stamp duty is a liability of the buyer or transferee. A shareholder who holds Linde plc shares directly may transfer those shares into his or her own broker account (or vice versa) without giving rise to Irish stamp duty provided there is no change in the ultimate beneficial ownership of the shares as a result of the transfer and the transfer is not in contemplation of a sale of the shares. In order to benefit from this exemption from stamp duty, the seller must confirm to Linde plc's transfer agent that there is no change in the ultimate beneficial ownership of the shares as a result of the transfer and the transfer is not in contemplation of a sale of the shares.

Because of the potential Irish stamp duty on transfers of Linde plc shares, directly registered Praxair shareholders should consider opening broker accounts so they can transfer their shares into a broker account as soon as possible, and in any event prior to completion of the business combination. Any person who wishes to acquire Linde plc shares after completion of the business combination should consider acquiring such shares through DTC, Clearstream or

another securities depository.

-505-

Table of Contents

Encashment Tax

Irish encashment tax will be required to be withheld at the standard rate of income tax (currently 20 percent) from any dividends paid by Linde plc, where such dividends are entrusted by or on behalf of the person entitled to them to a bank or encashment agent in Ireland (*i.e.* a collection agent) for payment to any Linde plc shareholder who is an Irish resident, or is not an Irish resident and has failed to file the appropriate forms confirming the fact, and paid over to the Irish Revenue Commissioners. It is not the intention of Linde plc to use an Irish paying agent function and as such, the above withholding tax treatment should not apply.

-506-

Table of Contents

LIMITATIONS ON ENFORCEMENT

Linde plc is organized under the laws of Ireland and substantial portions of its assets will be located outside of the United States. In addition, certain members of the Linde plc board of directors, the Linde supervisory board and the Praxair board of directors, and certain members of the Linde executive board and officers of Linde

AG and Linde plc, as well as certain experts named herein, reside outside the United States. As a result, it may be difficult for investors to effect service of process within the United States upon Linde plc, Linde AG or such other persons residing outside the United States, or to enforce outside the United States judgments obtained against such persons in U.S. courts in any action, including actions predicated upon the civil liability provisions of the U.S. federal securities laws. In addition, it may be difficult for investors to enforce, in original actions brought in courts in jurisdictions located outside the United States, rights predicated upon the U.S. federal securities laws.

-507-

Table of Contents

LEGAL MATTERS

Each of the law firms Arthur Cox and William Fry, counsel to Linde plc, has provided a legal opinion for Linde plc regarding the validity of the Linde plc shares offered in connection with the business combination.

-508-

Table of Contents

EXPERTS

The balance sheet of Linde plc (formerly known as Zamalight plc) as of April 18, 2017 included in this registration statement has been so included in reliance on the report of PricewaterhouseCoopers, Dublin, Ireland, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting. PricewaterhouseCoopers, Dublin, Ireland, is a member of the Institute of Chartered Accountants in Ireland.

The consolidated financial statements of Praxair, Inc. as of December 31, 2016 and December 31, 2015 and for each of the three years in the period ended December 31, 2016 and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) as of December 31, 2016 included in this registration statement and incorporated by reference to Praxair Inc.'s Annual Report on Form 10-K for the year ended December 31, 2016 have been so included and incorporated in reliance on the report (which contains an explanatory paragraph on the effectiveness of internal control over financial reporting due to the exclusion of certain elements of the internal control over financial reporting of the Yara International ASA European carbon dioxide business the registrant acquired during 2016) of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements of Linde AG as of December 31, 2016 and 2015 and for each of the years in the three year period ended December 31, 2016 have been included herein in reliance upon the report of KPMG AG Wirtschaftsprüfungsgesellschaft, independent auditors, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

Table of Contents

INDEX TO LINDE PLC FINANCIAL STATEMENTS

	Page
Contents	
Audited Balance Sheet	
<u>Report of Independent Registered Public Accounting Firm</u>	F.1-2
<u>Balance Sheet as of April 18, 2017</u>	F.1-3
<u>Notes to the Balance Sheet</u>	F.1-4
Consolidated Financial Statements (unaudited)	
<u>Consolidated Balance Sheets (unaudited)</u>	F.1-8
<u>Consolidated Statement of Income and Other Comprehensive Income (unaudited)</u>	F.1-9
<u>Consolidated Statements of Equity (unaudited)</u>	F.1-10
<u>Notes to the Consolidated Financial Statements (unaudited)</u>	F.1-11

F.1-1

Table of Contents

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Linde plc

In our opinion, the accompanying balance sheet presents fairly, in all material respects, the financial position of Linde plc (formerly known as Zamalight plc) as of April 18, 2017 in conformity with accounting principles generally accepted in the United States of America. The balance sheet is the responsibility of the Company's management. Our responsibility is to express an opinion on the balance sheet based on our audit. We conducted our audit of this balance sheet in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the balance sheet is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the balance sheet, assessing the accounting principles used and significant estimates made by management, and evaluating the overall balance sheet presentation. We believe that our audit of the balance sheet provides a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers

Dublin, Ireland

June 1, 2017

F.1-2

Table of Contents

Linde plc (formerly known as Zamalight plc)

BALANCE SHEET AS OF APRIL 18, 2017

	In USD
ASSETS	
CURRENT ASSETS	-
NON-CURRENT ASSETS	-
TOTAL ASSETS	\$ -
SHAREHOLDER S EQUITY AND LIABILITIES	
CURRENT LIABILITIES	-
NON CURRENT LIABILITIES	-
CAPITAL AND RESERVES	
Issued and paid-up share capital (Common stock 1.00 par value, authorized and issued shares - 25,000 shares)	\$ 26,827
Additional paid-in capital	\$ 26,827
Receivables from shareholders	\$(53,654)
Retained earnings	-
TOTAL SHAREHOLDER S EQUITY	-
EQUITY AND LIABILITIES	\$ -

The accompanying notes are an integral part of this balance sheet.

F.1-3

Table of Contents

NOTES TO THE BALANCE SHEET

1. Organization and basis of presentation

Linde plc, formerly known as Zamalight plc (the Company), was incorporated as a public limited company under the laws of Ireland on April 18, 2017, by Enceladus and Cumberland, with an issued share capital of 25,000 comprised of 25,000 ordinary shares of 1.00 each and additional paid in capital of 25,000. The Company is registered in Ireland under the registration number 602527 and with its registered office located at c/o Ten Earlsfort Terrace, Dublin 2, D02 T380 Ireland and principal executive offices at The Priestley Centre, 10 Priestley Road, The Surrey Research Park, Guildford, Surrey GU2 7XY, United Kingdom. The Company was formed on April 18, 2017; accordingly, the financial statements as of that date only comprise the balance sheet (opening balance sheet). The Company has omitted the statement of comprehensive income, statement of cash flows and statement of changes in equity and the notes thereto as required under accounting principles generally accepted in the United States of America (U.S. GAAP), as the Company had no operations as of April 18, 2017. The Company's fiscal year ends on December 31, 2017.

The Company was formed in anticipation of the business combination agreement, dated as of June 1, 2017, by and between Praxair Inc. and Linde AG. This business combination agreement provides for a combination of the businesses of Praxair Inc. and Linde AG under the Company. Linde AG business will be brought under the Company through an exchange offer, and Praxair Inc. business will be brought under the Company through a merger. In connection with the business combination on July 20, 2017, Zamalight plc will be renamed Linde plc. The Company's shares are expected to be listed in New York and Frankfurt.

To date, the Company has not conducted any material activities other than those incidental to its formation and the matters contemplated by the business combination agreement (see Note 4 - Events after the balance sheet date).

To the extent that the Company does not have sufficient funds available to satisfy its obligations, Praxair, Inc. will finance any out of pocket expenses incurred by the Company in connection with the business combination agreement and the transactions contemplated by the business combination agreement. If the business combination is not completed, any expenses incurred by the Company and/or its affiliates will be shared equally by Praxair, Inc. and Linde AG, to the extent not prohibited by applicable law and as otherwise provided in the business combination agreement.

The opening balance sheet as of April 18, 2017 has been prepared in compliance with US GAAP.

The following new accounting standards in the United States issued by the Financial Accounting Standards Board (FASB) have not yet been implemented by the Company. The Company will evaluate, when applicable, the impacts of adopting the below standards on future periods

Revenue Recognition - In May 2014, the FASB issued updated guidance on the reporting and disclosure of revenue. The new guidance requires the evaluation of contracts with customers to determine the recognition of revenue when or as the entity satisfies a performance obligation, and requires expanded disclosures. Subsequently, the FASB has issued amendments to certain aspects of the guidance including the effective date. This guidance is required to be effective beginning in the first quarter 2018 (with early adoption beginning in 2017 optional) and includes several transition options.

Leases - In February 2016, the FASB issued updated guidance on the accounting and financial statement presentation of leases. The new guidance requires lessees to recognize a right-of-use asset and lease liability for all leases, except those that meet certain scope exceptions, and would require expanded quantitative and qualitative disclosures. This guidance will be effective beginning in the first quarter 2019, with early adoption optional, and requires companies to transition using a modified retrospective approach.

F.1-4

Table of Contents

Credit Losses on Financial Instruments - In June 2016, the FASB issued an update on the measurement of credit losses. The guidance introduces a new accounting model for expected credit losses on financial instruments, including trade receivables, based on estimates of current expected credit losses. This guidance will be effective beginning in the first quarter 2020, with early adoption permitted beginning in the first quarter 2019 and requires companies to apply the change in accounting on a prospective basis.

Classification of Certain Cash Receipts and Cash Payments - In August 2016, the FASB issued updated guidance on the classification of certain cash receipts and cash payments within the statement of cash flows. The update provides accounting guidance for specific cash flow issues with the objective of reducing diversity in practice. This new guidance will be effective beginning in the first quarter 2018 on a retrospective basis, with early adoption optional.

Intra-Entity Asset Transfers - In October 2016, the FASB issued updated guidance for income tax accounting of intra-entity transfers of assets other than inventory. The update requires an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory in the period when the transfer occurs. This new guidance will be effective beginning in the first quarter 2018, with early adoption permitted, and should be applied on a modified retrospective basis.

Simplifying the Test for Goodwill Impairment - In January 2017, the FASB issued updated guidance on the measurement of goodwill. The new guidance eliminates the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. The guidance will be effective beginning in the first quarter 2020 with early adoption permitted.

2. Accounting policies

Currency - US Dollar/Euro exchange rate at April 18, 2017 was 0.9319.

Receivables from shareholders - Shareholders receivables at April 18, 2017 comprise two checks of EUR 25,000 (USD 26,827) each which are being held on behalf of Linde plc by Praxair Inc. s Irish legal counsel Arthur Cox. These checks will be deposited in a bank account expected to be opened in June 2017.

Share capital - According to article 3 of the articles of association, the Company has an authorized share capital of EUR 25,000 (USD 26,827) divided into 25,000 shares of EUR 1.00 each. As of the opening balance sheet date, 25,000 shares had been issued and 12,500 shares were held by Enceladus Holding Limited wholly owned by Praxair Inc. s Irish legal counsel Arthur Cox, and 12,500 shares were held by Cumberland Corporate Services Limited wholly owned by Linde AG s Irish legal counsel William Fry, the Company s shareholders. Furthermore an additional EUR 25,000 (USD 26,827) was paid in relating to share premium by the 2 shareholders.

3. Related parties

As the financial statements only comprise the balance sheet as of April 18, 2017, there were no transactions with related parties as of this date, other than the issued capital described in Note 2 above.

4. Events after the balance sheet date

On May 26, 2017, the Company formed Zamalight Holdco, a Delaware limited liability company. Immediately following its formation, Zamalight Holdco LLC formed Zamalight Subco, a Delaware corporation, as a wholly owned U.S. subsidiary of Zamalight Holdco LLC. Upon effectiveness of the merger, Zamalight

F.1-5

Table of Contents

Subco, will merge with and into Praxair, Inc., with Praxair, Inc. surviving the merger as an indirect wholly-owned subsidiary of the Company. No material activities have been carried out by these entities since their formation other than in connection with the business combination.

Prior to the commencement of the exchange offer, the Company intends to form Linde Holding GmbH, a German limited liability company (GmbH), which in turn intends to form Linde Intermediate Holding AG, a German stock corporation (AG), to facilitate the settlement of the exchange offer and a post-completion reorganization with respect to Linde.

In the business combination, Praxair's business will be brought indirectly under the Company through the merger and Linde's business will be brought under the Company indirectly through the exchange offer. Following settlement of the exchange offer, Linde plc intends to pursue a post-completion reorganization with respect to Linde if the relevant ownership threshold for such a post-completion reorganization has been reached as a result of or following the exchange offer. Currently the business combination is expected to be completed in the second half of 2018.

F.1-6

Table of Contents

CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

JUNE 30, 2017 AND APRIL 18, 2017

F.1-7

Table of Contents**CONSOLIDATED BALANCE SHEETS AS OF JUNE 30, 2017 AND APRIL 18, 2017****LINDE PLC (FORMERLY KNOWN AS ZAMALIGHT PLC) AND SUBSIDIARIES (UNAUDITED)****(In USD)**

	June 30, 2017	Opening Balance April 18, 2017
<u>ASSETS</u>		
CURRENT ASSETS		
Other assets	8,541,711	-
NON-CURRENT ASSETS		
	-	-
TOTAL ASSETS	\$ 8,541,711	\$ -
<u>SHAREHOLDER S EQUITY AND LIABILITIES</u>		
CURRENT LIABILITIES		
Accrued liabilities	462,640	-
Other payables	8,541,711	-
NON CURRENT LIABILITIES		
CAPITAL AND RESERVES		
Share capital (Common stock 1.00 par value, authorized and issued shares - 25,000 shares)	26,827	26,827
Additional paid in capital	26,827	26,827
Accumulated other comprehensive income	2,506	-
Receivables from shareholders	(56,160)	(53,654)
Retained earnings	(462,640)	-
TOTAL SHAREHOLDER S EQUITY	(462,640)	-
EQUITY AND LIABILITIES	\$ 8,541,711	\$ -

The accompanying notes are an integral part of these financial statements.

F.1-8

Table of Contents**CONSOLIDATED STATEMENT OF INCOME AND OTHER COMPREHENSIVE INCOME FOR THE PERIOD APRIL 18, 2017 TO JUNE 30, 2017.****LINDE PLC (FORMERLY KNOWN AS ZAMALIGHT PLC) AND SUBSIDIARIES (UNAUDITED)****(In USD)**

	April 18, 2017 - June 30, 2017
Other expenses	\$ (462,640)
Operating loss	(462,640)
Net finance costs	-
Loss before tax	(462,640)
Income tax	-
Loss for the period	(462,640)
Other comprehensive income	-
Other comprehensive income (loss) for the period, net of tax	2,506
Total comprehensive loss for the period	\$ (460,134)
Loss per share - basic and diluted	\$ 18,51

The accompanying notes are an integral part of these financial statements.

F.1-9

Table of Contents**CONSOLIDATED STATEMENTS OF EQUITY AS AT JUNE 30, 2017****LINDE PLC (FORMERLY KNOWN AS ZAMALIGHT PLC) AND SUBSIDIARIES (UNAUDITED)****(In USD)**

In USD	Share capital	Additional Paid in Capital	Accumulated other comprehensive income	Accumulated deficit	Receivables from shareholders	Total equity
Issue of share capital on incorporation	26,827	26,827	-	-	(53,654)	-
Total contributions by and distributions to owners	26,827	26,827	-	-	(53,654)	-
April 18, 2017	26,827	26,827	-	-	(53,654)	-
Loss for the period	-	-	-	(462,640)	-	(462,640)
Other comprehensive loss for the period	-	-	2,506	-	(2,506)	-
June 30, 2017	26,827	26,827	2,506	(462,640)	(56,160)	(462,640)

The accompanying notes are an integral part of these financial statements.

F.1-10

Table of Contents

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

1. Organization and basis of presentation

Linde plc, formerly known as Zamalight plc (the Company), was incorporated as a public limited company under the laws of Ireland on April 18, 2017, by Enceladus and Cumberland, with an issued share capital of EUR25,000 (\$26,827) comprised of 25,000 ordinary shares of EUR1.00 each and additional paid in capital of EUR25,000 (\$26,827) in the form of additional paid in capital.

The Company is registered in Ireland under the registration number 602527 and with its registered office located at c/o Ten Earlsfort Terrace, Dublin 2, D02 T380 Ireland and principal executive offices at The Priestley Centre, 10 Priestley Road, The Surrey Research Park, Guildford, Surrey GU2 7XY, United Kingdom. The Company was formed on April 18, 2017; accordingly, the financial statements as of that date only comprise the balance sheet (opening balance sheet). The company's fiscal year ends on December 31, 2017.

The Company was formed in accordance with the requirements of the business combination agreement, dated as of June 1, 2017, by and between Praxair Inc. and Linde AG. This business combination agreement provides for a combination of the businesses of Praxair Inc. and Linde AG under the Company. Linde AG business will be brought under the Company through an exchange offer, and Praxair Inc. business will be brought under the Company through a merger. In connection with the business combination, Zamalight plc on July 20, 2017 has been renamed to Linde plc. The Company's shares are expected to be listed in New York and Frankfurt.

To date, the Company has not conducted any material activities other than those incidental to its formation and the matters contemplated by the business combination agreement such as the incurrence of SEC registration fees and other-transaction-related costs (see Note 3 - Subsidiaries).

To the extent that the Company does not have sufficient funds available to satisfy its obligations, Praxair, Inc. will finance any out of pocket expenses incurred by the Company in connection with the business combination agreement and the transactions contemplated by the business combination agreement. If the business combination is not completed, any expenses incurred by the Company and/or its affiliates will be shared equally by Praxair, Inc. and Linde AG, to the extent not prohibited by applicable law and as otherwise provided in the business combination agreement.

These financial statements have been prepared in compliance with US GAAP.

The following new accounting standards in the United States issued by the Financial Accounting Standards Board (FASB) have not yet been implemented by the Company. The Company will evaluate, when applicable, the impacts of adopting the below standards on future periods

Revenue Recognition - In May 2014, the FASB issued updated guidance on the reporting and disclosure of revenue. The new guidance requires the evaluation of contracts with customers to determine the recognition of revenue when or as the entity satisfies a performance obligation, and requires expanded disclosures. Subsequently, the FASB has issued amendments to certain aspects of the guidance including the effective date. This guidance is required to be effective beginning in the first quarter 2018 (with early adoption beginning in 2017 optional) and includes several transition options.

Leases - In February 2016, the FASB issued updated guidance on the accounting and financial statement presentation of leases. The new guidance requires lessees to recognize a right-of-use asset and lease liability for all leases, except those that meet certain scope exceptions, and would require expanded quantitative and qualitative disclosures. This guidance will be effective beginning in the first quarter 2019, with early adoption optional, and requires companies to transition using a modified retrospective approach.

F.1-11

Table of Contents

Credit Losses on Financial Instruments - In June 2016, the FASB issued an update on the measurement of credit losses. The guidance introduces a new accounting model for expected credit losses on financial instruments, including trade receivables, based on estimates of current expected credit losses. This guidance will be effective beginning in the first quarter 2020, with early adoption permitted beginning in the first quarter 2019 and requires companies to apply the change in accounting on a prospective basis.

Classification of Certain Cash Receipts and Cash Payments - In August 2016, the FASB issued updated guidance on the classification of certain cash receipts and cash payments within the statement of cash flows. The update provides accounting guidance for specific cash flow issues with the objective of reducing diversity in practice. This new guidance will be effective beginning in the first quarter 2018 on a retrospective basis, with early adoption optional.

Intra-Entity Asset Transfers - In October 2016, the FASB issued updated guidance for income tax accounting of intra-entity transfers of assets other than inventory. The update requires an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory in the period when the transfer occurs. This new guidance will be effective beginning in the first quarter 2018, with early adoption permitted, and should be applied on a modified retrospective basis.

Simplifying the Test for Goodwill Impairment - In January 2017, the FASB issued updated guidance on the measurement of goodwill. The new guidance eliminates the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. The guidance will be effective beginning in the first quarter 2020 with early adoption permitted.

2. Accounting policies

Basis of preparation

The financial statements present the consolidated results and financial position of the Company and its subsidiaries for the period from incorporation (being April 18, 2017 to June 30, 2017).

Going concern

The financial statements have been prepared on a going concern basis, taking account of the facilities available under the cash management agreement (see note 8).

Currency - Items included in these consolidated financial statements are measured using the currency of the primary economic environment in which the entity operates (the functional currency). The financial information is presented in USD. The US Dollar/Euro exchange rate at April 18, 2017 was 0.9319 and June 30, 2017 was 0.8903.

Consolidation and subsidiaries

Subsidiaries are all entities (including structured entities) over which the Company and its group has control. The group controls an entity when the group is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power to direct the activities of the entity. Subsidiaries are fully consolidated from the date on which control is transferred to the group. They are deconsolidated from the date

that control ceases.

The acquisition method of accounting is used to account for business combinations by the group.

Intercompany transactions, balances and unrealised gains on transactions between group companies are eliminated. Unrealised losses are also eliminated unless the transaction provides evidence of an impairment of the transferred asset.

F.1-12

Table of Contents*Other receivables*

Other receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Other receivables are stated at the lower of amortised cost or recoverable amount. If collection of the amounts is expected in one year or less they are classified as current assets.

Other provisions - The Company accrues liabilities for non-income tax contingencies when management believes that a loss is probable and the amounts can be reasonably estimated, while contingent gains are recognized only when realized. If new information becomes available or losses are sustained in excess of recorded amounts, adjustments are charged against income at that time. Management does not anticipate that in the aggregate such losses would have a material adverse effect on the company's balance sheet or liquidity.

Share capital - According to article 3 of the articles of association, the Company has an authorized share capital of EUR 25.000 (\$26.827) divided into 25.000 shares of EUR 1.00 each. As of the opening balance sheet date and as of June 30, 2017, 25.000 shares had been issued and 12.500 shares were held by Enceladus Holding Limited wholly owned by Praxair Inc. s. Irish legal counsel Arthur Cox, and 12.500 shares were held by Cumberland Corporate Services Limited wholly owned by Linde AG's Irish legal counsel William Fry, the Company's shareholders. Furthermore an additional EUR 25.000 (\$26.827) was paid in relating to additional paid in capital by the 2 shareholders.

Income taxes

The income tax expense or credit for the period is the tax payable on the current period's taxable income based on the applicable income tax rate for each jurisdiction adjusted by changes in deferred tax assets and liabilities attributable to temporary differences and to unused tax losses.

Deferred tax assets are recognized only if it is probable that future taxable amounts will be available to utilize those temporary differences and losses. No deferred tax has been recognized as at June 30, 2017, as the Company has recently been incorporated and therefore does not have any history of income.

Share capital

Ordinary shares are classified as equity. Incremental costs directly attributable to the issue of new shares are capitalized and upon the closing of the associated equity transaction are reclassified to equity as a deduction, net of tax, from the proceeds.

As at June 30, 2017, the Company was not subject to any capital requirements.

3. Subsidiaries

The principal subsidiaries of the Company, all of which have been included in these consolidated financial statements, are as follows:

Name	Country of incorporation and principal place of	Proportion of ownership interest at
-------------	--	--

	business	June 30, 2017	April 18, 2017
Zamalight Holdco LLC	USA	100%	0%
Zamalight Subco, Inc.	USA	100%	0%

On May 26, 2017, the Company formed Zamalight Holdco, a Delaware limited liability company. Immediately following its formation, Zamalight Holdco LLC formed Zamalight Subco, a Delaware corporation,

F.1-13

Table of Contents

as a wholly owned U.S. subsidiary of Zamalight Holdco LLC. Upon effectiveness of the merger, Zamalight Subco will merge with and into Praxair, Inc., with Praxair, Inc. surviving the merger as an indirect wholly-owned subsidiary of the Company. No material activities have been carried out by these entities since their formation other than in connection with the business combination and their Net assets are zero USD as of June 30, 2017.

4. Receivables from shareholders

This relates to a receivable from the two shareholders and comprises two checks of EUR 25,000 each which are being held on behalf of the Company by Praxair Inc. s. Irish legal counsel Arthur Cox. Due to the short-term nature of the current receivables, their carrying amount is considered to be the same as their fair value.

5. Other assets

Other assets at June 30, 2017 of \$8,541,711 relate to the costs to issue equity securities (SEC registration fee). These costs, in case the business combination is not completed, will be recognised as an expense.

6. Accrued liabilities

Accrued liabilities for the amount of \$462,640 consist of expenses incurred in connection with the Business Combination which the Company during the period, these mainly relate to fees for accounting and Advisory services.

7. Related parties

Related parties are the members of the executive bodies of the Company and those companies classified as its other investors.

On June 2, 2017 Praxair International Finance UC paid the SEC registration fee for the amount of \$8,545,513 on behalf of the Company. This is still owed by the Company at June 30, 2017 and is reflected as other payables on the consolidated balance sheet.

On July 24, 2017 the Company entered into a cash management agreement with Praxair International Finance UC to finance the Company's working capital obligations. The total available amount under the facility is EUR 30,000,000. The cash management agreement is Euro denominated and has a variable interest rate of one month EUR LIBOR plus a 0% spread.

The cash management agreement terminates after 1 year and is automatically renewable for successive one-year terms thereafter unless either party shall give written notice to the other party not less than 30 days prior to the expiration of any term.

Table of Contents**8. Consolidated Statement of Cash Flows**

The Company did not have any cash flow related transactions in the period to June 30, 2017 and therefore no Consolidated Statement of Cash Flows have been included in these financial statements.

9. Loss per share

	Period from April 18, 2017 to June 30, 2017
Loss from continuing operations attributable to the owners of the company	\$ (462,640)
Weighted average number of ordinary shares in issue	25,000
Loss per share - Basic and diluted	\$ (18.51)

10. Events after the balance sheet date

On July 25, 2017, the members of the Company adopted the Amended and Restated Memorandum of Association and Articles of Association. Under the Amended and Restated Memorandum of Association and Articles of Association, the authorized share capital of the Company is 1,775,000 divided into 1,750,000,000 ordinary shares of 0.001 each and 25,000 A ordinary shares of 1.00 each.

On July 26, 2017, the Company formed Linde Holding GmbH, a German limited liability company (GmbH), which on July 28, 2017 in turn formed Linde Intermediate Holding AG, a German stock corporation (AG), to facilitate the settlement of the exchange offer and a post-completion reorganization with respect to Linde.

In the business combination, Praxair's business will be brought indirectly under the Company through the merger and Linde's business will be brought under the Company indirectly through the exchange offer. Following settlement of the exchange offer, the Company intends to pursue a post-completion reorganization with respect to Linde if the relevant ownership threshold for such a post-completion reorganization has been reached as a result of or following the exchange offer.

Table of Contents

INDEX TO PRAXAIR FINANCIAL STATEMENTS

Condensed Consolidated Financial Statements (Unaudited)

<u>Consolidated Statements of Income Quarters Ended June 30, 2017 and 2016 (Unaudited)</u>	F.2-2
<u>Consolidated Statements of Income Six Months Ended June 30, 2017 and 2016 (Unaudited)</u>	F.2-3
<u>Consolidated Statements of Comprehensive Income Quarters Ended June 30, 2017 and 2016 (Unaudited)</u>	F.2-4
<u>Consolidated Statements of Comprehensive Income Six Months Ended June 30, 2017 and 2016 (Unaudited)</u>	F.2-5
<u>Condensed Consolidated Balance Sheets June 30, 2017 and December 31, 2016 (Unaudited)</u>	F.2-6
<u>Condensed Consolidated Statements of Cash Flows Six Months Ended June 30, 2017 and 2016 (Unaudited)</u>	F.2-7
<u>Notes to Condensed Consolidated Financial Statements (Unaudited)</u>	F.2-8

Audited Consolidated Financial Statements

<u>Management's Statement of Responsibility for Financial Statements</u>	F.2-27
<u>Management's Report on Internal Control Over Financial Reporting</u>	F.2-27
<u>Report of Independent Registered Public Accounting Firm</u>	F.2-29
<u>Consolidated Statements of Income for the Years Ended December 31, 2016, 2015 and 2014</u>	F.2-30
<u>Consolidated Statements of Comprehensive Income for the Years Ended December 31, 2016, 2015 and 2014</u>	F.2-31
<u>Consolidated Balance Sheets as of December 31, 2016 and 2015</u>	F.2-32
<u>Consolidated Statements of Cash Flows for the Years Ended December 31, 2016, 2015 and 2014</u>	F.2-33
<u>Consolidated Statements of Equity for the Years Ended December 31, 2016, 2015 and 2014</u>	F.2-34
<u>Notes to Consolidated Financial Statements</u>	F.2-36

F.2-1

Table of Contents

PRAXAIR, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME

(Millions of dollars, except per share data)

(UNAUDITED)

	Quarter Ended June 30,	
	2017	2016
SALES	\$ 2,834	\$ 2,665
Cost of sales, exclusive of depreciation and amortization	1,598	1,468
Selling, general and administrative	308	308
Depreciation and amortization	292	281
Research and development	23	24
Transaction costs and other charges	15	-
Other income (expense) - net	6	4
OPERATING PROFIT	604	588
Interest expense - net	38	44
INCOME BEFORE INCOME TAXES AND EQUITY INVESTMENTS	566	544
Income taxes	157	146
INCOME BEFORE EQUITY INVESTMENTS	409	398
Income from equity investments	11	11
NET INCOME (INCLUDING NONCONTROLLING INTERESTS)	420	409
Less: noncontrolling interests	(14)	(10)
NET INCOME - PRAXAIR, INC.	\$ 406	\$ 399
PER SHARE DATA - PRAXAIR, INC. SHAREHOLDERS		
Basic earnings per share	\$ 1.42	\$ 1.40
Diluted earnings per share	\$ 1.41	\$ 1.39
Cash dividends per share	\$ 0.7875	\$ 0.75
WEIGHTED AVERAGE SHARES OUTSTANDING (000 s):		
Basic shares outstanding	286,090	285,702
Diluted shares outstanding	288,535	287,727

The accompanying notes are an integral part of these financial statements.

F.2-2

Table of Contents

PRAXAIR, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME

(Millions of dollars, except per share data)

(UNAUDITED)

	Six months ended June 30,	
	2017	2016
SALES	\$ 5,562	\$ 5,174
Cost of sales, exclusive of depreciation and amortization	3,143	2,849
Selling, general and administrative	587	582
Depreciation and amortization	579	553
Research and development	46	47
Transaction costs and other charges	21	-
Other income (expense) - net	-	(1)
OPERATING PROFIT	1,186	1,142
Interest expense - net	79	109
INCOME BEFORE INCOME TAXES AND EQUITY INVESTMENTS	1,107	1,033
Income taxes	306	279
INCOME BEFORE EQUITY INVESTMENTS	801	754
Income from equity investments	23	21
NET INCOME (INCLUDING NONCONTROLLING INTERESTS)	824	775
Less: noncontrolling interests	(29)	(20)
NET INCOME - PRAXAIR, INC.	\$ 795	\$ 755
PER SHARE DATA - PRAXAIR, INC. SHAREHOLDERS		
Basic earnings per share	\$ 2.78	\$ 2.64
Diluted earnings per share	\$ 2.76	\$ 2.63
Cash dividends per share	\$ 1.575	\$ 1.50
WEIGHTED AVERAGE SHARES OUTSTANDING (000 s):		
Basic shares outstanding	285,799	285,566
Diluted shares outstanding	288,067	287,426

The accompanying notes are an integral part of these financial statements.

F.2-3

Table of Contents**PRAXAIR, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)***(Millions of dollars)**(UNAUDITED)*

	Quarter Ended June 30,	
	2017	2016
NET INCOME (INCLUDING NONCONTROLLING INTERESTS)	\$ 420	\$ 409
OTHER COMPREHENSIVE INCOME (LOSS)		
Translation adjustments:		
Foreign currency translation adjustments	(1)	97
Income taxes	55	(27)
Translation adjustments	54	70
Funded status - retirement obligations (Note 11):		
Retirement program remeasurements	(17)	(19)
Reclassifications to net income	16	15
Income taxes	1	2
Funded status - retirement obligations	-	(2)
Derivative instruments (Note 6):		
Current quarter unrealized gain (loss)	1	-
Reclassifications to net income	-	(1)
Income taxes	(1)	1
Derivative instruments	-	-
TOTAL OTHER COMPREHENSIVE INCOME (LOSS)	54	68
COMPREHENSIVE INCOME (LOSS) (INCLUDING NONCONTROLLING INTERESTS)	474	477
Less: noncontrolling interests	(27)	(2)
COMPREHENSIVE INCOME (LOSS) - PRAXAIR, INC.	\$ 447	\$ 475

The accompanying notes are an integral part of these financial statements.

Table of Contents**PRAXAIR, INC. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)***(Millions of dollars)**(UNAUDITED)*

	Six Months Ended June 30,	
	2017	2016
NET INCOME (INCLUDING NONCONTROLLING INTERESTS)	\$ 824	\$ 775
OTHER COMPREHENSIVE INCOME (LOSS)		
Translation adjustments:		
Foreign currency translation adjustments	316	439
Income taxes	58	(11)
Translation adjustments	374	428
Funded status - retirement obligations (Note 11):		
Retirement program remeasurements	(20)	(24)
Reclassifications to net income	20	29
Income taxes	-	(3)
Funded status - retirement obligations	-	2
Derivative instruments (Note 6):		
Current period unrealized gain (loss)	-	-
Reclassifications to net income	-	(1)
Income taxes	-	1
Derivative instruments	-	-
TOTAL OTHER COMPREHENSIVE INCOME (LOSS)	374	430
COMPREHENSIVE INCOME (INCLUDING NONCONTROLLING INTERESTS)	1,198	1,205
Less: noncontrolling interests	(47)	(28)
COMPREHENSIVE INCOME - PRAXAIR, INC.	\$ 1,151	\$ 1,177

The accompanying notes are an integral part of these financial statements.

Table of Contents

PRAXAIR, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS

(Millions of dollars)

(UNAUDITED)

	June 30, 2017	December 31, 2016
ASSETS		
Cash and cash equivalents	\$ 535	\$ 524
Accounts receivable - net	1,791	1,641
Inventories	568	550
Prepaid and other current assets	225	165
<i>TOTAL CURRENT ASSETS</i>	3,119	2,880
Property, plant and equipment (less accumulated depreciation of \$13,204 in 2017 and \$12,444 in 2016)	11,806	11,477
Goodwill	3,182	3,117
Other intangible assets - net	568	583
Other long-term assets	1,290	1,275
<i>TOTAL ASSETS</i>	\$ 19,965	\$ 19,332
LIABILITIES AND EQUITY		
Accounts payable	\$ 900	\$ 906
Short-term debt	280	434
Current portion of long-term debt	910	164
Other current liabilities	953	974
<i>TOTAL CURRENT LIABILITIES</i>	3,043	2,478
Long-term debt	8,177	8,917
Other long-term liabilities	2,475	2,485
<i>TOTAL LIABILITIES</i>	13,695	13,880
Commitments and contingencies (Note 12)		
Redeemable noncontrolling interests (Note 14)	10	11
Praxair, Inc. Shareholders' Equity:		
Common stock \$0.01 par value, authorized - 800,000,000 shares, issued 2017 and 2016 - 383,230,625 shares	4	4
Additional paid-in capital	4,076	4,074
Retained earnings	13,223	12,879
Accumulated other comprehensive income (loss) (Note 14)	(4,244)	(4,600)
Less: Treasury stock, at cost (2017 - 97,206,315 shares and 2016 - 98,329,849 shares)	(7,252)	(7,336)

Total Praxair, Inc. Shareholders Equity	5,807	5,021
Noncontrolling interests	453	420
<i>TOTAL EQUITY</i>	6,260	5,441
<i>TOTAL LIABILITIES AND EQUITY</i>	\$ 19,965	\$ 19,332

The accompanying notes are an integral part of these financial statements.

F.2-6

Table of Contents**PRAXAIR, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS***(Millions of dollars)**(UNAUDITED)*

	Six months ended June 30,	
	2017	2016
OPERATIONS		
Net income - Praxair, Inc.	\$ 795	\$ 755
Noncontrolling interests	29	20
Net income (including noncontrolling interests)	824	775
Adjustments to reconcile net income to net cash provided by operating activities:		
Transaction costs and other charges, net of payments	17	-
Depreciation and amortization	579	553
Deferred income taxes	48	4
Share-based compensation	28	22
Working capital:		
Accounts receivable	(95)	(61)
Inventory	(5)	(8)
Prepaid and other current assets	(40)	2
Payables and accruals	(24)	(63)
Pension contributions	(6)	(6)
Long-term assets, liabilities and other	85	41
Net cash provided by operating activities	1,411	1,259
INVESTING		
Capital expenditures	(652)	(680)
Acquisitions, net of cash acquired	(2)	(325)
Divestitures and asset sales	17	8
Net cash used for investing activities	(637)	(997)
FINANCING		
Short-term debt borrowings (repayments) - net	(157)	508
Long-term debt borrowings	10	908
Long-term debt repayments	(158)	(726)
Issuances of common stock	70	60
Purchases of common stock	(11)	(83)
Cash dividends - Praxair, Inc. shareholders	(450)	(428)
Noncontrolling interest transactions and other	(84)	(109)

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Net cash provided by (used for) financing activities	(780)	130
Effect of exchange rate changes on cash and cash equivalents	17	28
Change in cash and cash equivalents	11	420
Cash and cash equivalents, beginning-of-period	524	147
Cash and cash equivalents, end-of-period	\$ 535	\$ 567

The accompanying notes are an integral part of these financial statements.

F.2-7

Table of Contents

PRAXAIR, INC. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(UNAUDITED)

1. Summary of Significant Accounting Policies

Presentation of Condensed Consolidated Financial Statements - In the opinion of Praxair, Inc. (Praxair) management, the accompanying condensed consolidated financial statements include all adjustments necessary for a fair presentation of the results for the interim periods presented and such adjustments are of a normal recurring nature. The accompanying condensed consolidated financial statements should be read in conjunction with the notes to the consolidated financial statements of Praxair, Inc. and subsidiaries in Praxair's 2016 Annual Report on Form 10-K. There have been no material changes to the company's significant accounting policies during 2017.

Accounting Standards Implemented in 2017

Simplifying the Measurement of Inventory - In July 2015, the FASB issued updated guidance on the measurement of inventory. The new guidance requires that inventory be measured at the lower of cost or net realizable value, previously inventory was measured at the lower of cost or market. The adoption of this guidance resulted in no material impact.

Accounting Standards to be Implemented

Revenue Recognition - In May 2014, the FASB issued updated guidance on the reporting and disclosure of revenue. The new guidance requires the evaluation of contracts with customers to determine the recognition of revenue when or as the entity satisfies a performance obligation, and requires expanded disclosures. Subsequently, the FASB has issued amendments to certain aspects of the guidance including the effective date. This guidance is required to be effective beginning in the first quarter 2018 (with early adoption beginning in 2017 optional) and includes several transition options.

The Company is currently in the process of evaluating and implementing this new guidance, as required, and at this time expects to use the modified retrospective basis starting in 2018. Praxair will provide additional updates in future filings, as appropriate.

Leases - In February 2016, the FASB issued updated guidance on the accounting and financial statement presentation of leases. The new guidance requires lessees to recognize a right-of-use asset and lease liability for all leases, except those that meet certain scope exceptions, and would require expanded quantitative and qualitative disclosures. This guidance will be effective for Praxair beginning in the first quarter 2019, with early adoption optional, and requires companies to transition using a modified retrospective approach. Praxair is in the early stages of reviewing the new guidance and will provide updates on the expected impact to Praxair in future filings, as appropriate.

Credit Losses on Financial Instruments - In June 2016, the FASB issued an update on the measurement of credit losses. The guidance introduces a new accounting model for expected credit losses on financial instruments, including trade receivables, based on estimates of current expected credit losses. This guidance will be effective for Praxair beginning in the first quarter 2020, with early adoption permitted beginning in the first quarter 2019 and requires companies to apply the change in accounting on a prospective basis. We are currently evaluating the impact this update will have on our consolidated financial statements.

F.2-8

Table of Contents

Classification of Certain Cash Receipts and Cash Payments - In August 2016, the FASB issued updated guidance on the classification of certain cash receipts and cash payments within the statement of cash flows. The update provides accounting guidance for specific cash flow issues with the objective of reducing diversity in practice. This new guidance will be effective for Praxair beginning in the first quarter 2018 on a retrospective basis, with early adoption optional. Praxair does not expect this requirement to have a material impact.

Intra-Entity Asset Transfers - In October 2016, the FASB issued updated guidance for income tax accounting of intra-entity transfers of assets other than inventory. The update requires an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory in the period when the transfer occurs. This new guidance will be effective for Praxair beginning in the first quarter 2018, with early adoption permitted, and should be applied on a modified retrospective basis. We are currently evaluating the impact this update will have on our consolidated financial statements.

Simplifying the Test for Goodwill Impairment - In January 2017, the FASB issued updated guidance on the measurement of goodwill. The new guidance eliminates the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. The guidance will be effective for Praxair beginning in the first quarter 2020 with early adoption permitted. Praxair does not expect this guidance to have a material impact.

Pension Costs - In March 2017, the FASB issued updated guidance on the presentation of net periodic pension cost and net periodic postretirement benefit cost. The new guidance requires the service cost component be reported in the same line item or items as other compensation costs arising from services rendered by employees during the period. The other components of net benefit cost are required to be presented in the income statement separately from the service cost component and not included within operating profit. This guidance will be effective for Praxair beginning in the first quarter 2018, with early adoption optional, and requires companies to transition using a retrospective approach for the presentation of the service cost component and the other cost components and prospectively for the capitalization of the service cost component. Praxair is currently evaluating the impact this update will have on our consolidated financial statements.

Reclassifications - Certain prior years' amounts have been reclassified to conform to the current year's presentation, including reclassifications to the condensed consolidated statement of cash flows due to the adoption of the share-based payment accounting standard adopted in the second quarter of 2016.

2. Transaction Costs and Other Charges

2017 Transaction Costs

On June 1, 2017 Praxair and Linde AG (Linde) entered into a business combination agreement, pursuant to which they agreed to combine their respective businesses subject to shareholder and regulatory approvals (see Note 15). In connection with the intended business combination, Praxair incurred transaction costs which totaled \$15 million and \$21 million for the quarter and six months ended June 30, 2017 (\$15 million and \$21 million after-tax, or \$0.05 and \$0.07 per diluted share), respectively.

Classification in the condensed consolidated financial statements

The costs are shown within operating profit in a separate line item on the consolidated statements of income. On the condensed consolidated statement of cash flows, the impact of these costs, net of cash payments, is shown as an adjustment to reconcile net income to net cash provided by operating activities. In Note 13 - Segments,

F.2-9

Table of Contents

Praxair excluded these costs from its management definition of segment operating profit; a reconciliation of segments operating profit to consolidated operating profit is shown within the segment operating profit table.

2016 and 2015 Cost Reduction Programs and Other Charges

In the third quarter of 2016, Praxair recorded pre-tax charges totaling \$96 million (\$63 million after-tax and noncontrolling interests or \$0.22 per diluted share). During 2015, Praxair recorded pre-tax charges totaling \$165 million (\$125 million after-tax and noncontrolling interests, or \$0.43 per diluted share).

Reconciliation

The following table summarizes the activities related to the company's cost reduction programs for the six months ended June 30, 2017:

<i>(millions of dollars)</i>	Severance costs	Other Charges	Total
Balance, January 1, 2017	\$ 38	\$ 27	\$ 65
Less: Cash payments	(13)	(3)	(16)
Less: Non-cash charges			
Foreign currency translation	2		2
Balance, June 30, 2017	\$ 27	\$ 24	\$ 51

2016 Bond Redemption Charge

In February 2016, Praxair redeemed \$325 million of 5.20% notes due March 2017 resulting in a \$16 million interest charge (\$10 million after-tax, or \$0.04 per diluted share).

For further details regarding the cost reduction program and other charges, refer to Note 2 to the consolidated financial statements of Praxair's 2016 Annual Report on Form 10-K.

3. Acquisitions*2016 Acquisitions*

During the six months ended June 30, 2016, Praxair had acquisitions totaling \$325 million, primarily the acquisition of Yara International ASA's European carbon dioxide business (European CO2 business) and packaged gases businesses in North America and Europe. These transactions resulted in goodwill and other intangible assets of \$118 million and \$72 million, respectively. In addition, Praxair purchased a remaining 34% share in a Scandinavian joint venture for \$104 million.

European CO2 Acquisition

On June 1, 2016 Praxair, Inc. completed an acquisition of a European CO2 business, which is a leading supplier of liquid CO2 and dry ice primarily to the European food and beverage industries. The business operates CO2 liquefaction plants and dry ice production facilities across the UK, Ireland, Norway, Denmark, Germany, Netherlands, Belgium, France and Italy. This acquisition was accounted for as a business combination; accordingly, the results of

operations were consolidated from June 1, 2016 in the European business segment.

The purchase price for the acquisition was approximately \$230 million (206 million) and resulted in \$121 million of intangible assets. The intangible assets primarily consist of \$69 million of goodwill and \$51 million of customer relationships that will be amortized over their estimated useful life of 20 years.

F.2-10

Table of Contents**4. Supplemental Information*****Inventories***

The following is a summary of Praxair's consolidated inventories:

<i>(Millions of dollars)</i>	June 30, 2017	December 31, 2016
Inventories		
Raw materials and supplies	\$ 195	\$ 197
Work in process	54	45
Finished goods	319	308
Total inventories	\$ 568	\$ 550

Long-term receivables

Long-term receivables are not material and are largely reserved. Such long-term receivables are included within other long-term assets in the condensed consolidated balance sheets and totaled \$48 million and \$46 million at June 30, 2017 and December 31, 2016, respectively. These amounts are net of reserves of \$51 million and \$50 million, respectively. The amounts in both periods relate primarily to government receivables in Brazil and other long-term notes receivable from customers. Collectability is reviewed regularly and uncollectible amounts are written off as appropriate.

5. Debt

The following is a summary of Praxair's outstanding debt at June 30, 2017 and December 31, 2016:

<i>(Millions of dollars)</i>	June 30, 2017	December 31, 2016
SHORT-TERM		
Commercial paper and U.S. bank borrowings	\$ 222	\$ 333
Other bank borrowings (primarily international)	58	101
Total short-term debt	280	434
LONG-TERM (a)		
U.S. borrowings (U.S. dollar denominated unless otherwise noted)		
Floating Rate Notes due 2017 (b)		150
1.05% Notes due 2017	400	400
1.20% Notes due 2018	499	499
1.25% Notes due 2018 (c)	478	478
4.50% Notes due 2019	598	598
1.90% Notes due 2019	499	499
1.50% Euro-denominated notes due 2020	682	627

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

2.25% Notes due 2020	299	299
4.05% Notes due 2021	497	497
3.00% Notes due 2021	496	496
2.45% Notes due 2022	597	597
2.20% Notes due 2022	498	498
2.70% Notes due 2023	497	497
1.20% Euro-denominated notes due 2024	626	575
2.65% Notes due 2025	397	397
1.625% Euro-denominated notes due 2025	565	519

F.2-11

Table of Contents

<i>(Millions of dollars)</i>	June 30, 2017	December 31, 2016
3.20% Notes due 2026	\$ 725	\$ 725
3.55% Notes due 2042	662	662
Other	12	12
International bank borrowings	56	49
Obligations under capital leases	4	7
	9,087	9,081
Less: current portion of long-term debt	(910)	(164)
Total long-term debt	8,177	8,917
Total debt	\$ 9,367	\$ 9,515

(a) Amounts are net of unamortized discounts, premiums and/or debt issuance costs as applicable.

(b) In February 2017, Praxair repaid \$150 million of floating rate notes that became due.

(c) June 30, 2017 and December 31, 2016 include a \$2 million and \$4 million fair value increase, respectively, related to hedge accounting. See Note 6 for additional information.

In June 2017, the company entered into a \$500 million 364-day revolving credit facility with a syndicate of banks which expires in June 2018. The credit facility is with major financial institutions and is non-cancelable by the issuing financial institution until maturity. The only financial covenant requires Praxair not to exceed a maximum 70% leverage ratio, which is consistent with the company's \$2.5 billion senior unsecured credit facility (see Note 11 to the consolidated financial statements of Praxair's 2016 Annual Report on Form 10-K). No borrowings were outstanding under the credit agreement at June 30, 2017.

6. Financial Instruments

In its normal operations, Praxair is exposed to market risks relating to fluctuations in interest rates, foreign currency exchange rates, energy costs and to a lesser extent precious metal prices. The objective of financial risk management at Praxair is to minimize the negative impact of such fluctuations on the company's earnings and cash flows. To manage these risks, among other strategies, Praxair routinely enters into various derivative financial instruments (derivatives) including interest-rate swap and treasury rate lock agreements, currency-swap agreements, forward contracts, currency options, and commodity-swap agreements. These instruments are not entered into for trading purposes and Praxair only uses commonly traded and non-leveraged instruments.

There are three types of derivatives that the company enters into: (i) those relating to fair-value exposures, (ii) those relating to cash-flow exposures, and (iii) those relating to foreign currency net investment exposures. Fair-value exposures relate to recognized assets or liabilities, and firm commitments; cash-flow exposures relate to the variability of future cash flows associated with recognized assets or liabilities, or forecasted transactions; and net investment exposures relate to the impact of foreign currency exchange rate changes on the carrying value of net assets denominated in foreign currencies.

When a derivative is executed and hedge accounting is appropriate, it is designated as either a fair-value hedge, cash-flow hedge, or a net investment hedge. Currently, Praxair designates all interest-rate and treasury-rate locks as hedges for accounting purposes; however, currency contracts are generally not designated as hedges for accounting

purposes unless they are related to forecasted transactions. Whether designated as hedges for accounting purposes or not, all derivatives are linked to an appropriate underlying exposure. On an ongoing basis, the company assesses the hedge effectiveness of all derivatives designated as hedges for accounting purposes to determine if they continue to be highly effective in offsetting changes in fair values or cash flows of the underlying hedged items. If it is determined that the hedge is not highly effective, then hedge accounting will be discontinued prospectively.

F.2-12

Table of Contents

Counterparties to Praxair's derivatives are major banking institutions with credit ratings of investment grade or better and no collateral is required, and there are no significant risk concentrations. Management believes the risk of incurring losses on derivative contracts related to credit risk is remote and any losses would be immaterial.

The following table is a summary of the notional amount and fair value of derivatives outstanding at June 30, 2017 and December 31, 2016 for consolidated subsidiaries:

<i>(Millions of dollars)</i>	Notional Amounts		Fair Value			
	June 30, 2017	December 31, 2016	Assets June 30, 2017	Assets December 31, 2016	Liabilities June 30, 2017	Liabilities December 31, 2016
Derivatives Not Designated as Hedging Instruments:						
Currency contracts:						
Balance sheet items (a)	\$ 2,206	\$ 2,104	\$ 27	\$ 11	\$ 10	\$ 18
Derivatives Designated as Hedging Instruments:						
Currency contracts:						
Balance sheet items (a)	\$ 38	\$ 38	\$	\$ 3	\$	\$
Forecasted purchases (a)	9		1			
Interest rate contracts:						
Interest rate swaps (b)	475	475	2	4		
Total Hedges	\$ 522	\$ 513	\$ 3	\$ 7	\$	\$
Total Derivatives	\$ 2,728	\$ 2,617	\$ 30	\$ 18	\$ 10	\$ 18

(a) Assets are recorded in prepaid and other current assets, and liabilities are recorded in other current liabilities.

(b) Assets are recorded in other long term assets.

Currency Contracts***Balance Sheet Items***

Foreign currency contracts related to balance sheet items consist of forward contracts entered into to manage the exposure to fluctuations in foreign-currency exchange rates on recorded balance sheet assets and liabilities denominated in currencies other than the functional currency of the related operating unit. Certain forward currency contracts are entered into to protect underlying monetary assets and liabilities denominated in foreign currencies from foreign exchange risk and are not designated as hedging instruments. The fair value adjustments on these contracts are offset by the fair value adjustments recorded on the underlying monetary assets and liabilities. Praxair also enters into forward currency contracts, which are designated as hedging instruments, to limit the cash flow exposure on certain foreign-currency denominated intercompany loans. The fair value adjustments on these contracts are recorded to AOCI, with the effective portion immediately reclassified to earnings to offset the fair value adjustments on the underlying debt instrument.

Forecasted Purchases

Foreign currency contracts related to forecasted purchases consist of forward contracts entered into to manage the exposure to fluctuations in foreign-currency exchange rates on forecasted purchases of capital-related equipment and services denominated in currencies other than the functional currency of the related operating units. These forward contracts were designated and accounted for as cash flow hedges.

Net Investment Hedge

In 2014 Praxair designated the 600 million (\$682 million as of June 30, 2017) 1.50% Euro-denominated notes due 2020 and the 500 million (\$565 million as of June 30, 2017) 1.625% Euro-denominated notes due 2025, as a hedge of the net investment position in its European operations. In 2016 Praxair designated

F.2-13

Table of Contents

an incremental 550 million (\$626 million as of June 30, 2017) 1.20% Euro-denominated notes due 2024 as an additional hedge of the net investment position in its European operations. These Euro-denominated debt instruments reduce the company's exposure to changes in the currency exchange rate on investments in foreign subsidiaries with Euro functional currencies. Since hedge inception, exchange rate movements have reduced long-term debt by \$189 million (long-term debt increased by \$150 million during the first six months of 2017), with the offsetting gain shown within the cumulative translation component of AOCI in the condensed consolidated balance sheets and the consolidated statements of comprehensive income.

Interest Rate Contracts***Outstanding Interest Rate Swaps***

At June 30, 2017, Praxair had one outstanding interest rate swap agreement with a \$475 million notional amount related to the \$475 million 1.25% notes that mature in 2018. The interest rate swap effectively converts fixed-rate interest to variable-rate interest and is designated as a fair value hedge. Fair value adjustments are recognized in earnings along with an equally offsetting charge / benefit to earnings for the changes in the fair value of the underlying debt instrument. At June 30, 2017, \$2 million was recognized as an increase in the fair value of these notes (\$4 million at December 31, 2016).

Terminated Treasury Rate Locks

The following table summarizes the unrecognized gains (losses) related to terminated treasury rate lock contracts:

<i>(Millions of dollars)</i>	Year Terminated	Original Gain / (Loss)	Unrecognized Gain / (Loss) (a)	
			June 30, 2017	December 31, 2016
Treasury Rate Locks				
<i>Underlying debt instrument:</i>				
\$500 million 2.20% fixed-rate notes that mature in 2022 (b)	2012	\$ (2)	\$ (1)	\$ (1)
\$500 million 3.00% fixed-rate notes that mature in 2021 (b)	2011	(11)	(5)	(5)
\$600 million 4.50% fixed-rate notes that mature in 2019 (b)	2009	16	4	4
Total - pre-tax			\$ (2)	\$ (2)
Less: income taxes			1	1
After - tax amounts			\$ (1)	\$ (1)

- (a) The unrecognized gains / (losses) for the treasury rate locks are shown in accumulated other comprehensive income (AOCI) and are being recognized on a straight line basis to interest expense net over the term of the underlying debt agreements. Refer to the table below summarizing the impact on the company's consolidated statements of income and AOCI for current period gain (loss) recognition.

- (b) The notional amount of the treasury rate lock contracts are equal to the underlying debt instrument with the exception of the treasury rate lock contract entered into to hedge the \$600 million 4.50% fixed-rate notes that mature in 2019. The notional amount of this contract was \$500 million.

F.2-14

Table of Contents

The following table summarizes the impact of the company's derivatives on the consolidated statements of income:

<i>(Millions of dollars)</i>	Amount of Pre-Tax Gain (Loss) Recognized in Earnings *			
	Quarter Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Derivatives Not Designated as Hedging Instruments				
Currency contracts:				
Balance sheet items				
Debt-related	\$ 30	\$ 16	\$ 109	\$ 83
Other balance sheet items	1	1	2	3
Total	\$ 31	\$ 17	\$ 111	\$ 86

* The gains (losses) on balance sheet items are offset by gains (losses) recorded on the underlying hedged assets and liabilities. Accordingly, the gains (losses) for the derivatives and the underlying hedged assets and liabilities related to debt items are recorded in the consolidated statements of income as interest expense-net. Other balance sheet items and anticipated net income gains (losses) are recorded in the consolidated statements of income as other income (expenses)-net.

The following tables summarize the impacts of the company's derivatives designated as hedging instruments that impact AOCI:

Derivatives Designated as Hedging Instruments**

<i>(Millions of dollars)</i>	Quarter Ended			
	Amount of Gain (Loss) Recognized in AOCI		Amount of Gain (Loss) Reclassified from AOCI to the Consolidated Statement of Income	
	June 30, 2017	June 30, 2016	June 30, 2017	June 30, 2016
Currency contracts:				
Balance sheet items	\$	\$	\$	\$
Net investment hedge				
Forecasted purchases	1			
Interest rate contracts:				
Treasury rate lock contracts				(1)
Total - pre tax	\$ 1	\$	\$	\$ (1)
Less: income taxes	(1)			1

Total - Net of Taxes	\$	\$	\$	\$
-----------------------------	----	----	----	----

F.2-15

Table of Contents

<i>(Millions of dollars)</i>	Six Months Ended			
	Amount of Gain (Loss) Recognized in AOCI		Amount of Gain (Loss) Reclassified from AOCI to the Consolidated Statement of Income	
	June 30, 2017	June 30, 2016	June 30, 2017	June 30, 2016
Currency contracts:				
Balance sheet items	\$ (1)	\$	\$	\$
Net investment hedge		(4)		
Forecasted purchases	1			
Interest rate contracts:				
Treasury rate lock contracts				(1)
Total - pre tax	\$	\$ (4)	\$	\$ (1)
Less: income taxes		1		1
Total - Net of Taxes	\$	\$ (3)	\$	\$

** The gains (losses) on net investment hedges are recorded as a component of AOCI within foreign currency translation adjustments in the condensed consolidated balance sheets and the condensed consolidated statements of comprehensive income. The gains (losses) on treasury rate locks are recorded as a component of AOCI within derivative instruments in the condensed consolidated balance sheets and the condensed consolidated statements of comprehensive income. There was no ineffectiveness for these instruments during 2017 or 2016. The gains (losses) on net investment hedges are reclassified to earnings only when the related currency translation adjustments are required to be reclassified, usually upon sale or liquidation of the investment. The gains (losses) for interest rate contracts are reclassified to earnings as interest expense net on a straight-line basis over the remaining maturity of the underlying debt. Net losses of approximately \$1 million are expected to be reclassified to earnings during the next twelve months.

7. Fair Value Disclosures

The fair value hierarchy prioritizes the input to valuation techniques used to measure fair value into three broad levels as follows:

Level 1 - quoted prices in active markets for identical assets or liabilities

Level 2 - quoted prices for similar assets and liabilities in active markets or inputs that are observable

Level 3 - inputs that are unobservable (for example cash flow modeling inputs based on assumptions)

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The following table summarizes assets and liabilities measured at fair value on a recurring basis:

<i>(Millions of dollars)</i>	Fair Value Measurements Using					
	Level 1		Level 2		Level 3	
	June 30, 2017	December 31, 2016	June 30, 2017	December 31, 2016	June 30, 2017	December 31, 2016
Assets						
Derivatives			\$ 30	\$	18	
Liabilities						
Derivatives			\$ 10	\$	18	

F.2-16

Table of Contents

The fair values of the derivative assets and liabilities are based on market prices obtained from independent brokers or determined using quantitative models that use as their basis readily observable market parameters that are actively quoted and can be validated through external sources, including third-party pricing services, brokers and market transactions. Investments are marketable securities traded on an exchange.

The fair values of cash and cash equivalents, short-term debt, accounts receivable-net, and accounts payable approximate carrying amounts because of the short maturities of these instruments. The fair value of long-term debt is estimated based on the quoted market prices for similar issues, which is deemed a level 2 measurement. At June 30, 2017, the estimated fair value of Praxair's long-term debt portfolio was \$9,273 million versus a carrying value of \$9,087 million. At December 31, 2016, the estimated fair value of Praxair's long-term debt portfolio was \$9,218 million versus a carrying value of \$9,081 million. Differences from carrying amounts are attributable to interest-rate changes subsequent to when the debt was issued.

8. Earnings Per Share - Praxair, Inc. Shareholders

Basic earnings per share is computed by dividing Net income - Praxair, Inc. for the period by the weighted average number of Praxair common shares outstanding. Diluted earnings per share is computed by dividing Net income - Praxair, Inc. for the period by the weighted average number of Praxair common shares outstanding and dilutive common stock equivalents, as follows:

	Quarter Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Numerator (Millions of dollars)				
Net income - Praxair, Inc.	\$ 406	\$ 399	\$ 795	\$ 755
Denominator (Thousands of shares)				
Weighted average shares outstanding	285,719	285,314	285,429	285,182
Shares earned and issuable under compensation plans	371	388	370	384
Weighted average shares used in basic earnings per share	286,090	285,702	285,799	285,566
Effect of dilutive securities				
Stock options and awards	2,445	2,025	2,268	1,860
Weighted average shares used in diluted earnings per share	288,535	287,727	288,067	287,426
Basic Earnings Per Share	\$ 1.42	\$ 1.40	\$ 2.78	\$ 2.64
Diluted Earnings Per Share	\$ 1.41	\$ 1.39	\$ 2.76	\$ 2.63

Stock options of 2,508,472 and 2,509,162 for quarter and six months ended June 30, 2017 and stock options of 2,637,160 and 5,174,451 for the quarter and six months ended June 30, 2016 were antidilutive and therefore excluded in the computation of diluted earnings per share.

9. Goodwill and Other Intangible Assets

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Changes in the carrying amount of goodwill for the six months ended June 30, 2017 were as follows:

<i>(Millions of dollars)</i>	North America	South America	Europe	Asia	Surface Technologies	Total
Balance, December 31, 2016	\$ 2,165	\$ 132	\$ 629	\$ 58	\$ 133	\$ 3,117
Acquisitions						
Purchase adjustments & other		1	1			2
Foreign currency translation	16	(2)	42	1	6	63
Balance, June 30, 2017	\$ 2,181	\$ 131	\$ 672	\$ 59	\$ 139	\$ 3,182

F.2-17

Table of Contents

Praxair has performed its goodwill impairment tests annually during the second quarter of each year, and historically has determined that the fair value of each of its reporting units was substantially in excess of its carrying value. For the 2017 test completed this quarter, Praxair applied the FASB's accounting guidance (refer to Note 1 to the consolidated financial statements of Praxair's 2016 Annual Report on Form 10-K) which allows the Company to first assess qualitative factors to determine the extent of additional quantitative analysis, if any, that may be required to test goodwill for impairment. Based on the qualitative assessments performed, Praxair concluded that it was more likely than not that the fair value of each reporting unit substantially exceeded its carrying value and therefore, further quantitative analysis was not required. As a result, no impairment was recorded. There were no indicators of impairment through June 30, 2017.

Changes in the carrying amounts of other intangibles for the six months ended June 30, 2017 were as follows:

<i>(Millions of dollars)</i>	Customer & License/Use Agreements	Non-compet Agreements	Patents & Other	Total
Cost:				
Balance, December 31, 2016	\$ 751	\$ 34	\$ 51	\$ 836
Additions	1			1
Foreign currency translation	15		1	16
Other*	(3)	(8)		(11)
Balance, June 30, 2017	\$ 764	\$ 26	\$ 52	\$ 842
Less: Accumulated amortization				
Balance, December 31, 2016	\$ (214)	\$ (22)	\$ (17)	\$ (253)
Amortization expense	(20)	(2)	(2)	(24)
Foreign currency translation	(7)			(7)
Other*	2	8		10
Balance, June 30, 2017	\$ (239)	\$ (16)	\$ (19)	\$ (274)
Net balance at June 30, 2017	\$ 525	\$ 10	\$ 33	\$ 568

* Other primarily relates to write-off of fully amortized assets.

There are no expected residual values related to these intangible assets. The remaining weighted-average amortization period for intangible assets is approximately 17 years.

Total estimated annual amortization expense is as follows:

<i>(Millions of dollars)</i>	
Remaining 2017	\$ 25
2018	47

2019	45
2020	43
2021	41
Thereafter	367
	\$ 568

10. Share-based Compensation

Share-based compensation of \$16 million (\$1 million after-tax) and \$14 million (less than \$1 million after-tax) was recognized during the quarters ended June 30, 2017 and 2016, respectively. The 2017 and 2016 quarters both include \$10 million of excess tax benefits. Share-based compensation of \$28 million (\$5 million after-tax) and \$22 million (\$6 million after-tax) was recognized during the six months ended June 30, 2017 and

Table of Contents

2016, respectively. The 2017 and 2016 six-month periods include \$14 million and \$10 million, respectively, of excess tax benefits. Expense amounts reflect current estimates of achieving performance targets relating to performance-based compensation. The expense was recorded primarily in selling, general and administrative expenses. There was no share-based compensation cost that was capitalized. For further details regarding Praxair's share-based compensation arrangements and prior-year grants, refer to Note 15 to the consolidated financial statements of Praxair's 2016 Annual Report on Form 10-K.

Stock Options

The weighted-average fair value of options granted during the six months ended June 30, 2017 was \$12.40 (\$8.91 in 2016) based on the Black-Scholes Options-Pricing model. The increase in grant date fair value year-over-year was primarily attributable to an increase in the company's stock price.

The following weighted-average assumptions were used to value the grants in 2017 and 2016:

	Six months ended June 30,	
	2017	2016
Dividend yield	2.7%	2.9%
Volatility	14.0%	14.4%
Risk-free interest rate	2.13%	1.41%
Expected term years	6	6

The following table summarizes option activity under the plans as of June 30, 2017 and changes during the six-month period then ended (averages are calculated on a weighted basis; life in years; intrinsic value expressed in millions):

	Number of Options (000 s)	Average Exercise Price	Average Remaining Life	Aggregate Intrinsic Value
Outstanding at January 1, 2017	11,708	\$ 101.58		
Granted	2,090	118.71		
Exercised	(1,588)	86.31		
Cancelled or Expired	(90)	112.99		
Outstanding at June 30, 2017	12,120	106.45	6.2	\$ 316
Exercisable at June 30, 2017	8,051	\$ 102.85	4.8	\$ 239

The aggregate intrinsic value represents the difference between the company's closing stock price of \$132.55 as of June 30, 2017 and the exercise price multiplied by the number of in the money options outstanding as of that date. The total intrinsic value of stock options exercised during the quarter and six-months ended June 30, 2017 was \$45 million and \$63 million, respectively (\$18 million and \$41 million during the same periods in 2016, respectively).

Cash received from option exercises under all share-based payment arrangements for the quarter and six-months ended June 30, 2017 was \$44 million and \$63 million, respectively (\$29 million and \$59 million for the same periods in 2016, respectively). The cash tax benefit realized from share-based compensation totaled \$18 million and \$26

million for the quarter and six-months ended June 30, 2017 (\$6 million and \$19 million for the same periods in 2016, respectively).

As of June 30, 2017, \$29 million of unrecognized compensation cost related to non-vested stock options is expected to be recognized over a weighted-average period of approximately 1 year.

F.2-19

Table of Contents**Performance-Based and Restricted Stock Awards**

During the six months ended June 30, 2017, the company granted performance-based stock awards to employees of 223,630 shares that vest, subject to the attainment of pre-established minimum performance criteria, principally on the third anniversary of their date of grant. These awards are tied to either return on capital (ROC) performance or relative total shareholder return (TSR) performance versus that of the S&P 500. The actual number of shares issued in settlement of a vested award can range from zero to 200 percent of the target number of shares granted based upon the company's attainment of specified performance targets at the end of a three-year period. Compensation expense related to these awards is recognized over the three-year performance period based on the fair value of the closing market price of the company's common stock on the date of the grant and the estimated performance that will be achieved. Compensation expense for ROC awards will be adjusted during the three-year performance period based upon the estimated performance levels that will be achieved. TSR awards are measured at their grant date fair value and not subsequently re-measured.

During the six months ended June 30, 2017, the company also granted restricted stock units to employees of 81,853 shares. The majority of the restricted stock units vest at the end of a three-year service period. Compensation expense related to the restricted stock units is recognized on a straight line basis over the vesting period.

The weighted-average fair value of ROC performance-based stock awards and restricted stock units granted during the six months ended June 30, 2017 was \$109.68 and \$111.69, respectively (\$93.46 and \$97.95 for the same periods in 2016, respectively). These fair values are based on the closing market price of Praxair's common stock on the grant date adjusted for dividends that will not be paid during the vesting period.

The weighted-average fair value of performance-based stock tied to relative TSR performance granted during the six months ended June 30, 2017 was \$124.12 (\$124.18 in 2016), and was estimated using a Monte Carlo simulation performed as of the grant date.

The following table summarizes non-vested performance-based and restricted stock award activity as of June 30, 2017 and changes during the six months then ended (shares based on target amounts, averages are calculated on a weighted basis):

	Performance-Based		Restricted Stock	
	Number of Shares (000 s)	Average Grant Date Fair Value	Number of Shares (000 s)	Average Grant Date Fair Value
Non-vested at January 1, 2017	714	\$ 115.72	274	\$ 109.49
Granted	224	114.82	82	111.69
Vested	(76)	121.16	(81)	118.48
Cancelled and Forfeited	(190)	113.83	(5)	109.92
Non-vested at June 30, 2017	672	\$ 113.40	270	\$ 107.46

There are approximately 9 thousand performance-based shares and 6 thousand restricted stock shares that are non-vested at June 30, 2017 which will be settled in cash due to foreign regulatory limitations. The liability related to these grants reflects the current estimate of performance that will be achieved and the current common stock price.

As of June 30, 2017, based on current estimates of future performance, \$30 million of unrecognized compensation cost related to performance-based awards is expected to be recognized through the first quarter of 2020 and \$15 million of unrecognized compensation cost related to the restricted stock awards is expected to be recognized primarily through the first quarter of 2020.

F.2-20

Table of Contents**11. Retirement Programs**

The components of net pension and postretirement benefits other than pensions (OPEB) costs for the quarter and six months ended June 30, 2017 and 2016 are shown below:

<i>(Millions of dollars)</i>	Quarter Ended June 30,				Six Months Ended June 30,			
	Pensions		OPEB		Pensions		OPEB	
	2017	2016	2017	2016	2017	2016	2017	2016
Service cost	\$ 12	\$ 12	\$ 1	\$ 1	\$ 23	\$ 24	\$ 2	\$ 2
Interest cost	25	25	1	1	51	49	2	2
Expected return on plan assets	(40)	(39)			(80)	(78)		
Net amortization and deferral	17	16	(1)	(1)	34	31	(2)	(2)
Curtailment gain (1)							(18)	
Net periodic benefit cost	\$ 14	\$ 14	\$ 1	\$ 1	\$ 28	\$ 26	\$ (16)	\$ 2

(1) The curtailment gain recorded during the six months ended June 30, 2017 resulted from the termination of an OPEB plan in South America in the first quarter.

Praxair estimates that 2017 required contributions to its pension plans will be in the range of \$10 million to \$15 million, of which \$6 million have been made through June 30, 2017.

12. Commitments and Contingencies***Contingent Liabilities***

Praxair is subject to various lawsuits and government investigations that arise from time to time in the ordinary course of business. These actions are based upon alleged environmental, tax, antitrust and personal injury claims, among others. Praxair has strong defenses in these cases and intends to defend itself vigorously. It is possible that the company may incur losses in connection with some of these actions in excess of accrued liabilities. Management does not anticipate that in the aggregate such losses would have a material adverse effect on the company's consolidated financial position or liquidity; however, it is possible that the final outcomes could have a significant impact on the company's reported results of operations in any given period (see Note 17 to the consolidated financial statements of Praxair's 2016 Annual Report on Form 10-K).

Significant matters are:

During May 2009, the Brazilian government published Law 11941/2009 instituting a new voluntary amnesty program (Refis Program) which allowed Brazilian companies to settle certain federal tax disputes at reduced amounts. During the 2009 third quarter, Praxair decided that it was economically beneficial to settle many of its outstanding federal tax disputes and such disputes were enrolled in the Refis Program, subject to final calculation and review by the Brazilian federal government. The Company recorded estimated liabilities based on the terms of the Refis Program. Since 2009, Praxair

has been unable to reach final agreement on the calculations and recently initiated litigation against the government in an attempt to resolve certain items. Open issues relate to the following matters: (i) application of cash deposits and net operating loss carryforwards to satisfy obligations, and (ii) the amount of tax reductions available under the Refis Program. It is difficult to estimate the timing of resolution of legal matters in Brazil.

F.2-21

Table of Contents

At June 30, 2017 the most significant non-income and income tax claims in Brazil, after enrollment in the Refis Program, relate to state VAT tax matters and a federal income tax matter where the taxing authorities are challenging the tax rate that should be applied to income generated by a subsidiary company. The total estimated exposure relating to such claims, including interest and penalties, as appropriate, is approximately \$235 million. Praxair has not recorded any liabilities related to such claims based on management judgments, after considering judgments and opinions of outside counsel. Because litigation in Brazil historically takes many years to resolve, it is very difficult to estimate the timing of resolution of these matters; however, it is possible that certain of these matters may be resolved within the near term. The company is vigorously defending against the proceedings.

On September 1, 2010, CADE (Brazilian Administrative Council for Economic Defense) announced alleged anticompetitive activity on the part of five industrial gas companies in Brazil and imposed fines on all five companies. Originally, CADE imposed a civil fine of R\$2.2 billion Brazilian reais (US\$665 million) against White Martins, the Brazil-based subsidiary of Praxair, Inc. In response to a motion for clarification, the fine was reduced to R\$1.7 billion Brazilian reais (US\$514 million) due to a calculation error made by CADE. The amount of the fine is subject to indexation using SELIC. On September 2, 2010, Praxair issued a press release and filed a report on Form 8-K rejecting all claims and stating that the fine represents a gross and arbitrary disregard of Brazilian law.

On October 19, 2010, White Martins filed an annulment petition (appeal) with the Federal Court in Brasilia seeking to have the fine against White Martins entirely overturned. In order to suspend payment of the fine pending the completion of the appeal process, Brazilian law required that the company tender a form of guarantee in the amount of the fine as security. Initially, 50% of the guarantee was satisfied by letters of credit with a financial institution and 50% by equity of a Brazilian subsidiary. On April 15, 2016, the Ninth Federal Court in Brasilia allowed White Martins to withdraw and cancel the letters of credit. Accordingly, the guarantee is currently satisfied solely by equity of a Brazilian subsidiary.

On September 14, 2015, the Ninth Federal Court of Brasilia overturned the fine against White Martins and declared the original CADE administrative proceeding to be null and void. On June 30, 2016, CADE filed an appeal against this decision with the Federal Circuit Court in Brasilia.

Praxair strongly believes that the allegations are without merit and that the fine will be entirely overturned during the appeal process. The company further believes that it has strong defenses and will vigorously defend against the allegations and related fine up to such levels of the Federal Courts in Brazil as may be necessary. Because appeals in Brazil historically take many years to resolve, it is very difficult to estimate when the appeal will be finally decided. Based on management judgments, after considering judgments and opinions of outside counsel, no reserve has been recorded for this proceeding as management does not believe that a loss is probable.

Table of Contents**13. Segments**

Sales and operating profit by segment for the quarters and six months ended June 30, 2017 and 2016 are shown below. For a description of Praxair's operating segments, refer to Note 18 to the consolidated financial statements of Praxair's 2016 Annual Report on Form 10-K.

<i>(Millions of dollars)</i>	Quarter Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
SALES(a)				
North America	\$ 1,505	\$ 1,411	\$ 2,963	\$ 2,764
Europe	383	355	739	675
South America	373	358	742	669
Asia	422	393	817	769
Surface Technologies	151	148	301	297
Total sales	\$ 2,834	\$ 2,665	\$ 5,562	\$ 5,174

<i>(Millions of dollars)</i>	Quarter Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
OPERATING PROFIT				
North America	\$ 378	\$ 359	\$ 735	\$ 708
Europe	73	68	139	130
South America	63	70	127	125
Asia	80	67	155	130
Surface Technologies	25	24	51	49
Segment operating profit	619	588	1,207	1,142
Transaction costs and other charges (Note 2)	(15)		(21)	
Total operating profit	\$ 604	\$ 588	\$ 1,186	\$ 1,142

- (a) Sales reflect external sales only. Intersegment sales, primarily from North America to other segments, were not material.

Table of Contents**14. Equity and Redeemable Noncontrolling Interests***Equity*

A summary of the changes in total equity for the quarters and six months ended June 30, 2017 and 2016 is provided below:

<i>(Millions of dollars)</i>	2017			2016		
	Praxair, Inc. Shareholders Equity	Noncontrolling Interests	Total Equity	Praxair, Inc. Shareholders Equity	Noncontrolling Interests	Total Equity
Balance, beginning of period	\$ 5,529	\$ 436	\$ 5,965	\$ 4,888	\$ 417	\$ 5,305
Net income (a)	406	13	419	399	10	409
Other comprehensive income (loss)	41	13	54	76	(6)	70
Noncontrolling interests:						
Additions (reductions)		7	7			
Dividends and other capital changes		(16)	(16)		(14)	(14)
Redemption value adjustments				3		3
Dividends to Praxair, Inc. common stock holders (\$0.7875 per share in 2017 and \$0.75 per share in 2016)	(225)		(225)	(214)		(214)
Issuances of common stock:						
For the dividend reinvestment and stock purchase plan	1		1	2		2
For employee savings and incentive plans	39		39	23		23
Purchases of common stock				(51)		(51)
Share-based compensation	16		16	14		14
Balance, end of period	\$ 5,807	\$ 453	\$ 6,260	\$ 5,140	\$ 407	\$ 5,547

Six Months Ended June 30,

<i>(Millions of dollars)</i> Activity	2017			2016		
	Praxair, Inc. Shareholders		Noncontrolling	Praxair, Inc. Shareholders		Noncontrolling
	Equity	Interests	Total Equity	Equity	Interests	Total Equity
Balance, beginning of period	\$ 5,021	\$ 420	\$ 5,441	\$ 4,389	\$ 404	\$ 4,793
Net income (a)	795	28	823	755	18	773
Other comprehensive income (loss)	356	18	374	422	4	426
Noncontrolling interests:						
Additions (reductions)		7	7			
Dividends and other capital changes		(20)	(20)		(19)	(19)
Redemption value adjustments				3		3
Dividends to Praxair, Inc. common stock holders (\$1.575 per share in 2017 and \$1.50 per share in 2016)	(450)		(450)	(428)		(428)
Issuances of common stock:						
For the dividend reinvestment and stock purchase plan	3		3	4		4
For employee savings and incentive plans	54		54	56		56
Purchases of common stock				(83)		(83)
Share-based compensation	28		28	22		22
Balance, end of period	\$ 5,807	\$ 453	\$ 6,260	\$ 5,140	\$ 407	\$ 5,547

F.2-24

Table of Contents

- (a) Net income for noncontrolling interests excludes Net income related to redeemable noncontrolling interests of \$1 million for both the quarter and the six months ended June 30, 2017 (\$2 million for the six months ended June 30, 2016, all in the first quarter), which is not part of total equity (see redeemable noncontrolling interests section below).

The components of AOCI are as follows:

<i>(Millions of dollars)</i>	June 30, 2017	December 31, 2016
Cumulative translation adjustment - net of taxes:		
North America	\$ (847)	\$ (1,038)
South America	(2,000)	(1,969)
Europe	(439)	(504)
Asia	(273)	(383)
Surface Technologies	(31)	(52)
	(3,590)	(3,946)
Derivatives - net of taxes	(1)	(1)
Pension / OPEB funded status obligation (net of \$352 million tax benefit at both June 30, 2017 and December 31, 2016)	(653)	(653)
	\$ (4,244)	\$ (4,600)

Redeemable Noncontrolling Interests

Noncontrolling interests with redemption features, such as put/sell options, that are not solely within the Company's control (redeemable noncontrolling interests) are reported separately in the consolidated balance sheets at the greater of carrying value or redemption value. For redeemable noncontrolling interests that are not yet exercisable, Praxair calculates the redemption value by accreting the carrying value to the redemption value over the period until exercisable. If the redemption value is greater than the carrying value, any increase is adjusted directly to equity and does not impact net income.

At June 30, 2017, redeemable noncontrolling interests includes one packaged gas distributor in the United States where the noncontrolling shareholder has a put option. On June 1, 2016, Praxair acquired the remaining 34% stake in Yara Praxair Holding AS, a 66%-owned joint venture in Scandinavia, for \$104 million.

The following is a summary of the changes in redeemable noncontrolling interests for the six months ended June 30, 2017 and 2016:

<i>(Millions of dollars)</i>	2017	2016
Balance, January 1	\$ 11	\$ 113
Net income	1	2
Distributions to noncontrolling interest and other	(2)	
Redemption value adjustments/accretion		(3)
Foreign currency translation		4

Purchase of noncontrolling interest (104)

Balance, June 30	\$	10	\$	12
------------------	----	----	----	----

15. Proposed Business Combination with Linde AG

On June 1, 2017, Praxair, Inc. and Linde AG entered into a definitive Business Combination Agreement (the Business Combination Agreement), pursuant to which, among other things, Praxair, Inc. and Linde AG agreed to combine their respective businesses through an all-stock transaction, and become subsidiaries of a new holding company incorporated in Ireland, Linde plc (formerly known as Zamalight plc).

F.2-25

Table of Contents

Under the terms of the Business Combination Agreement, Linde plc will make an offer to exchange each issued and outstanding no-par value bearer share of Linde AG for 1.540 ordinary shares of Linde plc (the Exchange Offer), and Zamalight Subco, Inc., an indirect wholly-owned Delaware subsidiary of Linde plc, will merge with and into Praxair, Inc., with Praxair, Inc. surviving the merger (the Merger), and together with the Exchange Offer, the Business Combination). In the Merger, each share of Praxair, Inc. common stock will be converted into the right to receive one Linde plc ordinary share. Upon completion of the Business Combination, and assuming that all of the outstanding Linde shares are exchanged in the Exchange Offer, former Praxair shareholders and former Linde shareholders will each own approximately 50% of the outstanding Linde plc shares. Linde plc will apply to list its ordinary shares on the New York Stock Exchange and the Frankfurt Stock Exchange, and will seek inclusion in the S&P 500 and DAX 30 indices.

The parties currently expect the Business Combination to be completed in the second half of 2018. Completion of the Business Combination is subject to the satisfaction or waiver of conditions, including (a) approval of the Merger by holders of a majority of the outstanding shares of Praxair, Inc. common stock, (b) the tender in the Exchange Offer of at least 75% of the outstanding Linde shares, (c) approval by requisite governmental regulators and authorities, including approvals under applicable competition laws, (d) absence of any law, regulation or injunction or order by any governmental entity in Ireland, the United Kingdom, Germany or the United States that prohibits or makes illegal the completion of the Business Combination and (e) that there has been no material adverse effect on and no material compliance violation by either Praxair, Inc. or Linde AG, as determined by a third-party independent expert.

The Business Combination may be terminated for, or may terminate as a result of, certain reasons, including, among others, (a) the mutual consent of Praxair, Inc. and Linde AG to termination, (b) a change in recommendation regarding the Business Combination from the Praxair board of directors, the Linde executive board or the Linde supervisory board (provided that, with respect to the Linde supervisory board, such change involves recommending that Linde shareholders not accept the Exchange Offer), (c) the occurrence of an adverse tax event (as defined in the Business Combination Agreement), (d) a permanent injunction or order by any governmental entity in Ireland, the United Kingdom, Germany or the United States that prohibits or makes illegal the completion of the Business Combination, (e) the occurrence of a change, event, occurrence or effect that has had or is reasonably expected to have a material adverse change (as defined in the Business Combination Agreement) on Linde, Inc. or Praxair, Inc. or (f) the failure to satisfy any of the conditions described in the preceding paragraph. The Business Combination Agreement further provides that, upon termination of the Business Combination under certain specified circumstances, Praxair, Inc. will be required to pay Linde AG a termination fee of \$250 million or Linde AG will be required to pay Praxair, Inc. such termination fee, as applicable.

For additional information related to the Business Combination Agreement, please refer to Praxair, Inc.'s Current Report on Form 8-K filed with the U. S. Securities and Exchange Commission on June 1, 2017.

Table of Contents

MANAGEMENT'S STATEMENT OF RESPONSIBILITY FOR FINANCIAL STATEMENTS

Praxair's consolidated financial statements are prepared by management, which is responsible for their fairness, integrity and objectivity. The accompanying financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America applied on a consistent basis, except for accounting changes as disclosed, and include amounts that are estimates and judgments. All historical financial information in this annual report is consistent with the accompanying financial statements.

Praxair maintains accounting systems, including internal accounting controls, monitored by a staff of internal auditors, that are designed to provide reasonable assurance of the reliability of financial records and the protection of assets. The concept of reasonable assurance is based on recognition that the cost of a system should not exceed the related benefits. The effectiveness of those systems depends primarily upon the careful selection of financial and other managers, clear delegation of authority and assignment of accountability, inculcation of high business ethics and conflict-of-interest standards, policies and procedures for coordinating the management of corporate resources, and the leadership and commitment of top management. In compliance with Section 404 of the Sarbanes-Oxley Act of 2002, Praxair assessed its internal control over financial reporting and issued a report (see below).

PricewaterhouseCoopers LLP, an independent registered public accounting firm, has completed an integrated audit of Praxair's 2016, 2015 and 2014 consolidated financial statements and of its internal control over financial reporting as of December 31, 2016 in accordance with the standards of the Public Company Accounting Oversight Board (United States) as stated in their report.

The Audit Committee of the Board of Directors, which consists solely of non-employee directors, is responsible for overseeing the functioning of the accounting system and related controls and the preparation of annual financial statements. The Audit Committee periodically meets with management, internal auditors and the independent accountants to review and evaluate their accounting, auditing and financial reporting activities and responsibilities, including management's assessment of internal control over financial reporting. The independent registered public accounting firm and internal auditors have full and free access to the Audit Committee and meet with the committee, with and without management present.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Praxair's management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Under the supervision and with the participation of management, including the company's principal executive officer and principal financial officer, the company conducted an evaluation of the effectiveness of its internal control over financial reporting based on the framework in *Internal Control - Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (often referred to as COSO). Based on this evaluation, management concluded that the company's internal control over financial reporting was effective as of December 31, 2016.

Praxair's evaluation of internal control over financial reporting as of December 31, 2016 did not include the internal control over financial reporting related to Yara International ASA's European carbon dioxide business because they were acquired by Praxair in a purchase business combination consummated during 2016. Total assets and sales for this acquisition represent approximately 1.1% and 0.6%, respectively, of the related consolidated financial statement amounts as of and for the year ended December 31, 2016 (See Note 3).

Table of Contents

PricewaterhouseCoopers LLP, an independent registered public accounting firm, has issued their opinion on the company's internal control over financial reporting as of December 31, 2016 as stated in their report.

/s/ STEPHEN F. ANGEL
Stephen F. Angel

**Chairman, President and
Chief Executive Officer**

/s/ MATTHEW J. WHITE
Matthew J. White

**Senior Vice President and
Chief Financial Officer**

/s/ KELCEY E. HOYT
Kelcey E. Hoyt

Vice President and Controller

Danbury, Connecticut

March 1, 2017

F.2-28

Table of Contents

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To The Board of Directors and Shareholders of Praxair, Inc.:

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of income, comprehensive income, equity and cash flows present fairly, in all material respects, the financial position of Praxair, Inc. and its subsidiaries at December 31, 2016 and 2015, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2016 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2016, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express opinions on these financial statements and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

As described in Management's Report on Internal Control Over Financial Reporting, management has excluded Yara International ASA's European carbon dioxide business from its assessment of internal control over financial reporting as of December 31, 2016 because this business was acquired by the Company in a purchase business combination during 2016. We have also excluded Yara International ASA's European carbon dioxide business from our audit of internal control over financial reporting. Total assets and sales for this acquisition represent approximately 1.1% and

0.6%, respectively, of the related consolidated financial statement amounts as of and for the year ended December 31, 2016.

/s/ PricewaterhouseCoopers LLP

Stamford, Connecticut

March 1, 2017

F.2-29

Table of Contents**CONSOLIDATED STATEMENTS OF INCOME****PRAXAIR, INC. AND SUBSIDIARIES***(Dollar amounts in millions, except per share data)*

Year Ended December 31,	2016	2015	2014
Sales	\$ 10,534	\$ 10,776	\$ 12,273
Cost of sales, exclusive of depreciation and amortization	5,860	5,960	6,962
Selling, general and administrative	1,145	1,152	1,308
Depreciation and amortization	1,122	1,106	1,170
Research and development	92	93	96
Cost reduction program and other charges	100	172	138
Other income (expenses) - net	23	28	9
Operating Profit	2,238	2,321	2,608
Interest expense - net	190	161	213
Income Before Income Taxes and Equity Investments	2,048	2,160	2,395
Income taxes	551	612	691
Income Before Equity Investments	1,497	1,548	1,704
Income from equity investments	41	43	42
Net Income (Including Noncontrolling Interests)	1,538	1,591	1,746
Less: noncontrolling interests	(38)	(44)	(52)
Net Income - Praxair, Inc.	\$ 1,500	\$ 1,547	\$ 1,694
Per Share Data - Praxair, Inc. Shareholders			
Basic earnings per share	\$ 5.25	\$ 5.39	\$ 5.79
Diluted earnings per share	\$ 5.21	\$ 5.35	\$ 5.73
Weighted Average Shares Outstanding (000 s):			
Basic shares outstanding	285,677	287,005	292,494
Diluted shares outstanding	287,757	289,055	295,608

The accompanying Notes on pages F.2-31 to F.2-72 are an integral part of these financial statements.

Table of Contents**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME****PRAXAIR, INC. AND SUBSIDIARIES***(Dollar amounts in millions)*

Year Ended December 31,	2016	2015	2014
Net income (including noncontrolling interests)	\$ 1,538	\$ 1,591	\$ 1,746
Other comprehensive income (loss)			
Translation adjustments:			
Foreign currency translation adjustments	116	(1,517)	(1,087)
Reclassifications to net income	-	-	(5)
Income taxes	(48)	3	(4)
Translation adjustments	68	(1,514)	(1,096)
Funded status - retirement obligations (Note 16):			
Retirement program remeasurements	(163)	(11)	(318)
Reclassifications to net income	60	84	59
Income taxes	27	(17)	95
Funded status - retirement obligations	(76)	56	(164)
Derivative instruments (Note 12):			
Current year unrealized gain (loss)	1	1	4
Reclassifications to net income	(1)	(1)	-
Income taxes	-	-	(1)
Derivative instruments	-	-	3
Total other comprehensive loss	(8)	(1,458)	(1,257)
Comprehensive income (including noncontrolling interests)	1,530	133	489
Less: noncontrolling interests	(34)	3	1
Comprehensive income - Praxair, Inc.	\$ 1,496	\$ 136	\$ 490

The accompanying Notes on pages F.2-31 to F.2-72 are an integral part of these financial statements.

Table of Contents**CONSOLIDATED BALANCE SHEETS****PRAXAIR, INC. AND SUBSIDIARIES***(Dollar amounts in millions)*

December 31,	2016	2015
Assets		
Cash and cash equivalents	\$ 524	\$ 147
Accounts receivable - net	1,641	1,601
Inventories	550	531
Prepaid and other current assets	165	347
<i>Total Current Assets</i>	2,880	2,626
Property, plant and equipment - net	11,477	10,998
Equity investments	717	665
Goodwill	3,117	2,986
Other intangible assets - net	583	568
Other long-term assets	558	476
<i>Total Assets</i>	\$ 19,332	\$ 18,319
Liabilities and Equity		
Accounts payable	\$ 906	\$ 791
Short-term debt	434	250
Current portion of long-term debt	164	6
Accrued taxes	133	144
Other current liabilities	841	702
<i>Total Current Liabilities</i>	2,478	1,893
Long-term debt	8,917	8,975
Other long-term liabilities	1,213	1,155
Deferred credits	1,272	1,390
<i>Total Liabilities</i>	13,880	13,413
Commitments and contingencies (Note 17)		
Redeemable noncontrolling interests	11	113
Praxair, Inc. Shareholders' Equity:		
Common stock \$0.01 par value, authorized - 800,000,000 shares, issued 2016 and 2015 - 383,230,625 shares	4	4
Additional paid-in capital	4,074	4,005
Retained earnings	12,879	12,229
Accumulated other comprehensive income (loss)	(4,600)	(4,596)
Less: Treasury stock, at cost (2016 - 98,329,849 shares and 2015 - 98,351,546 shares)	(7,336)	(7,253)

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Total Praxair, Inc. Shareholders Equity	5,021	4,389
Noncontrolling interests	420	404
<i>Total Equity</i>	5,441	4,793
<i>Total Liabilities and Equity</i>	\$ 19,332	\$ 18,319

The accompanying Notes on pages F.2-31 to F.2-72 are an integral part of these financial statements.

F.2-32

Table of Contents**CONSOLIDATED STATEMENTS OF CASH FLOWS****PRAXAIR, INC. AND SUBSIDIARIES***(Millions of dollars)*

Year Ended December 31,	2016	2015	2014
Increase (Decrease) in Cash and Cash Equivalents			
Operations			
Net income - Praxair, Inc.	\$ 1,500	\$ 1,547	\$ 1,694
Noncontrolling interests	38	44	52
Net income (including noncontrolling interests)	\$ 1,538	\$ 1,591	\$ 1,746
Adjustments to reconcile net income to net cash provided by operating activities:			
Cost reduction program and other charges, net of payments	83	121	138
Depreciation and amortization	1,122	1,106	1,170
Deferred income taxes	(13)	99	55
Share-based compensation	39	30	51
Non-cash charges and other	(43)	(79)	(116)
Working capital			
Accounts receivable	(33)	1	(80)
Inventory	(13)	(23)	(42)
Prepaid and other current assets	6	(22)	(20)
Payables and accruals	92	(40)	13
Pension contributions	(11)	(15)	(18)
Long-term assets, liabilities and other	6	(74)	(10)
Net cash provided by operating activities	2,773	2,695	2,887
Investing			
Capital expenditures	(1,465)	(1,541)	(1,689)
Acquisitions, net of cash acquired	(363)	(82)	(206)
Divestitures and asset sales	58	320	92
Net cash used for investing activities	(1,770)	(1,303)	(1,803)
Financing			
Short-term debt borrowings (repayments) - net	191	(329)	(193)
Long-term debt borrowings	936	1,497	1,546
Long-term debt repayments	(770)	(1,000)	(764)
Issuances of common stock	139	88	103
Purchases of common stock	(228)	(725)	(862)
Cash dividends - Praxair, Inc. shareholders	(856)	(819)	(759)
Excess tax benefit on stock based compensation	-	19	31
Noncontrolling interest transactions and other	(55)	(41)	(129)

Net cash provided (used) for financing activities	(643)	(1,310)	(1,027)
Effect of exchange rate changes on cash and cash equivalents	17	(61)	(69)
Change in cash and cash equivalents	377	21	(12)
Cash and cash equivalents, beginning-of-period	147	126	138
Cash and cash equivalents, end-of-period	\$ 524	\$ 147	\$ 126

Supplemental Data

Income taxes paid	\$ 585	\$ 420	\$ 606
Interest paid, net of capitalized interest (Note 7)	\$ 189	\$ 174	\$ 210

The accompanying Notes on pages F.2-31 to F.2-72 are an integral part of these financial statements.

F.2-33

Table of Contents

CONSOLIDATED STATEMENTS OF EQUITY

PRAXAIR, INC. AND SUBSIDIARIES

(Dollar amounts in millions, except per share data, shares in thousands)

Activity	Common Stock		Praxair, Inc. Shareholders Equity			Treasury Stock		Praxair, Inc. Shareholders Equity		Noncontrolling Interests	Total Equity
	Shares	Amounts	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Less) (Note 7)	Shares	Amounts	Shareholders Equity			
Balance, December 31, 2013	383,231	\$ 4	\$ 3,970	\$ 10,528	\$(1,981)	89,097	\$(5,912)	\$ 6,609	\$ 394	\$ 7,003	
Net Income				1,694				1,694	40	1,734	
Other comprehensive income (loss)					(1,204)			(1,204)	(29)	(1,233)	
Noncontrolling interests:											
Dividends and other capital reductions									(28)	(28)	
Purchases of noncontrolling interests			(24)					(24)	2	(22)	
Additions (Reductions)									8	8	
Redemption value adjustments (Note 14)				(2)				(2)		(2)	
Dividends to Praxair, Inc. common stock (\$2.60 per share)				(759)				(759)		(759)	
Issuances of common stock:											
For the dividend						(56)	7	7		7	

reinvestment and stock purchase plan											
For employee savings and incentive plans			(36)		(1,830)	122	86				86
Purchases of common stock					6,758	(868)	(868)				(868)
Tax benefit from stock options			33				33				33
Share-based compensation			51				51				51
<i>Balance, December 31, 2014</i>											
Net Income	383,231	\$ 4	\$ 3,994	\$ 11,461	\$ (3,185)	93,969	\$ (6,651)	\$ 5,623	\$ 387	\$ 6,010	
Other comprehensive income (loss)					(1,411)		(1,411)		(30)	(1,441)	
Noncontrolling interests:											
Dividends and other capital reductions									(16)	(16)	
Additions (Reductions)									29	29	
Redemption value adjustments (Note 14)				40			40			40	
Dividends to Praxair, Inc. common stock (\$2.86 per share)				(819)			(819)			(819)	

The accompanying Notes on pages F.2-31 to F.2-72 are an integral part of these financial statements.

Table of Contents

Activity	Praxair, Inc. Shareholders Equity					Treasury Stock		Praxair, Inc. Shareholders Equity	Noncontrolling Interests	Total Equity
	Common Stock	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Income (Less) (Note 7)	Shares	Amounts				
Issuances of common stock:										
For the dividend reinvestment and stock purchase plan					(64)	7	7			7
For employee savings and incentive plans		(38)			(1,562)	110	72			72
Purchases of common stock					6,009	(719)	(719)			(719)
Tax benefit from stock options		19					19			19
Share-based compensation		30					30			30
<i>Balance, December 31, 2015</i>	383,231	\$ 4	\$ 4,005	\$ 12,229	\$ (4,596)	98,352	\$ (7,253)	\$ 4,389	\$ 404	\$ 4,793
Net Income				1,500				1,500	35	1,535
Other comprehensive loss					(4)			(4)	(11)	(15)
Noncontrolling interests:										
Dividends and other capital reductions									(28)	(28)
Additions										
(Reductions) -(Note 14)			50					50	20	70
Redemption value adjustments (Note 14)				6				6		6
Dividends to Praxair, Inc. common stock (\$3.00 per share)				(856)				(856)		(856)
Issuances of common stock:										
For the dividend reinvestment and stock purchase plan						(60)	7	7		7
For employee savings and incentive plans		(20)				(2,044)	143	123		123
Other							5	5		5
						2,082	(238)	(238)		(238)

Purchases of common stock										
Share-based compensation			39					39		39
<i>Balance, December 31, 2016</i>	383,231	\$ 4	\$ 4,074	\$ 12,879	\$ (4,600)	98,330	\$ (7,336)	\$ 5,021	\$ 420	\$ 5,441

The accompanying Notes on pages F.2-31 to F.2-72 are an integral part of these financial statements.

F.2-35

Table of Contents

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

PRAXAIR, INC. AND SUBSIDIARIES

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Operations - Praxair, Inc. and its subsidiaries (Praxair or the company) comprise one of the largest industrial gases companies worldwide. Praxair produces, sells and distributes atmospheric, process and specialty gases, and high-performance surface coatings to a diverse group of industries including aerospace, chemicals, food and beverage, electronics, energy, healthcare, manufacturing, and metals.

Principles of Consolidation - The consolidated financial statements were prepared in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP) and include the accounts of all significant subsidiaries where control exists and, in limited situations, variable-interest entities where the company is the primary beneficiary. Intercompany transactions and balances are eliminated in consolidation and any significant related-party transactions have been disclosed.

Equity investments generally consist of 20% to 50% owned operations where the company exercises significant influence, but does not have control. Equity income from equity investments in corporations is reported on an after-tax basis. Pre-tax income from equity investments that are partnerships or limited-liability corporations (LLC) is included in other income (expenses) - net with related taxes included in Income taxes. Equity investments are reviewed for impairment whenever events or circumstances reflect that an impairment loss may have incurred. Operations less than 20% owned, where the company does not exercise significant influence, are generally carried at cost.

Changes in ownership interest that result either in consolidation or deconsolidation of an investment are recorded at fair value through earnings, including the retained ownership interest, while changes that do not result in either consolidation or deconsolidation of a subsidiary are treated as equity transactions.

Use of Estimates - The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. While actual results could differ, management believes such estimates to be reasonable.

Revenue Recognition - Product sales represent approximately 87% of consolidated sales. Revenue is recognized when a firm sales agreement exists, collectability of a fixed or determinable sales price is reasonably assured, and when title and risks of ownership transfer to the customer for product sales or, in the case of other revenues when obligations are satisfied or services are performed. Sales returns and allowances are not a normal practice in the industry and are not significant.

A small portion of the company's revenues relate to long-term construction contracts and are generally recognized using the percentage-of-completion method. Under this method, revenues from sales of major equipment, such as large air-separation facilities, are recognized based primarily on cost incurred to date compared with total estimated cost. Changes to total estimated cost and anticipated losses, if any, are recognized in the period determined.

For contracts that contain multiple products and/or services, amounts assigned to each component are based on its objectively determined fair value, such as the sales price for the component when it is sold separately or competitor prices for similar components.

Certain of the company's facilities that are built to provide product to a specific customer are required to be accounted for as leases. The associated revenue streams are classified as rental revenue and are not significant.

F.2-36

Table of Contents

Amounts billed for shipping and handling fees are recorded as sales, generally on FOB destination terms, and costs incurred for shipping and handling are recorded as cost of sales.

Amounts billed for sales and use taxes, value-added taxes, and certain excise and other specific transactional taxes imposed on revenue producing transactions are presented on a net basis and are not included in sales in the consolidated statement of income.

Cash Equivalents - Cash equivalents are considered to be highly liquid securities with original maturities of three months or less.

Inventories - Inventories are stated at the lower of cost or market. Cost is determined using the average-cost method.

Property, Plant and Equipment - Net - Property, plant and equipment are carried at cost, net of accumulated depreciation. The company capitalizes interest as part of the cost of constructing major facilities (see Note 7). Depreciation is calculated on the straight-line method based on the estimated useful lives of the assets, which range from 3 years to 40 years (see Note 8). Praxair uses accelerated depreciation methods for tax purposes where appropriate. Maintenance of property, plant and equipment is generally expensed as incurred.

The company performs a test for impairment whenever events or changes in circumstances indicate that the carrying amount of an individual asset or asset group may not be recoverable. Should projected undiscounted future cash flows be less than the carrying amount of the asset or asset group, an impairment charge reducing the carrying amount to fair value is required. Fair value is determined based on the most appropriate valuation technique, including discounted cash flows.

Asset-Retirement Obligations - An asset-retirement obligation is recognized in the period in which sufficient information exists to determine the fair value of the liability with a corresponding increase to the carrying amount of the related property, plant and equipment which is then depreciated over its useful life. The liability is initially measured at discounted fair value and then accretion expense is recorded in each subsequent period. The company's asset-retirement obligations are primarily associated with its on-site long-term supply arrangements where the company has built a facility on land leased from the customer and is obligated to remove the facility at the end of the contract term. The company's asset-retirement obligations are not material to its consolidated financial statements.

Foreign Currency Translation - For most foreign operations, the local currency is the functional currency and translation gains and losses are reported as part of the accumulated other comprehensive income (loss) component of equity as a cumulative translation adjustment (see Note 7).

Financial Instruments - Praxair enters into various derivative financial instruments to manage its exposure to fluctuating interest and currency exchange rates and energy costs. Such instruments primarily include interest-rate swap and treasury rate lock agreements; currency-swap agreements; forward contracts; currency options; and commodity-swap agreements. These instruments are not entered into for trading purposes. Praxair only uses commonly traded and non-leveraged instruments.

There are three types of derivatives the company enters into: (i) those relating to fair-value exposures, (ii) those relating to cash-flow exposures, and (iii) those relating to foreign currency net investment exposures. Fair-value exposures relate to recognized assets or liabilities, and firm commitments; cash-flow exposures relate to the variability of future cash flows associated with recognized assets or liabilities, or forecasted transactions; and net investment exposures relate to the impact of foreign currency exchange rate changes on the carrying value of net assets denominated in foreign currencies.

When a derivative is executed and hedge accounting is appropriate, it is designated as either a fair-value hedge, cash-flow hedge, or a net investment hedge. Currently, Praxair designates all interest-rate and treasury

F.2-37

Table of Contents

rate locks as hedges for accounting purposes; however, currency contracts are generally not designated as hedges for accounting purposes unless they are related to forecasted transactions. Whether designated as hedges for accounting purposes or not, all derivatives are linked to an appropriate underlying exposure. On an ongoing basis, the company assesses the hedge effectiveness of all derivatives designated as hedges for accounting purposes to determine if they continue to be highly effective in offsetting changes in fair values or cash flows of the underlying hedged items. If it is determined that the hedge is not highly effective, then hedge accounting will be discontinued prospectively.

Changes in the fair value of derivatives designated as fair-value hedges are recognized in earnings as an offset to the change in the fair values of the underlying exposures being hedged. The changes in fair value of derivatives that are designated as cash-flow hedges are deferred in accumulated other comprehensive income (loss) and are reclassified to earnings as the underlying hedged transaction affects earnings. Any ineffectiveness is recognized in earnings immediately. Hedges of net investments in foreign subsidiaries are recognized in the cumulative translation adjustment component of accumulated other comprehensive income (loss) on the consolidated balance sheets to offset translation gains and losses associated with the hedged net investment. Derivatives that are entered into for risk-management purposes and are not designated as hedges (primarily related to anticipated net income and currency derivatives other than for firm commitments) are recorded at their fair market values and recognized in current earnings.

See Note 12 for additional information relating to financial instruments.

Goodwill - Acquisitions are accounted for using the acquisition method which requires allocation of the purchase price to assets acquired and liabilities assumed based on estimated fair values. Any excess of the purchase price over the fair value of the assets and liabilities acquired is recorded as goodwill. Allocations of the purchase price are based on preliminary estimates and assumptions at the date of acquisition and are subject to revision based on final information received, including appraisals and other analyses which support underlying estimates.

The company performs a goodwill impairment test annually in the second quarter or more frequently if events or circumstances indicate that an impairment loss may have been incurred. The applicable guidance allows an entity to first assess qualitative factors to determine if it is more likely than not that the fair value of a reporting unit is less than carrying value. If it is determined that it is more likely than not that the fair value of a reporting unit is less than carrying value then the company will estimate and compare the fair value of its reporting units to their carrying value, including goodwill.

Reporting units are determined based on one level below the operating segment level. As applicable, fair value is determined through the use of projected future cash flows, multiples of earnings and sales and other factors. Such analysis requires the use of certain market assumptions and discount factors, which are subjective in nature.

See Note 9 for additional information relating to goodwill.

Other Intangible Assets - Customer and license/use agreements, non-compete agreements and patents and other intangibles are amortized over the estimated period of benefit. The determination of the estimated period of benefit will be dependent upon the use and underlying characteristics of the intangible asset. Praxair evaluates the recoverability of its intangible assets subject to amortization when facts and circumstances indicate that the carrying value of the asset may not be recoverable. If the carrying value is not recoverable, impairment is measured as the amount by which the carrying value exceeds its estimated fair value. Fair value is generally estimated based on either appraised value or other valuation techniques.

See Note 10 for additional information relating to other intangible assets.

F.2-38

Table of Contents

Income Taxes - Deferred income taxes are recorded for the temporary differences between the financial statement and tax bases of assets and liabilities using currently enacted tax rates. Valuation allowances are established against deferred tax assets whenever circumstances indicate that it is more likely than not that such assets will not be realized in future periods.

Under the guidance for accounting for uncertainty in income taxes, the company can recognize the benefit of an income tax position only if it is more likely than not (greater than 50%) that the tax position will be sustained upon tax examination, based solely on the technical merits of the tax position. Otherwise, no benefit can be recognized. The tax benefits recognized are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. Additionally, the company accrues interest and related penalties, if applicable, on all tax exposures for which reserves have been established consistent with jurisdictional tax laws. Interest and penalties are classified as income tax expense in the financial statements.

See Note 5 for additional information relating to income taxes.

Retirement Benefits - Most Praxair employees participate in a form of defined benefit or contribution retirement plan, and additionally certain employees are eligible to participate in various post-employment health care and life insurance benefit plans. The cost of contribution plans is recognized in the year earned while the cost of other plans is recognized over the employees' expected service period to the company, all in accordance with the applicable accounting standards. The funded status of the plans is recorded as an asset or liability in the consolidated balance sheets. Funding of retirement benefits varies and is in accordance with local laws and practices.

See Note 16 for additional information relating to retirement programs.

Share-based Compensation- The company has granted share-based awards which consist of stock options, restricted stock and performance-based stock. Share-based compensation expense is generally recognized on a straight-line basis over the stated vesting period. For stock awards granted to full-retirement-eligible employees, compensation expense is recognized over the period from the grant date to the date retirement eligibility is achieved. For performance-based awards, compensation expense is recognized only if it is probable that the performance condition will be achieved.

See Note 15 for additional disclosures relating to share-based compensation.

Recently Issued Accounting Standards***Accounting Standards Implemented in 2016***

The following standards were effective for Praxair in 2016 and their adoption did not have a significant impact on the consolidated financial statements:

Accounting for Share-based Compensation - In June 2014, the FASB issued updated guidance on the accounting for share-based payments when the terms of an award provide that a performance target could be achieved after the requisite service period. The adoption of this guidance did not have a significant impact on the condensed consolidated financial statements.

Improvements to Employee Share-Based Payment Accounting - In March 2016, the FASB issued updated guidance on the accounting for employee share-based payments. The new guidance, among other changes, requires that all excess tax benefits and deficiencies associated with share-based payment awards be recorded in Income taxes in the statement of income in the period in which they occur, and within operating cash flows. Previously, such excess tax benefits were recorded as direct credits to equity (not via the statement of income), and as financing cash flows.

F.2-39

Table of Contents

Effective in the second quarter 2016, Praxair elected to adopt the requirements of this new accounting standard. Accordingly, income tax expense and operating cash flows for 2016 include \$20 million of excess tax benefits. The Company elected not to adjust prior-year cash flow presentations.

The new standard also amends the consolidated statement of cash flows by requiring that cash paid to taxing authorities at settlement arising from the withholding of shares from employees be classified in cash flows from financing activities (such amounts were previously included in cash flows from operating activities). This portion of the standard was required to be adopted on a retrospective basis. In addition, \$13 million and \$19 million were similarly reclassified for the years ended December 31, 2015 and 2014, respectively.

Balance Sheet Classification of Deferred Taxes - In November 2015, the FASB issued updated guidance on the balance sheet classification of deferred taxes. Prior to the adoption of this guidance, deferred income tax liabilities and assets were required to be separated and classified as current or non-current in a classified balance sheet. The amendments in this update require that deferred tax liabilities and assets be classified as non-current in a classified balance sheet. Praxair has elected to early adopt this guidance beginning in the fourth quarter 2016 on a prospective basis, prior periods were not retrospectively adjusted (see Note 7).

Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent) - In May 2015, the FASB issued updated guidance removing the requirement to categorize within the fair value hierarchy all investments for which fair value is measured using the net asset value per share practical expedient. The adoption of this guidance resulted in the removal of certain pensions assets from within the fair value hierarchy (see Note 16).

Accounting Standards to be Implemented

Revenue Recognition - In May 2014, the FASB issued updated guidance on the reporting and disclosure of revenue. The new guidance requires the evaluation of contracts with customers to determine the recognition of revenue when or as the entity satisfies a performance obligation, and requires expanded disclosures. Subsequently, the FASB has issued amendments to certain aspects of the guidance including the effective date. This guidance is required to be effective beginning in the first quarter 2018 (with early adoption beginning in 2017 optional) and includes several transition options.

The Company is currently in the process of evaluating and implementing this new guidance, as required, and at this time expects to use the modified retrospective basis starting in 2018. Praxair will provide additional updates in future filings, when appropriate.

Simplifying the Measurement of Inventory - In July 2015, the FASB issued updated guidance on the measurement of inventory. The new guidance requires that inventory be measured at the lower of cost or net realizable value. Currently inventory is measured at the lower of cost or market. This new guidance will be effective for Praxair beginning in the first quarter 2017 on a prospective basis, with early adoption optional. Praxair does not expect this requirement to have a material impact.

Leases - In February 2016, the FASB issued updated guidance on the accounting and financial statement presentation of leases. The new guidance requires lessees to recognize a right-of-use asset and lease liability for all leases, except those that meet certain scope exceptions, and would require expanded quantitative and qualitative disclosures. This guidance will be effective for Praxair beginning in the first quarter 2019, with early adoption optional, and requires companies to transition using a modified retrospective approach. Praxair is in the early stages of reviewing the new guidance and will provide updates on the expected impact to Praxair in future filings, as determined.

F.2-40

Table of Contents

Credit Losses on Financial Instruments - In June 2016, the FASB issued an update on the measurement of credit losses. The guidance introduces a new accounting model for expected credit losses on financial instruments, including trade receivables, based on estimates of current expected credit losses. This guidance will be effective for Praxair beginning in the first quarter 2020, with early adoption permitted beginning in the first quarter 2019 and requires companies to apply the change in accounting on a prospective basis. We are currently evaluating the impact this update will have on our consolidated financial statements.

Classification of Certain Cash Receipts and Cash Payments - In August 2016, the FASB issued updated guidance on the classification of certain cash receipts and cash payments within the statement of cash flows. The update provides accounting guidance for specific cash flow issues with the objective of reducing diversity in practice. This new guidance will be effective for Praxair beginning in the first quarter 2018 on a retrospective basis, with early adoption optional. Praxair does not expect this requirement to have a material impact.

Intra-Entity Asset Transfers - In October 2016, the FASB issued updated guidance for income tax accounting of intra-entity transfers of assets other than inventory. The update requires an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory in the period when the transfer occurs. This new guidance will be effective for Praxair beginning in the first quarter 2018, with early adoption permitted, and should be applied on a modified retrospective basis. We are currently evaluating the impact this update will have on our consolidated financial statements.

Simplifying the Test for Goodwill Impairment - In January 2017, the FASB issued updated guidance on the measurement of goodwill. The new guidance eliminates the requirement to calculate the implied fair value of goodwill to measure a goodwill impairment charge. The guidance will be effective for Praxair beginning in the first quarter 2020 with early adoption permitted. Praxair does not expect this guidance to have a material impact.

Reclassifications - Certain prior years' amounts have been reclassified to conform to the current year's presentation, including reclassifications to the condensed consolidated statement of cash flows due to the adoption of the new share-based payment accounting standard.

NOTE 2. COST REDUCTION PROGRAM AND OTHER CHARGES***2016 Charges******Cost Reduction Program and Other Charges***

In the third quarter of 2016, Praxair recorded pre-tax charges totaling \$96 million (\$63 million after-tax and noncontrolling interests of \$0.22 per diluted share). Following is a summary of the pre-tax charge by reportable segment:

<i>(millions of dollars)</i>	Severance costs	Other Charges	Total
------------------------------	-----------------	---------------	-------

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

North America	\$	14	\$	29	\$	43
Europe		12		3		15
South America		5		7		12
Asia		6		13		19
Surface Technologies		3		4		7
Total	\$	40	\$	56	\$	96

The severance costs of \$40 million are for the elimination of 730 positions. The other charges of \$56 million are primarily related to (i) the consolidation of operations for efficiencies and cost reduction

F.2-41

Table of Contents

primarily in North America and Surface Technologies, (ii) integration costs for recent acquisitions in Europe and North America, and (iii) asset write-downs and other charges related to the impacts of weaker underlying industrial activity, primarily in the Americas and Asia. Amounts related to asset write-downs are net of expected sale proceeds, which are not significant.

The total cash requirement of the cost reduction program and other charges are estimated to be approximately \$57 million, of which \$13 million was paid through December 31, 2016.

Pension Settlement Charge

In 2015 a number of senior managers retired. These retirees are covered by the U.S. supplemental pension plan which provides for a lump sum benefit payment option. Under certain circumstances, such lump sum payments must be accounted for as a settlement of the related pension obligation, but only when paid. Accordingly, in the third quarter of 2016, Praxair recorded a pension settlement charge related to net unrecognized actuarial losses of \$4 million (\$3 million after-tax or \$0.01 per diluted share).

2015 Charges*Cost Reduction Program and other Charges*

In the second quarter of 2015, Praxair recorded pre-tax charges totaling \$146 million (\$112 million after-tax and noncontrolling interests or \$0.39 per diluted share) and in the third quarter recorded pre-tax charges totaling \$19 million (\$13 million after-tax or \$0.04 per diluted share). The charges related primarily to severance and other costs associated with a cost reduction program, which was initiated in response to lower volumes resulting from economic slowdown in emerging markets and energy related end-markets. Following is a summary of the pre-tax charges by reportable segment:

<i>(millions of dollars)</i>	Severance costs	Other Charges	Total
North America	\$ 14	\$ 20	\$ 34
Europe	11	9	20
South America	18	49	67
Asia	11	14	25
Surface Technologies	9	10	19
Total	\$ 63	\$ 102	\$ 165

The severance costs of \$63 million are for the elimination of 1,544 positions. A majority of the actions were completed in 2015.

The other charges of \$102 million are primarily related to the consolidation of operations and the exit of other operations due to current economic conditions, primarily in Brazil. Amounts related to asset write-downs are net of expected sale proceeds, which are not significant. Following is a summary:

1.

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

The North America charges of \$20 million relate primarily to the decision to consolidate certain manufacturing and distribution locations for efficiencies and cost reduction.

2. The Europe charges of \$9 million are primarily for the restructuring of operations in Russia and energy-related businesses in Northern Europe.
3. The South America charges of \$49 million include costs primarily associated with a decision to exit a non-core business and other operations in South America.
4. The Asia charges of \$14 million include costs primarily related to an asset disposal in China.

F.2-42

Table of Contents

5. The Surface Technologies charges of \$10 million relate to the realignment of sales and manufacturing operations in Europe and the United States for efficiencies and cost reduction. Additionally, for the year ended December 31, 2015 income taxes include a \$10 million increase in valuation allowances relating to U.S. foreign tax credit carryforwards, reflecting the impact of current economic conditions.

The total cash requirements of the cost reduction program and other charges are estimated to be approximately \$94 million.

Pension Settlement Charge

In 2014 a number of senior managers retired. These retirees are covered by the U.S. supplemental pension plan which provides for a lump sum benefit payment option. Under certain circumstances, such lump sum payments must be accounted for as a settlement of the related pension obligation, but only when paid. Accordingly, when the cash payments were made in the third quarter of 2015, Praxair recorded a pension settlement charge related to net unrecognized actuarial losses of \$7 million (\$5 million after-tax or \$0.02 per diluted share).

Reconciliation of the 2016 and 2015 Cost Reduction Programs

The following table summarizes the activities related to the company's cost reduction and other charges for the years ended December 31, 2016 and 2015:

<i>(millions of dollars)</i>	Severance costs	Other Charges	Total
Q2/Q3 2015 Cost Reduction Program and Other Charges	\$ 63	\$ 102	\$ 165
Less: Cash payments	(31)	(13)	(44)
Less: Non-cash asset write-offs	-	(68)	(68)
Foreign currency translation and other	(2)	(1)	(3)
Balance, December 31, 2015	\$ 30	\$ 20	\$ 50
2016 Cost Reduction Program and Other Charges	40	56	96
Less: Cash payments	(33)	(9)	(42)
Less: Non-cash asset write-offs	-	(39)	(39)
Foreign currency translation and other	1	(1)	-
Balance, December 31, 2016	\$ 38	\$ 27	\$ 65

2014 Charges*Venezuela Currency Devaluation*

In recent years, exchange control and other regulations in Venezuela have restricted the Company's operations in Venezuela. During 2014, the Venezuelan government introduced a new exchange control market-based mechanism (referred to as SICAD II) which allowed companies to apply for the conversion of VEF to the U.S. dollar. At December 31, 2014 the SICAD II rate was 50 VEF per U.S. Dollar versus the official rate of 6.3 (a devaluation of about 88%). After considerable analysis, Praxair concluded at that time that the SICAD II rate more accurately reflects the economic reality of its business in Venezuela versus the official exchange rate. There continues to be a lack of

exchangeability between the Venezuelan bolivar fuerte (VEF) and the U.S. dollar.

As a result, effective December 31, 2014 Praxair changed the exchange rate used to translate the monetary assets and liabilities of its Venezuelan subsidiary to the SICAD II rate of 50 VEF per U.S. Dollar. Also,

F.2-43

Table of Contents

the Company evaluated the carrying value of its non-monetary assets for impairment and lower of cost or market adjustments considering the new SICAD II rate. As a result, Praxair recorded a pre-tax charge of \$131 million (\$131 million after-tax, or \$0.45 per diluted share) in the Company's consolidated statement of income for the year ended December 31, 2014. This charge includes \$68 million related to translation of monetary assets and liabilities to the SICAD II rate and \$63 million related primarily to long-lived asset impairments. As a result, Praxair's net asset position in Venezuela at December 31, 2014 was immaterial.

Pension Settlement Charge

During the fourth quarter of 2014, Praxair offered certain former employees who participate in either of the two U.S. qualified defined benefit pension plans, the option to receive a one-time lump sum benefit payment of their vested pension benefits under the plans rather than receiving lifetime annuity payments of these benefits. As a result, a pension settlement of the related pension obligation was triggered for one of the U.S. qualified defined benefit pension plans due to the acceptance rate of the lump sum payment option. Accordingly, Praxair recorded a pension settlement charge of \$7 million (\$5 million after-tax, or \$0.02 per diluted share) in the fourth quarter of 2014 (refer to Note 16).

Classification in the consolidated financial statements

The pre-tax charges for each year are shown within operating profit in a separate line item on the consolidated statements of income. In the consolidated balance sheets, reductions in assets are recorded against the carrying value of the related assets and unpaid amounts are recorded primarily as short-term liabilities. On the consolidated statement of cash flows, the pre-tax impact of these charges, net of cash payments, is shown as an adjustment to reconcile net income to net cash provided by operating activities. In Note 18 - Segment Information, Praxair excluded these charges from its management definition of segment operating profit; a reconciliation of segment operating profit to consolidated operating profit is shown within the segment operating profit table.

NOTE 3. ACQUISITIONS

The results of operations of these businesses have been included in Praxair's consolidated statements of income since their respective dates of acquisition. Proforma financial statements for the following acquisitions have not been provided as the acquisitions are not material individually or in the aggregate.

2016 Acquisitions

During the year ended December 31, 2016, Praxair had acquisitions totaling \$363 million, primarily the acquisition of Yara International ASA's European carbon dioxide business (European CO₂ business) and packaged gases businesses in North America and Europe. These transactions resulted in goodwill and other intangible assets of \$141 million and \$82 million, respectively (see Notes 9 and 10). In addition, Praxair purchased a remaining 34% share in a Scandinavian joint venture for \$104 million (see Note 14).

European CO₂ Acquisition

On June 1, 2016 Praxair, Inc. completed an acquisition of a European CO₂ business, which is a leading supplier of liquid CO₂ and dry ice primarily to the European food and beverage industries. The business operates CO₂ liquefaction plants and dry ice production facilities across the UK, Ireland, Norway, Denmark, Germany, Netherlands, Belgium, France and Italy. This acquisition was accounted for as a business combination; accordingly, the results of operations were consolidated from June 1, 2016 in the European business segment.

The purchase price for the acquisition was approximately \$230 million (206 million) and resulted in \$121 million of intangible assets. The intangible assets primarily consist of \$69 million of goodwill and

F.2-44

Table of Contents

\$51 million of customer relationships that will be amortized over their estimated life of 20 years. The allocation of the purchase price is final except for pension liabilities. Any potential adjustments are not expected to be material.

2015 Acquisitions

During the year-ended December 31, 2015 Praxair had acquisitions totaling \$82 million, primarily acquisitions of packaged gases businesses in North and South America and an acquisition of a controlling interest of an equity investment in Asia. These transactions resulted in goodwill and other intangible assets of \$56 million and \$26 million, respectively (see Note 9 and Note 10).

2014 Acquisitions

During the year-ended December 31, 2014 Praxair had acquisitions totaling \$206 million. These acquisitions consisted primarily of an industrial gases business in Italy, packaged gas businesses in North and South America and an acquisition of a controlling interest of an equity investment in Asia. These transactions resulted in goodwill and other intangible assets of \$86 million and \$66 million, respectively (see Note 9 and Note 10).

NOTE 4. LEASES

In the normal course of its business, Praxair enters into various leases as the lessee, primarily involving manufacturing and distribution equipment and office space. Total lease and rental expenses under operating leases were \$141 million in 2016, \$141 million in 2015 and \$148 million in 2014. Capital leases are not significant and are included in property, plant and equipment - net. Related obligations are included in debt.

At December 31, 2016, minimum payments due under operating leases are as follows:

<i>(Millions of dollars)</i>	
2017	\$ 117
2018	97
2019	79
2020	65
2021	54
Thereafter	117
	\$ 529

The present value of these future lease payments under operating leases is approximately \$490 million.

Praxair's leases where it is the lessor are not material.

NOTE 5. INCOME TAXES

Pre-tax income applicable to U.S. and foreign operations is as follows:

(Millions of dollars)

Year Ended December 31,	2016	2015	2014
United States	\$ 954	\$ 980	\$ 1,004
Foreign	1,094	1,180	1,391
Total income before income taxes	\$ 2,048	\$ 2,160	\$ 2,395

F.2-45

Table of Contents

The following is an analysis of the provision for income taxes:

(Millions of dollars)

Year Ended December 31,	2016	2015	2014
Current tax expense			
U.S. federal	\$ 266	\$ 205	\$ 291
State and local	32	33	35
Foreign	266	275	310
	564	513	636
Deferred tax expense			
U.S. federal	3	71	14
State and local	7	10	12
Foreign	(23)	18	29
	(13)	99	55
Total income taxes	\$ 551	\$ 612	\$ 691

An analysis of the difference between the provision for income taxes and the amount computed by applying the U.S. statutory income tax rate to pre-tax income follows:

(Dollar amounts in million)

Year Ended December 31,	2016		2015		2014	
U.S. statutory income tax rate	\$ 717	35.0%	\$ 756	35.0%	\$ 838	35.0%
State and local taxes - net of federal benefit	28	1.4%	28	1.3%	31	1.3%
U.S. tax credits and deductions (a)	(32)	(1.6)%	(40)	(1.9)%	(37)	(1.5)%
Foreign tax differentials (b)	(140)	(6.8)%	(121)	(5.6)%	(186)	(7.8)%
Venezuela currency devaluation (c)	-	-%	-	-%	46	1.9%
Share Based Compensation (d)	(20)	(1.0)%	-	-%	-	-%
Other - net	(2)	(0.1)%	(11)	(0.5)%	(1)	-%
Provision for income taxes	\$ 551	26.9%	\$ 612	28.3%	\$ 691	28.9%

- (a) U.S. tax credits and deductions relate to manufacturing deductions and to the research and experimentation tax credit.
- (b) Primarily related to differences between the U.S. tax rate of 35% and the statutory tax rate in the countries where Praxair operates. 2014 includes \$56 million of tax benefits related to a reduction of uncertain tax positions as a result of a lapse of statute of limitations. Other permanent items and tax rate changes were not significant.
- (c) Impact related to non-deductible Venezuela currency devaluations in 2014 (see Note 2).
- (d) See Note 1 related to adoption of the FASB's standard for Improvements to Employee Share-Based Payment Accounting in 2016.

F.2-46

Table of Contents

Net deferred tax liabilities included in the consolidated balance sheet are comprised of the following:

(Millions of dollars)

December 31,	2016	2015
Deferred tax liabilities		
Fixed assets	\$ 1,522	\$ 1,413
Exchange gains	139	110
Goodwill	178	147
Other intangible assets	115	117
Other	62	155
	\$ 2,016	\$ 1,942
Deferred tax assets		
Carryforwards	\$ 284	\$ 287
Benefit plans and related (a)	404	365
Inventory	26	20
Exchange Losses	6	16
Accruals and other (b)	404	351
	\$ 1,124	\$ 1,039
Less: Valuation allowances (c)	(132)	(123)
	\$ 992	\$ 916
Net deferred tax liabilities	\$ 1,024	\$ 1,026
Recorded in the consolidated balance sheets as (See Note 7):		
Prepaid and other current assets (d)	\$ -	\$ 184
Other long-term assets (d)	185	118
Deferred credits (d)	1,209	1,328
	\$ 1,024	\$ 1,026

(a) Includes deferred taxes of \$352 million and \$325 million in 2016 and 2015, respectively, related to pension / OPEB funded status (see Notes 7 and 16).

(b) Includes \$233 million and \$194 million in 2016 and 2015, respectively, related to research and development costs and \$45 million and \$45 million in 2016 and 2015, respectively, related to goodwill.

(c) Summary of valuation allowances relating to deferred tax assets follows (millions of dollars):

	2016	2015	2014
Balance, January 1,	\$ (123)	\$ (106)	\$ (85)
Income tax (charge) benefit	(13)	(20)	(20)
Translation adjustments	(2)	4	6
Other, including write-offs	6	(1)	(7)
Balance, December 31,	\$ (132)	\$ (123)	\$ (106)

(d) 2016 amounts reflect the adoption of the FASB's standard regarding the Balance Sheet Classification of Deferred Taxes which requires all current deferred income tax assets and liabilities to be classified as non-current on the balance sheet (see Note 1).

Praxair evaluates deferred tax assets quarterly to ensure that estimated future taxable income will be sufficient in character (e.g., capital gain versus ordinary income treatment), amount and timing to result in their recovery. After considering the positive and negative evidence, a valuation allowance is established to reduce the assets to their realizable value when management determines that it is more likely than not (i.e., greater than 50% likelihood) that a deferred tax asset will not be realized. Considerable judgment is required in establishing deferred tax valuation allowances. At December 31, 2016, Praxair had \$284 million of deferred tax assets

Table of Contents

relating to net operating losses (NOLs) and tax credits and \$132 million of valuation allowances. These deferred tax assets include \$106 million relating to NOLs of which \$45 million are in the United States and \$61 million are in Brazil. The U.S. NOLs expire through 2032 and the Brazil NOLs have no expiration. These NOLs have no valuation allowances. The deferred tax assets as of December 31, 2016 also include \$62 million relating to U.S. foreign tax credits which expire in 2021 and have a full valuation allowance. The utilization of the U.S. foreign tax credits is dependent on many factors including U.S. interest expense, future U.S. investment, foreign sales and earnings growth, foreign currency exchange rates, and acquisitions and dispositions. Management's assessment and judgment are highly dependent on these variables and any significant changes to any one of them can substantially impact the amount of foreign tax credit utilization over the ten-year carryforward period.

The remaining deferred tax assets of \$116 million relate to U.S. state (\$55 million) and other foreign (\$61 million) NOLs and credit carryforwards, which expire through 2033, have valuation allowances totaling \$70 million. These valuation allowances relate to certain foreign and U.S. state NOLs and are required because management has determined, based on financial projections and available tax strategies, that it is unlikely that the NOLs will be utilized before they expire. If events or circumstances change, valuation allowances are adjusted at that time resulting in an income tax benefit or charge.

A provision has not been made for additional U.S. federal or foreign taxes at December 31, 2016 of approximately \$12 billion of undistributed earnings of foreign subsidiaries because Praxair intends to reinvest these funds indefinitely to support foreign growth opportunities. It is not practicable to estimate the unrecognized deferred tax liability on these undistributed earnings. These earnings could become subject to additional tax if they are remitted as dividends, loaned to Praxair in the U.S., or upon sale of the subsidiary's stock.

Uncertain Tax Positions

Unrecognized income tax benefits represent income tax positions taken on income tax returns but not yet recognized in the consolidated financial statements. The company has unrecognized income tax benefits totaling \$56 million, \$68 million and \$71 million as of December 31, 2016, 2015 and 2014, respectively. If recognized, essentially all of the unrecognized tax benefits and related interest and penalties would be recorded as a benefit to income tax expense on the consolidated statement of income.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

<i>(Millions of dollars)</i>	2016	2015	2014
Unrecognized income tax benefits, January 1	\$ 68	\$ 71	\$ 121
Additions for tax positions of prior years	6	21	13
Reductions for tax positions of prior years	(15)	(13)	(2)
Additions for current year tax positions	-	-	3
Reductions for settlements with taxing authorities (a)	(2)	(3)	(3)
Reductions as a result of a lapse of an applicable statute of limitations (b)	-	-	(56)
Foreign currency translation and other	(1)	(8)	(5)
Unrecognized income tax benefits, December 31	\$ 56	\$ 68	\$ 71

(a) Settlements are uncertain tax positions that were effectively settled with the taxing authorities, including positions where the company has agreed to amend its tax returns to eliminate the uncertainty.

(b) See note (b) to the effective tax rate reconciliation.

Praxair classifies interest income and expense related to income taxes as tax expense in the consolidated statement of income. Praxair recognized net interest income of \$10 million in 2016, none in 2015 and \$3 million in 2014. Praxair had \$6 million and \$8 million of accrued interest and penalties as of December 31, 2016 and December 31, 2015, respectively which were recorded in other long-term liabilities in the consolidated balance sheets (see Note 7).

Table of Contents

As of December 31, 2016, the company remained subject to examination in the following major tax jurisdictions for the tax years as indicated below:

Major tax jurisdictions	Open Years
North America	
United States	2011 through 2016
Canada	2009 through 2016
Mexico	2011 through 2016
Europe	
Germany	2011 through 2016
Italy	2012 through 2016
Spain	2004 through 2016
South America	
Brazil	2005 through 2016
Asia	
China	2011 through 2016
India	2006 through 2016
Korea	2012 through 2016
Thailand	2010 through 2016

The company is currently under audit in a number of tax jurisdictions. As a result, it is reasonably possible that some of these audits will conclude or reach the stage where a change in unrecognized income tax benefits may occur within the next twelve months. At that time, the company will record any adjustment to income tax expense as required. In 2016, settlements were not material to the consolidated financial statements. The company is also subject to income taxes in many hundreds of state and local taxing jurisdictions that are open to tax examinations.

NOTE 6. EARNINGS PER SHARE - PRAXAIR, INC. SHAREHOLDERS

Basic earnings per share is computed by dividing Net income - Praxair, Inc. for the period by the weighted average number of Praxair common shares outstanding. Diluted earnings per share is computed by dividing Net income - Praxair, Inc. for the period by the weighted average number of Praxair common shares outstanding and dilutive common stock equivalents, as follows:

	2016	2015	2014
Numerator (Millions of dollars)			
Net income - Praxair, Inc.	\$ 1,500	\$ 1,547	\$ 1,694
Denominator (Thousands of shares)			
Weighted average shares outstanding	285,289	286,606	291,987
Shares earned and issuable under compensation plans	388	399	507
Weighted average shares used in basic earnings per share	285,677	287,005	292,494

Effect of dilutive securities			
Stock options and awards	2,080	2,050	3,114
Weighted average shares used in diluted earnings per share			
	287,757	289,055	295,608
Basic Earnings Per Common Share	\$ 5.25	\$ 5.39	\$ 5.79
Diluted Earnings Per Common Share	\$ 5.21	\$ 5.35	\$ 5.73

Stock options of 2,602,770 for the year ended December 31, 2016 and 2,696,785 for the year ended December 31, 2015 were antidilutive and therefore excluded in the computation of diluted earnings per share. There were no antidilutive shares for the year ended December 31, 2014.

F.2-49

Table of Contents**NOTE 7. SUPPLEMENTAL INFORMATION****Income Statement***(Millions of dollars)*

Year Ended December 31,	2016	2015	2014
Selling, General and Administrative			
Selling	\$ 493	\$ 507	\$ 572
General and administrative	652	645	736
	\$ 1,145	\$ 1,152	\$ 1,308

Year Ended December 31,	2016	2015	2014
Depreciation and Amortization			
Depreciation	\$ 1,071	\$ 1,059	\$ 1,123
Amortization of other intangibles (Note 10)	51	47	47
	\$ 1,122	\$ 1,106	\$ 1,170

Year Ended December 31,	2016	2015	2014
Other Income (Expenses) - Net			
Currency related net gains (losses)	\$ 1	\$ (2)	\$ 1
Partnership income	5	4	16
Severance expense	(7)	(5)	(22)
Business divestitures and asset gains (losses) - net	16	34	36
Other - net	8	(3)	(22)
	\$ 23	\$ 28	\$ 9

Year Ended December 31,	2016	2015	2014
Interest Expense - Net			
Interest incurred on debt	\$ 208	\$ 194	\$ 215
Interest capitalized	(34)	(33)	(38)
Bond redemption (a)	16	-	36
	\$ 190	\$ 161	\$ 213

Year Ended December 31,	2016	2015	2014
Income Attributable to Noncontrolling Interests			
Noncontrolling interests operations	\$ 35	\$ 34	\$ 40
Redeemable noncontrolling interests operations (Note 14)	3	10	12

\$ 38 \$ 44 \$ 52

F.2-50

Table of Contents**Balance Sheet***(Millions of dollars)*

December 31,	2016	2015
Accounts Receivable		
Trade	\$ 1,640	\$ 1,601
Other	122	101
	1,762	1,702
Less: allowance for doubtful accounts (b)	(121)	(101)
	\$ 1,641	\$ 1,601

December 31,	2016	2015
Inventories		
Raw materials and supplies	\$ 197	\$ 202
Work in process	45	48
Finished goods	308	281
	\$ 550	\$ 531

December 31,	2016	2015
Prepaid and Other Current Assets		
Deferred income taxes (Note 5) (c)	\$ -	\$ 184
Prepaid (d)	108	110
Other	57	53
	\$ 165	\$ 347

December 31,	2016	2015
Other Long-term Assets		
Pension assets (Note 16)	\$ 13	\$ 41
Insurance contracts (e)	74	74
Long-term receivables, net (f)	46	33
Deposits	56	48
Investments carried at cost	14	12
Deferred charges	51	50
Deferred income taxes (Note 5) (c)	185	118
Other	119	100
	\$ 558	\$ 476

December 31,	2016	2015
Other Current Liabilities		
Accrued expenses	\$ 285	\$ 247
Payroll	141	114
Cost reduction program (Note 2)	59	44
Pension and postretirement (Note 16)	24	29
Interest payable	78	71
Employee benefit accrual	23	22
Insurance reserves	8	8
Other	223	167
	\$ 841	\$ 702

F.2-51

Table of Contents

December 31,	2016	2015
Other Long-term Liabilities		
Pension and postretirement (Note 16)	\$ 863	\$ 760
Tax liabilities for uncertain tax positions	44	56
Cost reduction program (Note 2)	6	6
Interest and penalties for uncertain tax positions (Note 5)	6	8
Insurance reserves	25	24
Other	269	301
	\$ 1,213	\$ 1,155
December 31,	2016	2015
Deferred Credits		
Deferred income taxes (Note 5) (c)	\$ 1,209	\$ 1,328
Other	63	62
	\$ 1,272	\$ 1,390
December 31,	2016	2015
Accumulated Other Comprehensive Income (Loss)		
Cumulative translation adjustment - net of taxes:		
North America (g)	\$ (1,038)	\$ (899)
South America (g)	(1,969)	(2,272)
Europe (g)	(504)	(526)
Asia (g)	(383)	(285)
Surface Technologies	(52)	(36)
	(3,946)	(4,018)
Derivatives - net of taxes	(1)	(1)
Pension/OPEB funded status obligation (net of \$352 million and \$325 million tax benefit in 2016 and 2015, respectively) (Note 16)	(653)	(577)
	\$ (4,600)	\$ (4,596)

- (a) In February 2016, Praxair redeemed \$325 million of 5.20% notes due March 2017 resulting in a \$16 million interest charge (\$10 million after-tax, or \$0.04 per diluted share). In December 2014, Praxair redeemed \$400 million of 5.375% notes due November 2016 for \$434 million resulting in an \$36 million charge (\$22 million after-tax, or \$0.07 per diluted share).
- (b) Provisions to the allowance for doubtful accounts were \$41 million, \$35 million, and \$39 million in 2016, 2015, and 2014, respectively. The allowance activity in each period related primarily to write-offs of uncollectible amounts, net of recoveries and currency movements.
- (c) 2016 amounts reflect the adoption of the FASB's standard regarding Balance Sheet Classification of Deferred Taxes which requires all current deferred income tax assets and liabilities to be classified as non-current on the

balance sheet (see Note 1).

- (d) Includes estimated income tax payments of \$39 million and \$42 million in 2016 and 2015, respectively.
- (e) Consists primarily of insurance contracts and other investments to be utilized for non-qualified pension and OPEB obligations.
- (f) Long-term receivables are not material and are largely reserved. The balances at December 31, 2016 and 2015 are net of reserves of \$50 million and \$35 million, respectively. The amounts in both periods relate primarily to government receivables in Brazil and other long-term notes receivable from customers. Collectability is reviewed regularly and uncollectible amounts are written-off as appropriate. The account balance changes during 2016 were primarily due to additional government receivables in Brazil and foreign exchange rate movements.
- (g) North America consists of currency translation adjustments in Canada and Mexico. South America relates primarily to Brazil and Argentina. Europe relates primarily to Spain, Italy and Germany. Asia relates primarily to Korea and India.

F.2-52

Table of Contents**NOTE 8. PROPERTY, PLANT AND EQUIPMENT - NET**

Significant classes of property, plant and equipment are as follows:

<i>(Millions of dollars)</i>	Depreciable		
	Lives (Yrs)	2016	2015
December 31,			
Production plants (primarily 15-year life) (a)	10-20	\$ 14,588	\$ 13,778
Storage tanks	15-20	2,360	2,196
Transportation equipment and other	3-15	2,038	1,925
Cylinders (primarily 30-year life)	10-30	1,722	1,654
Buildings	25-40	1,096	1,085
Land and improvements (b)	0-20	559	517
Construction in progress		1,558	1,539
		23,921	22,694
Less: accumulated depreciation		(12,444)	(11,696)
		\$ 11,477	\$ 10,998

(a) - Depreciable lives of production plants related to long-term customer supply contracts are consistent with the contract lives.

(b) - Land is not depreciated.

NOTE 9. GOODWILL

Changes in the carrying amount of goodwill for the years ended December 31, 2016 and 2015 were as follows:

<i>(Millions of dollars)</i>	North America	South America	Europe	Asia	Surface Technologies	Total
<i>Balance, December 31, 2014</i>	\$ 2,139	\$ 147	\$ 654	\$ 38	\$ 143	\$ 3,121
Acquisitions (Note 3)	21	9	-	23	3	56
Purchase adjustments & other *	(12)	-	-	-	-	(12)
Foreign currency translation	(37)	(58)	(72)	(2)	(10)	(179)
<i>Balance, December 31, 2015</i>	\$ 2,111	\$ 98	\$ 582	\$ 59	\$ 136	\$ 2,986
Acquisitions (Note 3)	61	9	71	-	-	141
Purchase adjustments & other	6	-	-	-	2	8

Foreign currency translation	(13)	25	(24)	(1)	(5)	(18)
<i>Balance, December 31, 2016</i>	\$ 2,165	\$ 132	\$ 629	\$ 58	\$ 133	\$ 3,117

* Primarily relates to the elimination of goodwill with a divestiture.

Praxair has performed its goodwill impairment tests annually during the second quarter of each year, and historically has determined that the fair value of each of its reporting units was substantially in excess of its carrying value. For the 2016 test, Praxair applied the FASB's accounting guidance which allows the company to first assess qualitative factors to determine the extent of additional quantitative analysis, if any, that may be required to test goodwill for impairment. Based on the qualitative assessments performed, Praxair concluded that it was more likely than not that the fair value of each reporting unit substantially exceeded its carrying value and therefore, further quantitative analysis was not required. As a result, no impairment was recorded. There were no indicators of impairment through December 31, 2016.

F.2-53

Table of Contents**NOTE 10. OTHER INTANGIBLE ASSETS**

The following is a summary of Praxair's other intangible assets at December 31, 2016 and 2015:

<i>(Millions of dollars)</i>	Customer & License/Use Agreements	Non-competes & Agreements	Patents & Other	Total
For the year ended December 31, 2016				
Cost:				
Balance, December 31, 2015	\$ 698	\$ 38	\$ 47	\$ 783
Additions (primarily acquisitions)	72	4	6	82
Foreign currency translation	(16)	(1)	(2)	(19)
Other *	(3)	(7)	-	(10)
Balance, December 31, 2016	751	34	51	836
Less: accumulated amortization:				
Balance, December 31, 2015	(179)	(23)	(13)	(215)
Amortization expense	(41)	(6)	(4)	(51)
Foreign currency translation	6	-	-	6
Other *	-	7	-	7
Balance, December 31, 2016	(214)	(22)	(17)	(253)
Net balance at December 31, 2016	\$ 537	\$ 12	\$ 34	\$ 583

<i>(Millions of dollars)</i>	Customer & License/Use Agreements	Non-competes & Agreements	Patents & Other	Total
For the year ended December 31, 2015				
Cost:				
Balance, December 31, 2014	\$ 693	\$ 37	\$ 47	\$ 777
Additions (primarily acquisitions)	23	2	1	26
Foreign currency translation	(21)	(1)	(1)	(23)
Other *	3	-	-	3
Balance, December 31, 2015	698	38	47	783
Less: accumulated amortization:				
Balance, December 31, 2014	(147)	(18)	(9)	(174)
Amortization expense	(37)	(6)	(4)	(47)
Foreign currency translation	7	1	-	8
Other *	(2)	-	-	(2)
Balance, December 31, 2015	(179)	(23)	(13)	(215)

Net balance at December 31, 2015	\$	519	\$	15	\$	34	\$	568
----------------------------------	----	-----	----	----	----	----	----	-----

* Other primarily relates to the write-off of fully amortized assets, purchase accounting adjustments and reclassifications.

There are no expected residual values related to these intangible assets. Amortization expense for the years ended December 31, 2016, 2015 and 2014 was \$51 million, \$47 million and \$47 million, respectively. The remaining weighted-average amortization period for intangible assets is approximately 17 years.

Total estimated annual amortization expense is as follows:

(Millions of dollars)

2017	\$	45
2018		42
2019		40
2020		38
2021		36
Thereafter		382
	\$	583

F.2-54

Table of Contents**NOTE 11. DEBT**

The following is a summary of Praxair's outstanding debt at December 31, 2016 and 2015:

<i>(Millions of dollars)</i>	2016	2015
Short-term		
Commercial paper and U.S. bank borrowings	\$ 333	\$ 87
Other bank borrowings (primarily international)	101	163
Total short-term debt	434	250
Long-term (a)		
U.S. borrowings		
0.75% Notes due 2016 (b)	-	400
Floating Rate Notes due 2017	150	150
5.20% Notes due 2017 (b)	-	325
1.05% Notes due 2017 (c)	400	399
1.20% Notes due 2018	499	499
1.25% Notes due 2018 (d)	478	480
4.50% Notes due 2019	598	597
1.90% Notes due 2019	499	499
1.50% Euro denominated notes due 2020	627	646
2.25% Notes due 2020	299	298
4.05% Notes due 2021	497	497
3.00% Notes due 2021	496	496
2.45% Notes due 2022	597	596
2.20% Notes due 2022	498	497
2.70% Notes due 2023	497	497
1.20% Euro denominated notes due 2024 (e)	575	-
2.65% Notes due 2025	397	396
1.625% Euro denominated notes due 2025	519	535
3.20% Notes due 2026 (e)	725	446
3.55% Notes due 2042	662	661
Other	12	3
International bank borrowings	49	57
Obligations under capital lease	7	7
	9,081	8,981
Less: current portion of long-term debt	(164)	(6)
Total long-term debt	8,917	8,975
Total debt	\$ 9,515	\$ 9,231

- (a) Amounts are net of unamortized discounts, premiums and/or debt issuance cost as applicable.
- (b) In February 2016, Praxair repaid \$400 million of 0.75% notes that became due. Also in February 2016, Praxair redeemed \$325 million of 5.20% notes due March 2017 resulting in a \$16 million interest charge (\$10 million after-tax, or \$0.04 per diluted share).
- (c) Classified as long-term because of the Company's intent to refinance this debt on a long-term basis and the availability of such financing under the terms of an existing \$2.5 billion long-term credit facility.
- (d) December 31, 2016 and 2015 include a \$4 million and \$6 million fair value increase, respectively, related to hedge accounting. See Note 12 for additional information.
- (e) In February 2016, Praxair issued \$550 million of 1.20% Euro-denominated notes due 2024. In addition, Praxair issued \$275 million of 3.20% notes due 2026. The proceeds of these debt issuances were used for general corporate purposes.

F.2-55

Table of Contents**Credit Facilities**

At December 31, 2016, the company has the following major credit facility available for future borrowing:

<i>Millions of dollars</i>	Total Facility	Borrowings Outstanding	Available for Borrowing	Expires
Senior Unsecured	\$ 2,500	\$ -	\$ 2,500	December 2019

The credit facility is non-cancellable by the issuing financial institutions until its maturity in December 2019. No borrowings were outstanding under the credit agreement at December 31, 2016.

Covenants

Praxair's \$2.5 billion senior unsecured credit facility and long-term debt agreements contain various covenants which may, among other things, restrict certain types of mergers and changes in beneficial ownership of the company, and the ability of the company to incur or guarantee debt, sell or transfer certain assets, create liens against assets, enter into sale and leaseback agreements, or pay dividends and make other distributions beyond certain limits. These agreements also require Praxair to not exceed a maximum 70% leverage ratio defined in the agreements as the ratio of consolidated total debt to the sum of consolidated total debt plus consolidated shareholders' equity of the company. For purposes of the leverage ratio calculation, consolidated shareholders' equity excludes changes in the cumulative foreign currency translation adjustments after June 30, 2011. At December 31, 2016, the actual leverage ratio, as calculated according to the agreement, was 52% and the company is in compliance with all financial covenants. Also, there are no material adverse change clauses or other subjective conditions that would restrict the company's ability to borrow under the agreement.

Other Debt Information

As of December 31, 2016 and 2015, the weighted-average interest rate of short-term borrowings outstanding was 1.2% and 3.4%, respectively. The decrease reflects the higher mix of international borrowings in prior year.

Expected maturities of long-term debt are as follows:

(Millions of dollars)

2017	\$	164*
2018		985
2019		1,503*
2020		938
2021		1,006
Thereafter		4,485
	\$	9,081

*

\$400 million of debt due in 2017 has been reflected in 2019 maturities due to the company's intent to refinance this debt on a long-term basis and the ability to do so under the \$2.5 billion senior unsecured credit facility with a syndicate of banks which expires in 2019.

As of December 31, 2016, \$5 million of Praxair's assets (principally international fixed assets) were pledged as collateral for \$5 million of long-term debt, including the current portion of long-term debt.

See Note 13 for the fair value information related to debt.

F.2-56

Table of Contents**NOTE 12. FINANCIAL INSTRUMENTS**

In its normal operations, Praxair is exposed to market risks relating to fluctuations in interest rates, foreign currency exchange rates, energy costs and to a lesser extent precious metal prices. The objective of financial risk management at Praxair is to minimize the negative impact of such fluctuations on the company's earnings and cash flows. To manage these risks, among other strategies, Praxair routinely enters into various derivative financial instruments (derivatives) including interest-rate swap and treasury rate lock agreements, currency-swap agreements, forward contracts, currency options, and commodity-swap agreements. These instruments are not entered into for trading purposes and Praxair only uses commonly traded and non-leveraged instruments.

There are three types of derivatives that the company enters into: (i) those relating to fair-value exposures, (ii) those relating to cash-flow exposures, and (iii) those relating to foreign currency net investment exposures. Fair-value exposures relate to recognized assets or liabilities, and firm commitments; cash-flow exposures relate to the variability of future cash flows associated with recognized assets or liabilities, or forecasted transactions; and net investment exposures relate to the impact of foreign currency exchange rate changes on the carrying value of net assets denominated in foreign currencies.

When a derivative is executed and hedge accounting is appropriate, it is designated as either a fair-value hedge, cash-flow hedge, or a net investment hedge. Currently, Praxair designates all interest-rate and treasury-rate locks as hedges for accounting purposes; however, currency contracts are generally not designated as hedges for accounting purposes unless they are related to forecasted transactions. Whether designated as hedges for accounting purposes or not, all derivatives are linked to an appropriate underlying exposure. On an ongoing basis, the company assesses the hedge effectiveness of all derivatives designated as hedges for accounting purposes to determine if they continue to be highly effective in offsetting changes in fair values or cash flows of the underlying hedged items. If it is determined that the hedge is not highly effective, then hedge accounting will be discontinued prospectively.

Counterparties to Praxair's derivatives are major banking institutions with credit ratings of investment grade or better and no collateral is required, and there are no significant risk concentrations. Management believes the risk of incurring losses on derivative contracts related to credit risk is remote and any losses would be immaterial.

The following table is a summary of the notional amount and fair value of derivatives outstanding at December 31, 2016 and 2015 for consolidated subsidiaries:

<i>(Millions of dollars)</i>	Notional Amounts		Fair Value			
			Assets		Liabilities	
December 31,	2016	2015	2016	2015	2016	2015
Derivatives Not Designated as Hedging Instruments:						
Currency contracts:						
Balance sheet items (a)	\$ 2,104	\$ 2,548	\$ 11	\$ 15	\$ 18	\$ 11
Derivatives Designated as Hedging Instruments:						
Currency contracts:						
Balance sheet items (a)	\$ 38	\$ 38	\$ 3	\$ 1	\$ -	\$ -
Interest rate contracts:						
Interest rate swaps (b)	475	475	4	6	-	-

Total Hedges	\$ 513	\$ 513	\$ 7	\$ 7	\$ -	\$ -
Total Derivatives	\$ 2,617	\$ 3,061	\$ 18	\$ 22	\$ 18	\$ 11

- (a) Assets are recorded in prepaid and other current assets, and liabilities are recorded in other current liabilities.
- (b) Assets are recorded in other long term assets.

F.2-57

Table of Contents**Currency Contracts*****Balance Sheet Items***

Foreign currency contracts related to balance sheet items consist of forward contracts entered into to manage the exposure to fluctuations in foreign-currency exchange rates on recorded balance sheet assets and liabilities denominated in currencies other than the functional currency of the related operating unit. Certain forward currency contracts are entered into to protect underlying monetary assets and liabilities denominated in foreign currencies from foreign exchange risk and are not designated as hedging instruments. The fair value adjustments on these contracts are offset by the fair value adjustments recorded on the underlying monetary assets and liabilities. Praxair also enters into forward currency contracts, which are designated as hedging instruments, to limit the cash flow exposure on certain foreign-currency denominated intercompany loans. The fair value adjustments on these contracts are recorded to AOCI, with the effective portion immediately reclassified to earnings to offset the fair value adjustments on the underlying debt instrument.

Forecasted Purchases

Foreign currency contracts related to forecasted purchases consist of forward contracts entered into to manage the exposure to fluctuations in foreign-currency exchange rates on forecasted purchases of capital-related equipment and services denominated in currencies other than the functional currency of the related operating units. These forward contracts were designated and accounted for as cash flow hedges.

Net Investment Hedges

In 2014, Praxair designated the 600 million (\$627 million as of December 31, 2016) 1.50% Euro-denominated notes due 2020 and the 500 million (\$519 million as of December 31, 2016) 1.625% Euro-denominated notes due 2025, as a hedge of the net investment position in its European operations. In 2016 Praxair designated an incremental 550 million (\$575 million as of December 31, 2016) 1.20% Euro-denominated notes due 2024 as an additional hedge of the net investment position in its European operations. These Euro-denominated debt instruments reduce the company's exposure to changes in the currency exchange rate on investments in foreign subsidiaries with Euro functional currencies. Since hedge inception, exchange rate movements have reduced long-term debt by \$339 million (\$78 million of which was during the year ended December 31, 2016), with the offsetting gain shown within the cumulative translation component of AOCI in the consolidated balance sheets and the consolidated statements of comprehensive income.

Interest Rate Contracts***Outstanding Interest Rate Swaps***

At December 31, 2016, Praxair had one outstanding interest rate swap agreement with a \$475 million notional amount related to the \$475 million 1.25% notes that mature in 2018. The interest rate swap effectively converts fixed-rate interest to variable-rate interest and is designated as a fair value hedge. Fair value adjustments are recognized in earnings along with an equally offsetting charge / benefit to earnings for the changes in the fair value of the underlying debt instrument. At December 31, 2016, \$4 million was recognized as an increase in the fair value of this note (\$6 million at December 31, 2015).

Table of Contents**Terminated Treasury Rate Locks**

The following table summarizes the unrecognized gains (losses) related to terminated treasury rate lock contracts:

<i>(Millions of dollars)</i>	Year Terminated	Original Gain / (Loss)	Unrecognized Gain / (Loss) (a)	
			December 31, 2016	December 31, 2015
Treasury Rate Locks				
<i>Underlying debt instrument:</i>				
\$500 million 2.20% fixed-rate notes that mature in 2022 (b)	2012	\$ (2)	\$ (1)	\$ (1)
\$500 million 3.00% fixed-rate notes that mature in 2021 (b)	2011	(11)	(5)	(6)
\$600 million 4.50% fixed-rate notes that mature in 2019 (b)	2009	16	4	6
Total - pre-tax			\$ (2)	\$ (1)
Less: income taxes			1	-
After- tax amounts			\$ (1)	\$ (1)

- (a) The unrecognized gains / (losses) for the treasury rate locks are shown in accumulated other comprehensive income (AOCI) and are being recognized on a straight line basis to interest expense - net over the term of the underlying debt agreements. Refer to the table below summarizing the impact of the company's consolidated statements of income and AOCI for current period gain (loss) recognition.
- (b) The notional amount of the treasury rate lock contracts are equal to the underlying debt instrument with the exception of the treasury rate lock contract entered into to hedge the \$600 million 4.50% fixed-rate notes that mature in 2019. The notional amount of this contract was \$500 million.

The following table summarizes the impact of the company's derivatives not designated as hedging instruments on the consolidated statements of income:

<i>(Millions of dollars)</i>	Amount of Pre-Tax Gain (Loss) Recognized in Earnings *		
December 31,	2016	2015	2014
Derivatives Not Designated as Hedging Instruments			
<i>Currency contracts:</i>			
<i>Balance sheet items:</i>			
Debt-related	\$ 21	\$ (162)	\$ (69)
Other balance sheet items	4	(8)	(2)
Total	\$ 25	\$ (170)	\$ (71)

- * The gains (losses) on balance sheet items are offset by gains (losses) recorded on the underlying hedged assets and liabilities. Accordingly, the gains (losses) for the derivatives and the underlying hedged assets and liabilities related to debt items are recorded in the consolidated statements of income as interest expense-net. Other balance sheet items and anticipated net income gains (losses) are recorded in the consolidated statements of income as other income (expenses)-net.

F.2-59

Table of Contents

The following table summarizes the impact of the company's derivatives designated as hedging instruments that impact AOCI:

<i>(Millions of dollars)</i> December 31,	Amount of Gain (Loss) Recognized in AOCI			Amount of Gain (Loss) Reclassified from AOCI to the Consolidated Statement of Income		
	2016	2015	2014	2016	2015	2014
Derivatives Designated as Hedging Instruments**						
Currency contracts:						
Net Investment hedge	\$ (4)	\$ -	\$ (6)	\$ -	\$ -	\$ -
Forecasted purchases	-	-	1	-	-	-
Balance sheet items	1	1	-	-	(1)	-
Interest rate contracts:						
Treasury rate locks	-	-	-	(1)	-	-
Total - Pre tax	\$ (3)	\$ 1	\$ (5)	\$ (1)	\$ (1)	\$ -
Less: income taxes	-	-	2	1	-	-
Total - Net of Taxes	\$ (3)	\$ 1	\$ (3)	\$ -	\$ (1)	\$ -

** The gains (losses) on net investment hedges are recorded as a component of AOCI within foreign currency translation adjustments in the consolidated balance sheets and consolidated statements of comprehensive income. The gains (losses) on forecasted purchases, balance sheet items, and treasury rate locks are recorded as a component of AOCI within derivative instruments in the consolidated balance sheets and the consolidated statements of comprehensive income. There was no ineffectiveness for these instruments during 2016 or 2015. The gains (losses) on net investment hedges are reclassified to earnings only when the related currency translation adjustments are required to be reclassified, usually upon sale or liquidation of the investment. The gains (losses) for interest rate contracts are reclassified to earnings as interest expense -net on a straight-line basis over the remaining maturity of the underlying debt. Net losses of approximately \$1 million are expected to be reclassified to earnings during 2017.

NOTE 13. FAIR VALUE DISCLOSURES

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels as follows:

Level 1 - quoted prices in active markets for identical assets or liabilities

Level 2 - quoted prices for similar assets and liabilities in active markets or inputs that are observable

Level 3 - inputs that are unobservable (for example cash flow modeling inputs based on assumptions)

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The following table summarizes assets and liabilities measured at fair value on a recurring basis at December 31, 2016 and 2015:

<i>(Millions of dollars)</i>	Fair Value Measurements Using					
	Level 1		Level 2		Level 3	
	2016	2015	2016	2015	2016	2015
Assets						
Derivative assets	\$ -	\$ -	\$ 18	\$ 22	\$ -	\$ -
Liabilities						
Derivative liabilities	\$ -	\$ -	\$ 18	\$ 11	\$ -	\$ -

F.2-60

Table of Contents

The fair values of the derivative assets and liabilities are based on market prices obtained from independent brokers or determined using quantitative models that use as their basis readily observable market parameters that are actively quoted and can be validated through external sources, including third-party pricing services, brokers and market transactions. Investments are marketable securities traded on an exchange.

The fair value of cash and cash equivalents, short-term debt, accounts receivables-net, and accounts payable approximate carrying value because of the short-term maturities of these instruments. The fair value of long-term debt is estimated based on the quoted market prices for the same or similar issues, which is deemed a Level 2 measurement. At December 31, 2016, the estimated fair value of Praxair's long-term debt portfolio was \$9,218 million versus a carrying value of \$9,081 million. At December 31, 2015, the estimated fair value of Praxair's long-term debt portfolio was \$9,069 million versus a carrying value of \$8,981 million. These differences are attributable to interest-rate changes subsequent to when the debt was issued.

NOTE 14. EQUITY AND NONCONTROLLING INTERESTS*Praxair, Inc. Shareholders' Equity*

At December 31, 2016 and 2015, there were 800,000,000 shares of common stock authorized (par value \$0.01 per share) of which 383,230,625 shares were issued and 284,900,776 were outstanding at December 31, 2016 (284,879,079 were outstanding at December 31, 2015).

At December 31, 2016 and 2015, there were 25,000,000 shares of preferred stock (par value \$0.01 per share) authorized, of which no shares were issued and outstanding. Praxair's Board of Directors may from time to time authorize the issuance of one or more series of preferred stock and, in connection with the creation of such series, determine the characteristics of each such series including, without limitation, the preference and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions of the series.

Noncontrolling Interests

Noncontrolling interest ownership changes are presented within the Additions (Reductions) line item of the consolidated statements of equity. The \$20 million increase during 2016 relates to the sale of an ownership interest in a majority-owned joint venture in India during the third quarter offset by the formation of PG Technologies, LLC (PGT), a majority-owned joint venture with GE Aviation, during the fourth quarter. The Additions (Reductions) line item of the consolidated statements of equity also includes an increase to Additional Paid-In Capital resulting from the sale of the noncontrolling interest to the PGT joint venture partner.

Redeemable Noncontrolling Interests

Noncontrolling interests with redemption features, such as put/sell options, that are not solely within the company's control (redeemable noncontrolling interests) are reported separately in the consolidated balance sheets at the greater of carrying value or redemption value. For redeemable noncontrolling interests that are not yet exercisable, Praxair calculates the redemption value by accreting the carrying value to the redemption value over the period until exercisable. If the redemption value is greater than the carrying value, any increase is adjusted directly to retained earnings and does not impact net income. At December 31, 2016, the redeemable noncontrolling interest balance includes one packaged gas distributor in the United States where the noncontrolling shareholder has a put option.

Table of Contents

The following is a summary of redeemable noncontrolling interests for the years ended December 31, 2016, 2015 and 2014:

<i>(Millions of dollars)</i>	2016	2015	2014
<i>Beginning Balance</i>	\$ 113	\$ 176	\$ 307
Net income	3	10	12
Distributions to noncontrolling interest	(2)	(7)	(9)
Redemption value adjustment/accretion *	(6)	(40)	2
Foreign currency translation and other	7	(17)	(24)
Purchase/divestiture of noncontrolling interest **	(104)	(9)	(112)
<i>Ending Balance</i>	\$ 11	\$ 113	\$ 176

* In December 2015, Praxair sold its controlling interest in Praxair Distribution Southeast, LLC and, accordingly, removed the related redeemable noncontrolling interests.

** In June 2016, Praxair acquired the remaining 34% stake in a Scandinavian joint venture for \$104 million. In January 2014, Praxair acquired the remaining noncontrolling interests in a joint venture in the United States. The cash payments related to these acquisitions are shown in the financing section of the consolidated statements of cash flows under the caption Noncontrolling interest transactions and other as there was no change in control.

NOTE 15. SHARE-BASED COMPENSATION

Share-based compensation expense was \$39 million in 2016 (\$30 million and \$51 million in 2015 and 2014, respectively). The income tax benefit recognized was \$32 million in 2016 (\$8 million and \$14 million in 2015 and 2014, respectively). 2016 includes \$20 million of excess tax benefits related to the new accounting standard implemented (see Note 1 and Note 5). Expense amounts reflect current estimates of achieving performance targets relating to performance-based compensation. The expense was primarily recorded in selling, general and administrative expenses and no share-based compensation expense was capitalized.

Summary of Plans

The 2009 Praxair, Inc. Long-Term Incentive Plan was initially adopted by the board of directors and shareholders of the company on April 28, 2009 and was amended and restated in its entirety by the board and shareholders on April 22, 2014 (the 2009 Plan). Prior to April 28, 2009, equity awards were granted under the 2002 Praxair, Inc. Long-Term Incentive Plan and the company's ability to make further equity awards under that plan ended with its adoption of the 2009 Plan. The 2009 Plan permits awards of stock options, stock appreciation rights, restricted stock and restricted stock units, performance-based stock units and other equity awards to eligible officer and non-officer employees and non-employee directors of the company and its affiliates. Under the 2009 Plan, as amended and restated in 2014, the aggregate number of shares available for option and other equity grants is 8,000,000 shares, of which up to 2,600,000 shares may be granted as awards other than options or stock appreciation rights. The 2009 Plan also provides calendar year per-participant limits on grants of stock options and stock appreciation rights and on other types of awards intended to qualify as Performance-Based Compensation under Section 162(m) of the Internal Revenue Code. As of December 31, 2016, 3,993,818 shares remained available for equity grants under the 2009 Plan.

In 2005, the board of directors and shareholders of the company adopted the 2005 Equity Compensation Plan for Non-Employee Directors of Praxair, Inc. (the 2005 Plan). Under the 2005 Plan, the aggregate number of shares available for option and other equity grants was limited to a total of 500,000 shares. The 2005 Plan expired on April 30, 2010, by its own terms, and no shares were available for grant thereafter.

Exercise prices for options granted under the 2009 Plan may not be less than the closing market price of the company s common stock on the date of grant and granted options may not be re-priced or exchanged without shareholder approval. Options granted under the 2009 Plan subject only to time vesting requirements

F.2-62

Table of Contents

may become partially exercisable after a minimum of one year after the date of grant but may not become fully exercisable until at least three years have elapsed from the date of grant, and all options have a maximum duration of ten years. Options granted under predecessor plans had similar terms.

In order to satisfy option exercises and other equity grants, the Company may issue authorized but previously unissued shares or it may issue treasury shares.

Stock Option Fair Value

The company utilizes the Black-Scholes Options-Pricing Model to determine the fair value of stock options consistent with that used in prior years. Management is required to make certain assumptions with respect to selected model inputs, including anticipated changes in the underlying stock price (i.e., expected volatility) and option exercise activity (i.e., expected life). Expected volatility is based on the historical volatility of the company's stock over the most recent period commensurate with the estimated expected life of the company's stock options and other factors. The expected life of options granted, which represents the period of time that the options are expected to be outstanding, is based primarily on historical exercise experience. The expected dividend yield is based on the company's most recent history and expectation of dividend payouts. The risk-free rate is based on the U.S. Treasury yield curve in effect at the time of grant for a period commensurate with the estimated expected life. If factors change and result in different assumptions in future periods, the stock option expense that the company records for future grants may differ significantly from what the company has recorded in the current period.

The weighted-average fair value of options granted during 2016 was \$8.91 (\$11.99 in 2015 and \$14.62 in 2014) based on the Black-Scholes Options-Pricing model. The decrease in grant date fair value year-over-year is primarily attributable to a decrease in the company's stock price as of the grant date.

The following weighted-average assumptions were used to value the grants in 2016, 2015 and 2014:

Year Ended December 31,	2016	2015	2014
Dividend yield	2.9%	2.2%	2.0%
Volatility	14.4%	13.5%	15.2%
Risk-free interest rate	1.41%	1.51%	1.57%
Expected term years	6	5	5

The following table summarizes option activity under the plans as of December 31, 2016 and changes during the period then ended (averages are calculated on a weighted basis; life in years; intrinsic value expressed in millions):

Activity	Number of Options (000 s)	Average Exercise Price	Average Remaining Life	Aggregate Intrinsic Value
Outstanding at January 1, 2016	11,273	\$ 96.58		
Granted	2,473	102.23		
Exercised	(1,821)	70.17		
Cancelled or expired	(217)	111.25		
Outstanding at December 31, 2016	11,708	\$ 101.58	5.6	\$ 212

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Exercisable at December 31, 2016	8,018	\$	96.90	4.2	\$	177
----------------------------------	-------	----	-------	-----	----	-----

The aggregate intrinsic value represents the difference between the company's closing stock price of \$117.19 as of December 31, 2016 and the exercise price multiplied by the number of in the money options outstanding as of that date. The total intrinsic value of stock options exercised during 2016 was \$82 million (\$65 million and \$93 million in 2015 and 2014, respectively).

F.2-63

Table of Contents

Cash received from option exercises under all share-based payment arrangements for 2016 was \$128 million (\$72 million and \$88 million in 2015 and 2014, respectively). The cash tax benefit realized from share-based compensation totaled \$32 million for 2016 (\$33 million and \$48 million cash tax benefit in 2015 and 2014, respectively).

As of December 31, 2016, \$17 million of unrecognized compensation cost related to non-vested stock options is expected to be recognized over a weighted-average period of approximately 1 year.

Performance-Based and Restricted Stock Awards

In 2016, the company granted performance-based stock awards under the 2009 Plan to senior level executives of 240,505 shares that vest, subject to the attainment of pre-established minimum performance criteria, principally on the third anniversary of their date of grant. These awards are tied to either return on capital (ROC) performance or relative total shareholder return (TSR) performance versus that of the S&P 500. The actual number of shares issued in settlement of a vested award can range from zero to 200 percent of the target number of shares granted based upon the company's attainment of specified performance targets at the end of a three-year period. Compensation expense related to these awards is recognized over the three-year performance period based on the fair value of the closing market price of the company's common stock on the date of the grant and the estimated performance that will be achieved. Compensation expense for ROC awards will be adjusted during the three-year performance period based upon the estimated performance levels that will be achieved. TSR awards are measured at their grant date fair value and not subsequently re-measured.

There were 97,924 restricted stock units granted to employees during 2016. In addition, the company had previously granted restricted stock to certain key employees that vest after a designated service period ranging from 2 to 10 years although the majority of the restricted stock units vest at the end of a three-year service period. Generally, restricted stock does not earn quarterly dividends while vesting. Compensation expense related to the restricted stock units is recognized on a straight-line basis over the vesting period.

The weighted-average fair value of ROC performance-based stock awards and restricted stock units granted during 2016 was \$93.46 and \$98.18, respectively (\$120.04 and \$120.24 in 2015 and \$121.16 and \$122.55 in 2014). These fair values are based on the closing market price of Praxair's common stock on the grant date adjusted for dividends that will not be paid during the vesting period.

The weighted-average fair value of performance-based stock tied to relative TSR performance granted during 2016 was \$124.18 per unit (none in 2015 and 2014), and was estimated using a Monte Carlo simulation performed as of the grant date.

The following table summarizes non-vested performance-based and restricted stock award activity as of December 31, 2016 and changes during the period then ended (shares based on target amounts, averages are calculated on a weighted basis):

	Performance-Based		Restricted Stock	
	Number of	Average	Number of	Average
	Shares	Grant Date	Shares	Grant Date
	(000 s)	Fair Value	(000 s)	Fair Value
Non-vested at January 1, 2016	802	\$ 114.41	286	\$ 112.48

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Granted	241	105.34	98	98.18
Vested	(109)	103.79	(93)	105.92
Cancelled and Forfeited	(220)	105.63	(17)	113.91
Non-vested at December 31, 2016	714	\$ 115.72	274	\$ 109.49

F.2-64

Table of Contents

There are approximately 11 thousand performance-based shares and 11 thousand restricted stock shares that are non-vested at December 31, 2016 which will be settled in cash due to foreign regulatory limitations. The liability related to these grants reflects the current estimate of performance that will be achieved and the current common stock price.

As of December 31, 2016, based on current estimates of future performance, \$19 million of unrecognized compensation cost related to performance-based awards and \$11 million of unrecognized compensation cost related to the restricted stock awards is expected to be recognized primarily through the first quarter of 2019.

NOTE 16. RETIREMENT PROGRAMS***Defined Benefit Pension Plans***

Praxair has two main U.S. retirement programs which are non-contributory defined benefit plans: the Praxair Pension Plan and the CBI Pension Plan. The latter program benefits primarily former employees of CBI Industries, Inc. which Praxair acquired in 1996. Effective July 1, 2002, the Praxair Pension Plan was amended to give participating employees a one-time choice to remain covered by the old formula or to elect coverage under a new formula. The old formula is based predominantly on years of service, age and compensation levels prior to retirement, while the new formula provides for an annual contribution to an individual account which grows with interest each year at a predetermined rate. Also, this new formula applies to all new employees hired after April 30, 2002 into businesses adopting this plan. The U.S. and international pension plan assets are comprised of a diversified mix of investments, including domestic and international corporate equities, government securities and corporate debt securities. Praxair has several plans that provide supplementary retirement benefits primarily to higher level employees that are unfunded and are nonqualified for federal tax purposes. Pension coverage for employees of certain of Praxair's international subsidiaries generally is provided by those companies through separate plans. Obligations under such plans are primarily provided for through diversified investment portfolios, with some smaller plans provided for under insurance policies or by book reserves.

Multi-employer Pension Plans

In the United States Praxair participates in seven multi-employer defined benefit pension plans (MEPs), pursuant to the terms of collective bargaining agreements, covering approximately 200 union-represented employees. The collective bargaining agreements expire on different dates through 2021. In connection with such agreements, the Company is required to make periodic contributions to the MEPs in accordance with the terms of the respective collective bargaining agreements. Praxair's participation in these plans is not material either at the plan level or in the aggregate. Praxair's contributions to these plans were \$2 million in 2016, 2015, and 2014 (these costs are not included in the tables that follow). For all MEPs, Praxair's contributions were significantly less than 1% of the total contributions to each plan for 2015 and 2014. Total 2016 contributions were not yet available from the MEPs.

Praxair has obtained the most recently available Pension Protection Act (PPA) zone status letters from the Trustees of the MEPs. The PPA classifies MEPs as either Red, Yellow or Green zone plans. Among other factors, plans in the Red zone are generally less than 65 percent funded; plans in the Yellow zone are generally 65 to 80 percent funded; and plans in the Green zone are generally at least 80 percent funded. According to the most current data available, four of the MEPs that the Company participates in are in a Red zone status; one is in a Yellow zone status; and two are in a Green zone status. As of December 31, 2016, the five Red and Yellow Zone plans have pending or have implemented financial improvement or rehabilitation plans. Praxair does not currently anticipate significant future obligations due to the funding status of these plans. If Praxair determined it was probable that it would withdraw from an MEP, the Company would record a liability for its portion of the MEP's unfunded pension obligations, as calculated at that time.

Historically, such withdrawal payments have not been significant.

F.2-65

Table of Contents***Defined Contribution Plans***

Praxair's U.S. business employees are eligible to participate in the Praxair defined contribution savings plan. Employees may contribute up to 40% of their compensation, subject to the maximum allowable by IRS regulations. For the U.S. packaged gases business, company contributions to this plan are calculated as a percentage of salary based on age plus service. U.S. employees other than those in the packaged gases business have company contributions to this plan calculated on a graduated scale based on employee contributions to the plan. The cost for these defined contribution plans was \$28 million in 2016, \$28 million in 2015 and \$26 million in 2014 (these costs are not included in the tables that follow).

The defined contribution plans include a non-leveraged employee stock ownership plan (ESOP) which covers all employees participating in this plan. The collective number of shares of Praxair common stock in the ESOP totaled 2,703,391 at December 31, 2016.

Certain international subsidiaries of the company also sponsor defined contribution plans where contributions are determined under various formulas. The expense for these plans was \$18 million in 2016 and \$17 million in 2015 and 2014 (these expenses are not included in the tables that follow).

Postretirement Benefits Other Than Pensions (OPEB)

Praxair provides health care and life insurance benefits to certain eligible retired employees. These benefits are provided through various insurance companies and healthcare providers. Praxair is also obligated to make payments for a portion of postretirement benefits related to retirees of Praxair's former parent. Additionally, as part of the CBI acquisition in 1996, Praxair assumed responsibility for healthcare and life insurance benefit obligations for CBI's retired employees. All postretirement healthcare programs have cost caps that limit the company's exposure to future cost increases. In addition, as part of the retirement elections made for July 1, 2002, eligible employees were given the choice of maintaining coverage in the current retiree medical design (as may be amended from time to time), or to move to a design whereby coverage would be provided, but with no Praxair subsidy whatsoever. Also, all new employees hired after April 30, 2002 into a business adopting these plans will not receive a company subsidy. Praxair does not currently fund its postretirement benefits obligations. Praxair's retiree plans may be changed or terminated by Praxair at any time for any reason with no liability to current or future retirees.

Praxair uses a measurement date of December 31 for its pension and other post-retirement benefit plans.

Pension and Postretirement Benefit Costs

The components of net pension and OPEB costs for 2016, 2015 and 2014 are shown below:

<i>(Millions of dollars)</i> Year Ended December 31,	Pensions			OPEB		
	2016	2015	2014	2016	2015	2014
Service cost	\$ 45	\$ 54	\$ 49	\$ 2	\$ 3	\$ 4
Interest cost	100	112	121	6	7	11
Expected return on plan assets	(157)	(154)	(155)	-	-	-
Net amortization and deferral	59	79	60	(3)	(2)	(8)
	\$ 47	\$ 91	\$ 75	\$ 5	\$ 8	\$ 7

Net periodic benefit cost before pension settlement charges						
Pension settlement charges *	4	7	7	-	-	-
Net periodic benefit cost	\$ 51	\$ 98	\$ 82	\$ 5	\$ 8	\$ 7

* 2016 includes a \$4 million pension settlement charge related to lump sum benefits paid to retired senior managers in the third quarter. The third quarter of 2015 and the fourth quarter of 2014 both include charges of \$7 million, related primarily to the retirement of senior managers in the United States (see Note 2).

F.2-66

Table of Contents**Funded Status**

The changes in benefit obligation and plan assets for Praxair's pension and OPEB programs, including reconciliation of the funded status of the plans to amounts recorded in the consolidated balance sheet, as of December 31, 2016 and 2015 are shown below:

<i>(Millions of dollars)</i> Year Ended December 31,	Pensions				OPEB	
	2016 U.S.	2016 International	2015 U.S.	2015 International	2016	2015
Change in Benefit Obligation (PBO)						
Benefit obligation January 1	\$ 1,992	\$ 580	\$ 2,050	\$ 719	\$ 160	\$ 180
Service cost	31	14	36	18	2	3
Interest cost	70	30	80	32	6	7
Participant contributions	-	-	-	-	10	10
Plan amendment	-	(2)	-	2	(7)	-
Actuarial loss (gain)	104	76	(68)	(41)	4	(9)
Benefits paid	(131)	(33)	(106)	(32)	(20)	(24)
Foreign currency translation	-	1	-	(118)	1	(7)
Benefit obligation, December 31	\$ 2,066	\$ 666	\$ 1,992	\$ 580	\$ 156	\$ 160
Accumulated benefit obligation (ABO)	\$ 1,970	\$ 639	\$ 1,900	\$ 551		
Change in Plan Assets						
Fair value of plan assets, January 1	\$ 1,509	\$ 475	\$ 1,607	\$ 561	\$ -	\$ -
Actual return on plan assets	117	47	(11)	18	-	-
Company contributions	-	11	-	15	-	-
Benefits paid from plan assets	(119)	(26)	(87)	(28)	-	-
Foreign currency translation	-	-	-	(91)	-	-
Fair value of plan assets, December 31	\$ 1,507	\$ 507	\$ 1,509	\$ 475	\$ -	\$ -
Funded Status, End of Year	\$ (559)	\$ (159)	\$ (483)	\$ (105)	\$ (156)	\$ (160)
Recorded in the Balance Sheet						
Other long-term assets	\$ -	\$ 13	\$ -	\$ 41	\$ -	\$ -
Other current liabilities	(7)	(5)	(12)	(4)	(12)	(13)
Other long-term liabilities	(552)	(167)	(471)	(142)	(144)	(147)
Net amount recognized, December 31	\$ (559)	\$ (159)	\$ (483)	\$ (105)	\$ (156)	\$ (160)
Amounts recognized in accumulated other comprehensive income (loss) consist of:						
Net actuarial loss (gain)	\$ 832	\$ 189	\$ 782	\$ 135	\$ (20)	\$ (25)
Prior service cost (credit)	-	12	-	11	(8)	(1)

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Deferred tax benefit (Note 5)	(318)	(46)	(299)	(37)	12	11
Amount recognized in accumulated other comprehensive income (loss) (Note 7)	\$ 514	\$ 155	\$ 483	\$ 109	\$ (16)	\$ (15)

F.2-67

Table of Contents

The changes in plan assets and benefit obligations recognized in other comprehensive income in 2016 and 2015 are as follows:

<i>(Millions of dollars)</i>	Pensions		OPEB	
	2016	2015	2016	2015
Current year net actuarial losses (gains)*	\$ 172	\$ 38	\$ 4	\$ (9)
Amortization of net actuarial gains (losses)	(60)	(78)	3	2
Plan amendment	(2)	-	(7)	-
Amortization of prior service credits (costs)	1	(1)	-	-
Pension settlements (Note 2)	(4)	(7)	-	-
Foreign currency translation and other	(2)	(24)	(2)	6
Total recognized in other comprehensive income	\$ 105	\$ (72)	\$ (2)	\$ (1)

* Pension net actuarial losses in 2016 are primarily driven by liability experience as well as lower U.S. discount rates. Pension net actuarial losses in 2015 relate primarily to lower actual returns on plan assets when compared with 2014 offset by higher U.S. discount rates. OPEB net actuarial losses in 2016 are largely due to unfavorable plan experience whereas gains in 2015 relate primarily to higher discount rates and favorable plan experience. The amounts in accumulated other comprehensive income (loss) that are expected to be recognized as components of net periodic benefit cost during 2017 are as follows:

<i>(Millions of dollars)</i>	Pension	OPEB
Net actuarial loss (gain)	\$ 65	\$ 2
Prior service cost (credit)	2	1
	\$ 67	\$ 3

The following table provides information for pension plans where the accumulated benefit obligation exceeds the fair value of the plan assets:

<i>(Millions of dollars)</i>	Pensions			
	2016		2015	
Year Ended December 31,	U.S.	International	U.S.	International
Projected benefit obligation (PBO)	\$ 2,066	\$ 372	\$ 1,992	\$ 336
Accumulated benefit obligation (ABO)	\$ 1,970	\$ 365	\$ 1,900	\$ 324
Fair value of plan assets	\$ 1,507	\$ 199	\$ 1,509	\$ 188

Assumptions

The assumptions used to determine benefit obligations are as of the respective balance sheet dates and the assumptions used to determine net benefit cost are as of the previous year-end, as shown below:

	Pensions					
	U.S.		International		OPEB	
	2016	2015	2016	2015	2016	2015
<i>Weighted average assumptions used to determine benefit obligations at December 31,</i>						
Discount rate	4.05%	4.32%	5.09%	5.32%	4.21%	4.24%
Rate of increase in compensation levels	3.25%	3.25%	3.73%	3.57%	N/A	N/A
<i>Weighted average assumptions used to determine net periodic benefit cost for years ended December 31,</i>						
Discount rate (1)	4.32%	3.95%	5.32%	5.36%	4.24%	4.48%
Rate of increase in compensation levels	3.25%	3.25%	3.57%	3.72%	N/A	N/A
Expected long-term rate of return on plan assets (2)	8.00%	8.00%	7.92%	7.71%	N/A	N/A

F.2-68

Table of Contents

- (1) At the end of 2015, the Company changed the approach used to measure service and interest costs for significant pension and OPEB plans. Through 2015, Praxair measured service and interest costs utilizing a single weighted-average discount rate for each plan derived from the yield curve used to measure the respective plan obligations. Effective in 2016, the Company elected to measure service and interest costs for significant plans by applying the specific spot rates along that yield curve to the plan's expected cash flows (spot rate approach). The Company believes the new spot rate approach provides a more precise measurement of service and interest costs by aligning the timing of the plan's expected cash flows to the corresponding spot rates on the yield curve. This change does not affect the measurement of plan obligations nor the funded status of the plans. The Company has accounted for this change as a change in accounting estimate and, accordingly has accounted for it on a prospective basis.
- (2) The expected long term rate of return on the U.S. and international plan assets is estimated based on the plans investment strategy and asset allocation, historical capital market performance and, to a lesser extent, historical plan performance. For the U.S. plans, the expected rate of return of 8.00% was derived based on the target asset allocation of 50%-70% equity securities (approximately 9.5% expected return), 20%-40% fixed income securities (approximately 5.5% expected return) and 2% - 10% real estate funds (approximately 7% expected return). For the international plans, the expected rate of return was derived based on the weighted average target asset allocation of 30%-50% equity securities (approximately 10% expected return), 40%-60% fixed income securities (approximately 7.5% expected return), and 0%-10% alternative investments (approximately 7.5% expected return). For the U.S. plan assets, the actual annualized total returns for the most recent 10-year and 20-year periods ended December 31, 2016 were approximately 4.9% and 6.7%, respectively. For the international plan assets, the actual annualized total returns for the same two periods were approximately 6.9% and 8.6%, respectively. Changes to plan asset allocations and investment strategy over this time period limit the value of historical plan performance as factor in estimating the expected long term rate of return. For 2017, the expected long-term rate of return on plan assets will be 8.00% for the U.S. plans. Expected weighted average returns for international plans will vary.

<i>Assumed healthcare cost trend rates</i>	OPEB	
	2016	2015
Healthcare cost trend assumed	7.00%	7.00%
Rate to which the cost trend rate is assumed to decline (the ultimate trend rate)	5.00%	5.00%
Year that the rate reaches the ultimate trend rate	2020	2020

These healthcare-cost trend rate assumptions have an impact on the amounts reported. However, cost caps limit the impact on the net OPEB benefit cost in the U.S. To illustrate the effect, a one-percentage point change in assumed healthcare cost trend rates would have the following effects:

<i>(Millions of dollars)</i>	One-Percentage Point	
	Increase	Decrease
Effect on the total of service and interest cost components of net OPEB benefit cost	\$ -	\$ -
Effect on OPEB benefit obligation	\$ 4	\$ (3)

Pension Plan Assets

The investments of the U.S. pension plan are managed to meet the future expected benefit liabilities of the plan over the long term by investing in diversified portfolios consistent with prudent diversification and historical and expected capital market returns. When Praxair became an independent, publicly traded company in 1992, its former parent retained all liabilities for its term-vested and retired employees. Praxair's plan received assets and retained pension liabilities for its own active employee base. Therefore, the liabilities under the Praxair U.S. pension plan mature at a later date compared to pension funds of other similar companies. Investment strategies are reviewed by the Finance and Pension Committee of the company's Board of Directors and investment performance is tracked against appropriate benchmarks. There are no concentrations of risk as it relates to the assets within the plans.

The international pension plans are managed individually based on diversified investment portfolios, with different target asset allocations that vary for each plan. Praxair's U.S. and international pension plans

F.2-69

Table of Contents

weighted-average asset allocations at December 31, 2016 and 2015, and the target asset allocation range for 2016, by major asset category, are as follows:

Asset Category	U.S.		International			
	Target	2016	2015	Target	2016	2015
Equity securities	50%-70%	59%	62%	30%-50%	35%	50%
Fixed income securities	20%-40%	32%	30%	40%-60%	56%	41%
Other	2%-10%	9%	8%	0%-10%	9%	9%

The following table summarizes pension assets measured at fair value by asset category at December 31, 2016 and 2015. During the years presented, there has been no transfer of assets between Levels 1, 2 and 3 (see Note 13 for definition of the levels):

(Millions of dollars)	Fair Value Measurements Using						Total	
	Level 1		Level 2		Level 3 **		2016	2015
	2016	2015	2016	2015	2016	2015		
Cash and cash equivalents	\$ 3	\$ 1	\$ -	\$ -	\$ -	\$ -	\$ 3	\$ 1
Equity securities:								
U.S. equities	344	302	-	-	-	-	344	302
International equities	37	62	-	-	-	-	37	62
Mutual funds	2	236	-	-	-	-	2	236
Fixed income securities:								
U.S. government bonds	-	-	51	50	-	-	51	50
International government bonds	-	-	159	89	-	-	159	89
Mutual funds	104	91	-	-	-	-	104	91
Corporate bonds	-	-	194	163	-	-	194	163
Other:								
Insurance contracts	-	-	-	-	45	43	45	43
Real Estate Funds	-	-	-	-	135	123	135	123
Total plan assets at fair value, December 31,	\$ 490	\$ 692	\$ 404	\$ 302	\$ 180	\$ 166	\$ 1,074	\$ 1,160
Pooled funds *							940	824
Total fair value plan assets December 31,							\$ 2,014	\$ 1,984

* Pooled funds are measured using the net asset value (NAV) as a practical expedient for fair value as permissible under the accounting standard for fair value measurements and have not been categorized in the fair value

hierarchy in accordance with recently issued accounting standards updates related to Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share. Pooled fund NAVs are provided by the trustee and are determined by reference to the fair value of the underlying securities of the trust, less its liabilities, which are valued primarily through the use of directly or indirectly observable inputs. Depending on the pooled fund, underlying securities may include marketable equity securities or fixed income securities.

F.2-70

Table of Contents

** The following table summarizes changes in fair value of the pension plan assets classified as level 3 for the periods ended December 31, 2016 and 2015:

<i>(Millions of dollars)</i>	Insurance Contracts	Real Estate Funds	Total
Balance, December 31, 2014	\$ 53	\$ 110	\$ 163
Gain/(Loss) for the period	(4)	13	9
Acquisitions	-	-	-
Foreign currency translation	(6)	-	(6)
Balance, December 31, 2015	43	123	166
Gain/(Loss) for the period	3	12	15
Acquisitions	-	-	-
Foreign currency translation	(1)	-	(1)
Balance, December 31, 2016	\$ 45	\$ 135	\$ 180

The descriptions and fair value methodologies for the U.S. and international pension plan assets are as follows:

Cash and Cash Equivalents - This category includes cash and short-term interest bearing investments with maturities of three months or less. Investments are valued at cost plus accrued interest. Cash and cash equivalents are classified within level 1 of the valuation hierarchy.

Equity Securities - This category is comprised of shares of common stock in U.S. and international companies from a diverse set of industries and size. Common stock is valued at the closing market price reported on a U.S. or international exchange where the security is actively traded. Equity securities are classified within level 1 of the valuation hierarchy.

Mutual Funds - These categories consist of publicly and privately managed funds that invest primarily in marketable equity and fixed income securities. The fair value of these investments is determined by reference to the net asset value of the underlying securities of the fund. Shares of publicly traded mutual funds are valued at the net asset value quoted on the exchange where the fund is traded and are classified as level 1 within the valuation hierarchy.

U.S. and International Government Bonds - This category includes U.S. treasuries, U.S. federal agency obligations and international government debt. The majority of these investments do not have quoted market prices available for a specific government security and so the fair value is determined using quoted prices of similar securities in active markets and is classified as level 2 within the valuation hierarchy.

Corporate Bonds - This category is comprised of corporate bonds of U.S. and international companies from a diverse set of industries and size. The fair values for U.S. and international corporate bonds are determined using quoted prices of similar securities in active markets and observable data or broker or dealer quotations. The fair values for these investments are classified as level 2 within the valuation hierarchy.

Insurance Contracts - The fair value of insurance contracts is determined based on the cash surrender value of the insurance contract, which is determined based on such factors as the fair value of the underlying assets and discounted cash flows. These contracts are with highly rated insurance companies. Insurance contracts are classified within

level 3 of the valuation hierarchy.

Real Estate Funds - This category includes real estate properties, partnership equities and investments in operating companies. The fair value of the assets is determined using discounted cash flows by estimating an income stream for the property plus a reversion into a present value at a risk adjusted rate. Yield rates and growth assumptions utilized are derived from market transactions as well as other financial and industry data. The fair value for these investments are classified within level 3 of the valuation hierarchy.

F.2-71

Table of Contents***Contributions***

At a minimum, Praxair contributes to its pension plans to comply with local regulatory requirements (e.g., ERISA in the United States). Discretionary contributions in excess of the local minimum requirements are made based on many factors, including long-term projections of the plans' funded status, the economic environment, potential risk of overfunding, pension insurance costs and alternative uses of the cash. Changes to these factors can impact the timing of discretionary contributions from year to year. Pension contributions were \$11 million in 2016, \$15 million in 2015 and \$18 million in 2014. Estimated required contributions for 2017 are currently expected to be in the area of \$10 million to \$15 million.

Estimated Future Benefit Payments

The following table presents estimated future benefit payments, net of participants contributions:

<i>(Millions of dollars)</i> Year Ended December 31,	Pensions		
	U.S.	International	OPEB
2017	\$ 105	\$ 32	\$ 13
2018	115	32	12
2019	122	35	12
2020	123	37	11
2021	126	38	11
2022-2026	661	210	47

NOTE 17. COMMITMENTS AND CONTINGENCIES

The company accrues non income-tax liabilities for contingencies when management believes that a loss is probable and the amounts can be reasonably estimated, while contingent gains are recognized only when realized. In the event any losses are sustained in excess of accruals, they will be charged against income at that time. Attorney fees are recorded as incurred. Commitments represent obligations, such as those for future purchases of goods or services, that are not yet recorded on the company's balance sheet as liabilities. The company records liabilities for commitments when incurred (i.e., when the goods or services are received).

Contingent Liabilities

Praxair is subject to various lawsuits and government investigations that arise from time to time in the ordinary course of business. These actions are based upon alleged environmental, tax, antitrust and personal injury claims, among others. Praxair has strong defenses in these cases and intends to defend itself vigorously. It is possible that the company may incur losses in connection with some of these actions in excess of accrued liabilities. Management does not anticipate that in the aggregate such losses would have a material adverse effect on the company's consolidated financial position or liquidity; however, it is possible that the final outcomes could have a significant impact on the company's reported results of operations in any given period.

Significant matters are:

During May 2009, the Brazilian government published Law 11941/2009 instituting a new voluntary amnesty program (Refis Program) which allowed Brazilian companies to settle certain federal tax disputes at reduced amounts. During the 2009 third quarter, Praxair decided that it was economically beneficial to settle many of its outstanding federal tax disputes and such disputes were enrolled in the Refis Program, subject to final calculation and review by the Brazilian federal government. The Company recorded estimated liabilities based on the terms of the Refis Program. Since 2009, Praxair has been unable to reach final agreement on the calculations and recently initiated litigation against the government in an attempt to resolve certain items. Open issues relate to the following matters: (i) application of cash deposits and net operating loss carryforwards to satisfy obligations and (ii) the amount of tax reductions available under the Refis Program. It is difficult to estimate the timing of resolution of legal matters in Brazil.

F.2-72

Table of Contents

At December 31, 2016 the most significant non-income and income tax claims in Brazil, after enrollment in the Refis Program, relate to state VAT tax matters and a federal income tax matter where the taxing authorities are challenging the tax rate that should be applied to income generated by a subsidiary company. The total estimated exposure relating to such claims, including interest and penalties, as appropriate, is approximately \$225 million. Praxair has not recorded any liabilities related to such claims based on management judgments, after considering judgments and opinions of outside counsel. Because litigation in Brazil historically takes many years to resolve, it is very difficult to estimate the timing of resolution of these matters; however, it is possible that certain of these matters may be resolved within the near term. The company is vigorously defending against the proceedings.

On September 1, 2010, CADE (Brazilian Administrative Council for Economic Defense) announced alleged anticompetitive activity on the part of five industrial gas companies in Brazil and imposed fines on all five companies. Originally, CADE imposed a civil fine of R\$2.2 billion Brazilian reais (US\$675 million) against White Martins, the Brazil-based subsidiary of Praxair, Inc. In response to a motion for clarification, the fine was reduced to R\$1.7 billion Brazilian reais (US\$522 million) due to a calculation error made by CADE. The amount of the fine is subject to indexation using SELIC. On September 2, 2010, Praxair issued a press release and filed a report on Form 8-K rejecting all claims and stating that the fine represents a gross and arbitrary disregard of Brazilian law.

On October 19, 2010, White Martins filed an annulment petition (appeal) with the Federal Court in Brasilia seeking to have the fine against White Martins entirely overturned. In order to suspend payment of the fine pending the completion of the appeal process, Brazilian law required that the company tender a form of guarantee in the amount of the fine as security. Initially, 50% of the guarantee was satisfied by letters of credit with a financial institution and 50% by equity of a Brazilian subsidiary. On April 15, 2016, the Ninth Federal Court in Brasilia allowed White Martins to withdraw and cancel the letters of credit. Accordingly, the guarantee is currently satisfied solely by equity of a Brazilian subsidiary.

On September 14, 2015, the Ninth Federal Court of Brasilia overturned the fine against White Martins and declared the original CADE administrative proceeding to be null and void. On June 30, 2016, CADE filed an appeal against this decision with the Federal Circuit Court in Brasilia.

Praxair strongly believes that the allegations are without merit and that the fine will be entirely overturned during the appeal process. The company further believes that it has strong defenses and will vigorously defend against the allegations and related fine up to such levels of the Federal Courts in Brazil as may be necessary. Because appeals in Brazil historically take many years to resolve, it is very difficult to estimate when the appeal will be finally decided. Based on management judgments, after considering judgments and opinions of outside counsel, no reserve has been recorded for this proceeding as management does not believe that a loss is probable.

Table of Contents**Commitments and Contractual Obligations**

The following table sets forth Praxair's material commitments and contractual obligations as of December 31, 2016, excluding leases, tax liabilities for uncertain tax positions, long-term debt, other post retirement and pension obligations which are summarized elsewhere in the financial statements (see Notes 4, 5, 11, and 16):

<i>(Millions of dollars)</i> Expiring through December 31,	Unconditional Purchase Obligations	Construction Commitments
2017	\$ 585	\$ 836
2018	534	271
2019	476	125
2020	422	-
2021	434	-
Thereafter	2,645	-
	\$ 5,096	\$ 1,232

Unconditional purchase obligations of \$5,096 million represent contractual commitments under various long and short-term take-or-pay arrangements with suppliers and are not included on Praxair's balance sheet. These obligations are primarily minimum-purchase commitments for helium, electricity, natural gas and feedstock used to produce atmospheric and process gases. A significant portion of these obligations is passed on to customers through similar take-or-pay or other contractual arrangements. Purchase obligations that are not passed along to customers through such contractual arrangements are subject to market conditions, but do not represent a material risk to Praxair. During 2016, payments related to Praxair's unconditional purchase obligations totaled \$887 million, including \$444 million for electricity and \$150 million for natural gas. Approximately \$2,770 million of the purchase obligations relates to power and is intended to secure the uninterrupted supply of electricity and feedstock to Praxair's plants to reliably satisfy customer product supply obligations, and extend through 2030. Certain of the power contracts contain various cancellation provisions requiring supplier agreement, and many are subject to annual escalations based on local inflation factors. The purchase obligations also include a multi-year contract for silane, with a total purchase obligation of \$86 million as of December 31, 2016. At December 31, 2016, Praxair's current selling prices and estimated future demand for silane are in excess of its contractual purchase obligations under the contract.

Construction commitments of \$1,232 million represent outstanding commitments to complete authorized construction projects as of December 31, 2016. A significant portion of Praxair's capital spending is related to the construction of new production facilities to satisfy customer commitments which may take a year or more to complete.

Unconsolidated equity investees had total debt of approximately \$305 million at December 31, 2016, which was non-recourse to Praxair. Additionally, Praxair pledged its interest in an unconsolidated equity investment as collateral for \$22 million of debt held by that same equity investee. Praxair has no significant financing arrangements with closely-held related parties.

At December 31, 2016, Praxair had undrawn outstanding letters of credit, bank guarantees and surety bonds valued at approximately \$415 million from financial institutions. These relate primarily to customer contract performance guarantees (including plant construction in connection with certain on-site contracts), self-insurance claims and other commercial and governmental requirements, including foreign litigation matters.

NOTE 18. SEGMENT INFORMATION

The company's operations are organized into five reportable segments, four of which have been determined on a geographic basis of segmentation: North America, Europe, South America and Asia. In addition, Praxair operates its worldwide surface technologies business through its wholly-owned subsidiary, Praxair Surface Technologies, Inc., which represents the fifth reportable segment.

F.2-74

Table of Contents

Praxair's operations consist of two major product lines: industrial gases and surface technologies. The industrial gases product line centers on the manufacturing and distribution of atmospheric gases (oxygen, nitrogen, argon, rare gases) and process gases (carbon dioxide, helium, hydrogen, electronic gases, specialty gases, acetylene). Many of these products are co-products of the same manufacturing process. Praxair manufactures and distributes nearly all of its products and manages its customer relationships on a regional basis. Praxair's industrial gases are distributed to various end-markets within a regional segment through one of three basic distribution methods: on-site or tonnage; merchant or bulk; and packaged or cylinder gases. The distribution methods are generally integrated in order to best meet the customer's needs and very few of its products can be economically transported outside of a region. Therefore, the distribution economics are specific to the various geographies in which the company operates and are consistent with how management assesses performance.

Praxair evaluates the performance of its reportable segments based primarily on operating profit, excluding inter-company royalties and items not indicative of ongoing business trends. Corporate and globally managed expenses, and research and development costs relating to Praxair's global industrial gases business, are allocated to operating segments based on sales.

The table below presents information about reportable segments for the years ended December 31, 2016, 2015 and 2014.

<i>(Millions of dollars)</i>	2016	2015	2014
Sales (a)			
North America	\$ 5,592	\$ 5,865	\$ 6,436
Europe	1,392	1,320	1,546
South America	1,399	1,431	1,993
Asia	1,555	1,551	1,619
Surface Technologies	596	609	679
	\$ 10,534	\$ 10,776	\$ 12,273

	2016	2015	2014
Operating Profit			
North America	\$ 1,430	\$ 1,558	\$ 1,580
Europe	273	250	291
South America	257	291	449
Asia	276	289	303
Surface Technologies	102	105	123
Segment operating profit	2,338	2,493	2,746
Cost reduction program and other charges (Note 2)	(100)	(172)	(138)
Total operating profit	\$ 2,238	\$ 2,321	\$ 2,608

	2016	2015	2014
Total Assets (b)			

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

North America	\$ 10,019	\$ 9,748	\$ 10,187
Europe	2,928	2,704	2,996
South America	2,748	2,124	2,718
Asia	2,984	3,113	3,194
Surface Technologies	653	630	674
	\$ 19,332	\$ 18,319	\$ 19,769

F.2-75

Table of Contents

	2016	2015	2014
Depreciation and Amortization			
North America	\$ 614	\$ 609	\$ 611
Europe	155	145	168
South America	133	135	177
Asia	179	176	170
Surface Technologies	41	41	44
	\$ 1,122	\$ 1,106	\$ 1,170

	2016	2015	2014
Capital Expenditures and Acquisitions			
North America	\$ 989	\$ 869	\$ 837
Europe	402	227	319
South America	232	285	373
Asia	165	208	310
Surface Technologies	40	34	56
	\$ 1,828	\$ 1,623	\$ 1,895

	2016	2015	2014
Sales by Product Group			
Atmospheric gases and related	\$ 7,329	\$ 7,595	\$ 8,623
Process gases and other	2,609	2,572	2,971
Surface technologies	596	609	679
	\$ 10,534	\$ 10,776	\$ 12,273

	2016	2015	2014
Sales by Major Country			
United States	\$ 4,623	\$ 4,771	\$ 5,171
Brazil	1,091	1,107	1,511
Other - foreign	4,820	4,898	5,591
	\$ 10,534	\$ 10,776	\$ 12,273

	2016	2015	2014
Long-lived Assets by Major Country (c)			
United States	\$ 4,922	\$ 4,825	\$ 4,817
Brazil	1,262	986	1,344
Other - foreign	5,293	5,187	5,836
	\$ 11,477	\$ 10,998	\$ 11,997

- (a) Sales reflect external sales only. Intersegment sales, primarily from North America to other segments, were not material.
- (b) Includes equity investments as of December 31, as follows:

<i>(Millions of dollars)</i>	2016	2015	2014
North America	\$ 121	\$ 127	\$ 132
Europe	243	195	207
Asia	353	343	354
	\$ 717	\$ 665	\$ 693

Changes primarily relate to equity investment earnings, dividends and currency impacts.

- (c) Long-lived assets include property, plant and equipment - net.

F.2-76

Table of Contents**NOTE 19. QUARTERLY DATA (UNAUDITED)***(Dollar amounts in millions, except per share data)*

2016	1Q (a)	2Q	3Q (a)	4Q	YEAR (a)
Sales	\$ 2,509	\$ 2,665	\$ 2,716	\$ 2,644	\$ 10,534
Cost of sales, exclusive of depreciation and amortization	\$ 1,381	\$ 1,468	\$ 1,533	\$ 1,478	\$ 5,860
Depreciation and amortization	\$ 272	\$ 281	\$ 284	\$ 285	\$ 1,122
Operating profit	\$ 554	\$ 588	\$ 497	\$ 599	\$ 2,238
Net income - Praxair, Inc.	\$ 356	\$ 399	\$ 339	\$ 406	\$ 1,500

Basic Per Share Data

Net income	\$ 1.25	\$ 1.40	\$ 1.19	\$ 1.42	\$ 5.25
Weighted average shares (000 s)	285,429	285,702	285,858	285,720	285,677

Diluted Per Share Data

Net income	\$ 1.24	\$ 1.39	\$ 1.18	\$ 1.41	\$ 5.21
Weighted average shares (000 s)	286,665	287,727	288,195	287,956	287,757

2015	1Q	2Q (a)	3Q (a)	4Q	YEAR (a)
Sales	\$ 2,757	\$ 2,738	\$ 2,686	\$ 2,595	\$ 10,776
Cost of sales, exclusive of depreciation and amortization	\$ 1,530	\$ 1,516	\$ 1,488	\$ 1,426	\$ 5,960
Depreciation and amortization	\$ 277	\$ 278	\$ 276	\$ 275	\$ 1,106
Operating profit	\$ 623	\$ 480	\$ 594	\$ 624	\$ 2,321
Net income - Praxair, Inc.	\$ 416	\$ 308	\$ 401	\$ 422	\$ 1,547

Basic Per Share Data

Net income	\$ 1.44	\$ 1.07	\$ 1.40	\$ 1.48	\$ 5.39
Weighted average shares (000 s)	289,143	287,939	285,651	285,288	287,005

Diluted Per Share Data

Net income	\$ 1.43	\$ 1.06	\$ 1.40	\$ 1.47	\$ 5.35
Weighted average shares (000 s)	291,652	290,102	287,311	286,856	289,055

(a) 2016 and 2015 include the impact of the following charges (see Notes 2, 11 & 16):

<i>(Millions of dollars)</i>	Operating Profit/ (Loss)	Net Income/ (Loss)	Diluted Earnings Per Share
Bond Redemption -Q1	\$ -	\$ (10)	\$ (0.04)
Cost reduction program and other charges - Q3	(96)	(63)	(0.22)
Pension settlement charge - Q3	(4)	(3)	(0.01)
Year 2016	\$ (100)	\$ (76)	\$ (0.27)

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Cost reduction program and other charges - Q2	\$	(146)	\$	(112)	\$	(0.39)
Cost reduction program and other charges - Q3		(19)		(13)		(0.04)
Pension settlement charge - Q3		(7)		(5)		(0.02)
Year 2015	\$	(172)	\$	(130)	\$	(0.45)

F.2-77

Table of Contents

INDEX TO LINDE AG GROUP FINANCIAL STATEMENTS

Unaudited Group Interim Financial Statements

<u>Group Statements of Profit or Loss</u>	F.3-2
<u>Group Statements of Comprehensive Income</u>	F.3-3
<u>Group Statement of Financial Position</u>	F.3-4
<u>Group Statements of Cash Flows</u>	F.3-6
<u>Statements of Changes in Group Equity</u>	F.3-8
Linde AG Group Financial Statements and Notes	

<u>Independent Auditors Report</u>	F.3-17
<u>Group Statements of Profit Or Loss</u>	F.3-18
<u>Group Statements of Comprehensive Income</u>	F.3-19
<u>Group Statement of Financial Position</u>	F.3-20
<u>Group Statements of Cash Flows</u>	F.3-22
<u>Statements of Changes in Group Equity</u>	F.3-24

F.3-1

Table of Contents

LINDE AG

UNAUDITED GROUP STATEMENTS OF PROFIT OR LOSS

<i>in million</i>	April to June		January to June	
	2016	2017	2016	2017
Revenue	4,149	4,268	8,264	8,653
Cost of sales	2,611	2,805	5,229	5,705
Gross profit	1,538	1,463	3,035	2,948
Marketing and selling expenses	595	653	1,158	1,239
Research and development costs	29	28	59	53
Administration expenses	430	445	835	826
Other operating income	133	193	240	281
Other operating expenses	68	64	146	112
Share of profit or loss from associates and joint ventures (at equity)	5	6	8	8
Net profit on operating activities from continuing operations	554	472	1,085	1,007
Financial income	4	8	12	23
Financial expenses	98	78	195	167
Profit before tax from continuing operations	460	402	902	863
Taxes on Income	113	90	222	207
Profit for the period from continuing operations	347	312	680	656
Profit for the period from discontinued operations	7	7	7	13
Profit for the period	354	319	687	669
attributable to Linde AG shareholders	326	285	632	602
attributable to non-controlling interests	28	34	55	67
Earnings per share continuing operations				
Earnings per share in undiluted	1.72	1.49	3.37	3.17
Earnings per share in diluted	1.71	1.50	3.36	3.17
Earnings per share discontinued operations				
Earnings per share in undiluted	0.03	0.04	0.03	0.07
Earnings per share in diluted	0.04	0.04	0.04	0.07

Table of Contents

LINDE AG

UNAUDITED GROUP STATEMENTS OF COMPREHENSIVE INCOME

<i>in million</i>	April to June		January to June	
	2016	2017	2016	2017
Profit for the period	354	319	687	669
Other comprehensive income (net of tax)	-130	-824	-1,099	-839
Items that may be reclassified subsequently to profit or loss	-32	-949	-631	-931
Unrealised gains/losses on available-for-sale financial assets	1	0	1	1
Unrealised gains/losses on hedging instruments	-48	158	124	209
Currency translation differences	15	-1,107	-756	-1,141
Items that will not be reclassified to profit or loss	-98	125	-468	92
Remeasurement of defined benefit plans	-98	125	-468	92
Total comprehensive income	224	-505	-412	-170
attributable to Linde AG shareholders	189	-486	-444	-196
attributable to non-controlling interests	35	-19	32	26

F.3-3

Table of Contents

LINDE AG

GROUP STATEMENTS OF FINANCIAL POSITION

<i>in million</i>	12/31/2016	(UNAUDITED) 06/30/2017
<i>Assets</i>		
Goodwill	11,405	10,972
Other intangible assets	2,440	2,207
Tangible assets	12,756	12,079
Investments in associates and joint ventures (at equity)	239	231
Other financial assets	71	69
Receivables from finance leases	165	137
Trade receivables	2	2
Other receivables and other assets	378	359
Income tax receivables	7	6
Deferred tax assets	500	425
Non-current assets	27,963	26,487
Inventories	1,231	1,205
Receivables from finance leases	49	46
Trade receivables	2,755	2,888
Other receivables and other assets	788	752
Income tax receivables	199	245
Securities	131	323
Cash and cash equivalents	1,463	1,485
Non-current assets classified as held for sale and disposal groups	610	642
Current assets	7,226	7,586
Total assets	35,189	34,073

F.3-4

Table of Contents**LINDE AG****GROUP STATEMENTS OF FINANCIAL POSITION (continued)**

<i>in million</i>	12/31/2016	(UNAUDITED) 06/30/2017
<i>Equity and liabilities</i>		
Capital subscribed	475	475
Capital reserve	6,745	6,730
Revenue reserves	7,244	7,250
Cumulative changes in equity not recognised through profit or loss	113	-777
Total equity attributable to Linde AG shareholders	14,577	13,678
Non-controlling interests	903	900
Total equity	15,480	14,578
Provisions for pensions and similar obligations	1,564	1,494
Other non-current provisions	526	487
Deferred tax liabilities	1,683	1,542
Financial debt	6,674	6,987
Liabilities from finance leases	53	45
Trade payables	1	1
Other non-current liabilities	725	612
Non-current liabilities	11,226	11,168
Current provisions	1,140	994
Financial debt	1,854	1,939
Liabilities from finance leases	21	16
Trade payables	3,570	3,432
Other current liabilities	1,208	1,265
Liabilities from income taxes	549	524
Liabilities related to non-current assets classified as held for sale and disposal groups	141	157
Current liabilities	8,483	8,327
Total equity and liabilities	35,189	34,073

Table of Contents

LINDE AG

UNAUDITED GROUP STATEMENTS OF CASH FLOWS

<i>in million</i>	January to June	
	2016	2017
Profit before tax from continuing operations	902	863
<i>Adjustments to profit before tax to calculate cash flow from operating activities continuing operations</i>		
Amortisation of intangible assets and depreciation of tangible assets	912	955
Impairments of financial assets	3	1
Profit/loss on disposal of non-current assets	-27	-19
Net interest	167	133
Finance income arising from embedded finance leases in accordance with IFRIC 4/IAS 17	8	6
Share of profit or loss from associates and joint ventures (at equity)	-8	-8
Distributions/dividends received from associates and joint ventures	10	8
Income taxes paid	-191	-268
<i>Changes in assets and liabilities</i>		
Change in inventories	-24	-20
Change in trade receivables	-103	-119
Change in provisions	-32	-125
Change in trade payables	94	2
Change in other assets and liabilities	-107	-92
Cash flow from operating activities - continuing operations	1,604	1,317
Cash flow from operating activities - discontinued operations	30	8
Cash flow from operating activities - continuing and discontinued operations	1,634	1,325
Payments for tangible and intangible assets and plants held under finance leases in accordance with IFRIC 4/IAS 17	-782	-813
Payments for investments in consolidated companies	-181	-33
Payments for investments in financial assets	-28	-32
Payments for investments in securities	-1,238	-1,155
Proceeds on disposal of securities	203	961
Proceeds on disposal of tangible and intangible assets and amortisation of receivables from finance leases in accordance with IFRIC 4/IAS 17	78	62
Proceeds on disposal of consolidated companies and from purchase price repayment claims	7	122
Proceeds on disposal of financial assets	17	32
Cash flow from investing activities - continuing operations	-1,924	-856
Cash flow from investing activities - discontinued operations	-12	-11

Cash flow from investing activities - continuing and discontinued operations	-1,936	-867
--	---------------	-------------

F.3-6

Table of Contents

LINDE AG

UNAUDITED GROUP STATEMENTS OF CASH FLOWS (continued)

<i>in million</i>	January to June	
	2016	2017
Dividend payments to Linde AG shareholders and non-controlling interests	-684	-733
Cash inflows/outflows due to changes in non-controlling interests	0	3
Cash outflows for the purchase of own shares	0	0
Cash inflows from interest rate derivatives	86	60
Interest payments relating to financial debt and cash outflows for interest rate derivatives	-288	-257
Proceeds of loans and capital market debt	3,209	3,083
Cash outflows for the repayment of loans and capital market debt	-1,983	-2,544
Cash outflows for the repayment of liabilities from finance leases	-10	-10
Cash flow from financing activities - continuing operations	330	-398
Cash flow from financing activities - discontinued operations	-17	3
Cash flow from financing activities - continuing and discontinued operations	313	-395
Change in cash and cash equivalents	11	63
Opening balance of cash and cash equivalents	1,417	1,463
Effects of currency translation	-16	-38
Cash and cash equivalents reclassified as disposal groups	-1	-3
Closing balance of cash and cash equivalents	1,411	1,485

F.3-7

Table of Contents

LINDE AG

UNAUDITED STATEMENT OF CHANGES IN GROUP EQUITY

<i>in million</i>	Cumulative changes in equity not recognised through the statement of profit or loss									
	Revenue reserves	Remeasurement of defined benefit plans	Retained earnings	Current translation differences	Available-for-sale financial assets	Hedging instruments	Total equity attributable to Linde AG shareholders	Non-controlling interests	Total equity	
At 01/01/2016	475	6,736	-966	8,112	1,127	-1	-905	14,578	871	15,449
Profit for the period	0	0	0	632	0	0	0	632	55	687
Other comprehensive income (net of tax)	0	0	-467	0	-734	1	124	-1,076	-23	-1,099
Total comprehensive income	0	0	-467	632	-734	1	124	-444	32	-412
Dividend payments	0	0	0	-640	0	0	0	-640	-44	-684
Changes as a result of share option schemes	0	4	0	0	0	0	0	4	0	4
Total contributions by and distributions to owners of the company	0	4	0	-640	0	0	0	-636	-44	-680
Acquisition/disposal of a subsidiary with non-controlling interests	0	0	0	0	0	0	0	0	23	23
Changes in ownership interests in subsidiaries	0	0	0	0	0	0	0	0	23	23
Other changes	0	0	0	2	0	0	0	2	-2	0
At 06/30/2016	475	6,740	-1,433	8,106	393	0	-781	13,500	880	14,380
At 01/01/2017	475	6,745	-1,383	8,627	979	-1	-865	14,577	903	15,480
Profit for the period	0	0	0	602	0	0	0	602	67	669
Other comprehensive income (net of tax)	0	0	92	0	-1100	2	208	-798	-41	-839

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Total comprehensive income	0	0	92	602	-1100	2	208	-196	26	-170
Dividend payments	0	0	0	-687	0	0	0	-687	-46	-733
Changes as a result of share option schemes	0	-15	0	0	0	0	0	-15	0	-15
Capital increases/decreases	0	0	0	0	0	0	0	0	3	3
Total contributions by and distributions to owners of the company	0	-15	0	-687	0	0	0	-702	-43	-745
Acquisition/disposal of non-controlling interests without a change of control	0	0	0	-1	0	0	0	-1	1	0
Acquisition/disposal of a subsidiary with non-controlling interests			0	0	0	0	0	0	13	13
Changes in ownership interests in subsidiaries	0	0	0	-1	0	0	0	-1	14	13
At 06/30/2017	475	6,730	-1,291	8,541	-121	1	-657	13,678	900	14,578

F.3-8

Table of Contents**LINDE AG****SEGMENT INFORMATION**

		Segments								Other Activities (discontinued operations)				Reconciliation				Gross	
Total Gases Division		Engineering Division				Other Activities (discontinued operations)				Reconciliation				Gross					
April to June		January to June		April to June		January to June		April to June		January to June		April to June		April to June		April to June			
2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017		
3,704	3,771	7,323	7,567	445	497	941	1,086	149	143	296	282	0	0	0	0	4,298	4,411		
2	2	4	5	72	67	144	126	3	6	6	12	-77	-75	-154	-143	0	0		
3,706	3,773	7,327	7,572	517	564	1,085	1,212	152	149	302	294	-77	-75	-154	-143	4,298	4,411		
1,087	1,113	2,093	2,166	43	44	89	97	14	7	20	13	-79	-75	-146	-140	1,065	1,089		
39	101	39	117	0	13	0	17	0	0	0	0	0	25	0	27	39	139		
460	472	914	958	9	9	18	17	6	0	13	0	-11	-10	-20	-20	464	471		
588	540	1,140	1,091	34	22	71	63	8	7	7	13	-68	-90	-126	-147	562	479		
391	363	690	725	5	4	10	7	2	0	5	0	-3	-13	-26	-46	395	354		

F.3-9

Table of Contents

	Segments													
	EMEA				Gases Division Asia/Pacific				Americas				Total Gases	
	April to June		January to June		April to June		January to June		April to June		January to June		April to June	
<i>SEE NOTE [7]</i>	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017
third parties	1,448	1,466	2,853	2,939	1,000	1,093	1,964	2,159	1,256	1,212	2,506	2,469	3,704	3,771
other segments	3	3	8	8	7	6	12	13	38	36	72	76	2	2
from the segments	1,451	1,469	2,861	2,947	1,007	1,099	1,976	2,172	1,294	1,248	2,578	2,545	3,706	3,773
it	498	462	928	924	259	347	513	615	330	304	652	627	1,087	1,113
and merger (items)	39	93	39	104	0	0	0	0	0	8	0	13	39	101
of intangible depreciation of	172	179	340	358	136	136	272	281	152	157	302	319	460	472
operating	287	190	549	462	123	211	241	334	178	139	350	295	588	540
future (financial assets)	185	181	299	311	77	84	158	178	129	98	233	236	391	363

F.3-10

Table of Contents

LINDE AG

Notes to the Group Interim Financial Statements

[1] Basis of preparation and accounting policies

The condensed Group interim financial statements of Linde AG have been prepared in accordance with International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) and comply with the requirements of IAS 34 Interim Financial Reporting. They do not include all the information required for a complete set of financial statements prepared in accordance with the IFRS issued by the IASB. However, selected explanatory notes are included to explain events and transactions that are significant to understand changes in the Group's financial position and performance since the last annual reporting period of the Group ended December 31, 2016.

The reporting currency is the euro. All amounts are shown in millions of euro (EUR m), unless stated otherwise.

The accounting policies used in the condensed Group interim financial statements are the same as those used to prepare the Group financial statements effective as of December 31, 2016. During the reporting period, EUR 15 million was reclassified from the capital reserve to liabilities. The reclassification relates to the LTIP (Linde Long Term Incentive Plan 2012), which has historically been settled by issuing equity instruments and has changed during the second quarter 2017 to cash settlement. The liability represents the fair value of future cash settlements taking into account (i) management's expectation on the fulfillment of conditions, (ii) the time elapsed prior to the modification in relation to the total service period, and (iii) the share price as of the date of reclassification. The total number of share options outstanding amounted to 1,036 thousand and the total number of matching share rights outstanding was 101 thousand at June 30, 2017. The weighted average time elapsed over all tranches of share options was around 22% of the total vesting period. The weighted average time elapsed over all tranches of matching share rights was around 35% of the total vesting period. The Management's expectation on the fulfillment of conditions was revised for each of the outstanding tranches of share options and was 25% in average. The liability will be revalued on a quarterly basis taking into account all changes in the above-mentioned parameters.

In the first half of 2017, there were no significant changes in management judgment and estimates compared with the information as of December 31, 2016.

As of January 1, 2017, the following standards have become effective:

Amendments to IAS 12: Recognition of Deferred Tax Assets for Unrealised Losses

Amendments to IAS 7: Disclosure Initiative

Annual Improvements to the IFRSs (2014–2016): amendment to IFRS 12

The adoption of the amendments to IAS 7 will be for the annual period 2017, the adoption of the other standards did not have an impact on recognition and measurement of assets and liabilities.

The following standards were issued by the IASB but have not yet been applied in the condensed Group interim financial statements of The Linde Group as of and for the three and six months ended June 30, 2017, as the standards are not yet effective or as they are not applicable for interim reporting:

IFRS 15 Revenue from Contracts with Customers including Amendments to IFRS 15 (first-time application according to IASB in financial years beginning on or after January 1, 2018)

Clarifications relating to IFRS 15 Revenue from Contracts with Customers (first-time application according to IASB in financial years beginning on or after January 1, 2018)

F.3-11

Table of Contents

IFRS 9 Financial Instruments (first-time application according to IASB in financial years beginning on or after January 1, 2018)

Amendments to IFRS 10 and IAS 28: Sale or Contribution of Assets between an Investor and its Associate or Joint Venture (first-time application postponed indefinitely by IASB)

IFRS 16 Leases (first-time application according to IASB in financial years beginning on or after January 1, 2019)

Amendments to IAS 12: Recognition of Deferred Tax Assets for Unrealised Losses (first-time application according to IASB in financial years beginning on or after January 1, 2017)

Amendments to IAS 7: Disclosure Initiative (first-time application according to IASB in financial years beginning on or after January 1, 2017)

Amendments to IFRS 2 Share-based Payment (first-time application according to IASB in financial years beginning on or after January 1, 2018)

Annual Improvements to the IFRSs (2014-2016): amendments to IFRS 1 and IAS 28 (first-time application according to IASB in financial years beginning on or after January 1, 2018)

IFRIC 22 Foreign Currency Transactions and Advance Consideration (first-time application according to IASB in financial years beginning on or after January 1, 2018)

IFRIC 23 Uncertainty over Income Tax Treatments (first-time application according to IASB in financial years beginning on or after January 1, 2019).

[2] Scope of consolidation

The types of companies included in the condensed Group interim financial statements and changes in the structure of the Group are disclosed below:

STRUCTURE OF COMPANIES INCLUDED IN THE INTERIM FINANCIAL STATEMENTS

	As at 12/31/2016	Additions	Disposals	As At 06/30/2017
Consolidated subsidiaries	556	12	16	552
of which within Germany	20	0	0	20
of which outside Germany	536	12	16	532
Companies accounted for using the line-by-line method	5	1	0	6

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

of which within Germany	0	0	0	0
of which outside Germany	5	1	0	6
Companies accounted for using the equity method	36	0	1	35
of which within Germany	2	0	0	2
of which outside Germany	34	0	1	33
Non-consolidated subsidiaries	53	3	12	44
of which within Germany	4	0	0	4
of which outside Germany	49	3	12	40

Disposals during the reporting period include the sale of the subsidiary Shenzhen South China Industrial Gases Co. Ltd. and of the Australian subsidiary Flexihire Pty. Ltd. At Group level, such sales resulted in a net gain on deconsolidation of EUR 70 m, which is included in other operating income (EUR 76 million) and other operating expenses (EUR 6 million), respectively.

Other significant disposals are described in NOTE [5]. Additions during the reporting period are described in NOTE [3] below.

F.3-12

Table of Contents**[3] Acquisitions**

Linde did not make any significant acquisitions during the reporting period. Information about the acquisitions which did take place in the first half of 2017 is therefore provided below in aggregate rather than by individual company.

In the reporting period, Linde made acquisitions to expand its industrial gases and healthcare business in the EMEA, Americas and Asia/Pacific segments. The total purchase price for these acquisitions (including the remeasurement of existing shares) was EUR 45 m, of which EUR 35 m was settled in cash. The total purchase price includes contingent consideration of EUR 0 m and deferred purchase price payments of EUR 1 m. In the course of a step acquisition, previously held shares in the acquired company were remeasured at their fair value of EUR 9 m and the resulting gain of EUR 1 m was recognized in operating profit. In the course of these acquisitions, Linde acquired non-current assets, inventories, liquid assets and other current assets. Total goodwill arising was EUR 27 m and is due to synergies. Of the goodwill, EUR 16 m is tax-deductible. Non-controlling interests were allocated their share of the identifiable net assets. In the course of these purchases, Linde acquired receivables of a gross amount of EUR 10 m which corresponds their fair value. Due to the proximity of the acquisition dates to the reporting date, the initial accounting for the business combination is provisional.

Since the dates of their acquisition, the companies acquired have generated revenue of EUR 8 m and contributed a post-tax loss of EUR 1 m to the Group's profit for the period. If the businesses acquired had been consolidated into The Linde Group from January 1, 2017, the contribution to revenue would have been EUR 14 m and the contribution to profit for the period would have been EUR 0 m.

IMPACT OF ACQUISITIONS ON THE NET ASSETS OF THE LINDE GROUP

Opening balance upon initial consolidation	Fair value
<i>in million</i>	
Non-current assets	37
Inventories	1
Other current assets	10
Cash and cash equivalents	4
Equity (attributable to Linde AG)	18
Non-controlling interests	13
Liabilities	21

[4] Foreign currency translation

Exchange rates for the major currencies used by Linde were as follows:

PRINCIPAL EXCHANGE RATES

<i>Exchange rate 1 =</i>	ISO code	Spot rate on reporting date		January to June	
		12/31/2016	06/30/2017	2016	2017
Australia	AUD	1.45732	1.48393	1.52222	1.43681
China	CNY	7.30336	7.73169	7.30173	7.44919
South Africa	ZAR	14.44751	14.89166	17.19953	14.31014
UK	GBP	0.85229	0.8787	0.77908	0.86026

USA	USD	1.05160	1.14025	1.11691	1.08363
-----	-----	---------	---------	---------	---------

[5] Non-current assets classified as held for sale and disposal groups

At June 30, 2017, assets of EUR 642 m and liabilities of EUR 157 m were reported as non-current assets held for sale or disposal groups.

These relate mainly to logistics services company Gist. Since December 2016, Gist's business, which is included in the Other Activities segment, has been classified as held for sale and reported as a discontinued

F.3-13

Table of Contents

operation. Assets with a carrying amount of EUR 572 m and liabilities with a carrying amount of EUR 122 m have therefore been reclassified within the Group statement of financial position. These mainly relate to goodwill (EUR 217 m), tangible assets (EUR 116 m) and trade receivables (EUR 101 m). In addition, assets of EUR 63 m and liabilities of EUR 35 m have been reported as non-current disposal groups held for sale. These relate to the gases business in Pakistan. The sales contract was signed in the second quarter of 2017. It is expected that the business will be transferred in the second half of the year. A further EUR 7 m relate to the proposed sale of vehicles in the Asia/Pacific segment. The vehicles were acquired in 2016 and are due for sale in 2017 in accordance with an operating sale and leaseback agreement.

In July 2017, management decided to sell part of a production facility within the EMEA segment. Efforts to sell have commenced and the sale is expected to be made within a year.

In the three months ended June 30, 2017, non-current assets held for sale of around EUR 20 m and liabilities of EUR 4 m, which related to the gases business in Slovenia, Bosnia and Croatia, were sold as planned. A deconsolidation loss of less than 1 million was recognized.

The cumulative changes in equity not recognized in profit and loss contain expenses relating to the foreign currency valuation of assets and liabilities reported as held for sale amounting to EUR 113 m at June 30, 2017.

[6] Financial instruments**FINANCIAL ASSETS AND LIABILITIES MEASURED AT FAIR VALUE**

<i>in million</i>	Level 1		Level 2		Level 3	
	12/31/2016	06/30/2017	12/31/2016	06/30/2017	12/31/2016	06/30/2017
Investments and securities	121	317	0	0	0	0
Derivatives with positive fair values	0	0	214	145	0	0
Derivatives with negative fair values	0	0	642	520	0	0

For individual categories of financial assets and financial liabilities in The Linde Group, the carrying amount of the item is generally a reasonable approximation of the fair value of the item. This does not apply to receivables from finance leases or to financial debt. In the case of receivables from finance leases, the fair value is EUR 210 m, while the carrying amount is EUR 183 m. The fair value of the financial debt is EUR 9.320 bn, compared with its carrying amount of EUR 8.926 bn. The fair value of financial instruments is generally determined using quoted market prices. If no quoted market prices are available, the fair value is determined using measurement methods customary in the market, based on market parameters specific to the instrument. The investments and securities category also includes financial assets (available-for-sale financial assets) of EUR 17 m (December 31, 2016: EUR 17 m) for which a fair value cannot be reliably determined. For these assets, there are neither observable market prices nor sufficient information for a reliable valuation using other valuation methods. There is currently no intention to sell these assets.

For derivative financial instruments, the fair value is determined as follows. Options are measured using Black-Scholes pricing models. Futures are measured with recourse to the quoted market price in the relevant market.

All other derivative financial instruments are measured by discounting future cash flows using the present value method. The starting parameters for these models should, as far as possible, be the relevant observable market prices and interest rates at the reporting date.

At the reporting date, no assets or liabilities had been recognised for which the values had been determined by valuation techniques with principal inputs not derived from observable market data (Level 3). During the reporting period, there were no transfers between Levels 1, 2 and 3 of the fair value hierarchy.

F.3-14

Table of Contents

In January 2017, Linde issued a EUR 1 bn bond under the EUR 10 bn Debt Issuance Programme. The five-year bond has a fixed coupon of 0.25 percent. The funds raised from this bond were used to redeem a EUR 1 bn bond which had matured in April 2017.

[7] Segment reporting

The same principles apply to segment reporting in the interim report as those described in the Group financial statements for the year ended December 31, 2016.

To arrive at the figure for the Gases Division as a whole from the figures for the segments within the Gases Division for the six months ended June 30, 2017, consolidation adjustments of EUR 92 m (2016: EUR 88 m) were deducted from revenue. For the three months ended June 30, 2017, consolidation adjustments of EUR 43 m (2016: EUR 46 m) were deducted from revenue. Therefore, it is not possible to arrive at the figure for the Gases Division as a whole by merely adding together the segments in the Gases Division.

The reconciliation of segment revenue to Group revenue and of the operating profit of the segments to Group profit before tax is shown in the table below.

RECONCILIATION OF SEGMENT REVENUE**AND OF THE SEGMENT RESULT**

in million	April to June		January to June	
	2016	2017	2016	2017
<i>Revenue</i>				
Total segment revenue	4,375	4,486	8,714	9,078
Revenue from discontinued operations	-149	-143	-296	-282
Consolidation	-77	-75	-154	-143
Group revenue from continuing operations	4,149	4,268	8,264	8,653
<i>Operating profit</i>				
Operating profit from segments	1,144	1,164	2,202	2,276
Operating profit from corporate activities	-70	-78	-158	-140
Operating profit from discontinued operations	-14	-7	-20	-13
Consolidation	-9	3	12	0
Restructuring and merger costs (special items)	39	139	39	161
Amortisation and depreciation	458	471	912	955
Financial income	4	8	12	23
Financial expenses	98	78	195	167
Profit before tax from continuing operations	460	402	902	863

[8] Proposed Business Combination with Praxair, Inc.

On June 1, 2017, Linde AG and Praxair, Inc. entered into a definitive business combination agreement (the Business Combination Agreement), pursuant to which, among other things, Linde AG and Praxair, Inc. agreed to combine their

respective businesses under a new holding company incorporated in Ireland, Linde plc (the Business Combination).

Under the terms of the Business Combination Agreement, Linde AG will become an indirect subsidiary of Linde plc after effecting a public exchange offer. In this exchange offer, Linde plc will make an offer to exchange each outstanding share of Linde AG for 1.540 ordinary shares of Linde plc (the Exchange Offer). Furthermore, the Business Combination Agreement foresees, that each share of Praxair, Inc. will be converted into the right to receive one Linde plc ordinary share. Upon completion of the Business Combination, and assuming that all of the outstanding Linde shares are exchanged in the Exchange Offer, former Linde shareholders and former Praxair shareholders will each own approximately 50% of the outstanding Linde plc shares. Linde plc will apply to list its ordinary shares on the New York Stock Exchange and the Frankfurt Stock Exchange, and will seek inclusion in the S&P 500 and DAX 30 indices.

F.3-15

Table of Contents

The parties currently expect the Business Combination to be completed in the second half of 2018. Completion of the Business Combination is subject to the satisfaction or waiver of conditions, including (a) approval of the merger of Praxair Inc. with Zamalight Subco Inc., a wholly owned indirect subsidiary of Linde plc, by holders of a majority of the outstanding shares of Praxair, Inc. common stock, (b) the tender in the Exchange Offer of at least 75% of the outstanding Linde shares, (c) approval by requisite governmental regulators and authorities, (d) absence of any law, regulation or injunction or order by any governmental entity in Ireland, the United Kingdom, Germany or the United States that prohibits or makes illegal the completion of the Business Combination and (e) that there has been no material adverse effect on and no material compliance violation by either Linde AG or Praxair, Inc., as determined by a third-party independent expert.

The Business Combination may be terminated for, or may terminate as a result of, certain reasons, including, among others, (a) the mutual consent of Praxair, Inc. and Linde AG to termination, (b) a change in recommendation regarding the Business Combination from the Praxair board of directors, the Linde AG executive board or the Linde AG supervisory board (provided that, with respect to the Linde AG supervisory board, such change involves recommending that Linde AG shareholders not accept the Exchange Offer), (c) the occurrence of an adverse tax event (as defined in the Business Combination Agreement), (d) a permanent injunction or order by any governmental entity in Ireland, the United Kingdom, Germany or the United States that prohibits or makes illegal the completion of the Business Combination, (e) the occurrence of a change, event, occurrence or effect that has had or is reasonably expected to have a material adverse change (as defined in the Business Combination Agreement) on Linde AG or Praxair, Inc. or (f) the failure to satisfy any of the conditions described in the preceding paragraph. The Business Combination Agreement further provides that, upon termination of the Business Combination under certain specified circumstances, Praxair, Inc. will be required to pay Linde AG a termination fee of 250 million or Linde AG will be required to pay Praxair, Inc. such termination fee, as applicable.

[9] Events after the balance sheet date

On July 26, 2017, the Executive Board of Linde AG authorized the condensed Group interim financial statements for issue.

Table of Contents

Independent Auditors Report

The Board of Directors

Linde AG

We have audited the accompanying consolidated financial statements of Linde AG and its subsidiaries, which comprise the group statements of financial position as of December 31, 2016 and 2015, and the related group statements of profit or loss, other comprehensive income, cash flows and changes in group equity for each of the years in the three-year period ended December 31, 2016, and the related notes to the consolidated financial statements.

Management s Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity s preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity s internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Linde AG and its subsidiaries as of December 31, 2016 and 2015, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2016 in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board.

/s/ KPMG AG Wirtschaftsprüfungsgesellschaft

Munich, Germany

February 21, 2017

F.3-17

Table of Contents**LINDE AG****GROUP STATEMENTS OF PROFIT OR LOSS**

<i>in EUR m</i>	Note	2014	2015	2016
Revenue	[6]	16,482	17,345	16,948
Cost of sales		10,932	11,166	10,847
Gross profit		5,550	6,179	6,101
Marketing and selling expenses		2,312	2,546	2,387
Research and development costs		106	131	121
Administration expenses		1,478	1,653	1,720
Other operating income	[7]	484	419	467
Other operating expenses	[7]	303	251	278
Share of profit or loss from associates and joint ventures (at equity)		22	12	13
Net profit on operating activities - continuing operations		1,857	2,029	2,075
Financial income	[9]	50	42	29
Financial expenses	[9]	415	439	353
Profit before tax - continuing operations		1,492	1,632	1,751
Income tax expense	[10]	353	396	424
Profit for the year from continuing operations		1,139	1,236	1,327
Profit for the year from discontinued operations		23	16	52
Profit for the year		1,162	1,252	1,275
attributable to Linde AG shareholders		1,102	1,149	1,154
attributable to non-controlling interests		60	103	121
Earnings per share - continuing operations	[11]			
Earnings per share in EUR - undiluted		5.81	6.10	6.50
Earnings per share in EUR - diluted		5.79	6.09	6.48
Earnings per share - discontinued operations	[11]			
Earnings per share in EUR - undiluted		0.13	0.09	-0.28
Earnings per share in EUR - diluted		0.12	0.09	-0.28

Table of Contents

LINDE AG

GROUP STATEMENTS OF COMPREHENSIVE INCOME

<i>in EUR m</i>	2014	2015	2016
Profit for the year	1,162	1,252	1,275
Other comprehensive income (net of tax)	147	622	509
Items that may be reclassified subsequently to profit or loss	648	609	91
Unrealised gains/losses on available-for-sale financial assets	10	7	1
Unrealised gains/losses on hedging instruments	650	477	40
Currency translation differences	1,308	1,093	132
Items that will not be reclassified subsequently to profit or loss	501	13	418
Remeasurement of defined benefit plans	501	13	418
Total comprehensive income	1,309	1,874	766
attributable to Linde AG shareholders	1,185	1,747	629
attributable to non-controlling interests	124	127	137

F.3-19

Table of Contents

LINDE AG

GROUP STATEMENTS OF FINANCIAL POSITION

<i>in EUR m</i>	Note	12/31/2015	12/31/2016
Assets			
Goodwill	[12]	11,604	11,405
Other intangible assets	[12]	2,760	2,440
Tangible assets	[13]	12,782	12,756
Investments in associates and joint ventures (at equity)	[14]	242	239
Other financial assets	[14]	57	71
Receivables from finance leases	[16]	217	165
Trade receivables	[16]	2	2
Other receivables and other assets	[16]	426	378
Income tax receivables	[16]	9	7
Deferred tax assets	[10]	327	500
Non-current assets		28,426	27,963
Inventories	[15]	1,241	1,231
Receivables from finance leases	[16]	52	49
Trade receivables	[16]	2,724	2,755
Other receivables and other assets	[16]	778	788
Income tax receivables	[16]	277	199
Securities	[17]	421	131
Cash and cash equivalents	[18]	1,417	1,463
Non-current assets classified as held for sale and disposal groups	[19]	11	610
Current assets		6,921	7,226
Total assets		35,347	35,189

F.3-20

Table of Contents

LINDE AG

GROUP STATEMENTS OF FINANCIAL POSITION (continued)

<i>in EUR m</i>	Note	12/31/2015	12/31/2016
Equity and liabilities			
Capital subscribed		475	475
Conditionally authorised capital 57 million (2015: 57 million)			
Capital reserve		6,736	6,745
Revenue reserves		7,146	7,244
Cumulative changes in equity not recognised through the statement of profit or loss		221	113
Total equity attributable to Linde AG shareholders	[20]	14,578	14,577
Non-controlling interests	[20]	871	903
Total equity		15,449	15,480
Provisions for pensions and similar obligations	[21]	1,068	1,564
Other non-current provisions	[22]	530	526
Deferred tax liabilities	[10]	1,750	1,683
Financial debt	[23]	8,460	6,674
Liabilities from finance leases	[24]	55	53
Trade payables	[25]	3	1
Other non-current liabilities	[25]	847	725
Non-current liabilities		12,713	11,226
Current provisions	[22]	1,089	1,140
Financial debt	[23]	1,023	1,854
Liabilities from finance leases	[24]	23	21
Trade payables	[25]	3,223	3,570
Other current liabilities	[25]	1,255	1,208
Income Tax Liabilities	[25]	568	549
Liabilities in connection with non-current assets classified as held for sale and disposal groups	[19]	4	141
Current liabilities		7,185	8,483
Total equity and liabilities		35,347	35,189

Table of Contents

LINDE AG

GROUP STATEMENTS OF CASH FLOWS

<i>in EUR m</i>	Note	2014	2015	2016
Profit before tax from continuing operations		1,492	1,632	1,751
Adjustments to profit before tax to calculate cash flow from operating activities - continuing operations				
Amortisation of intangible assets / depreciation of tangible assets	[12], [13]	1,936	1,866	1,897
Impairments of financial assets	[14]	1	16	8
Profit/loss on disposal of non-current assets		-75	-18	-36
Net interest	[9]	368	366	307
Finance Income arising from embedded finance leases in accordance with IFRIC 4/ IAS 17	[9]	19	18	14
Share of profit or loss from associates and joint ventures (at equity)	[14]	-22	-12	-13
Distributions/dividends received from associates and joint ventures	[14]	15	22	22
Income taxes paid	[10]	-599	-532	-446
Changes in assets and liabilities				
Change in inventories	[15]	-23	-45	21
Change in trade receivables	[16], [27]	-225	293	-91
Change in provisions	[21], [22]	29	-26	-64
Change in trade payables	[25]	307	-189	349
External funding /allocation to plan assets re. defined benefit plans		-300	-	-
Change in other assets and liabilities		87	192	-319
Cash flow from operating activities - continuing operations		3,010	3,583	3,400
Cash flow from operating activities - discontinued operations		-9	10	40
Cash flow from operating activities - continuing and discontinued operations		3,001	3,593	3,440
Payments for tangible and intangible assets and plants held under finance leases in accordance with IFRIC 4/ IAS 17		-1,945	-1,876	-1,761
Payments for investments in consolidated companies	[2]	-65	-113	-250
Payments for investments in financial assets		-68	-76	-75
Payments for investments in securities	[17]	-656	-953	-1,240
Proceeds on disposal of securities	[17]	306	1,052	1,531

Proceeds on disposal of tangible and intangible assets and amortisation of receivables from finance leases in accordance with IFRIC 4/IAS 17		146	85	173
Proceeds on disposal of consolidated companies and from purchase price repayment claims		99	1	116
Proceeds on disposal of non-current assets held for sale and disposal groups	[19]	42	12	-
Proceeds on disposal of financial assets		82	88	34
Cash flow from investing activities - continuing operations		-2,059	-1,780	-1,472
Cash flow from investing activities - discontinued operations		-4	-15	-19
Cash flow from investing activities - continuing and discontinued operations		-2,063	-1,795	-1,491

F.3-22

Table of Contents

LINDE AG

GROUP STATEMENTS OF CASH FLOWS (continued)

<i>in EUR m</i>	Note	2014	2015	2016
Dividend payments to Linde AG shareholders and non-controlling interests		645	701	765
Cash outflows for the purchase of own shares		5		
Cash inflows from interest rate derivatives	[9]	168	182	149
Interest paid for debt and cash outflows for interest rate derivatives	[9]	526	546	496
Proceeds of loans and capital market debt	[23]	3,005	3,150	5,322
Cash outflows for the repayment of loans and capital market debt	[23]	2,990	3,584	6,085
Cash outflows for the repayment of liabilities from finance leases	[24]	21	24	21
Cash flow from financing activities - continuing operations		1,014	1,523	1,896
Cash flow from financing activities - discontinued operations		12	4	21
Cash flow from financing activities - continuing and discontinued operations		1,002	1,519	1,917
Change in cash and cash equivalents		64	279	32
Opening balance of cash and cash equivalents	[18]	1,178	1,137	1,417
Effects of currency translation		23	3	18
Cash and cash equivalents reported as non-current assets classified as held for sale and disposal groups	[19]		2	4
Closing balance of cash and cash equivalents	[18]	1,137	1,417	1,463

F.3-23

Table of Contents

LINDE AG

STATEMENT OF CHANGES IN GROUP EQUITY

<i>in EUR m</i>	Cumulative changes in equity not recognised through the statement of profit or loss								Total equity attributable to Linde AG Non-controlling interests	Total equity
	Revenue reserves	Remeasurement of Capital subscribed	Capital deserves	defined benefit plans	Retained earnings	translation differences	Available-for-sale financial assets	Hedging instruments		
At 01/01/2014	475	6,712	-482	7,005	-1,179	14	221	12,766	820	13,586
Profit for the year	-	-	-	1,102	-	-	-	1,102	60	1,162
Other comprehensive income (net of tax)	-	-	-498	-	1,240	-9	-650	83	64	147
Total comprehensive income	-	-	-498	1,102	1,240	-9	-650	1,185	124	1,309
Dividend payments	-	-	-	-557	-	-	-	-557	-88	-645
Changes as a result of share option schemes	-	18	-	-	-	-	-	18	-	18
Repurchase of own shares	-	-	-	-5	-	-	-	-5	-	-5
Total contributions by and distributions to owners of the Company	-	18	-	-562	-	-	-	-544	-88	-632
Other changes	-	-	-	-1	-	-	-	-1	5	4
At 12/31/2014 / 01/01/2015	475	6,730	-980	7,544	61	5	-429	13,406	861	14,267
Profit for the year	-	-	-	1,149	-	-	-	1,149	103	1,252
Other comprehensive income (net of tax)	-	-	14	-	1,066	-6	-476	598	24	622
Total comprehensive income	-	-	14	1,149	1,066	-6	-476	1,747	127	1,874
Dividend payments	-	-	-	-585	-	-	-	-585	-116	-701
	-	6	-	-	-	-	-	6	-	6

Changes as a result of share option schemes										
Repurchase of own shares	-	-	-	-	-	-	-	-	-	-
Capital increase	-	-	-	-	-	-	-	-	-	-
Total contributions by and distributions to owners of the Company	-	6	-	-585	-	-	-	-579	-116	-695
Acquisition/disposal of non-controlling interests without change in control	-	-	-	-	-	-	-	-	-	-
Acquisition/disposal of a subsidiary with non-controlling interests	-	-	-	-	-	-	-	-	-	-
Changes in ownership interests in subsidiaries	-	-	-	-	-	-	-	-	-	-
Other changes	-	-	-	4	-	-	-	4	-1	3
At 12/31/2015 / 01/01/2016	475	6,736	-966	8,112	1,127	-1	-905	14,578	871	15,449
Profit for the year	-	-	-	1,154	-	-	-	1,154	121	1,275
Other comprehensive income (net of tax)	-	-	-417	-	-148	-	40	-525	16	-509
Total comprehensive income	-	-	-417	1,154	-148	-	40	629	137	766
Dividend payments	-	-	-	-640	-	-	-	-640	-125	-765
Changes as a result of share option schemes	-	9	-	-	-	-	-	9	-	9
Repurchase of own shares	-	-	-	-	-	-	-	-	-	-
Capital increase	-	-	-	-	-	-	-	-	-	-
Total contributions by and distributions to owners of the Company	-	9	-	-640	-	-	-	-631	-125	-756
Acquisition/disposal of non-controlling interests without change in control	-	-	-	-	-	-	-	-	-	-
Acquisition/disposal of a subsidiary with non-controlling interests	-	-	-	-	-	-	-	-	23	23
Changes in ownership interests in subsidiaries	-	-	-	-	-	-	-	-	23	23
Other changes	-	-	-	1	-	-	-	1	-3	-2
At 12/31/2016	475	6,745	-1,383	8,627	979	-1	-865	14,577	903	15,480

F.3-24

Table of Contents**LINDE AG****SEGMENT INFORMATION**

	Segments												Group (including continued & discontinued operations)	
	Gases Division			Engineering Division			Other Activities (discontinued operations)			Reconciliation				
	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015
Revenue from operations	13,966	15,157	14,882	2,516	2,188	2,066	565	599	587	-	-	-	17,047	17,944
Revenue from other segments	16	11	10	590	406	285	2	8	15	608	425	310	-	-
Revenue from operations	13,982	15,168	14,892	3,106	2,594	2,351	567	607	602	608	425	310	17,047	17,944
Depreciation and amortization	3,835	4,151	4,210	300	216	196	62	44	44	277	280	308	3,920	4,131
Impairment of intangible assets	64	160	101	-	30	12	-	-	-	2	2	13	66	192
Impairment of other assets	1,937	1,863	1,893	35	41	44	33	30	99	36	38	40	1,969	1,896
Goodwill impairment	234	7	17	-	4	7	-	-	-	-	-	-	234	11
Goodwill impairment in connection with non-current assets classified for sale or disposal	-	-	6	-	-	-	-	-	75	-	-	-	-	-
Profit from operations	1,834	2,128	2,216	265	145	140	29	14	55	243	244	281	1,885	2,043
	1,890	1,881	1,660	41	32	30	13	20	17	10	3	22	1,954	1,936

in million, Note [31]	Segments											
	EMEA			Asia/Pacific			Americas			Total Gases Division		
	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015	2016
Revenue from third parties	5,969	5,984	5,721	3,792	4,130	4,084	4,205	5,043	5,077	13,966	15,157	14,882
Revenue from other segments	11	26	15	20	27	25	109	140	155	16	11	10
Total revenue from the reportable segments	5,980	6,010	5,736	3,812	4,157	4,109	4,314	5,183	5,232	13,982	15,168	14,892
Operating profit	1,778	1,790	1,807	1,010	1,063	1,084	1,047	1,298	1,319	3,835	4,151	4,210
Restructuring costs / Merger costs	38	87	49	17	40	42	9	33	10	64	160	101
Amortisation of intangible assets and depreciation of tangible assets	665	688	703	645	584	569	627	591	621	1,937	1,863	1,893
whereof write-downs and impairments	4	2	4	130	4	10	100	1	3	234	7	17
whereof write-downs and impairments in connection with non-current assets classified as held for sale and disposal groups		-	6		-	-		-	-	-	-	6
Net profit from operating activities	1,075	1,015	1,055	348	439	473	411	674	688	1,834	2,128	2,216
Capital expenditure (excluding financial assets)	946	895	753	413	386	375	531	600	532	1,890	1,881	1,660

F.3-25

Table of Contents

LINDE AG

REVENUE BY LOCATION OF CUSTOMER

<i>in EUR m</i>	2014	2015	2016
Europe	6,560	6,574	6,564
Germany	1,261	1,305	1,229
UK	1,559	1,698	1,447
Asia/Pacific	5,079	4,950	4,875
China	1,299	1,199	1,241
Australia	1,124	1,121	1,040
North America	4,238	5,218	5,063
USA	3,734	4,691	4,519
South America	623	663	573
Africa	547	539	460
Gist (DISCONTINUED OPERATIONS)	565	599	587
Group revenue	16,482	17,345	16,948

F.3-26

Table of Contents

LINDE AG

NON- CURRENT ASSETS BY LOCATION OF COMPANY

<i>in EUR m</i>	2015	2016
Europe	10,840	10,035
Germany	1,262	1,276
UK	1,585	1,177
Asia/Pacific	8,135	7,958
China	1,641	1,421
Australia	1,246	1,192
North America	7,161	7,532
USA	2,749	2,858
South America	417	434
Africa	593	642
Non-current segment assets	27,146	26,601

The information disclosed by country excludes goodwill.

F.3-27

Table of Contents**LINDE AG****Notes to the Group Financial statements****General principles****[1] Basis of preparation**

The Linde Group is an international technology group which operates across the globe. The parent company of The Linde Group is Linde Aktiengesellschaft. The registered office of Linde AG is in Munich, Germany.

The consolidated financial statements of Linde Aktiengesellschaft (Linde) have been prepared in accordance with International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB). We have applied all standards issued by the IASB and interpretations by the International Financial Reporting Committee (IFRIC) that were effective as of December 31, 2016.

The reporting currency is the euro. All amounts are shown in millions of euro (EUR m), unless stated otherwise. The Group statement of profit or loss has been prepared using the cost of sales method.

The annual financial statements of companies included in the consolidation are drawn up at the same reporting date as the annual financial statements of Linde Aktiengesellschaft.

[2] Acquisitions

The major acquisitions in 2016 relate to:

MAJOR ACQUISITIONS

	Group's interest in percent (as at 12/31/2016)	Acquisition costs in EUR m	Date of acquisition
AHOM	100	174	2/1/2016
Air Liquide Korea <i>American HomePatient, Inc.</i>	100	54	12/15/2016

The Linde Group acquired 100 percent of the shares in the US company American HomePatient, Inc. with effect from February 1, 2016. From that date, the business has been included in full in the consolidated financial statements of The Linde Group. The company specializes in respiratory therapy for patients suffering from chronic obstructive pulmonary disease and sleep apnea. Linde intends to use the acquisition to expand its market position in the healthcare services sector and to generate synergy potential with the existing business.

A cash payment of around EUR 210 m was made in connection with the transaction. Following deductions for the repayment of financial debt in the amount of EUR 24 m and provisions for employee remuneration in the amount of EUR 1, and taking into account a conditional purchase price repayment claim with an expected value of EUR 11 m, the acquisition costs within the meaning of IFRS 3 amount to EUR 174 m. The conditional purchase price repayment claim will fall due within two years. The scope of the repayment claim is uncertain and ranges from EUR 1 m to EUR 36 m.

In the course of the acquisition, Linde will acquire non-current assets, as well as inventories and other current assets. These also include deferred tax assets from loss carryforwards. The main components of the provisional goodwill amounting to EUR 114 m relate primarily to expected synergies with the existing Healthcare business and going concern synergies. The purchase price allocation resulted in fair value adjustments in the amount of EUR 31 m. These relate to the corporate brand, customer relationships and tangible assets. The tax-deductible goodwill comes to EUR 0 m.

F.3-28

Table of Contents

The transaction involved the acquisition of 100 per-cent of the shares in American HomePatient, Inc. The non-controlling interests recognised in the opening Statements of Financial Positions result from pre-consolidated units with shares of other non-controlling shareholders. The receivables acquired have a fair value of EUR 30 m and relate exclusively to trade receivables.

The profit for the year is hit, in particular, by the amortisation resulting from the purchase price allocation.

Air Liquide Korea Co., Ltd.

On December 15, 2016, The Linde Group acquired the assets and liabilities of Air Liquide Korea Co., Ltd. as part of an asset deal. The aim of the transaction was to expand the customer network on the South Korean market and generate cost savings in the process. The acquired business comprises the production and sale of industrial gases in the liquefied gases and on-site segments. The purchase price came to EUR 54 m and was paid in cash.

The acquisition saw The Linde Group acquire tangible assets and current assets in the amount of EUR 41 m. The liabilities assumed amounted to EUR 1 m at the time of acquisition. The purchase price allocation resulted in fair value adjustments in the amount of EUR 8 m. The receivables acquired have a fair value of EUR 4 m. This corresponds to the gross value of the receivables. The transaction gives rise to goodwill in the amount of EUR 14 m. This can be attributed primarily to cost synergies relating to production and administration. The goodwill of EUR 14 m is expected to be tax-deductible. Since the acquisition date is so close to the reporting date, the purchase price allocation is still to be considered provisional.

Other acquisitions

In order to expand its business in the Industrial Gases and Healthcare product areas, Linde made further acquisitions in the EMEA, Americas and Asia/Pacific segments in the year under review. The total purchase price for these acquisitions was EUR 25 m, of which EUR 21 m was paid in cash. The total purchase price includes deferred purchase price payments and contingent consideration. In addition, EUR 2 m was offset against existing receivables of a seller. Sometimes separate transactions were agreed with former owners and employees transferred as part of the transaction. In the course of acquisitions achieved in stages, a loss of EUR 1 m from the remeasurement of previously held shares (EUR 2 m) at fair value was recognised in the operating profit.

In the course of these corporate acquisitions, Linde has acquired non-current assets, inventories, liquid funds and other current assets. The goodwill came to EUR 18 m in total. Purchase price allocations resulted in fair value adjustments in the amount of EUR 1 m. The goodwill is tax-deductible in the amount of EUR 18 m. Key components of the goodwill relate to synergy potential and access to new sales markets, as well as the expansion of the sales network. The acquisitions resulted in the transfer of receivables totaling EUR 0 m. The fair value of the receivables corresponds to the gross value of the receivables.

IMPACT OF ACQUISITIONS ON THE NET ASSETS OF THE LINDE GROUP

Opening balance upon initial consolidation in EUR m	Fair value		
	AHOM	Air Liquide Korea	Other
Non-current assets	148	37	5
Inventories	4		1
Other current assets	34	4	
Cash and cash equivalents	7		5

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Equity (attributable to Linde AG)	60	40	8
Non-controlling interests	10		
Liabilities	123	1	3

F.3-29

Table of Contents**IMPACT OF ACQUISITIONS ON THE PROFIT FOR THE YEAR OF THE LINDE GROUP**

<i>in EUR m</i>	Profit for the year since the acquisition date	Profit for the year since the acquisition date since beginning of the financial year / 01/01/2016 ¹
AHOM	6	4
Air Liquide Korea	-	6
Other	1	2

1 When these amounts were calculated, the fair value adjustments were assumed to be the same as those at the acquisition date.

IMPACT OF ACQUISITIONS ON THE REVENUE OF THE LINDE GROUP

<i>in EUR m</i>	Revenue since the acquisition date	Revenue since the beginning of the financial year on 01/01/2016
AHOM	252	275
Air Liquide Korea	1	19
Other	7	20

[3] *Scope of consolidation*

STRUCTURE OF COMPANIES INCLUDED IN THE CONSOLIDATED FINANCIAL STATEMENTS

	At 03/31/2013/ 1/1/2014			At 12/31/2014 1/1/2015			At 12/31/2015 1/1/2016			At 12/31/2016
	Additions	Disposals		Additions	Disposals		Additions	Disposals		
Consolidated subsidiaries	538	19	22	535	4	11	528	47	19	556
of which within Germany	18	-	-	18	1	1	18	2	-	20
of which outside Germany	520	19	22	517	3	10	510	45	19	536
Companies accounted for using the line-by-line method	5	-	-	5	-	-	5	-	-	5
of which within Germany	-	-	-	-	-	-	-	-	-	-
of which outside Germany	5	-	-	5	-	-	5	-	-	5
Companies accounted for using the equity method	36	5	6	35	2	-	37	4	5	36
of which within Germany	2	1	-	3	2	-	5	1	4	2
of which outside Germany	34	4	6	32	-	-	32	3	1	34
	61	5	7	59	1	10	50	9	6	53

**Non-consolidated
subsidiaries**

of which within Germany	2	-	1	1	-	1	-	4	-	4
of which outside Germany	59	5	6	58	1	9	50	5	6	49

F.3-30

Table of Contents

Changes in the scope of the consolidation may arise as a result of acquisitions, sales, mergers or closures, or as a result of changes in the assessment as to whether Linde AG exercises control or joint control over a company.

In 2016, 40.1 percent of the shares in Linde-Huayi (Chongqing) Gases Co., Ltd, which were held in the Asia/Pacific segment, were sold to the former minority shareholder. Following the disposal, Linde holds a stake of 19.9 and can still exercise significant influence as defined by IAS 28. The sale of the interests in owner-ship resulted, at the level of the Group as a whole and following the reversal of consolidation items in profit or loss, in a total profit on deconsolidation of EUR 25 m, which is included in other operating income. The proportion of profit resulting from the valuation of the remaining shares at fair value at the time of the loss of control comes to EUR 0 m. The other main disposals in the financial year are set out in NOTE 19 *NON-CURRENT ASSETS CLASSIFIED AS HELD FOR SALE AND DISPOSAL GROUPS*. Most of the other disposals were mergers and liquidations.

[4] Foreign currency translation

Transactions in foreign currency are translated into the relevant functional currency of the individual entity on the transaction date. After initial recognition, foreign currency fluctuations relating to monetary items are recognised in profit or loss. For non-monetary items, historical translation rates continue to form the measurement basis. Translation differences arising from the translation of items into the reporting currency continue to be recognised in other comprehensive income.

The financial statements of foreign subsidiaries, including any fair value adjustments identified in the course of a purchase price allocation, are translated in accordance with the functional currency concept set out in IAS 21 *The Effects of Changes in Foreign Exchange Rates*.

Assets and liabilities, contingent liabilities and other financial commitments are translated at the mid-rate on the reporting date (closing rate method). Items in the Group Statements of Profit and Loss and the reported profit of the year are translated at a rate which approximates to the translation rate on the date of the transaction (the average rate).

Differences arising from the translation of equity are recognised in other comprehensive income.

The financial statements of foreign companies accounted for using the equity method are translated using the same principles for the adjustment of equity as are applied to consolidated subsidiaries.

The financial statements of subsidiaries outside Germany which report in a functional currency which is the currency of a hyperinflationary economy are adjusted for the change in purchasing power arising from the inflation.

Since January 1, 2010, Linde's activities in Venezuela, which is classified as a hyperinflationary economy in accordance with IAS 29 *Financial Reporting in Hyper- inflationary Economies*, have been reported after adjustment for the effects of inflation. The rate of inflation is calculated using an inflation index derived from exchange rate movements.

PRINCIPAL EXCHANGE RATES

<i>Exchange rate EUR 1 =</i>	ISO-Code	Exchange rates on report date			Average rates of the year		
		12/31/2014	12/31/2015	12/31/2016	2014	2015	2016
Australia	AUD	1.48084	1.49183	1.45732	1.47214	1.47802	1.48859
China	CNY	7.50845	7.05243	7.30336	8.18499	6.97578	7.35307

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

UK	GBP	0.77679	0.73685	0.85229	0.80610	0.72610	0.81950
South Africa	ZAR	13.99917	16.80825	14.44751	14.39463	14.16740	16.26524
USA	USD	1.20985	1.08605	1.05160	1.32851	1.11003	1.10700

F.3-31

Table of Contents

[5] Accounting policies

The financial statements of companies included in the consolidated financial statements of The Linde Group have been prepared using uniform accounting policies in accordance with IFRS 10 Consolidated Financial Statements.

The preparation of the Group financial statements in accordance with IFRS requires discretionary decisions and estimates for some items, which might have an effect on their recognition and measurement in the statement of financial position and statement of profit or loss. The actual amounts realised may differ from these estimates.

The main accounting and valuation policies, as well as the estimates and discretionary decisions associated with them, are explained below:

Principles of consolidation

Consolidation

Companies are consolidated using the acquisition method. Where non-controlling interests are acquired, any remaining balance between the acquisition cost and the share of net assets acquired is offset directly in equity. Intra-Group sales, income and expenses and accounts receivable and payable are eliminated. Intra-Group profits and losses arising from intra-Group deliveries of non-current assets and inventories are eliminated.

The cost of an acquisition is measured at the fair value of the assets acquired, and liabilities assumed, in order to gain control, on the date of acquisition. The identifiable assets, liabilities and contingent liabilities acquired as a result of a business combination are recognised for the first time at their fair values at the date of acquisition, irrespective of the scope of any non-controlling interests. Non-controlling interests are measured at the pro rata fair value of the assets acquired and the liabilities assumed (partial goodwill method).

Control

The Group financial statements comprise Linde and all the entities which Linde controls. In accordance with IFRS 10, Linde controls an entity when it has rights to variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity after considering all relevant facts and circumstances.

When assessing whether to consolidate an entity, Linde evaluates a range of control factors, particularly:

the purpose and design of the entity,

the relevant activities and how these are determined,

whether Linde's rights result in the ability to direct the relevant activities,

whether Linde has exposure or rights to variable returns, and

whether Linde has the ability to use its power to affect the amount of its returns.

If Linde holds more than 50% of the voting rights associated with its equity interests in an entity, this generally indicates that Linde has control over the entity unless there is evidence that another investor or other investors has the practical ability to direct the relevant activities.

If Linde does not own more than 50% of the voting rights associated with its equity interests, it controls an entity if it has the practical ability to direct the relevant activities of such entity on other contractual bases. Linde controls certain entities which were solely formed for the construction and operation of gas production plants. In these cases, Linde provides an investment in the form of equity and partially shareholder loans and continuously contributes the know-how to build, maintain and operate the gas production plants which constitute

F.3-32

Table of Contents

the relevant activities that significantly affect the amount of returns. These entities depend on Linde's technology input.

Joint control

Companies over which Linde AG may exercise joint control, as defined by IFRS 11, are either included in the Group financial statements on the basis of the interest (line-by-line method) or using the equity method, depending on the characteristics of the company. If Linde AG holds the same number of voting rights as another company, this generally indicates joint control, unless other (contractual) rights result in control being exercised by one of the shareholders.

If joint control exists, Linde needs to distinguish whether the investment is a joint operation or a joint venture. This distinction is dependent on whether Linde has rights to the assets and obligations for the liabilities of the arrangement or whether it has rights to the net assets of the arrangement. To make the distinction, Linde must consider the structure and legal form of the company, any contractual agreements which might apply and any other relevant circumstances.

Joint ventures are accounted for under the equity method at cost at the date of acquisition. In subsequent periods, the carrying amount is adjusted up or down to reflect Linde's share of the comprehensive income of the investee. Any distributions received from the investee and other changes in the investee's equity reduce or increase the carrying amount of the investment. If the losses of an associate or joint venture attributable to The Linde Group equal or exceed the value of the interest held in this associate or joint venture, no further losses are recognised unless the Group incurs an obligation or makes payments on behalf of the associate or joint venture. The same principles apply to the consolidation of companies accounted for using the equity method as for the consolidation of subsidiaries.

Significant influence

Associates over which Linde AG can exercise significant influence as defined by IAS 28 are also accounted for using the equity method. Significant influence is presumed if Linde AG holds (directly or indirectly) 20 percent or more of the voting rights in an investee, unless it can be clearly demonstrated that this is not the case.

Non-consolidated subsidiaries

Non-consolidated subsidiaries, when taken individually and together, are immaterial from the Group's point of view in terms of total assets, revenue and profit or loss for the year and do not have a significant impact on the net assets, financial position and results of operations of the Group.

Management judgement

When assessing whether Linde exercises control, joint control or significant influence over companies in which it holds less than 100 percent of the voting rights, discretionary decisions may have to be made. Above all in cases where Linde holds 50 percent of the voting rights, a decision has to be taken as to whether there are rights or circumstances which might mean that Linde has power over the potential subsidiary or that joint control exists.

Changes to contractual agreements or facts or circumstances are monitored on an ongoing basis and are evaluated to determine whether they have an impact on the assessment as to whether Linde is exercising control or joint control over its investment.

Business combinations require estimates to be made when determining fair values. When discounted cash flow methods are used, discretionary aspects include in particular the time period and amount of the cash flow and the determination of an appropriate discount rate.

F.3-33

Table of Contents*Intangible assets*

Purchased and internally generated intangible assets are stated at acquisition cost or manufacturing cost less accumulated amortisation and any impairment losses. An internally generated intangible asset is recognised if it can be identified as an asset, if it is probable that the future economic benefits that are attributable to the asset will flow to Linde, and if the cost of the asset can be measured reliably. It is important to determine whether the intangible assets have finite or indefinite useful lives. The estimated useful life of customer relationships purchased is calculated on the basis of the term of the contractual relationship underlying the customer relationship, or on the basis of expected customer behavior. Customer relationships are stated at acquisition cost and amortised on a straight-line basis over their estimated useful lives. Goodwill, intangible assets with indefinite useful lives and intangible assets not yet ready for use are not amortised, but are subject instead to an impairment test once a year, or more often if there is any indication that an asset may be impaired.

The cash-generating unit (CGU), applied in impairment reviews of goodwill corresponds to the operating segments EMEA, Americas and Asia/Pacific, as well as the Engineering Division and Other Activities. The impairment test involves initially comparing the value in use of the cash-generating unit with its carrying amount. If the carrying amount of the cash-generating unit exceeds the value in use, a test is performed to determine whether the fair value of the asset less costs to sell is higher than the carrying amount. To calculate the value in use of the cash-generating units, post-tax future cash inflows and outflows are derived from corporate financial budgets approved by management which cover a detailed planning period of five years. The calculation of the terminal value is based on the future net cash flows from the latest available detailed planning period. The post-tax interest rates used to discount the cash flows take into account industry-specific and country-specific risks relating to the particular cash-generating unit. When the terminal value is discounted, declining growth rates are used, which are lower than the growth rates calculated in the detailed planning period and which serve mainly to compensate for a general inflation rate.

If the reason for an impairment loss recognised in prior years no longer exists, the carrying amount of the intangible asset is increased to a maximum figure of the carrying amount that would have been determined had no impairment loss been recognised. This does not apply to goodwill.

Costs incurred in connection with the purchase for consideration and in-house development of software used internally, including the costs of bringing this software to an operational state, are capitalised and amortised on a straight-line basis over an estimated useful life of three to eight years.

USEFUL LIVES OF INTANGIBLE ASSETS

Customer relationship	2	40 years
Brands	10 years	indefinite
Other intangible assets	3	14 years

Tangible assets

Tangible assets are reported at acquisition cost or manufacturing cost less accumulated depreciation based on the estimated useful life of the asset and any impairment losses. Tangible assets are depreciated using the straight-line method and the depreciation expense is disclosed in the statement of profit or loss under the heading which corresponds to the functional features of the underlying asset. The depreciation method and the estimated useful lives of the assets are reviewed on an annual basis and adapted to prevailing conditions.

The following useful lives apply to the different types of tangible assets:

USEFUL LIVES OF TANGIBLE ASSETS

Buildings	10 - 40 years
Technical equipment and machinery	6 - 15 years
Other equipment, furniture and fixtures	3 - 20 years

F.3-34

Table of Contents

The useful lives are estimated based on past experience and set out in uniform Group guidelines. Assumptions also need to be made when Linde assesses whether an asset may be capitalised and which components of the cost of the asset may be capitalised. Estimates need to be made here, for example, of the expected future economic benefits of an asset or the expected future costs of the dismantling of plants. In addition, the capitalisation of costs which are incurred during the operating phase of an asset, such as the costs of upgrades to plants or their complete overhaul, depends on whether these costs will lead to better or higher output or whether they extend the estimated useful life of the asset.

If significant events or market developments indicate an impairment in the value of the tangible asset, Linde reviews the recoverability of the carrying amount of the asset by testing for impairment. The scope of the cash-generating unit is determined by external, independent cash flows. Special local market-related circumstances determine the combination of cash flows from different product segments. To determine the recoverable amount on the basis of value in use, estimated future cash flows are discounted at a rate which reflects the risk specific to the asset. When estimating future cash flows, current and expected future inflows as well as segment-specific, technological, economic and general developments are taken into account. If the reason for an impairment loss recognised in prior years no longer exists, the carrying amount of the tangible asset is increased to a maximum figure of the carrying amount that would have been determined had no impairment loss been recognized.

Inventories

Inventories are reported at the lower of acquisition or manufacturing cost and net realisable value. Inventories are generally measured on a moving average basis or using the FIFO (first in, first out) method.

Non-current assets held for sale and disposal groups and discontinued operations

Non-current assets and disposal groups, as well as liabilities directly related to these, are classified separately in the Statements of Financial Positions as held for sale if they are available for sale in their present condition and the sale within the next twelve months is highly probable.

Non-current assets classified as held for sale and disposal groups are measured at the lower of carrying amount and fair value less costs to sell. Amortisation and depreciation has been discontinued. The process involved in determining the fair value less costs to sell involves estimates and assumptions that are subject to uncertainty.

Discontinued operations are reported as soon as a part of the business is classified as held for sale, or has already been disposed of, and the business area in question represents either a separate major line of business or a geographical area of operations and is part of a single coordinated plan to dispose of a separate major line of business or geographical area of operations. The profit/loss from discontinued operations is reported separately from the expenses and income from continuing operations in the Group statement of profit or loss; prior-year figures are shown on a like-for-like basis. In the Group statement of cash flows, the cash flows from discontinued operations are shown separately from the cash flows from continuing operations; prior-year figures are shown on a like-for-like basis. The information provided in the Notes to the Group financial statements insofar as they relate to the Group statement of profit or loss and the Group statement of cash flows relates to continuing operations. If the information relates exclusively to discontinued operations, this is highlighted accordingly. The prior-year values were adjusted accordingly.

Provisions for pensions and similar obligations

The valuation of pension provisions is based on the projected unit credit method set out in IAS 19 Employee Benefits for defined benefit obligations. This method takes into account not only vested future benefits and known pensions at

the reporting date, but also expected future increases in salaries and pensions. The calculation of the provisions is determined using actuarial reports based on biometric assumptions.

F.3-35

Table of Contents

The fair value of the plan assets (adjusted if necessary to comply with the rules relating to the asset ceiling set out in IAS 19.64) is deducted from the present value of the pension obligations (gross pension obligation) to give the net pension obligation or net pension asset in respect of defined benefit pension plans. According to IAS 19.64, a net pension asset may only be disclosed if The Linde Group, under its obligation as an employer, has the right to receive a refund of the surplus or to reduce future contributions.

The net interest expense for the financial year is calculated by multiplying the net pension obligation or net pension asset at the beginning of the period by the interest rate underlying the discounting of the gross defined benefit obligation at the beginning of the period.

The discount rate is calculated on the basis of the returns achieved on the relevant call date for high quality fixed-interest corporate bonds in the market. The currency and period to maturity of the underlying bonds correspond to the currency and probable period to maturity of the post-employment benefit obligations. If such returns are not available, the discount rates are based on market returns for government bonds.

Remeasurements comprise on the one hand the actuarial gains and losses on the remeasurement of the gross defined benefit obligation and on the other hand the difference between the return on plan assets actually realised and the return assumed at the beginning of the period, which is based on the discount rate of the corresponding gross defined benefit obligation. If a pension plan is overfunded and the asset ceiling applies, remeasurements also comprise the change in the net asset from the application of the asset ceiling rules to the extent that this has not been accounted for in net interest.

Actuarial gains and losses arise from changes in actuarial assumptions or from variations between earlier actuarial assumptions and actual events.

All remeasurements (i.e. actuarial gains and losses, the cumulative effect of an asset ceiling and the effects of an increase in the pension obligation in accordance with IFRIC 14 The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction) are offset immediately in other comprehensive income.

The expense arising from additions to the pension provisions is allocated to functional costs. The net interest expense or net interest income from defined benefit plans is disclosed in the financial result. For each pension plan, it is established whether the net figure is a net interest expense or net interest income and the amounts are disclosed accordingly in the financial result.

Other provisions

In accordance with IAS 37 Provisions, Contingent Liabilities and Contingent Assets, other provisions are recognised when a present obligation to a third party exists as a result of a past event, it is probable that an outflow of resources will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Other provisions are recognised for all identifiable risks and liabilities of uncertain timing or amount. The amounts provided are the best estimate of the probable expenditure required to settle the obligation and are not offset against recourse claims. The settlement amount is calculated based on the assessment of the probability of an outflow of resources, and on past experience and the circumstances known at the reporting date. This also includes any cost increases which need to be taken into account at the reporting date. The actual outflow of resources at a future date may therefore vary from the figure included in other provisions. Provisions which relate to periods of more than twelve months are discounted.

Provisions for warranties and onerous contracts include provisions for warranties and provisions for litigation. Assumptions are made here about the probability of occurrence of the risk and the expected future outflow of resources. The uncertainty associated with the measurement of warranty provisions is relatively moderate, as Linde has recourse to historical warranty cost ratios when determining the amounts to be set aside.

F.3-36

Table of Contents

Litigation is associated with great uncertainty. A degree of discretion is required to assess whether a present obligation to a third party exists at the reporting date as a result of a past event, whether it is probable that an outflow of resources will be required in future to settle the obligation and whether a reliable estimate can be made of the amount of the obligation. The current status of outstanding litigation is regularly reviewed and updated by the Group's legal department and lawyers appointed by the Group. Changes to this status as a result of new information may result in adjustments being made to the provision.

Provisions for other obligations include provisions for costs which are expected to arise on the completion of major projects. There is an increased level of uncertainty associated with the measurement of these provisions.

Provisions for warranty claims are recognised taking current or estimated future claims experience into account.

Site restoration obligations are capitalised when they arise, at the discounted value of the obligation, and a provision for the same amount is established at the same time. An estimate is made, based on past experience, of future costs expected to be incurred to dismantle plants and restore the land on which the plant was built to its original condition. The expected costs are reassessed on an annual basis and the amount of the provision is adjusted if required. The depreciation charged on the asset and the unwinding of interest applied to the provision are both allocated as an expense to the periods of use of the asset.

Provisions for restructuring are recognised if a formal, detailed restructuring plan has been drawn up and communicated to the relevant parties.

Income tax provisions are disclosed in income tax liabilities

Revenue recognition

Revenue comprises sales of products and services as well as lease and rental income, less discounts and rebates.

Revenue from the sale of goods is recognised in accordance with IAS 18 when the risks of ownership have been transferred to the customer, the consideration can be reliably determined and it is probable that the associated receivables will be collected. If the customer is to take delivery of the goods, the relevant sale will not be recognised until the customer has accepted delivery. In the case of long-term service contracts, revenue is recorded on a straight-line basis over the period of the contract.

Long-term construction contracts

Revenue from long-term customer-specific construction contracts is recognised in accordance with IAS 18 Revenue and/or IAS 11 Construction Contracts, based on the stage of completion of the contract (percentage of completion method, or PoC method). The stage of completion of each contract is determined by the ratio of the costs incurred to the expected total cost (cost-to-cost method). For major projects, the calculation and analysis of the stage of completion of the project takes into account in particular contract costs incurred by subcontractors. External information is sometimes used to assist with the calculation of these costs. When the outcome of a construction contract cannot be estimated reliably, revenue is recognised only to the extent of the contract costs incurred which can probably be covered, and the contract costs in the period in which they are incurred are recognised as an expense (zero profit method). If the cumulative contract output (costs incurred plus profits disclosed) exceeds payments on account on an individual contract, the construction contract is disclosed under Trade receivables. If there is a negative balance after deducting payments on account, the amount is disclosed under Trade payables. Anticipated losses on contracts are recognised in full, based on an assessment of identifiable risks.

F.3-37

Table of Contents

The financial income from long-term construction contracts is disclosed in other operating income as a result of its clear relationship with the Group's operating business.

The measurement of contract revenue is affected by uncertainties that depend on the outcome of future events. Underlying estimates are revised at the end of each reporting period based on the latest available information at that time. Changes to total estimated cost and anticipated losses, if any, are recognised in the period determined.

A variation is an instruction by the customer for a change in the scope of the work to be performed under the contract. A variation may lead to an increase or a decrease in contract revenue. A variation is included in the contract revenue if it is probable that the customer will approve the variation and the amount of revenue arising from the variation, respectively, and the amount of revenue can be measured reliably.

A claim is an amount that the contractor seeks to collect from the customer or another party as reimbursement for costs not included in the contract price. Claims are included in contract revenue only when negotiations have reached an advanced stage such that it is probable that the customer will accept the claim and the amount that is probable will be accepted by the customer can be measured reliably.

Cost of sales

Cost of sales comprises the cost of goods and services sold and the cost of merchandise sold. It includes not only the cost of direct materials and direct manufacturing expenses, but also overheads including depreciation of production plants, amortisation of certain intangible assets and inventory write-downs.

Research and development costs

Research costs and development costs which cannot be capitalised are recognised immediately in profit or loss
Financial result

The financial result includes:

interest expenses on liabilities,

dividends received,

interest income on receivables,

gains and losses on financial instruments recognised in profit or loss,

the net interest expense and net interest income from defined benefit plans,

the interest expense and income from finance leases and

the expense and income relating to the measurement of certain embedded derivatives

Interest income and interest expenses are recognised in profit or loss on the basis of the effective interest rate method. Dividends are recognised in profit or loss when they have been declared. Dividend payments made by operating companies which are reported at cost or at fair value in which Linde holds more than 10 percent of the voting rights and which have a clear connection to Linde's core operating business are recognised in other operating income. Core

businesses are defined as those business areas which make a material contribution to the revenue of a division. A material contribution is deemed to be one of around 20 percent.

F.3-38

Table of Contents*Financial instruments*

Financial assets and liabilities are only recognised in the Group statement of financial position when Linde becomes bound by the contractual provisions of the financial instrument. In the normal course of events purchases and sales of financial assets are accounted for on settlement day. The same does not apply to derivatives, which are accounted for on the trading day.

According to IAS 39 Financial Instruments: Recognition and Measurement, financial instruments must be categorised as financial instruments held for trading or at fair value through profit or loss, available-for-sale financial assets, held-to-maturity financial investments, or loans and receivables. The Linde Group does not avail itself of the fair value option, whereby financial assets or financial liabilities are classified as at fair value through profit or loss when they are first recognised.

Available-for-sale financial assets include equity instruments and debt instruments. If equity instruments are not held for trading or measured at fair value through profit or loss, they are classified as available-for-sale financial assets. Debt instruments are included in this category if they are held for an unspecified period and can be sold depending on the market situation.

Financial instruments are initially recognised at fair value. Transaction expenses which are directly attributable to the acquisition or issue of financial instruments are only included in the determination of the carrying amount if the financial instruments are not recognised at fair value through profit or loss.

The subsequent measurement of available-for-sale financial assets is based on the separate recognition in equity as other comprehensive income of unrealised gains and losses, inclusive of deferred tax, until they are realised. Equity instruments for which no price is quoted in an active market and for which the fair value cannot be reliably determined are reported at cost. If the fair value of available-for-sale financial assets falls below cost and if there is objective evidence that the asset is impaired, the cumulative loss recognised directly in equity is transferred to profit or loss. Impairment reversals are recognised in equity for equity instruments and in profit or loss for debt instruments.

Loans and receivables and held-to-maturity financial investments are measured at amortised cost using the effective interest rate method. Where there is objective evidence that the asset is impaired, it is recognised at the present value of expected future cash flows if this is lower than amortised cost. The present value of expected future cash flows is calculated using the original effective interest rate of the financial asset.

The Linde Group conducts regular impairment reviews of the following categories of financial assets: loans and receivables, available-for-sale financial assets and held-to-maturity financial investments. The following criteria are applied:

- [a] significant financial difficulty of the issuer or obligor,
- [b] breach of contract, such as a default or delinquency in payments of interest or principal,
- [c] the lender, for economic or legal reasons relating to the borrowers financial difficulty, granting to the borrower a concession that would not otherwise be considered,

- [d] it becoming probable that the borrower will enter bankruptcy or other financial reorganisation,
- [e] the disappearance of an active market for that asset because of financial difficulties,
- [f] a recommendation based on observable data from the capital market,

F.3-39

Table of Contents

[g] information about significant changes with an adverse effect that have taken place in the technological, economic or legal environment of a contracting party,

[h] a significant or prolonged decline in the fair value of the financial instrument.

A financial asset is derecognized if Linde loses its contractual entitlement to cash flows from such an asset or if it transfers virtually all the risks and opportunities associated with that financial asset. In the 2016 financial year, no financial assets that would qualify for elimination were transferred by Linde.

All derivative financial instruments are reported at fair value, irrespective of their purpose or the reason for which they were acquired.

Embedded derivatives (i.e. derivatives which are included in host contracts) are separated from the host contract and accounted for as derivative financial instruments, if certain requirements are met.

Receivables and liabilities from finance leases, trade receivables and trade payables, financial debt, as well as miscellaneous receivables and assets and miscellaneous liabilities, are reported at amortised cost as long as they are not derivative financial instruments. Differences between historical cost and the repayment amount are accounted for using the effective interest rate method. Appropriate impairment losses are recognised if specific risks are identified. Establishing impairment of receivables is based to a large extent on making estimates and assessments about individual amounts receivable. These estimates and assessments are founded on the creditworthiness of that particular customer, prevailing economic trends and an analysis of historical impairments of receivables on a portfolio basis. Individual impairments of receivables take account of both customer-specific and country-specific risks. The carrying amount of the financial debt which comprises the hedged item in a fair value hedge is adjusted for the corresponding gain or loss with respect to the hedged risk.

Financial instruments which contain both an equity portion and a liability portion are classified in accordance with IAS 32 Financial Instruments: Presentation.

The financial instruments issued by The Linde Group are classified entirely as financial liabilities and reported at amortised cost. No part thereof is classified separately as an equity instrument.

Deferred taxes

Deferred tax assets and liabilities are accounted for in accordance with IAS 12 Income Taxes under the liability method in respect of all temporary differences between the carrying amounts of the assets and liabilities under IFRS and the corresponding tax base used in the computation of taxable profit, and in respect of all consolidation adjustments affecting net income and unused tax loss carryforwards.

Deferred tax assets are only recognised for unused tax losses to the extent that it is probable that taxable profits will be available in future years against which the tax losses can be utilised. Deferred taxes are calculated at the tax rates that apply to the period when the asset is realised or the liability is settled, using tax rates set out in laws that have been enacted or substantively enacted in the individual countries by the reporting date.

Accounting for leases

According to IFRIC 4 Determining whether an Arrangement contains a Lease, if specific criteria are met, certain arrangements should be accounted for as leases that do not take the legal form of a lease. In particular, in the Gases

Division, certain gas supply contracts are classified as embedded leases if the fulfilment of the arrangement depends upon a specific asset and if customer's revenue share accounts for an overwhelming proportion of the production capacity of the asset. If an embedded lease exists, the criteria set out in IAS 17 Leases are used to examine in each individual case whether, under the gas supply contract, substantially all the risks and rewards incidental to ownership of the plant have been transferred to the customer, meaning that this constitutes an embedded finance lease. This involves separating that portion of the gas supply contract which

F.3-40

Table of Contents

relates to the embedded lease from the rest of the contract. Then it is established whether the minimum lease payments thus identified amount to substantially all the fair value of the plant and whether the minimum lease term is for the major part of the plants economic life.

When classifying procurement lease agreements, Linde must also make assumptions: e. g. to determine the appropriate interest rate or the residual value or estimated useful lives of the underlying assets.

If Linde is the lessee under a finance lease agreement, the assets are disclosed at the beginning of the lease under tangible assets at the fair value of the leased asset or, if lower, at the present value of the future lease payments. Corresponding liabilities from finance leases are set up.

Rental and lease payments under operating leases are recognised in functional costs in the statement of profit or loss on a straight-line basis over the lease term.

Recently issued accounting standards

The IASB and IFRIC have revised numerous standards and have issued many new ones in the course of their projects to develop IFRS and achieve convergence with US GAAP. Of these, the following standards are mandatory in the consolidated financial statements of The Linde Group for the year ended December 31, 2016:

Amendments to IFRS 11 Joint Arrangements: Accounting for Acquisitions of Interests in Joint Operations

Amendments to IAS 16 Property, Plant and Equipment and IAS 38 Intangible Assets: Clarification of acceptable methods of depreciation/amortisation

Annual improvements to the IFRS (2012 – 2014)

Amendment to IAS 1: Disclosure Initiative

Amendments to IAS 19: Defined Benefit Plans: Employees' contributions

Annual improvements to the IFRS (2010 – 2012)

Recently issued accounting standards which have not yet been applied

The following standards have been issued by the IASB, but have not been applied in the consolidated financial statements of The Linde Group for the year ended December 31, 2016, as they are not yet effective:

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

IFRS 15 Revenue from Contracts with Customers including Amendments to IFRS 15 (first-time application according to IASB in financial years beginning on or after January 1, 2018)

Clarifications relating to IFRS 15 Revenue from Contracts with Customers (first-time application according to IASB in financial years beginning on or after January 1, 2018)

IFRS 9 Financial Instruments (first-time application according to IASB in financial years beginning on or after January 1, 2018)

Amendments to IFRS 10 and IAS 28: Sale or Contribution of Assets between an Investor and its Associate or Joint Venture (first-time application deferred indefinitely by the IASB)

IFRS 16 Leases (first-time application according to IASB in financial years beginning on or after January 1, 2019)

F.3-41

Table of Contents

Amendments to IAS 12: Recognition of Deferred Tax Assets for Unrealised Losses (first-time application according to IASB in financial years beginning on or after January 1, 2017)

Amendments to IAS 7: Disclosure Initiative (first-time application according to IASB in financial years beginning on or after January 1, 2017)

Amendments to IFRS 2 Share-based Payment (first-time application according to IASB in financial years beginning on or after January 1, 2018)

Annual improvements to the IFRSs (2014 – 2016), (first-time application according to IASB in financial years beginning on or after January 1, 2017/ January 1, 2018)

IFRIC 22 Foreign Currency Transactions and Advance Consideration (first-time application according to IASB in financial years beginning on or after January 1, 2018)

IFRS 15

The new standard on revenue recognition seeks to create a framework which brings together the multiplicity of rules which have until now been set out in a number of different standards and interpretations. According to IFRS 15, revenue is to be recognised when control over the goods or services in question has passed to the customer. This means that the principle of the transfer of control replaces the principle of the transfer of risks and rewards.

In future, companies preparing their financial statements in accordance with IFRS will determine when to recognise revenue (at what time or over which period) and how much revenue to recognise by applying five steps. The new provisions (with the exception of the amendments to IFRS 15) are mandatory for financial years beginning on or after January 1, 2018. Earlier application is permitted. IFRS 15 replaces IAS 11 Construction Contracts and IAS 18 Revenue, as well as the corresponding interpretations.

Linde has launched a Group-wide project on the introduction of IFRS 15 that comprises two phases (analysis and implementation phase). The analysis phase involves analysing the main types of contract in respect of the IFRS 15 provisions. This analysis had largely been completed on the reporting date. The next step, the implementation phase, will involve implementing the necessary adjustments that have been identified in the IT processes/systems, and training the Group companies on the IFRS 15 provisions and - where necessary - on the new processes. Linde has identified the performance obligations for the Gases Division, Engineering Division and the logistics services company Gist from the Other Activities segment based on the five-step model pursuant to IFRS 15 and has assessed the impact on potential changes in revenue recognition for these performance obligations in accordance with IFRS 15.

To date, the IFRS 15 analysis has not revealed any significant changes relating to the changeover to, and future application of, IFRS 15. The construction contracts in the Engineering Division that are measured using the PoC method still meet the requirements for the period-related recognition of revenue under IFRS 15.

The IFRS 15 requirements will change the presentation in the annual financial statements with regard to the information provided in the Notes. In the future, quantitative and qualitative information will be provided on contract assets and liabilities from contracts with customers, in particular. If one of the parties has fulfilled its contractual obligations, then the company has to report the contract as a contract asset or liability depending on whether the

company has rendered its service or the customer has made payment. All unconditional entitlements to the receipt of a consideration are to be reported separately by a company as a receivable.

Linde will apply the standard for the first time for the 2018 financial year, applying the modified retrospective method.

F.3-42

Table of Contents*IFRS 9*

IFRS 9 Financial Instruments, which was published in July 2014, replaces the existing guidelines in IAS 39 Financial Instruments: Recognition and Measurement. The new provisions are mandatory for financial years beginning on or after January 1, 2018. In the future, financial assets will be classified and valued based on the business model on which the portfolio is based and the nature of the cash flows generated by the financial instrument. The provisions for financial liabilities were largely taken over from IAS 39. IFRS 9 also contains new provisions on the impairment of financial instruments, which is now based on the expected credit losses, and provisions on hedge accounting, which aim to bring accounting closer into line with risk management. In the 2016 financial year, The Linde Group took a full inventory of its financial instruments, allocated them to the business models and, as a result, set the measurement categories pursuant to IFRS 9. Compared with IAS 39, the categorisation of the financial instruments does not result in any major changes in measurement. Suitable models are being developed in order to implement the new provisions on impairments, in particular to determine the default rates of trade receivables. At the moment, the effects cannot yet be reliably quantified. An analysis of the currently designated hedging relationships revealed that they will, in all likelihood, comply with the provisions set out in IFRS 9, although the documentation and effectiveness requirements will need to be adjusted when IFRS 9 comes into force.

Linde will apply the standard for the first time for the 2018 financial year. Changes to accounting methods are generally applied using the retrospective method with the exception of the scenarios set out below:

No adjustment of comparative information for prior periods with regard to changes in classification and measurement (including impairments). Differences between the carrying amounts of financial assets and financial liabilities due to the first-time application of IFRS 9 will be recognised under revenue reserves and cumulative changes in equity as at January 1, 2018 as a general rule.

The new provisions on hedge accounting will be applied prospectively.

IFRS 16

IFRS 16 specifies how an IFRS reporter will recognise, measure, present and disclose leases. The new standard now provides a single lessee accounting model requiring lessees to recognise assets and liabilities for all leases unless the lease term is twelve months or less or the underlying asset has a low value (option in each case). Lessors continue to classify leases as operating or finance, with IFRS 16's approach to lessor accounting substantially unchanged from its predecessor, IAS 17.

Linde enters into lease agreements principally as the lessee. The number of operating leases is much higher than the number of finance leases. As a result, the application of IFRS 16 will result in an increase in both assets and financial liabilities at Linde. No significant impact on finance leases is expected. Linde is likely to make use of the options relating to short-term and low-value leases. As far as the transitional provisions are concerned, Linde is likely to apply the modified retrospective method. At the present time, the Group plans to apply IFRS 16 for the first time as at January 1, 2019. The quantitative impact of IFRS 16 is currently still being analysed.

The remaining standards have no significant impact on the net assets, financial position and results of operations of The Linde Group.

Table of Contents**NOTES TO THE GROUP STATEMENT OF PROFIT OR LOSS****[6] Revenue**

Revenue is analysed by activity in the segment information in the Group financial statements. There were no customers from whom the Group derived over 10 percent of its revenue.

REVENUE

<i>in EUR m</i>	2014	2015	2016
Revenue from sale of goods and services	14,345	15,519	15,260
Revenue from long-term construction contracts	2,137	1,826	1,688
Total	16,482	17,345	16,948

[7] Other operating income and expenses**OTHER OPERATING INCOME**

<i>in EUR m</i>	2014	2015	2016
Exchange gains	130	117	60
Profit on disposal of non-current assets	71	36	150
Compensation payments received	77	18	28
Operating Dividend Income	29	-	-
Income arising from changes to pension schemes	-	42	45
Ancillary revenues	14	13	15
Income from reversal of provisions	24	24	27
Financial income from long-term construction contracts	19	18	14
Income from free-standing foreign currency hedges	6	15	20
Miscellaneous operating income	114	136	108
Total	484	419	467

2014 to 2015

The drop in other operating income by EUR 65 m was largely the result of the drop in the profit of non-current assets and in the compensation payments received.

2015 to 2016

The increase in other operating income of EUR 48 m was largely the result of the increase in the profit on disposal of non-current assets. This also includes the profit from the scheduled disposal of non-current assets classified as held for sale and disposal groups.

OTHER OPERATING EXPENSES

<i>in EUR m</i>	2014	2015	2016
Exchange losses	115	101	72
Expenses from free-standing foreign currency hedges	6	9	9
Loss on disposal of non-current assets	16	21	25
Expense related to pre-retirement part-time work schemes	2	3	2
Taxes	16	23	27
Miscellaneous operating expense	148	94	143
Total	303	251	278

F.3-44

Table of Contents*2014 to 2015*

The drop in other operating expenses from EUR 303 m to EUR 251 m largely resulted from the drop in miscellaneous operating expenses from EUR 148 m to EUR 94 m.

2015 to 2016

The increase in other operating expenses by EUR 27 m was primarily attributable to higher miscellaneous operating expenses.

[8] Other information on the Group statement of profit or loss

During the 2016 financial year, personnel expenses from continuing operations of EUR 3,724 m (2015: EUR 3,829 m, 2014: EUR 3,366 m) were recognised in functional costs. The drop in the expenses was due mainly to the fact that restructuring costs were lower than in the previous year, and to positive exchange rate effects. The figures for amortisation and depreciation are given in the segment information.

The amount of inventories recognized as an expense amounted to EUR 9,228 m (2015: EUR 9,467 m, 2014: EUR 8,783 m).

[9] Financial income and expenses**FINANCIAL INCOME**

<i>in EUR m</i>	2014	2015	2016
Net interest income from defined benefit plans	13	7	7
Finance income from finance leases in accordance with IFRIC 4/IAS 17	20	19	15
Income from investments	1	-	1
Other interest and similar income	16	16	6
Total	50	42	29

2014 to 2015

The drop in financial income is largely due to the reduction in net interest income from defined benefit plans, because the interest rates to be applied in the 2015 financial year were lower than in the previous year.

2015 to 2016

The drop in financial income is largely due to the reduction in other interest and similar income; because the interest rates to be applied in the 2016 financial year were lower than in the previous year.

FINANCIAL EXPENSES

<i>in EUR m</i>	2014	2015	2016
Net interest expense from defined benefit plans	30	31	30

Impairment of financial assets	1	1	4
Other interest and similar charges	384	407	319
Total	415	439	353

2014 to 2015

The increase in other interest and similar charges is due to negative valuation effects. In interest income and interest expenses, gains and losses from fair value hedge accounting are offset against each other, in order to give a fair presentation of the economic effect of the underlying hedging relationship. Interest income and interest expenses relating to derivatives were also disclosed net.

F.3-45

Table of Contents

2015 to 2016

The drop in other interest and similar charges can be attributed primarily to the early redemption of two hybrid bonds in the amount of EUR 700 m and GBP 250 m, which bore interest at a rate of 7.375 percent and 8.125 percent respectively.

In interest income and interest expenses, gains and losses from fair value hedge accounting are offset against each other, in order to give a fair presentation of the economic effect of the underlying hedging relationship. Interest income and interest expenses relating to derivatives were also disclosed net.

[10] Taxes on income**INCOME TAX EXPENSE**

<i>in EUR m</i>	2014	2015	2016
Current tax expense (+) and income (-)	477	464	499
Tax expense (+) and income (-) relating to prior periods	-53	13	23
Deferred tax expense (+) and deferred tax income (-)	-71	-81	-98
Total	353	396	424

In the period under review, the tax expense and income relating to prior periods includes current tax expense of EUR 15 m (2015: current tax expense of EUR 43 m; 2014: current tax income of EUR 54 m) and deferred tax expense of EUR 8 m (2015: deferred tax income of EUR 30 m; 2014: deferred tax expense of EUR 1 m). Included in tax income and expense relating to prior periods are the positive and negative effects of facts established by external tax audits in various countries. Of the total amount of deferred tax income, EUR 75 m (2015: EUR 76 m; 2014: EUR 49 m) relates to the change in temporary differences.

The income tax expense disclosed for the 2016 financial year of EUR 424 m is EUR 56 m lower than the expected income tax expense of EUR 480 m, a theoretical figure arrived at by applying the German tax rate of 27.4 percent (2015 and 2014: 27.4 percent) to Group profit before tax.

The difference between the expected income tax expense and the figure disclosed is explained below:

EXPECTED AND DISCLOSED TAX EXPENSE

<i>in EUR m</i>	2014	2015	2016
Profit before tax	1,492	1,632	1,751
Income tax rate of Linde AG (including trade tax, in %)	27.4	27.4	27.4
Expected income tax expense	409	447	480
Foreign tax rate differential	-27	-3	-54
Effect of associates	-6	-3	-4
Reduction in tax due to tax-free income	-98	-147	-96
Increase in tax due to non-tax-deductible expenses	65	63	43
Tax expense and income relating to prior periods	-53	13	23

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Effect of changes in tax rate	3	-7	-9
Change in other permanent differences	-13	-14	30
Other	73	47	11
Income tax expense disclosed	353	396	424
Effective tax rate (in %)	23.7	24.3	24.2

F.3-46

Table of Contents

In the 2016 financial year, the corporate income tax rate in Germany was 15.0 percent (2015 and 2014: 15.0 percent). Taking into account an average rate for trade earnings tax of 11.6 percent (2015 and 2014: 11.6 percent) and the solidarity surcharge (0.8 percent in 2016 as well as in 2015 and 2014), this gives a tax rate for German companies of 27.4 percent (2015 and 2014: 27.4 percent). This tax rate is also used to calculate deferred tax at German companies.

Income tax rates for companies outside Germany vary between 12.5 percent and 40.0 percent.

Temporary differences relating to investments in subsidiaries of EUR 128 m (2015: EUR 120 m) have not led to the recognition of deferred tax, either because the differences are not expected to reverse in the near future as a result of their realisation (due to distributions or the disposal of the company) or the profits are not subject to taxation.

In the reporting period, other changes consisted of income arising from a change in the valuation allowance of EUR 3 m (2015: expense of EUR 47 m; 2014: expense of EUR 84 m). As in the previous year, the recognition of a deferred tax asset in respect of losses brought forward not previously recognised and temporary differences did not have any positive impact (2014: positive impact of EUR 13 m). The positive impact of the utilisation of loss carryforwards in respect of which no deferred tax asset had yet been recognised came to EUR 4 m, as in 2015 (no impact in 2014)

DEFERRED TAX ASSETS AND LIABILITIES

in EUR m	2015		2016	
	Deferred tax assets	Deferred tax liabilities	Deferred tax assets	Deferred tax liabilities
Intangible assets	5	763	5	702
Tangible assets	266	1,213	153	1,156
Financial assets	109	144	121	152
Current assets	465	855	381	589
Provisions	334	199	447	205
Liabilities	950	476	1,076	674
Tax loss carryforwards and tax credits	98	-	112	
Amounts offset	-1,900	-1,900	-1,795	-1,795
Total	327	1,750	500	1,683

The tax credits in the 2016 financial year related mainly to investment incentives, as in the prior year.

Movements in the deferred tax asset and the deferred tax liability were not solely due to movements which have been recognised in profit or loss, but also to movements which have been recognised in other comprehensive income not affecting profit or loss, exchange rate movements in respect of deferred tax recognised in a foreign currency, and movements in deferred tax as a result of the purchase and sale of subsidiaries. Deferred tax disclosed in other comprehensive income not affecting profit or loss totaled EUR 486 m (2015: EUR 362 m; 2014: EUR 408 m). Of this amount, deferred tax assets of EUR 419 m (2015: EUR 294 m; 2014: EUR 350 m) were attributable to provisions and deferred tax assets of EUR 67 m (2015: EUR 68 m; 2014: EUR 58 m) were attributable to current assets.

The carrying amount of deferred tax assets is reduced to the extent that it is no longer probable that the deferred tax asset will be realised. The carrying amount of deferred tax assets which relate to potential reductions in the tax base of

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

EUR 993 m (2015: EUR 1,020 m) was therefore reduced by EUR 220 m (2015: EUR 225 m), as it is not probable that the underlying tax loss carryforwards and tax credits of EUR 929 m (2015: EUR 864 m) and deductible temporary differences of EUR 64 m (2015: EUR 156 m) will be utilised. Of the revised figure for total potential reductions in the tax base of EUR 929 m (2015: EUR 864 m) which relate to adjusted tax carryforwards and tax credits, EUR 191 m (2015: EUR 276 m) may be carried forward for up to ten years and EUR 738 m (2015: EUR 588 m) may be carried forward for longer than ten years.

F.3-47

Table of Contents

Deferred tax assets are recognised only to the extent that future profit and taxable income will be available. Accordingly, deferred tax assets on temporary differences in the amount of EUR 12 m (2015: EUR 37 m) were not recognised. Deferred tax assets with respect to tax loss carryforwards and tax credits of EUR 208 m (2015: EUR 188 m) were not recognised.

Deferred tax assets relating to tax loss carryforwards and tax credits of EUR 112 m (2015: EUR 98 m) were recognised mainly because it is projected that there will be taxable profit against which the unused tax losses and tax credits may be offset.

These projections are primarily based on management's assessment that it is probable that the respective entities will generate future profit and taxable income against which the unused tax losses and unused tax credits can be utilized in the eligible carryforward periods.

TAX LOSS CARRYFORWARDS NOT YET USED

<i>in EUR m</i>	2015	2016
May be carried forward for up to 10 years	323	282
May be carried forward for longer than 10 years	39	75
May be carried forward indefinitely	650	735
Total	1,012	1,092

Total tax loss carryforwards not used includes EUR 766 m (2015: EUR 652 m) for which no deferred tax assets were recognized. These tax loss carryforwards may be carried forward for up to 10 years (2016: EUR 135 m; 2015: EUR 148 m), for longer than 10 years (2016: EUR 45 m; 2015: EUR 35 m) and indefinitely (2016: EUR 586 m; 2015: EUR 469 m).

The movement in tax loss carryforwards is mainly due to additions in Brazil, Canada, Finland, Hong Kong and India, as well as reductions in Germany and Russia. There were also tax loss carryforwards relating to US state tax of EUR 782 m (2015: EUR 416 m).

Distributions to Linde AG shareholders do not have any impact on taxes on income at the level of Linde AG.

[11] Earnings per share**EARNINGS PER SHARE**

<i>in EUR m</i>	2014	2015	2016
Profit for the year from continuing operations - attributable to Linde AG shareholders	1,079	1,133	1,206
Shares in thousand units			
Weighted average number of shares outstanding	185,635	185,638	185,636
Dilution as a result of share option schemes	730	417	360
Weighted average number of shares outstanding diluted	186,365	186,055	185,996
Earnings per share from continuing operations in eur - undiluted	5.81	6.10	6.50
Earnings per share from continuing operations in eur - diluted	5.79	6.09	6.48

Included in the figure for diluted earnings per share is the issue of shares relating to the employee share option schemes, to the extent that these have not already been exercised. Options issued are also included in the calculation of the weighted average number of shares outstanding (fully diluted), on a weighted basis until the date they are exercised.

F.3-48

Table of Contents**NOTES TO THE GROUP STATEMENTS OF FINANCIAL POSITION***[12] Goodwill/other intangible assets***MOVEMENT SCHEDULE INTANGIBLE ASSETS - ACQUISITION COST**

<i>in EUR m</i>	Goodwill	Customer relationships	Brands	Other intangible assets	Total
At 01/01/2014	10,400	3,417	481	1,262	15,560
Currency adjustments	600	176	35	60	871
Additions due to acquisitions	62	14	-	-	76
Additions	-	-	-	56	56
Disposals	-	-	-	32	32
Reclassifications	-	-	-	8	8
Reclassification as assets held for sale	-	-	-	-	-
At 12/31/2014 / 01/01/2015	11,062	3,607	516	1,354	16,539
Currency adjustments	506	119	17	34	676
Additions due to acquisitions	45	7	2	-	54
Additions	-	1	-	46	47
Disposals	-	61	-	18	79
Reclassifications	-	2	-	14	16
Reclassification as assets held for sale	-2	-	-	-	-2
At 12/31/2015 / 01/01/2016	11,611	3,675	535	1,430	17,251
Currency adjustments	-7	-63	-2	1	-71
Additions due to acquisitions	146	29	7	-	182
Additions	-	-	-	52	52
Disposals	2	-	28	94	124
Reclassifications	-	-	-	29	29
Reclassification as assets held for sale	-336	-146	-2	-21	-505
At 12/31/2016	11,412	3,495	510	1,397	16,814

F.3-49

Table of Contents**SCHEDULE OF INTANGIBLE ASSETS CUMULATIVE AMORTISATION**

<i>in EUR m</i>	Goodwill	Customer relationships	Brands	Other intangible assets	Total
At 01/01/2014	5	1,132	163	789	2,089
Currency adjustments	2	74	14	36	126
Additions due to acquisitions	-	-	-	-	-
Amortisation	-	227	25	104	356
Impairments	-	11	-	10	21
Reversal of impairments	-	-	-	-	-
Disposals	-	-	-	31	31
Reclassifications	-	-	-	1	1
Reclassification as assets held for sale	-	-	-	-	-
At 12/31/2014 / 01/01/2015	7	1,444	202	909	2,562
Currency adjustments	-	51	6	21	78
Additions due to acquisitions	-	-	-	-	-
Amortisation	-	182	26	109	317
Impairments	-	-	-	2	2
Reversal of impairments	-	-	-	-	-
Disposals	-	54	-	18	72
Reclassifications	-	2	-	-2	-
Reclassification as assets held for sale	-	-	-	-	-
At 12/31/2015 / 01/01/2016	7	1,625	234	1,021	2,887
Currency adjustments	1	-13	-1	-	-13
Additions due to acquisitions	-	-	-	-	-
Amortisation	-	162	20	116	298
Impairments	-	-	-	7	7
Reversal of impairments	-	-	-	-	-
Disposals	1	-	28	80	109
Reclassifications	-	-	-	11	11
Reclassification as assets held for sale	-	-94	-	-18	-112
At 12/31/2016	7	1,680	225	1,057	2,969
Net carrying amount at 12/31/2014	11,055	2,163	314	445	13,977
Net carrying amount at 12/31/2015	11,604	2,050	301	409	14,364
Net carrying amount at 12/31/2016	11,405	1,815	285	340	13,845

In the statement of financial position at December 31, 2016, the total figure for goodwill is EUR 11,405 m (2015: EUR 11,604 m). Goodwill arising on acquisitions made in the 2016 financial year was EUR 146 m (2015: EUR 45 m).

The total net carrying amount of trademarks acquired in the course of acquisitions was EUR 285 m (2015: EUR 301 m) at the reporting date. The brand names acquired in the course of the BOC acquisition and other acquisitions have been classified as intangible assets with finite useful lives since the 2011 financial year as a long-term rebranding programme for the relevant brands has begun. These brand names are amortised on a straight-line basis over a period of ten to twelve years. At December 31, 2016, their net carrying amount was EUR 169 m (2015: EUR 187 m).

The brand names acquired in the course of Lincare acquisition have indefinite useful lives and are included in the North America region. These were the subject of an impairment test in 2016, based on assumptions of a pre-tax interest rate of 12.4 percent and growth in the terminal value of 1.0 percent. The carrying amount at December 31, 2016 was EUR 116 m (2015: EUR 114 m).

The amortisation expense for intangible assets with finite useful lives of EUR 298 m (2015: EUR 317 m; 2014: EUR 356 m) was disclosed in functional costs, principally in marketing and selling expenses.

F.3-50

Table of Contents

Software solutions are the main component of other intangible assets. An impairment test of goodwill was carried out at September 30, 2016. No impairment losses were recognised as a result. The recoverable amount of goodwill was determined as its value in use, as in the previous year. To calculate its value in use, a discounted cash flow method was used. A detailed five-year plan was used as the basis for the calculation of cash flows. The economic growth rates and overall conditions assumed for the detailed planning period were based on the latest estimates from international economic research institute Oxford Economics. The operating margin in the individual segments was assumed to remain largely stable at the level seen in 2016 throughout the detailed planning period. The inflation assumption for the period extending beyond the planning period is 0.5 percent for all cash-generating units. The cost of capital increased as at December 31, 2016 due to a higher interest rate level in general. Sensitivity calculations performed on this basis did not result in any impairment. It would have taken an isolated increase of 1.9 percentage points in the cost of capital to result in the value in use equaling the carrying amount at the level of the Americas cash-generating unit. In the remaining CGUs, if this increase in the cost of capital had been applied, the value in use would still have exceeded the carrying amount.

ASSUMPTIONS FOR THE IMPAIRMENT TEST OF GOODWILL

	Carrying amount of allocated goodwill in EUR m	Pre-tax WACC based on region-specific premiums and discounts at impairment test date in percent		Post-tax WACC based on region-specific premiums and discounts at impairment test date in percent		Average annual growth rate in gross domestic product in planning period in percent		Average annual growth rate in industrial production in planning period in percent		Long-term growth rate in percent		
		12/31/2015	12/31/2016	12/31/2015	12/31/2016	12/31/2015	12/31/2016	2015	2016	2015	2016	2015
EMEA	5,098	4,986	8.1	6.9	6.4	5.6	2.0	1.9	1.9	1.6	0.5	0.5
Asia/Pacific	1,967	1,992	8.2	7.0	6.4	5.5	4.1	4.2	3.9	3.7	0.8	0.8
Americas	3,916	4,150	9.4	8.0	6.2	5.4	2.5	2.0	2.7	1.8	0.8	0.8
Engineering Division	277	277	8.6	7.6	6.6	5.7	3.2	3.2	3.0	2.7	0.8	0.8
Other Activities	346	-	5.1	-	4.2	-	2.5	-	1.2	-	0.8	-
Total	11,604	11,405										

F.3-51

Table of Contents**[13] Tangible assets****SCHEDULE OF TANGIBLE ASSETS - ACQUISITION COST**

<i>in EUR m</i>	Land and buildings	Technical equipment and machinery	Other equipment, furniture and fixtures	Plants under construction	Total
At 01/01/2014	2,919	21,144	1,547	1,761	27,371
Currency adjustments	22	974	-31	44	1,009
Additions due to acquisitions	-	-	-	4	4
Additions	28	436	72	1,362	1,898
Disposals	40	408	71	3	522
Reclassifications	88	979	50	-1,081	36
Reclassification as assets held for sale	-	-	-	-	-
At 12/31/2014 / 01/01/2015	3,017	23,125	1,567	2,087	29,796
Currency adjustments	47	674	-7	-4	710
Additions due to acquisitions	6	29	-	5	40
Additions	38	538	95	1,218	1,889
Disposals	24	288	71	2	385
Reclassifications	42	1,333	30	-1,380	25
Reclassification as assets held for sale	-2	-4	-	-	-6
At 12/31/2015 / 01/01/2016	3,124	25,407	1,614	1,924	32,069
Currency adjustments	-37	110	12	22	107
Additions due to acquisitions	5	80	6	1	92
Additions	29	902	96	650	1,677
Disposals	62	451	64	115	692
Reclassifications	61	1,096	38	-1,194	1
Reclassification as assets held for sale	-160	-207	-26	-1	-394
At 12/31/2016	2,960	26,937	1,676	1,287	32,860

F.3-52

Table of Contents

SCHEDULE OF TANGIBLE ASSETS CUMULATIVE DEPRECIATION					
in EUR m	Land and buildings	Technical equipment and machinery	Other equipment, furniture and fixtures	Plants under construction	Total
At 01/01/2014	1,343	13,502	1,137	5	15,987
Currency adjustments	-11	525	-24	9	499
Depreciation	85	1,195	99	-	1,379
Impairments	14	74	5	120	213
Disposals	26	379	70	-	475
Reclassifications	1	63	-22	-	42
Reclassification as assets held for sale	-	-	0	-	-
At 12/31/2014 / 01/01/2015	1,406	14,980	1,125	134	17,645
Currency adjustments	27	378	-6	8	407
Depreciation	92	1,365	111	-	1,568
Impairments	1	6	1	1	9
Disposals	20	276	70	1	367
Reclassifications	-	64	-14	-21	29
Reclassification as assets held for sale	-1	-3	-	-	-4
At 12/31/2015 / 01/01/2016	1,505	16,514	1,147	121	19,287
Currency adjustments	-26	26	8	-2	6
Depreciation	89	1,383	121	-	1,593
Impairments	-	17	-	-	17
Disposals	33	372	58	114	577
Reclassifications	1	26	-14	-	13
Reclassification as assets held for sale	-91	-125	-19	-	-235
At 12/31/2016	1,445	17,469	1,185	5	20,104
Net carrying amount at 12/31/2014	1,611	8,145	442	1,953	12,151
Net carrying amount at 12/31/2015	1,619	8,893	467	1,803	12,782
Net carrying amount at 12/31/2016	1,515	9,468	491	1,282	12,756

F.3-53

Table of Contents

Tangible assets include leased buildings, technical equipment and machinery, and fixtures, with a carrying amount totaling EUR 77 m (2015: EUR 78 m). Due to the form of the underlying finance leases, these tangible assets are attributable to The Linde Group in its capacity as the economic owner of the assets. Of the total of EUR 77 m, EUR 22 m (2015: EUR 23 m) relates to land and buildings, EUR 12 m (2015: EUR 17 m) to technical equipment and machinery and EUR 42 m (2015: EUR 38 m) to vehicles.

Also included in tangible assets is technical equipment held under embedded operating leases on the sales side. Of the total minimum lease payments due in future from the customer from such embedded operating leases, EUR 75 m is due within one year (2015: EUR 64 m). EUR 309 m is due within one to five years (2015: EUR 309 m) and EUR 741 m is due in more than five years (2015: EUR 810 m).

Impairment tests were based on the recoverable amount of the assets examined, whereby generally the value in use was applied. The discount rates used (WACC) were based on those used in the impairment test for goodwill. Impairment losses of EUR 17 m were recognised in 2016 (2015: EUR 9 m; 2014: EUR 213 m). The impairment losses related mainly to production plants and were allocated to the following segments: EUR 4 m (2015: EUR 2 m; 2014: EUR 4 m) to EMEA, EUR 9 m (2015: EUR 4 m; 2014: EUR 119 m) to Asia/Pacific and EUR 3 m (2015: EUR 1 m; 2014: EUR 90 m) to the Americas segment. EUR 1 m (2015: EUR 2 m; 2014: EUR 0 m) was recognised in the Engineering Division. The impairment losses relating to tangible assets are largely included in cost of sales and in research and development costs. There were no reversals of impairment losses in 2016, 2015 or in 2014. Borrowing costs during the construction phase of EUR 24 (2015: EUR 52 m; 2014: EUR 42 m) were capitalised, based on a pre-tax interest rate of 3.1 to 3.8 percent (2015: 3.6 to 3.8 percent; 2014: 3.6 to 3.8 percent).

The cost of tangible assets was reduced in the 2016 financial year by government grants of EUR 3 m (2015: EUR 7 m). Tangible assets of EUR 48 m (2015: EUR 56 m) were pledged as security.

[14] Investments in associates and joint ventures/other financial assets**SCHEDULE OF FINANCIAL INVESTMENTS - ACQUISITION COST**

<i>in EUR m</i>	Investments in associates and joint ventures (at equity)			TOTAL
	Other investments	current loans		
As at 01/01/2014	223	104	31	358
Currency adjustments	20	6	1	27
Additions due to acquisitions	-	-	-	-
Additions	33	17	5	55
Disposals	20	54	7	81
Reclassifications	-5	-	-	-5
Reclassification as assets held for sale	-	-	-	-
As at 12/31/2014 / 01/01/2015	251	73	30	354
Currency adjustments	8	4	1	13
Additions	16	7	2	25
Disposals	22	29	2	53
Reclassifications	-	6	-1	5
As at 12/31/2015 / 01/01/2016	253	61	30	344

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Currency adjustments	-1	-	-2	-3
Additions	19	21	11	51
Disposals	21	1	-	22
Reclassifications	-	-10	-2	-12
As at 12/31/2016	250	71	37	358

¹ EUR 18 m (2015: EUR 12 m; 2014: EUR 15 m) of the non-current loans relates to loans to associates and joint ventures.

F.3-54

Table of Contents**SCHEDULE OF FINANCIAL ASSETS CUMULATIVE AMORTISATION**

<i>in EUR m</i>	Investments in associates and joint ventures (at equity)	Other investments	Non-current loans	TOTAL
As at 01/01/2014	9	15	5	29
Currency adjustments	2	1	-	3
Additions due to acquisitions	-	-	-	-
Impairments	-	-	1	1
Disposals	-	4	-	4
Reclassifications	-	-	-	-
Reclassification as assets held for sale	-	-	-	-
As at 12/31/2014 / 01/01/2015	11	12	6	29
Currency adjustments	-	-	-	-
Additions due to acquisitions	-	-	-	-
Impairments	-	12	4	16
Disposals	-	-	-	-
Reclassifications	-	-	-	-
Reclassification as assets held for sale	-	-	-	-
As at 12/31/2015 / 01/01/2016	11	24	10	45
Currency adjustments	-	1	-1	-
Impairments	-	6	2	8
Disposals	-	1	-	1
Reclassifications	-	-4	-	-4
As at 12/31/2016	11	26	11	48
Net carrying amount at 12/31/2014	240	61	24	325
Net carrying amount at 12/31/2015	242	37	20	299
Net carrying amount at 12/31/2016	239	45	26	310

The share of profit or loss from associates and joint ventures in the 2016 financial year was EUR 13 m (2015: EUR 12 m; 2014: EUR 22 m). Within the Gases Division, EUR 4 m of the total figure related to EMEA (2015: EUR 3 m; 2014: EUR 9 m) and EUR 9 m to the Asia/Pacific segment (2015: EUR 11 m; 2014: EUR 12 m). The Americas segment contributed in 2016 EUR 0 m (2015: EUR 0 m; 2014: EUR 1 m).

Of the profit or loss from associates and joint ventures, there were unrecognised losses of EUR 1 m (2015: EUR 0 m; 2014: EUR 2 m) on the reporting date.

On the reporting date, there were no contingent liabilities relating to shares in associates or joint ventures (2015: EUR 0 m).

At December 31, 2016, there were open orders from joint ventures and associates of EUR 1 m (2015: EUR 0 m). As in the previous year, there were no significant restrictions on the ability of the associates and joint ventures to transfer dividends or funds to Linde or to repay loans to Linde.

AGGREGATE FINANCIAL INFORMATION ABOUT JOINT VENTURES (AT EQUITY)

<i>in EUR m</i>	2014	2015	2016
Profit for the year	19	14	14
Other comprehensive income (net of tax)	10	5	-2
Total comprehensive income	29	19	12

Aggregate financial information about associates based on the investment in those associates held by Linde is immaterial and is therefore not disclosed separately.

F.3-55

Table of Contents**[15] Inventories****INVENTORIES**

<i>in EUR m</i>	12/31/2015	12/31/2016
Raw materials, consumables and supplies	116	106
Unfinished goods and services in progress	202	192
Finished goods	585	601
Merchandise	227	223
Prepayments	111	109
Total	1,241	1,231

At December 31, 2016, the total inventory allowance was EUR 138 m (2015: EUR 122 m).

[16] Receivables from finance leases, trade receivables, other receivables and other assets and income tax receivables**RECEIVABLES AND OTHER ASSETS**

<i>in EUR m</i>	Current		Non-current		Total	
	12/31/2015	12/31/2016	12/31/2015	12/31/2016	12/31/2015	12/31/2016
Receivables from finance leases	52	49	217	165	269	214
Receivables from percentage of completion contracts	174	160	-	-	174	160
Other trade receivables	2,550	2,595	2	2	2,552	2,597
Trade receivables	2,724	2,755	2	2	2,726	2,757
Other tax receivables	226	198	19	21	245	219
Derivatives with positive fair values	160	119	156	95	316	214
Prepaid pension costs	-	-	118	115	118	115
Miscellaneous receivables and assets	392	471	133	147	525	618
Other receivables and other assets	778	788	426	378	1,204	1,166
Income tax receivables	277	199	9	7	286	206

Receivables from finance leases

Almost all the receivables from finance leases relate to agreements which are classified as embedded finance leases according to IFRIC 4/IAS 17. The counterparty risk arising from receivables from finance leases is covered by the air separation plants and other plants underlying the contracts.

RECEIVABLES FROM FINANCE LEASES

<i>in EUR m</i>	12/31/2015	12/31/2016
Total future minimum lease payments (gross investment)	336	252
due within one year	71	61
Table of Contents		417

due in one to five years	198	161
due in more than five years	67	30
Present value of minimum lease payments	269	214
due within one year	52	49
due within one to five years	157	138
due in more than five years	60	27
Unearned finance income included in the minimum lease payments	67	38

Receivables from percentage of completion contracts

Receivables from percentage of completion (PoC) contracts comprise the aggregate amount of costs incurred and recognised profits, less advance payments received.

F.3-56

Table of Contents

At the reporting date, costs incurred and profits recognised on long-term construction contracts amounted to EUR 5,035 m (2015: EUR 4,987 m), offset against advance payments of EUR 5,846 m (2015: EUR 5,474 m), giving rise to receivables of EUR 160 m (2015: EUR 174 m) and liabilities of EUR 971 m (2015: EUR 661 m).

Other trade receivables

Other trade receivables are due from a large number of customers in a wide variety of industry sectors and many different regions. To assess the recoverability of accounts receivable, the creditworthiness of customers is subject to constant review. Credit loss insurance is taken out if required.

FINANCIAL ASSETS PAST DUE BUT NOT IMPAIRED

<i>2015, in EUR m</i>	< 30 days	30-60 days	60-90 days	90-180 days	>180 days
Trade receivables	319	50	32	1	1
Other receivables and assets	-	-	-	-	-

<i>2016, in EUR m</i>	< 30 days	30-60 days	60-90 days	90-180 days	>180 days
Trade receivables	353	48	29	18	-
Other receivables and assets	1	-	-	1	1

In the case of financial assets which are neither past due nor impaired, there were no indications at the reporting date of any potential impairment.

[17] Securities

Short-term securities decreased during the 2016 financial year, namely by EUR 290 m from EUR 421 m to EUR 131 m, mainly as a result of disposals.

There were held-to-maturity securities at December 31, 2016 of EUR 13 m (2015: EUR 13 m).

[18] Cash and cash equivalents

Cash and cash equivalents of EUR 1,463 m (2015: EUR 1,417 m) comprised mainly cash at banks and money market funds which have maturities of three months or less.

CASH AND CASH EQUIVALENTS

<i>in EUR m</i>	12/31/2015	12/31/2016
Bank balances	739	884
Money market funds	200	99
Cheques	5	4
Cash	1	3
Cash equivalents	472	473
Total	1,417	1,463

The cash equivalents include an amount of EUR 464 m (2015: EUR 371 m) for bilateral Credit Support Annexes which are deposited as collateral under agreements with banks.

[19] Non-current assets classified as held for sale and disposal groups

On December 31, 2016, assets in the amount of EUR 610 m and liabilities in the amount of EUR 141 m were reported as non-current disposal groups held for sale.

These mainly relate to the logistics services company Gist. Since December 2016, Gist's business, which is included in the Other Activities, has been held for sale and reported as a discontinued operation. This

Table of Contents

means that assets with a carrying amount of EUR 585 m and liabilities with a carrying amount of EUR 139 m were reclassified within the Group statement of financial position. These mainly relate to goodwill (net carrying amount following amortisation: EUR 225 m), tangible assets (EUR 109 m) and trade receivables (EUR 110 m). The business is likely to be sold in the coming year on the basis of a purchase offer that has already been made. The valuation of the disposal group at fair value less costs to sell resulted in an impairment loss of EUR 75 m.

Furthermore, assets in the amount of EUR 18 m and liabilities in the amount of EUR 2 m were reported as non-current disposal groups held for sale. These relate to the gases business in Slovenia, Bosnia and Croatia. The sale agreement has already been signed and the business is set to be sold at the beginning of this year. The assets were subject to an impairment of EUR 6 m that was recognised under administration expenses.

A further EUR 7 m relates to the planned sale of vehicles in the Asia/Pacific segment. The vehicles were purchased during the reporting period and are to be sold again within the next twelve months as part of an operating sale and lease-back agreement.

In 2016 as a whole, non-current assets held for sale totalling EUR 95 m and liabilities totalling EUR 35 m were sold as planned. The profit on disposal came to EUR 46 m and is reported under other operating income.

The cumulative changes in equity not recognised in profit or loss contain expenses relating to the foreign currency valuation of the assets and liabilities reported as held for sale amounting to EUR 97 m on the reporting date

PROFIT FROM DISCONTINUED OPERATIONS

<i>in EUR m</i>	2014	2015	2016
Revenue	567	607	602
Expenses	538	593	582
Loss resulting from valuation at fair value, less costs to sell	-	-	75
PROFIT BEFORE TAX INCOME FROM DISCONTINUED OPERATIONS	29	14	-55
INCOME TAX INCOME FROM ORDINARY ACTIVITIES	6	-2	-3
PROFIT FOR THE YEAR FROM DISCONTINUED OPERATIONS	23	16	-52
attributable to Linde AG shareholders	23	16	-52

[20] Equity**EQUITY**

<i>in EUR m</i>	12/31/2015	12/31/2016
Share Capital	475,476,940.80	475,476,940.80
Nominal value of own shares	243,479.04	243,479.04
Issued share capital	475,233,461.76	475,233,461.76
Authorised capital (total)	84,119,265.28	94,000,000.00
Authorised Capital I	47,000,000.00	47,000,000.00
Authorised Capital II	37,119,265.28	47,000,000.00
Conditionally authorised capital (total)	57,240,000.00	57,240,000.00
2012 conditionally authorised capital	10,240,000.00	10,240,000.00
2013 conditionally authorised capital	47,000,000.00	47,000,000.00

Share capital

Linde AG's share capital at the reporting date amounts to EUR 475,476,940.80 and is fully paid up. It is divided into 185,733,180 shares at a notional par value of EUR 2.56 per share. The shares are no-par value shares. Each share confers a voting right and is entitled to dividend. In accordance with § 71b of the German Stock Corporation Act (AktG), the company is not entitled to dividends or to voting rights in respect of the 95,109 own shares it holds at December 31, 2016.

F.3-58

Table of Contents

No new no-par value shares were issued in the 2016 financial year. This means that the company's share capital did not change year-on-year:

NUMBER OF SHARES

	2015	2016
Number of shares at Jan. 1	185,733,180	185,733,180
Number of shares at Dec. 31	185,733,180	185,733,180
Own shares	95,109	95,109
Number of shares outstanding at Dec. 31	185,638,071	185,638,071
Number of Shares authorised capital I	18,359,375	18,359,375
Number of Shares authorised capital II	14,499,713	18,359,375
<i>Capital reserve</i>		

The capital reserve comprises the premiums arising on the issue of shares and the expenses relating to the issue of option rights to employees in accordance with IFRS 2 Share-based Payments.

Revenue reserves

Included under this heading are the past earnings of the companies included in the Group financial statements, to the extent that these have not been distributed.

In addition, the effects of the remeasurement of defined benefit plans and the effects of the limit on a defined benefit asset (asset ceiling as set out in IAS 19.64) have been recognised in revenue reserves. This makes it quite clear that these amounts will not be transferred to profit or loss in future periods. A deferred tax effect of EUR 125 m was recognised in the movement in revenue reserves as a result of actuarial gains and losses (2015: EUR -56 m).

Cumulative changes in equity not recognised through the statement of profit or loss

Disclosed under this heading are the differences arising on the translation of the financial statements of foreign subsidiaries and gains or losses on the remeasurement of securities and hedging instruments, accounted for in equity rather than being recognised in the statement of profit or loss.

Movements in cumulative changes in equity not recognised in profit or loss were as follows:

MOVEMENT IN CUMULATIVE CHANGES IN EQUITY NOT RECOGNISED THROUGH THE STATEMENT OF PROFIT OR LOSS

<i>in EUR m</i>	2014			2015			2016		
	Before tax	Tax effect	Net	Before tax	Tax effect	Net	Before tax	Tax effect	Net
Movement in currency translation differences	1,308		1,308	1,093	-	1,093	-132	-	-132
	-14	4	-10	-9	2	-7	1	-	1

Movement in unrealised gains/losses on available-for-sale financial assets

Movement in accumulated unrealised gains/losses		-1	-1	-8	2	-6	1	-	1
Realised gains/losses	-14	5	-9	-1	-	-1	-	-	-
Movement in unrealised gains/losses on hedging instruments	-721	71	-650	-484	7	-477	40	-	40
Movement in accumulated unrealised gains/losses	-705	67	-638	-466	2	-464	64	-7	57
Realised gains/losses	-16	4	-12	-18	5	-13	-24	7	-17

F.3-59

Table of Contents**NON-CONTROLLING INTERESTS**

<i>in EUR m</i>	12/31/2015	12/31/2016
LINDE LIENHWA INDUSTRIAL GASES CO. LTD., Taiwan	268	272
African Oxygen Limited, South Africa	73	94
BOC-TISCO GASES CO., Ltd., China	73	61
Shanghai HuaLin Industrial Gases Co. Ltd., China	50	47
Ma anshan BOC-Ma Steel Gases Company Limited, China	49	47
LINDE INDIA LIMITED, India	47	46
MIG Production Company Limited, Thailand	35	35
Linde Gas Algeria S.p.A., Algeria	31	34
Saudi Industrial Gas Company, Saudi Arabia	33	32
Linde Engineering (Dalian) Co. Ltd., China	24	23
Various other companies	188	212
Total	871	903

The voting rights of non-controlling shareholders correspond to their share of the equity in the companies concerned in each case. Detailed information about individual subsidiaries which have non-controlling shareholders is not disclosed due to the individual figures not being material.

Capital structure management

Linde's capital structure management is based on various financial performance indicators such as the equity ratio and the dynamic indebtedness factor. The aim of the capital structure management is to obtain unrestricted access to the capital market and to achieve a strong investment grade rating.

Financing principles and objectives

The aim of external financing and liquidity management is to ensure that the Group has adequate liquidity at all times. For Linde, external financial headroom is maintained primarily by the capital markets and a major international banking group. Within the Group, the principle of internal financing applies, i.e. the financing requirements of subsidiaries are covered wherever possible, and wherever it makes financial sense, by intra-Group loans. Group companies are financed either by the cash surpluses of other business units in cash pools, or by Group loans from Linde Finance B.V. and/or Linde AG, taking into consideration any risks specific to that particular country. Group Treasury also negotiates credit facilities with local banks to take account of legal, fiscal or other requirements. Especially in countries with currency restrictions, local financing is used to finance small amounts or for projects that involve specific local circumstances.

Linde maintained an adequate liquidity position again in 2016. In addition to cash and cash equivalents of EUR 1,463 m, Linde also holds securities totaling EUR 131 m. These securities are mainly German government bonds with maturities of less than one year.

*[21] Provisions for pensions and similar obligations***PROVISIONS FOR PENSIONS AND SIMILAR OBLIGATIONS**

<i>in EUR m</i>	12/31/2015	12/31/2016
-----------------	------------	------------

Provisions for pensions	1,056	1,552
Provisions for similar obligations	12	12
Total provisions	1,068	1,564

Net Pension assets 118 115

Different countries have different pension systems, due to the variety of legal, economic and fiscal conditions applicable in each country. These are generally based on the remuneration and length of service of the employees.

The provisions for similar obligations include bridging payments in Germany as well as other obligations.

F.3-60

Table of Contents

Occupational pension schemes can be either defined contribution or defined benefit schemes.

In the case of defined benefit plans, the company's obligation is to meet the defined benefit commitments to current and former employees. Two different methods can be distinguished: the recognition of provisions for pensions and the use of externally financed pension schemes. The Linde Group's main defined benefit plans are described below.

The defined benefit commitments in Germany relate to old age pensions, invalidity pensions and surviving dependants pensions. These commitments are based principally on defined contribution pension rules, whereby vested rights for periods of service prior to January 1, 2002 based on earlier final-salary pension scheme rules have to be taken into account. In addition, there are direct commitments in respect of the salary conversion scheme in the form of cash balance plans. The resulting pension payments are calculated on the basis of an interest guarantee and the performance of the corresponding investment. There are no minimum funding requirements. The pension obligations in Germany are partly funded by a Contractual Trust Arrangement (CTA).

Defined benefit commitments in the UK agreed prior to July 1, 2003 are earnings-related and dependent on the period of service, and relate to old age pensions, invalidity pensions and surviving dependants pensions.

With effect from April 1, 2011, the amount of future increases in inflation-linked pensions and of increases in pensionable emoluments was restricted.

Legal, regulatory and contractual minimum funding requirements are in place. Pension obligations in the UK are to a great extent funded. Defined benefit pension plans were closed to new entrants from July 1, 2003.

Defined benefit commitments in the United States relate to old age pensions, invalidity pensions and surviving dependants pensions. The commitments are based on pension regulations which are dependent on the period of service and salary of the employee. Most of the pension plans take the form of cash balance plans. The plan participants have the option to take a lump-sum payment or annual pension payments. The cash balance plan was closed to new entrants with effect from July 1, 2016. For existing plan participants, the cash balance plan will come to an end in 2021. Legal and regulatory minimum funding requirements are in place. Pension obligations in the United States are currently fully funded.

The amount of the pension obligation (actuarial present value of the defined benefit obligation, or DBO) was calculated using actuarial valuation methods, which require the use of estimates. In addition to assumptions about mortality and disability, the following assumptions which depend on the economic situation in that particular country are also relevant, so that for countries classed as Other Europe and Other countries, weighted average figures based on the obligation are given:

ASSUMPTIONS USED TO CALCULATE THE PROVISIONS FOR PENSIONS

<i>in percent</i>	Germany		UK		Other Europe		USA		Other countries	
	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016
Discount rate	2.50	1.90	3.90	2.70	1.64	1.55	3.60	3.40	4.05	4.40
Growth in future benefits	2.50	2.53	2.50	2.50	1.84	1.64		0.00	3.98	3.71
Growth in pensions	1.63	1.65	3.28	3.40	1.05	1.09	1.96	1.88	1.41	1.51

The growth in future benefits comprises expected future increases in salaries, which are estimated annually, taking inflation and the economic situation into account.

The growth in pensions represents the expected pension payment trend for pension payments to former employees, which is estimated annually considering the underlying pension scheme rules, inflation and the economic situation.

F.3-61

Table of Contents

The sensitivity analysis below demonstrates the extent to which the present value of the defined benefit obligation changes when, in each case, just one of the actuarial assumptions changes while the other actuarial assumptions remain the same.

For the pension plans in Germany, an increase of one year in life expectancy would result in an increase in the defined benefit obligation of 5.4 percent (2015: 5.1 percent). The sensitivity analysis of life expectancy in Germany is based on pension funds held at 31 December 2016.

For the pension plans in the UK, an increase of one year in life expectancy would result in an increase in the DBO of 4.0 percent (2015 3.0 percent). For the pension plans in the United States, no sensitivity analysis of life expectancy was prepared, as the plan participants generally avail themselves of the option to be paid a lump sum.

In Germany, life expectancy is calculated on the basis of the 2005 G mortality tables produced by Professor Dr Klaus Heubeck. Pension plans in the UK use their own mortality tables and biometric assumptions. These are determined on the basis of actual experience in a pool of comparable pension plans. At the reporting date, the average life expectancy applicable to pension plans in the UK is 22.0 years for a male pensioner aged 65 (2015: 22.0 years) and

23.6 years for a female pensioner aged 65 (2015: 23.5 years), while the future average life expectancy at the pensionable age of 65 for active members of the pension plans is currently 23.9 years for men aged 45 (2015: 23.8 years) and 26.2 years for women aged 45 (2015: 26.1 years).

The weighted average duration of the defined benefit obligations in The Linde Group at December 31, 2016 is 17.8 years (2015: 16.8 years).

SENSITIVITY ANALYSIS

<i>in EUR m</i>	Change	Discount rate		Growth in future benefits		Growth in pensions	
		+50 bp	- 50 bp	+50 bp	- 50 bp	+50 bp	- 50 bp
Germany	12/31/2015	111	125	10	11	68	62
	12/31/2016	133	151	72	66	12	13
UK	12/31/2015	349	383			307	284
	12/31/2016	396	437	15	15	353	326
Other Europe	12/31/2015	35	39	9	8	17	27
	12/31/2016	48	54	6	5	32	28
USA	12/31/2015	29	30	2	2		
	12/31/2016	27	28				
Other countries	12/31/2015	11	16	4	7	3	3
	12/31/2016	12	13	3	7	3	3
Total	12/31/2015	535	593	25	28	395	376
	12/31/2016	616	683	96	93	400	370

F.3-62

Table of Contents**RECONCILIATION OF THE DBO AND OF THE PLAN ASSETS**

<i>in EUR m</i>	Germany		UK		Other Europe		USA		Other countries		Total	
	Defined Benefit Obligation	Plan assets	Defined Benefit Obligation	Plan assets	Defined Benefit Obligation	Plan assets	Defined Benefit Obligation	Plan assets	Defined Benefit Obligation	Plan assets	Defined Benefit Obligation	Plan assets
As AT 01/01/2015	1,432	788	3,984	3,838	894	598	536	553	298	291	7,144	6,068
Service cost	42		52		37		19		10		86	
Current service cost	42		52		21		19		11		145	
Past service cost					4						4	
Effects from plan curtailments					24				1		25	
Effects from plan settlements					30						30	
Interest expense (+)/interest income (-)	31	17	152	147	14	7	20	21	13	14	230	206
Remeasurements	75	11	234	167	5	25	2	41	2	2	308	196
Return on plan assets (excluding amounts included in interest expenses and income)		11		167		25		41		2		196
Actuarial gains (-)/losses (+)	75		234		5		2		2		308	
Effects from changes in demographic assumptions					14		4				18	
Effects from changes in financial assumptions	70		165		24		1		1		211	
Effects from changes in experience assumptions	5		69		5		3		3		79	
Employers' contributions		2		76		13				9		100
Employees' contributions	13	13	1	1	3	3			1	1	18	18
Pensions payments made	52	2	143	143	22	15	36	33	41	36	294	229
Settlement payments					290	290					290	290
Effects of changes in exchange rates			218	208	20	14	60	62	11	15	287	269
Changes in Group structure/other changes				3	3	2			2	1	5	6
	1,391	807	4,030	3,957	590	353	597	562	270	261	6,878	5,940

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

As AT 12/31/2015 /
01/01/2016

Service cost	34	13	11	1	11	48						
Current service cost	34	24	17	19	11	105						
Past service cost		11	20			31						
Effects from plan curtailments			1	18		19						
Effects from plan settlements			7			7						
Interest expense (+)/interest income (-)	34	21	138	133	11	6	21	20	12	13	216	193
Remeasurements	139	50	905	401	25	8		15	6	1	1,063	473
Return on plan assets (excluding amounts included in interest expenses and income)		50		401		8		15		1		473
Actuarial gains (-)/losses (+)	139		905		25				6		1,063	
Effects from changes in demographic assumptions				2		7			1			4
Effects from changes in financial assumptions	151		936		24		7		2		1,116	
Effects from changes in experience assumptions	12		31		1				5			49
Employers' contributions				54		12					9	75
Employees' contributions	13	13	1	1	3	3			1	1	18	18
Pensions payments made	51	1	160	160	21	14	33	29	29	26	294	230
Settlement payments					18	18			2	2	20	20
Effects of changes in exchange rates			569	541	1	6	19	18	14	16	535	501
Changes in Group structure/other changes			82	85	3	3			5	13	84	95
As AT 12/31/2016	1,560	890	4,276	3,760	583	359	605	586	266	258	7,290	5,853

F.3-63

Table of Contents

In 2016, plan amendments to pension plans in Ireland and Switzerland had a positive impact on operating profit in the amount of EUR 19 m in total. In the US, the plan closure of the cash balance plan had a positive impact on the operating profit of EUR 18 m. The restructuring of a defined benefit plan in Norway resulted in a large part of the pension plan being transferred to an insurer. This had a positive effect on operating profit in the amount of EUR 7 m in total.

In 2015, the transfer of a large part of the pension plans in the Netherlands to a pension fund had a positive impact on operating profit of EUR 42 m in total (2014: EUR 0 m).

Actual income from plan assets in external pension funds in 2016 was EUR 666 m (2015: EUR 10 m; 2014: EUR 461 m). This was higher than the interest income from plan assets of EUR 193 m (2015: EUR 206 m; 2014: EUR 237 m) calculated at the corresponding DBO interest rate.

Employer's contributions in the 2016 financial year totaled EUR 75 m (2015: EUR 100 m; 2014: EUR 391 m).

Payments of employer's contributions to increase plan assets in external pension funds in the 2017 financial year are expected to amount to EUR 123 m. The year-on-year increase in the expected contributions (EUR 99 m) is mainly due to the higher expected special payments in the UK to close the ongoing short-fall in the UK pension plans in accordance with local valuation rules.

The expense for newly acquired pension entitlements in the financial year and the net interest cost for each respective financial year are determined each year on the basis of the prior year's net obligation at the reporting date.

PENSION EXPENSE RELATING TO DEFINED BENEFIT PLANS RECOGNISED IN THE INCOME STATEMENT

<i>in EUR m</i>	Germany			UK			Other Europe			USA			Other countries			Total	
	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015
Service cost	24	42	34	36	52	13	20	-37	-11	17	19	1	10	10	11	107	86
Current service cost	24	42	34	36	52	24	20	21	17	16	19	19	11	11	11	107	145
Past service cost	-	-	-	-	-	-11	-	-4	-20	1	-	-	-1	-	-	-	-4
Gains (-)/ losses (+) from plan curtailments	-	-	-	-	-	-	-	-24	-1	-	-	-18	-	-1	-	-	-25
Gains (-)/ losses (+) from plan settlements	-	-	-	-	-	-	-	-30	-7	-	-	-	-	-	-	-	-30
Net interest expense (+) / income (-)	19	14	13	-3	5	5	5	7	5	-2	-1	1	-2	-1	-1	17	24
Interest expense from DBO	42	31	34	156	152	138	23	14	11	19	20	21	14	13	12	254	230

Interest income from plan asset	-23	-17	-21	-159	-147	-133	-18	-7	-6	-21	-21	-20	-16	-14	-13	-237	-206	-1
Other effects recognised in the statement of profit or loss	-	-	-	2	3	3	-	-	1	-	-		1	1	1	3	4	
Total net pension cost	43	56	47	35	60	21	25	-30	-5	15	18	2	9	10	11	127	114	

For the external financing of defined benefit obligations, The Linde Group uses standard international models for the transfer of pension assets (e.g. pension funds and Contractual Trust Arrangements). Pension plans financed via external pension funds exist principally in Australia, Canada, Germany, Ireland, Norway, South Africa, Switzerland, the UK and the United States.

F.3-64

Table of Contents

In some countries, Linde is obliged to make contributions to plan assets as a result of legal requirements or contractual agreements. In certain countries, however, these increases in plan assets will not lead to the recognition of an asset because of the asset ceiling described in IAS 19.64 (IFRIC 14). In 2016 and in 2015, there was no asset ceiling.

FUNDING STATUS OF THE DEFINED BENEFIT OBLIGATION

<i>in EUR m</i>	Germany		UK		Other Europe		USA		Other countries		Total	
	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016
Actuarial present value of pension obligations (defined benefit obligation)	1,391	1,560	4,030	4,276	590	583	597	605	270	266	6,878	7,290
of which unfunded pension obligations	60	74	-	-	156	141	80	81	39	42	335	338
of which funded pension obligations	1,331	1,486	4,030	4,276	434	442	517	524	231	224	6,543	6,952
Fair value of plan assets	-807	-890	-3,957	-3,760	-353	-359	-562	-586	-261	-258	-5,940	-5,853
Net obligation	584	670	73	516	237	224	35	19	9	8	938	1,437
Amount at 12/31	584	670	73	516	237	224	35	19	9	8	938	1,437
of which pension provision (+)	584	670	97	522	237	224	83	83	55	53	1,056	1,552
of which pension asset (-)	-	-	-24	-6	-	-	-48	-64	-46	-45	-118	-115

The Linde Group is exposed to various risks in relation to defined benefit pension schemes. In addition to general actuarial risks, the Group is exposed to currency risk and investment risk in respect of the plan assets.

Plan assets and the defined benefit obligation may fluctuate over time. To compensate for such fluctuations, potential fluctuations in the defined benefit obligation are taken into account in the course of the investment management of the plan assets. In ideal circumstances, plan assets and pension obligations are influenced in the same way by external factors, which provide a natural protection against such factors (liability-driven investment). Moreover, the broadly-based portfolio structure of plan assets in The Linde Group results in diversification of capital market risk.

PORTFOLIO STRUCTURE OF PENSION ASSETS

<i>in EUR m</i>	Germany		UK		Other Europe		USA		Other countries		Total			
	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	in %	2016	in %
Shares	212	221	732	630	95	91	121	98	79	81	1,239	20.9	1,121	19
Fixed-interest securities	363	449	2,404	2,438	109	125	364	388	111	105	3,351	56.4	3,505	60
Property	46	49	126	88	42	45	-	-	11	10	225	3.8	192	3
Insurance	-	-	-	-	51	72	-	-	17	17	68	1.1	89	2
Other	186	171	695	604	56	26	77	100	43	45	1,057	17.8	946	16
Total	807	890	3,957	3,760	353	359	562	586	261	258	5,940	100.0	5,853	100

Plan assets comprise mainly shares and fixed-interest securities. Prices quoted in an active market are not available in the case of property and insurance.

Financial instruments issued by companies in The Linde Group are not included in plan assets to a significant extent. Property which is used by Group companies is not included in plan assets.

F.3-65

Table of Contents*Defined contribution plans*

The total of all pension costs relating to defined contribution plans in 2016 was EUR 200 m (2015: EUR 210 m; 2014: EUR 176 m). Of this amount, contributions to state pension schemes in 2016 totaled EUR 124 m (2015: EUR 122 m; 2014: EUR 88 m).

*[22] Miscellaneous provisions***OTHER PROVISIONS**

<i>in EUR m</i>	Current		Non-current		TOTAL	
	2015	2016	2015	2016	2015	2016
Provisions for taxes	23	27			23	27
Obligations from delivery transactions	151	123	69	61	220	184
Warranty obligations and risks from transactions in course of completion	117	124	45	83	162	207
Obligations relating to personnel	511	546	83	63	594	609
Dismantling obligations	6	6	234	259	240	265
Restructuring costs	100	94	11	3	111	97
Other obligations	181	220	88	57	269	277
Miscellaneous provisions	1,066	1,113	530	526	1,596	1,639
Total	1,089	1,140	530	526	1,619	1,666

Provisions for taxes include only other taxes.

The provisions for warranty obligations and risks from transactions in course of completion consist principally of provisions for anticipated losses on transactions, for litigation and for guarantees and warranty obligations. The provisions for warranty obligations relate mainly to the Engineering Division and are generally utilised within three years.

The provisions for obligations relating to personnel comprise mainly provisions for pre-retirement part-time work, outstanding holidays, anniversaries, and wages and salaries not yet paid. The provision for obligations relating to pre-retirement part-time work is based on individual contractual agreements. The provisions for dismantling obligations are stated at the discounted settlement amount on the date the plant comes on stream. A corresponding item is recognised in tangible assets and is subject to depreciation. The provision is compounded over the duration of the underlying contracts. Due to the wide range of residual terms of the contracts, the residual term of the provision falls mainly in a range of between one and 20 years. Changes in estimates, where these involve a change in assumptions about future cost trends or changes in interest rates, are adjusted for in the carrying amount of the relevant plant without affecting profit or loss.

The provisions for restructuring costs comprise provisions for the group-wide efficiency programs LIFT and Focus.

The unwinding of interest applied to other long-term provisions amounted to EUR 4 m (2015: EUR 7 m; 2014: EUR 8 m).

Other obligations mainly consist of provisions for miscellaneous expenses in the amount of EUR 130 m (2015: EUR 157 m), provisions for follow-up costs related to plant constructions of EUR 88 m (2015: EUR 55 m) and provisions for environmental obligations of EUR 48 m (2015: EUR 46 m).

F.3-66

Table of Contents**MOVEMENTS IN OTHER PROVISIONS**

<i>in EUR m</i>	Opening	Changes				Closing	
	balance at 01/01/2016	in scope of consolidation	Utilisation	Release	Addition	Transfer	balance at 12/31/2016
PROVISIONS FOR TAXES	23	-4	21	14	43	-	27
Obligations from delivery transactions	220	-22	36	28	49	1	184
Warranty obligations and risks from transactions in course of completion	162	24	47	41	102	7	207
Obligations relating to personnel	594	-3	270	39	322	5	609
Dismantling obligations	240	3	3	1	26	-	265
Restructuring costs	111	-	81	2	73	-4	97
Other obligations	269	6	62	54	127	-9	277
Other provisions	1,596	8	499	165	699	-	1,639
Total	1,619	4	520	179	742	-	1,666

¹ Including currency differences.

[23] Financial debt

Financial debt comprises interest-bearing obligations of The Linde Group:

FINANCIAL DEBT

<i>in EUR m</i>	Current		Non-current				Total	
	Due within one year	Due within one year	Due in one to five years	Due in one to five years	Due in more than five years	Due in more than five years	2015	2016
	2015	2016	2015	2016	2015	2016	2015	2016
Subordinated bonds	-	-	-	-	1,050	-	1,050	-
Other bonds	383	1,242	4,460	3,852	2,321	2,397	7,164	7,491
Commercial papers (CP)	79	111	-	-	-	-	79	111
Bank loans and overdrafts	491	455	432	246	18	10	941	711
Other financial liabilities	70	46	142	131	37	38	249	215
Gross financial debt	1,023	1,854	5,034	4,229	3,426	2,445	9,483	8,528

Of the other bonds, EUR 2,825 m (2015: EUR 2,397 m) was in a fair value hedging relationship at December 31, 2016. If there had been no adjustment to the carrying amount as a result of fair value hedging relationships which had been agreed and were outstanding at the end of the year, the other bonds would be EUR 37 m (December 31, 2015: EUR 65 m) lower. Of the other bonds, EUR 641 m was in a cash flow hedging relationship at December 31, 2016 (2015: EUR 681 m).

The bank loans and overdrafts include an amount of EUR 41 m (2015: EUR 65 m) for bilateral Credit Support Annexes which are deposited as collateral under agreements with banks.

In the 2016 and 2015 financial years, there were no defaults or breaches of loans payable.

F.3-67

Table of Contents**FIXED-INTEREST BONDS**

<i>Issuer</i>	Nominal volume in relevant currency (ISO code)		Weighted average residual term (in years)	Weighted average effective interest rate (in percent) ²
		EUR m		
Linde Finance B.V., Amsterdam/ Linde AG, Munich	EUR 5.780 m	5,780	4.6	2.6
Linde Finance B.V., Amsterdam/ Linde AG, Munich	USD 700 m	663	3.7	2.1
Linde Finance B.V., Amsterdam	GBP 300 m	358	6.3	5.9
Linde AG, Munich	NOK 2.000 m	220	0.7	2.8
Linde Finance B.V., Amsterdam	AUD 100 m	68	2.5	4.3
Total		7,089		

¹ Includes adjustments relating to hedging transactions.

² Effective interest rate in the relevant currency.

VARIABLE-INTEREST BONDS

<i>Issuer</i>	Nominal volume in relevant currency (ISO code)		Weighted average residual term (in years)	Weighted average coupon (in percent) ¹
		EUR m		
Linde Finance B.V., Amsterdam	USD 370 m	352	2.4	1.5
Linde Finance B.V., Amsterdam	EUR 50 m	50	1.4	0.3
Total		402		

¹ Current coupon in the relevant currency.

Financial covenants

No financial covenants are contained in the agreement relating to the EUR 2.5 bn syndicated credit facility.

The bank loans and overdrafts of African Oxygen Limited include various financial covenants relating to key financial figures in African Oxygen Limited. All the financial covenants relating to African Oxygen Limited were fulfilled in the 2016 and 2015 financial years.

[24] Liabilities from finance leases

Liabilities from finance leases are repaid over the lease term. They have the following residual lease terms at the reporting date:

LIABILITIES FROM FINANCE LEASES

<i>in EUR m</i>	12/31/2015	12/31/2016
Total future minimum lease payments (gross investment)	115	114
due within one year	22	22
due in one to five years	43	40
due in more than five years	50	52
Present value of minimum lease payments	78	74
due within one year	23	21
due in one to five years	35	33
due in more than five years	20	20
Finance charge included in the minimum lease payments	37	40

The carrying amounts of assets held under finance leases are disclosed principally under tangible assets. These assets comprise distribution equipment, vehicles and other fixtures and fittings. Buildings are also included here. Some of the lease agreements contain extension clauses, purchase options or price adjustment clauses customary in the market

F.3-68

Table of Contents**[25] Trade payables, miscellaneous liabilities, liabilities from income taxes****TRADE PAYABLES AND OTHER LIABILITIES**

<i>in EUR m</i>	Current		Non-current		Total	
	2015	2016	2015	2016	2015	2016
Percentage of completion (PoC)	661	971	-	-	661	971
Other	2,562	2,599	3	1	2,565	2,600
Trade payables	3,223	3,570	3	1	3,226	3,571
Payments received on account of orders	223	150	9	4	232	154
Other taxes	207	176	4	6	211	182
Social security	62	60	1	2	63	62
Derivatives with negative fair values	189	239	486	403	675	642
Miscellaneous liabilities	574	583	347	310	921	893
Other liabilities	1,255	1,208	847	725	2,102	1,933
Income tax liabilities	568	549	-	-	568	549
Total	5,046	5,327	850	726	5,896	6,053

Percentage of completion trade payables of EUR 971 m (2015: EUR 661 m) relate to advance payments received on construction contracts, where these exceed the state of completion of the contract. Income tax liabilities are disclosed as current in accordance with IAS 1.69 (d) as they are due with immediate effect and generally Linde has no option to defer them. Included in the income tax liabilities disclosed are amounts which may not fall due until more than twelve months after the reporting date.

Also included in income tax liabilities are liabilities relating to prior periods arising from external tax audits in various countries

OTHER INFORMATION**[26] Share option schemes***Linde Performance Share Programme 2012*

It was resolved at the Annual General Meeting of Linde AG held on May 4, 2012 to introduce a performance share programme for management (Long Term Incentive Plan 2012 - LTIP 2012), under which up to 4 million options can be issued over a total period of five years. For this purpose, the issued share capital can be increased by up to EUR 10,240,000 by the issue of up to 4 million bearer shares with a notional par value of EUR 2.56 if certain conditions are met (2012 conditionally authorised capital).

The options may be issued in annual tranches during the authorised period. Each option confers the right to purchase one share in Linde AG at the exercise price, which is equivalent in each case to the lowest issue price, currently EUR 2.56 per share. Linde AG may decide, at its own discretion, at any time until the beginning of the exercise period that the option entitlements of the option holders may be met by providing own shares or making a payment in cash instead of issuing new shares out of the share capital conditionally authorised for this purpose. The Linde Performance Share Programme 2012 is designed as share-based payment with compensation provided in the form of equity instruments. Each individual tranche may be issued within a period of 16 weeks after the Annual General Meeting of

Linde AG. The options may not be exercised until a qualifying period has expired. The qualifying period begins on the issue date which has been determined and ends on the fourth anniversary of the issue date. If options are to be exercised, this must take place during a period of twelve months from the end of the relevant qualifying period (the exercise period).

F.3-69

Table of Contents*Performance targets*

Options may only be exercised if and to the extent that performance targets are reached. The performance targets for each individual tranche of options are based on movements in (i) earnings per share and (ii) relative total shareholder return. Within each individual tranche of options, equal weighting is given to the earnings per share performance target and the relative total shareholder return performance target. Within each of these performance targets, a minimum target must be reached if the options are to become exercisable, and there is also a stretch target. If the stretch target for one of these performance targets is reached, all the options relating to that performance target become exercisable.

Earnings per share performance target

The minimum target for the earnings per share performance target is reached if the diluted earnings per share of the company adjusted for special items for the financial year ending before the expiry of the qualifying period achieves a compound average growth rate (CAGR) of 6 percent when compared with the diluted earnings per share of the company adjusted for special items for the financial year ending before the issue of the options. The stretch target for the earnings per share performance target is reached if the diluted earnings per share of the company adjusted for special items for the financial year ending before the expiry of the qualifying period achieves a CAGR of at least 11 percent when compared with the diluted earnings per share of the company adjusted for special items for the financial year ending before the issue of the options. The calculation of the earnings per share performance target is derived from the diluted earnings per share of the company adjusted for special items disclosed in the audited Group financial statements of The Linde Group for the appropriate financial year. If no adjustment for special items has been made in that financial year, the relevant figure is the diluted earnings per share disclosed in the Group financial statements. Special items are items which, due to their nature, frequency and/or scope, might have an adverse impact on the extent to which the diluted earnings per share figure provides an informative picture of the ability of The Linde Group to sustain its profitability in the capital market. Adjusting diluted earnings per share for special items is designed to increase transparency in respect of the Group's ability to sustain profitability. If the minimum target is reached, 12.5 percent of all the options in the relevant tranche may be exercised. If the stretch target is reached, 50 percent of all the options in the relevant tranche may be exercised: i.e. all the options dependent on this performance target. If the minimum target is exceeded, but the stretch target is not reached, the number of options that may be exercised is determined on a straight-line basis and will lie between 12.5 percent and 50 percent of all options issued on the same issue date, depending on the extent by which the minimum target is exceeded and the proximity of the figure to the stretch target. If this calculation does not result in a round figure, the percentage should be rounded to one decimal point.

The earnings per share performance target is regarded as a non-market performance condition as defined by IFRS 2.

Relative total shareholder return performance target

The minimum target for the relative total shareholder return performance target is reached if the total share-holder return of the Linde AG share exceeds the median of the values for total shareholder return in the control group (described below) in the period between the issue date and the beginning of the exercise period. If the control group contains an even number of values, the average of the two values lying in the middle is deemed to be the median. The stretch target for the relative total shareholder return performance target is reached if the total shareholder return of the Linde AG share is in the upper quartile (third quartile) of the values for total shareholder return in the control group in the period between the issue date and the beginning of the exercise period. The total shareholder return of the Linde AG share comprises (i) the absolute increase or decrease in the price of a Linde AG share when compared to its initial value and (ii) the dividend per share paid plus the value of any statutory subscription rights attributable to one Linde

AG share (as a result of capital increases). In each case, the calculation relates to the period between (and inclusive of) the issue date and the third last stock exchange

F.3-70

Table of Contents

trading day in the Xetra trading system (or in a comparable successor system) of the Frankfurt Stock Exchange before the exercise period. The absolute increase or decrease in price of the Linde AG share corresponds to the difference between the average of the closing prices (or of equivalent successor prices) of Linde shares in the Xetra trading system (or in a comparable successor system) of the Frankfurt Stock Exchange over the period between (and inclusive of) the 62nd stock exchange trading day to the third last stock exchange trading day before the exercise period (the final value) and the initial value. The initial value of the share for the determination of the total shareholder return is the average of the closing prices (or of equivalent successor prices) of Linde shares on the last 60 stock exchange trading days in the Xetra trading system (or in a comparable successor system) of the Frankfurt Stock Exchange before the issue date of the subscription rights. For the purposes of the LTIP 2012, the value of one statutory subscription right is the volume-weighted average of the closing prices in that period in which the subscription rights are traded in the Xetra trading system (or a comparable successor system) of the Frankfurt Stock Exchange. The control group comprises companies in the DAX 30 at that time, with the exception of Linde itself. Companies which are either excluded from or included in the DAX 30 during the period on which the calculation of the total shareholder return is based are ignored for the purposes of the calculation. When determining the total shareholder return for shares in the control group, Linde may have recourse to data supplied by a recognised independent provider of financial data. If a company in the control group trades different classes of share or shares with differing profit entitlements on the stock exchange, only the shares which form the basis for the determination of the DAX 30 value are taken into consideration. If the minimum target is reached, 12.5 percent of all the options in the relevant tranche may be exercised. If the stretch target is reached, 50 percent of all the options in the relevant tranche may be exercised: i.e. all the options dependent on this performance target. If the minimum target is exceeded, but the stretch target is not reached, the number of options that may be exercised is determined on a straight-line basis and will lie between 12.5 percent and 50 percent of all options issued on the same issue date, depending on the extent by which the minimum target is exceeded and the proximity of the figure to the stretch target. If this calculation does not result in a round figure, the percentage should be rounded to one decimal point.

The relative total shareholder return target is regarded as a market-based performance condition as defined by IFRS 2 and is included in the measurement of the option price.

In accordance with IFRS 2 Share-based Payment, the total value of share options granted to management is determined at the issue date using an option pricing model. The total value calculated of the share options at the issue date is allocated as a personnel expense over the period in which the company receives service in return from the employee. This period is generally the same as the agreed qualifying period. The other side of the entry is made directly in equity (capital reserve).

OPTIONS LONG TERM INCENTIVE PLAN 2012

	LTIP	Number of options
AT 01/01/2014		733,965
granted		302,199
forfeited		32,328
AT 12/31/2014 / 01/01/2015		1,003,836
of which exercisable at 12/31/2014		-
granted		322,456
forfeited		49,470
AT 12/31/2015 / 01/01/2016		1,276,822
of which exercisable at 12/31/2015		-

granted	349,874
forfeited	446,047
AT 12/31/2016	1,180,649
of which exercisable at 12/31/2016	-

The average remaining period in the LTIP 2012 is 25 months (2015: 23 months). The exercise price for all the tranches in the LTIP 2012 is EUR 2.56.

F.3-71

Table of Contents

The calculation of the expense is based on the fair value of the options issued, using a Monte Carlo simulation for the fair value calculation. The following measurement parameters were used:

MONTE CARLO SIMULATION MODEL LONG TERM INCENTIVE PLAN 2012

	1st tranche 2012	2nd tranche 2013	3rd tranche 2014	4th tranche 2015	5th tranche 2016
<i>Date of valuation</i>	7/2/2012	6/3/2013	6/2/2014	6/1/2015	6/1/2016
Expected share volatility (in %)	22.54	21.08	19.95	16.65	21.70
Risk-free interest rate (in %)	0.44	0.36	0.24	-0.10	-0.47
Expected dividend yield (in %)	2.50	2.50	2.50	2.50	2.50
Initial value of Linde share (in \$)	120.60	147.85	154.55	174.30	134.00
Exercise price (in \$)	2.56	2.56	2.56	2.56	2.56
Number of participants	1,001	1,020	1,048	1,007	949

The volatility figure underlying the valuation is based on historical and implicit volatility, taking the remaining periods of the share options into account

OPTIONS PER EXERCISE HURDLE - LONG TERM INCENTIVE PLAN 2012

	Option price in EUR	Weighting in percent	Fair value in EUR	Probability in percent	Calculated value at 31.12. in EUR
<i>1st tranche 2012</i>					
Earnings per share	106.74	50	53.37	-	-
Relative total shareholder return	52.31	50	26.16		26.16
Total		100	79.53		26.16
<i>2nd tranche 2013</i>					
Earnings per share	131.42	50	65.71	-	-
Relative total shareholder return	67.75	50	33.88		33.88
Total		100	99.59		33.88
<i>3rd tranche 2014</i>					
Earnings per share	137.72	50	68.86	-	-
Relative total shareholder return	74.96	50	37.48		37.48
Total		100	106.34		37.48
<i>4th tranche 2015</i>					
Earnings per share	155.34	50	77.67	40	31.07
Relative total shareholder return	72.08	50	36.04		36.04
Total		100	113.71		67.11

5th tranche 2016

Earnings per share	118.79	50	59.40	40	23.76
Relative total shareholder return	64.14	50	32.07		32.07
Total		100	91.47		55.83

The probability that the earnings per share performance target will be reached is taken into account when calculating options that will be exercisable in future. In 2016, the probability that the earnings per share performance target would be reached in respect of the third tranche (allocated in the 2014 financial year) was adjusted from 40 percent to 0 percent. This results in a positive impact on earnings of EUR 3 m, which was recognised in functional costs. In the previous year, the probability that the earnings per share performance target would be reached in respect of the first tranche (allocated in the 2012 financial year) and the second tranche (allocated in the 2013 financial year) was adjusted from 40 percent to 0 percent. This resulted in a positive impact on earnings of EUR 9 m, which was recognised in functional costs. Otherwise, there were no changes from the previous year in the value of options per exercise hurdle.

F.3-72

Table of Contents

The volatility figure underlying the valuation is based on the historical volatility of Linde shares. The expected volatility is calculated on the basis of the historical values in the three years preceding the issue date of the options.

Personal investment, matching shares

A precondition of participation in the LTIP 2012 for plan participants in certain top management levels in Linde's internal management structure is compulsory personal investment in shares of the company at the beginning of each tranche of the scheme. In the case of members of the Executive Board, the number of shares that each individual Board member must purchase as a personal investment is determined by the Supervisory Board. For other Linde executives in certain top management levels, it is the Executive Board which determines the number of shares that must be purchased by each individual. For each share acquired by a scheme participant as a personal investment and held by the participant in respect of each tranche throughout the qualifying period for the options, one matching share in Linde AG will be granted at the end of the qualifying period at no cost to the participant. However, Linde is permitted to pay an amount in cash to those entitled to options instead of granting them matching shares. Conditions which apply to the granting of matching shares include: a personal investment in Linde AG shares by the scheme participant at the appropriate time, the unrestricted holding of such shares during the qualifying period of the corresponding tranche and, except in the event of the termination of the service or employment contract of the scheme participant before the end of the qualifying period (special cases) when different rules shall apply, the existence of a service or employment contract with the scheme participant at the end of the qualifying period in respect of which no notice has been given. Plan participants in Band 4 of Linde's internal management structure may make a voluntary personal investment in Linde AG shares and will be granted matching shares accordingly, subject to the aforementioned conditions.

FAIR VALUES OF MATCHING SHARES

<i>in EUR</i>	Fair value
1st tranche (2012)	109.26
2nd tranche (2013)	133.95
3rd tranche (2014)	140.01
4th tranche (2015)	157.91
5th tranche (2016)	121.40

MATCHING SHARES - LONG TERM INCENTIVE PLAN 2012

	LTIP -Number of Matching Shares
AT 01/01/2015	92,264
granted	33,030
forfeited	6,118
AT 12/31/2015 / 01/01/2016	119,176
granted	38,950
forfeited	14,954
allocated	32,330
AT 12/31/2016	110,842

In 2016, the matching shares relating to the 2012 tranche were allocated in the form of the payment of the equivalent value of the matching shares in cash. EUR 4.5 m was reclassified from the capital reserve to a liability that was settled as at the reporting date.

The effect on earnings of the recognition of the expense in the statement of profit or loss of The Linde Group is shown in the table below. The same amount was recognised in the capital reserve:

PERSONNEL EXPENSES - LONG TERM INCENTIVE PLAN 2012

in EUR m

	2014	2015	2016
Total	17	6	13

F.3-73

Table of Contents**[27] Financial instruments****FINANCIAL ASSETS**

<i>in EUR m</i>	Fair Value		Carrying Amount		Balance sheet values			
	2015	2016	2015	2016	Financial instruments outside scope of IAS 39		Total	
					2015	2016	2015	2016
Available-for-sale financial assets								
Investments and securities	430	138	430	138	-	-	430	138
Loans and receivables								
Investments and securities	6	6	6	6	-	-	6	6
Trade receivables	2,552	2,597	2,552	2,597	-	-	2,552	2,597
Receivables from percentage of completion contracts	174	160	174	160	-	-	174	160
Other receivables and assets	643	733	304	394	339	339	643	733
Held-to-maturity financial assets								
Investments and securities	15	15	15	15	-	-	15	15
Derivatives with positive fair values								
Freestanding derivatives	44	82	44	82	-	-	44	82
Derivatives designated as hedging instruments	272	132	272	132	-	-	272	132
Cash and cash equivalents	1,417	1,463	1,417	1,463	-	-	1,417	1,463
Receivables from finance leases	321	242	-	-	269	214	269	214
Total	5,874	5,568	5,214	4,987	608	553	5,822	5,540

FINANCIAL LIABILITIES

<i>in EUR m</i>	Fair value		Carrying amount		Balance sheet values			
	2015	2016	2015	2016	Financial instruments outside scope of IAS 39		Total	
					2015	2016	2015	2016
Financial liabilities at amortised cost								
Financial liabilities	9,987	9,059	9,483	8,528	-	-	9,483	8,528
Trade payables (excluding PoC)	2,567	2,601	2,565	2,600	-	-	2,565	2,600
Miscellaneous liabilities	921	893	572	542	349	351	921	893
Derivatives with negative fair values								
Freestanding derivatives	90	42	90	42	-	-	90	42
Derivatives designated as hedging instruments	585	600	585	600	-	-	585	600

Liabilities from financial leases	64	67	-	-	78	74	78	74
Total	14,214	13,262	13,295	12,312	427	425	13,722	12,737

The fair value of financial instruments is generally determined using stock exchange prices. If stock exchange prices are not available, the fair value is determined using measurement methods customary in the market, based on market parameters specific to the instrument[^]. The fair value of derivative financial instruments is determined as follows: Options are valued using the Black-Scholes option pricing model. Futures are measured with recourse to the quoted market price in the relevant market. All other derivative financial instruments are measured by discounting expected future cash flows using the net present value method. As far as possible the entry parameters used in these models are relevant observable market prices and interest rates at the reporting date.

F.3-74

Table of Contents

The following table shows the financial instruments in The Linde Group which are measured at fair value. Linde uses the following hierarchy to determine and disclose fair values based on the method used to ascertain their fair values:

- Level 1: Quoted prices (unadjusted) in active markets for identical assets and liabilities
- Level 2: Inputs other than quoted market prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3: Inputs for the assets or liabilities that are not based on observable market data.

FINANCIAL ASSETS AND LIABILITIES MEASURED AT FAIR VALUE

<i>in EUR m</i>	Level 1		Level 2		Level 3	
	12/31/2015	12/31/2016	12/31/2015	12/31/2016	12/31/2015	12/31/2016
Investments and securities	415	121	-	-	-	-
Freestanding derivatives with positive fair values	-	-	44	82	-	-
Derivatives designated as hedging instruments with positive fair values	-	-	272	132	-	-
Freestanding derivatives with negative fair values	-	-	90	42	-	-
Derivatives designated as hedging instruments with negative fair values	-	-	585	600	-	-
Non-current assets held for sale and disposal groups	-	462	-	-	-	-

During the reporting year, there were no transfers between Levels 1, 2 and 3 of the fair value hierarchy. The investments and securities category also included financial assets (available-for-sale financial assets) of EUR 17 m (2015: EUR 15 m) for which a fair value cannot be reliably determined. There is currently no intention to sell these assets.

The fair value of financial instruments in the loans and receivables, held-to-maturity financial assets and financial liabilities at amortised cost categories is determined by discounting the expected cash flows. The interest rates applied are the same as those that would apply to new financial instruments with a similar risk structure, currency and maturity. Fair value is determined using the discounted cash flow method, taking into account individual credit ratings and other market circumstances in the form of credit and liquidity spreads generally applied in the market (Level 2). The exception to this is bonds issued by Linde AG and Linde Finance B.V., which are traded in the capital market (Level 1). The fair value of these instruments is determined using the current stock exchange price. In cases involving short-term financial instruments in the loans and receivables, held-to-maturity financial assets and financial liabilities at amortised cost categories, it is assumed that the fair value corresponds to the carrying amount.

In the 2016 financial year, there were no differences between the fair value of a financial instrument when it was first recognised and the amount which would have been recognised at that time had the valuation methods described above been used.

NET FINANCIAL GAINS AND LOSSES⁽¹⁾

<i>in EUR m</i>	2014	2015	2016
From freestanding derivatives	204	180	-111
From loans and receivables	100	93	-248
From available-for-sale financial assets	2	-8	-
of which reported in the income statement	14	1	-
of which reported in cumulative changes in equity not recognised in the income statement	-12	-9	-
From financial liabilities at amortised cost	-341	-414	177
Total	-35	-149	-182
Thereof recognised within financial income and expense	11	-13	-14

(1) Gains are presented as positive numbers and losses are presented as negative numbers.

F.3-75

Table of Contents

2014 to 2015

The net financial gains and losses on financial instruments arise from changes in fair value, the recognition and reversal of impairment losses, eliminations and exchange rate fluctuations. In the financial year under review, there was a considerable increase in the impairment losses for trade receivables.

2015 to 2016

The net financial gains and losses on financial instruments arise from changes in fair value, the recognition and reversal of impairment losses, eliminations and exchange rate fluctuations. In the financial year under review, there was an increase in the impairment losses for trade receivables.

The net financial gains and losses correspond to the valuation gains and losses of the financial instruments, but exclude interest and dividends.

Free-standing derivatives comprise all those derivatives which are not designated as hedging instruments. They include those derivatives in economic hedging relationships not designated as hedges in respect of which gains and losses arising from the underlying transaction and the hedged item are recognised at the same time in the statement of profit or loss.

The financial result includes fees and other costs of capital of EUR 17 m (2015: EUR 15 m; 2014: EUR 13 m) relating to financial instruments not at fair value through profit or loss.

No interest income has been accrued which relates to impaired financial instruments, especially receivables.

IMPAIRMENT LOSS ON FINANCIAL ASSETS AT 12/31/2016⁽¹⁾

<i>in EUR m</i>	2015				2016			
	Carrying amount before impairment	Cumulative loss	Carrying amount after impairment	Of which impairment loss for 2015 financial year	Carrying amount before impairment	Cumulative loss	Carrying amount after impairment	Of which impairment loss for 2016 financial year
Investments and securities at fair value	442	12	430	12	157	19	138	7
Investments and securities at amortised cost	26	5	21	-	26	5	21	-
Receivables from finance leases	269	-	269	-	214	-	214	-
Trade receivables	2,878	326	2,552	139	2,968	371	2,597	163
Receivables from percentage of completion contracts	174	-	174	-	160	-	160	-
Derivatives with positive fair values	316	-	316	-	214	-	214	-

Other receivables and assets	646	3	643	-	737	4	733	1
Cash and cash equivalents	1,417	-	1,417	-	1,463	-	1,463	-

(1) Impairment losses recognised in the financial result amount to EUR 4 m in the year 2016 (2015: EUR 1 m).

F.3-76

Table of Contents**IMPAIRMENT LOSS ON TRADE RECEIVABLES***in EUR m*

	Cumulative impairment loss	
	2015	2016
At 01/01	295	326
Currency adjustments	12	10
Increase in impairment losses recorded in the statement of profit and loss	139	163
Write-offs charged against cumulative impairment losses	-120	-128
At 12/31	326	371

The carrying amounts of the financial assets recognised take into account the highest possible risk of default. The increase in impairments is primarily due to the increase in overdue trade receivables and an increase in overdue or uncollectable receivables in the Healthcare segment in North America.

INTEREST INCOME/EXPENSE FROM FINANCIAL INSTRUMENTS NOT MEASURED AT FAIR VALUE*in EUR m⁽¹⁾*

	2014	2015	2016
Interest income	37	40	30
Interest expense	354	350	245
Total	-317	-310	-215
Thereof recognised within financial income and expense	-336	-328	-229

(1) Income and expense are presented as positive number as long as the line is clearly labelled. In the total line, net expenses are presented as a negative number.

Not included here are the interest income and interest expense from derivatives or the interest income and interest expense from assets and liabilities outside the scope of IFRS 7.

Risk positions and risk management

The Linde Group is exposed to a variety of financial risks. These include in particular: counterparty risk, liquidity risk, interest rate risk, exchange rate risk and other market price risks. These are described below.

Counterparty risk

Counterparty risk is the risk that a counterparty does not meet his or her contractual payment obligations and that this leads to a loss for The Linde Group.

The Linde Group deals in principle with counterparties who have a good credit rating. Regular reviews are performed on the creditworthiness of major counter- parties, in particular, and clearly defined limits have been set. Experience during the economic crisis has shown that credit standings can change very quickly. It is therefore possible that, despite the Group's monitoring process, counterparties might delay payments or fail to make them at all. The Linde Group does not believe that it has any significant exposure to default risk arising from any individual counterparty.

The concentration of the counterparty risk is limited due to the Group's broad and uncorrelated customer base. With the exception of Medicare, the federal health insurance programme within the US health system, the single largest debtor constitutes less than 2 percent of the total figure for trade receivables in The Linde Group. Medicare constitutes 10 percent of the Group's trade receivables.

The risk positions outstanding are subject to strict limits and are continually monitored. The carrying amounts of financial assets reported in the Group Statements of Financial Position, taking into account impairment losses, represent the highest possible default risk, without including the value of any collateral.

A significant criterion for managing counterparty risk relating to financing and capital market transactions and setting corresponding limits is the credit rating of the relevant counterparty. Regular reviews are

F.3-77

Table of Contents

performed by a supervisory unit which is independent of the trading department to ensure compliance with all the limits set. The Linde Group has concluded bilateral Credit Support Annexes (CSAs) with the majority of the banks with which financial instruments are traded. On the basis of such agreements, the positive and negative fair values of derivatives held by Linde AG and Linde Finance B. V. for the purpose of interest rate and currency management are collateralised with cash on a regular basis. In this way, the default risk arising from these instruments is minimised. These transactions are subject to the rules of the framework agreement for financial derivative transactions, whereby the rights and obligations associated with the exchange of collateral do not qualify for netting in the Group Statements of Financial Position.

A willingness to enter into CSAs with Linde AG and Linde Finance B. V. is an essential prerequisite to being accepted as counterparty by Linde. In this connection, The Linde Group issued EUR 464 m (2015: EUR 371 m) as collateral for derivatives with negative fair values and received EUR 41 m (2015: EUR 65 m) as collateral for derivatives with positive fair values. In addition, a unilateral CSA was concluded with a trading platform for commodities derivatives in Sweden, and EUR 7 m (2015: EUR 2 m) was issued as collateral for negative market values. The Linde Group also has financial assets with a carrying amount of EUR 6 m (2015: EUR 5 m) which are pledged as collateral for liabilities or contingent liabilities. In the 2016 and 2015 financial years, no additional significant collateral was held by The Linde Group apart from the CSAs described above.

FINANCIAL ASSETS/LIABILITIES SUBJECT TO OFFSETTING OR ENFORCEABLE MASTER AGREEMENTS FOR FINANCIAL DERIVATIVE TRANSACTIONS

<i>in EUR m</i>	Gross amount of recognised financial assets / liabilities	Net amount of financial assets / liabilities	Net amount of financial assets / liabilities	Financial instruments that qualify for netting	Net amount before collateral	Cash collateral received	Cash collateral pledged	Net amount	
	Gross amount of recognised financial assets / liabilities	off balance sheet	in the balance sheet	presented in the balance sheet	that qualify for netting	Net amount before collateral	Cash collateral received	Cash collateral pledged	Net amount
12/31/2015									
Derivatives with positive fair values	316	-	316	-235	81	-62	27	46	
Derivatives with negative fair values	-675	-	-675	235	-440	-3	346	-97	
Trade receivables	9	-4	5	-	5	-	-	5	
Trade payables	-6	4	-2	-	-2	-	-	-2	
TOTAL	-356	-	-356	-	-356	-65	373	-48	
12/31/2016									
Derivatives with positive fair values	214	-	214	-143	71	-25	34	80	
	-642	-	-642	143	-499	-16	437	-78	

Derivatives with negative fair values								
Trade receivables	10	-4	6	-	6	-	-	6
Trade payables	-6	4	-2	-	-2	-	-	-2
Total	-424	-	-424	-	-424	-41	471	6

¹ The terms governing CSAs may result in the net fair value position per counterparty being over-secured.

Liquidity risks

Liquidity risk is the risk that the Group will no longer be able to meet its financial payment obligations. With regard to the management of liquidity risk, Linde pursues a prudent and conservative policy of safeguarding liquidity. It continued to have access to the capital markets in the 2016 financial year. In addition, as of December 31, 2016

F.3-78

Table of Contents

Linde AG has access to an agreed syndicated credit facility of EUR 2.5 bn provided by an international banking group, which is available until 2020 and has not been used to date. Contractual undiscounted expected future cash flows from financial liabilities are shown in the table below:

FUTURE CASH FLOWS FROM FINANCIAL LIABILITIES

<i>in EUR m</i>	Due within one year		Due in one to five years		Due in more than five years	
	2015	2016	2015	2016	2015	2016
Cash outflows from non-derivative financial liabilities	4,492	5,244	6,013	5,035	3,693	2,718
Cash outflows from derivative financial liabilities	196	855	1,406	1,065	1,092	1,009

Within this context, it is important to note that the cash outflows from derivative financial liabilities in the amount of EUR 2,929 m (2015: EUR 2,694 m) are offset by cash inflows from derivatives with gross settlement in the amount of EUR 2,116 m (2015: EUR 1,819 m).

Interest rate risks

Interest rate risks arise from market fluctuations in interest rates. As a result of its financing activities, The Linde Group is exposed to a risk from interest rate changes. At December 31, 2016, The Linde Group held interest-bearing instruments (net, including interest rate derivatives/hedges) totaling EUR 7,190 m (2015: EUR 7,829 m). Of these, EUR 2,618 m (2015: EUR 2,586 m) related to instruments bearing interest at variable interest rates and EUR 4,572 m (2015: EUR 5,243 m) to instruments bearing interest at fixed rates. This is equivalent to a Group-wide fixed-rate ratio of 64 percent (2015: 67 percent).

Linde has used forward payer swaps to provide an element of hedging against exposure to rising interest rates with regard to future bond issues.

Based on instruments bearing interest at variable rates and financial instruments hedging interest rate risks which The Linde Group holds or has issued, a hypothetical change in the interest rates applicable to the respective instruments would have had the following effects (if exchange rates remained constant):

EFFECT OF CHANGES IN APPLICABLE INTEREST RATES

<i>in EUR m</i>	Change	Recognised in profit or loss			Directly in equity		
		2014	2015	2016	2014	2015	2016
Currency							
EUR	+ 100 bp	- 25	- 22	- 38	104	89	82
	-100 bp	25	22	38	- 112	- 95	- 87
GBP	+ 100 bp	-	1	12	- 9	- 6	- 3
	-100 bp	-	- 1	- 12	9	6	3
USD	+ 100 bp	- 3	- 2	- 3	75	68	52

	-100 bp	3	2	3	- 76	- 69	- 53
AUD	+ 100 bp	- 3	- 3	-	8	8	11
	-100 bp	3	3	-	- 8	- 8	- 11
Other currencies	+ 100 bp	-	1	3	4	7	7
	-100 bp	-	- 1	- 3	- 4	- 7	- 7

Exchange rate risks

Due to its activities as an international group, The Linde Group is exposed to exchange rate risks. Its broad spread of activities over many different currency areas and its local business model result in a low concentration of risk for the Group.

F.3-79

Table of Contents

The Linde Group monitors and manages its exchange rate risk, a risk which has an impact on its operations. The gross exchange rate risk encompasses all the operating activities of the Group. This gross exchange rate risk is reduced by around 78 percent (2015: 82 percent). Therefore, The Linde Group is exposed at the reporting date to a net exchange rate risk from operating activities involving foreign currency corresponding to 22 percent (2015: 18 percent) of the original unsecured risk.

The risk of exchange rate movements is monitored for internal management purposes on the basis of a value-at-risk, which relates to positions in currencies other than the relevant functional currency.

The value-at-risk is calculated on the basis of historical data (250 working days) in accordance with international banking standards. The value-at-risk presents the maximum potential loss based on a probability of 97.5 percent for a holding period of twelve months. The calculation takes into account correlations between the transactions being considered; the risk of a portfolio is generally lower than the total of the respective individual risks.

At December 31, 2016, the value-at-risk was EUR 31 m (2015: EUR 26 m).

Other market price risks

As a result of its energy purchases, The Linde Group is exposed to risks arising from changes in commodity prices. The Linde Group monitors and manages these commodity price risks arising from the purchase of electricity, natural gas and propane for use in production. These hedging operations are governed by strict risk management guidelines, compliance with which is constantly being monitored. Commodity price risks are hedged in the main by long-term supply contracts or limited by the form and structure of sales contracts. Derivatives are also used to a much lesser extent to hedge against the exposure to changes in the price of electricity, natural gas and propane gas. The commodity price risk from financial instruments is therefore not material

*Hedge Accounting**Cash flow hedges*

The Linde Group hedges cash flows at both Group and company levels, based on agreed minimum hedging rates. At the company level, future transactions which are highly probable are hedged against foreign exchange risks. A rolling 15-month budget or the budgets for individual customer-specific projects are used for this purpose.

In general, these hedges are accounted for as cash flow hedges in accordance with IAS 39 Financial Instruments: Recognition and Measurement. The effective portion of the gain or loss on the hedging instruments is recognised directly in equity and released to the statement of profit or loss when the hedged cash flows are also recognised in the statement of profit or loss or if a hedged future transaction is no longer expected to occur. In addition, the risks associated with changes in interest rates relating to certain financial liabilities or future financing measures are hedged by derivative financial instruments and accounted for as cash flow hedges.

The Linde Group also hedges the exposure to commodity price risks which arise in the normal course of business from its procurement transactions and result in open risk positions. To reduce the extent of the risk, The Linde Group enters into a small number of electricity, natural gas and propane gas derivatives.

Usually, hedging relationships of this type are also designated as cash flow hedging relationships, if this accords with the facts.

If the hedged future transactions (forecast transactions as defined by IAS 39) result in the recognition of a non-financial asset or liability, the initial carrying amounts of these are adjusted for the amount recorded in equity. This is usually the case for non-current assets and inventories.

F.3-80

Table of Contents

The following table presents a reconciliation of the reserve for cash flow hedges:

RESERVE FOR CASH FLOW HEDGES

<i>in EUR m</i>	2014	2015	2016
Opening balance at 01/01	-14	-259	-270
Additions	-229	7	-59
Transfers to the statement of profit or loss ⁽¹⁾	-16	-18	24
of which relating to revenue	-4	-12	4
of which relating to cost of sales	-13	-11	14
of which relating to financial income and expenses	1	5	6
Closing balance at 12/31	-259	-270	-305

(1) Within the section transfers to the statement of profit and loss, negative numbers represent gains and positive numbers represent losses incurred in the statement of profit or loss.
2014 to 2015

In the 2015 financial year, income of EUR 2 m (2014: EUR 1 m) was recognised in the financial result which related to forecast transactions which did not take place. Most of the amount related to currency hedges in respect of forecast revenue in foreign currency.

EXPECTED CASH FLOWS, GAINS AND LOSSES FROM CASH FLOW HEDGES

<i>in EUR m</i>	Within one year			In one to five years			In more than five years			Total		
	2014	2015	2016	2014	2015	2016	2014	2015	2016	2014	2015	2016
Cash flows from hedging instruments	-33	4	-51	-322	-454	-323	-252	-199	-201	-607	-649	-573
Gain/loss	-8	-4	1	-62	-134	-134	-189	-132	-172	-259	-270	-305
<i>Fair value hedges</i>												

The Linde Group uses interest rate swaps to hedge the exposure to changes in the fair value of financial assets and financial liabilities as a result of interest rate changes. If the hedge is deemed to be effective, the carrying amount of the hedged item is adjusted for changes in the fair value attributable to the hedged risk.

The following table shows the changes in underlying transactions and hedging instruments in fair value hedging relationships recognised in the financial result.

FAIR VALUE HEDGES⁽¹⁾

<i>in EUR m</i>	2014	2015	2016
-----------------	------	------	------

From hedged transactions	-44	35	21
From hedging instruments	41	-34	-20
Ineffectiveness	-3	1	1

(1) Gains are presented as positive numbers and losses are presented as negative numbers.

Hedges of a net investment in a foreign operation

The Linde Group hedges its exposure to translation risk by taking out loans in foreign currency and by entering into forward exchange contracts and cross-currency interest rate swaps. These hedges generally qualify as hedges of a net investment in a foreign operation (referred to below as net investment hedges) in accordance with IAS 39 Financial Instruments: Recognition and Measurement and hence the effective portion of the hedge is

F.3-81

Table of Contents

transferred to equity. If the foreign operation is subsequently sold or relinquished, the amount recognised in equity is released to the statement of profit or loss.

FAIR VALUE OF FINANCIAL INSTRUMENTS DESIGNATED AS HEDGES

<i>in EUR m</i>	2014	2015	2016
Cash flow hedges			
Forward exchange transactions	2	12	-
Interest rate/cross-currency interest rate swaps	-203	-234	-329
Commodities	-18	-22	6
Financial liabilities	155	240	244
Fair value hedges			
Interest rate swaps	123	90	12
Net investment hedges			
Forward exchange transactions	-110	-60	-45
Cross-currency interest rate swaps	-18	-99	-112
Financial liabilities in foreign currencies	1,373	1,435	1,017

RECONCILIATION TO NET FINANCIAL RESULT [NOTE 9]

<i>in EUR m</i>	2014	2015	2016
Net financial gains and losses	11	-13	-14
Net interest expense	-336	-328	-229
Cash flow hedges	-1	-5	-6
Fair value hedges	-3	1	1
Fees and other cost of capital	-13	-15	-17
Net interest from defined benefit plans	-17	-24	-23
Income from investments	1	0	1
Net interest on interest rate swaps	5	-1	-25
Other income and expenses from assets and liabilities other than financial instruments	-12	-12	-12
Net financial result	-365	-397	-324

[28] Group statement of cash flows

The statement of cash flows shows the source and application of funds. In accordance with IAS 7 Cash Flow Statements, cash flows from operating activities are distinguished from cash flows from investing and financing activities.

The cash and cash equivalents disclosed in the statement of cash flows comprise all cash and cash equivalents disclosed in the statement of financial position: i.e. cash in hand, bank balances and money market funds with a maturity of three months or less. Cash and cash equivalents of EUR 5 m (2015: EUR 8 m) are subject to drawing restrictions as a result of currency export restrictions. The cash flows from investing and financing activities are calculated on the basis of payments, while the cash flow from operating activities is derived indirectly from profit before tax.

When the cash flow from operating activities is calculated, the changes in assets and liabilities are adjusted for the effects of currency translation and changes in Group structure. As a result, it is not possible to reconcile the figures to the differences between the headings in the published Group statement of financial position.

Distributions received and income taxes paid included in cash inflow from operating activities are disclosed separately. Cash inflows from associates and joint ventures are disclosed in cash inflow from operating activities. Finance income from embedded finance leases (IFRIC 4/IAS 17) has been included in cash inflow from operating activities, due to the fact that such income is clearly related to the operating business of The Linde Group, while capitalised borrowing costs of EUR 24 m (2015: EUR 52 m) are disclosed in cash flow from investing activities. All other interest payments are disclosed in cash flow from financing activities.

F.3-82

Table of Contents

For cash outflows relating to newly consolidated companies, please refer to the Group statement of cash flows. In the Group statement of financial position, EUR 2 m (2015: EUR 4 m) has been recognised as liabilities which are not included in the cash outflows for consolidated companies.

The total increase in cash and cash equivalents as a result of acquisitions was EUR 12 m (2015: EUR 0 m).

Investing activities comprise additions to and disposals of tangible assets, financial assets, intangible assets and consolidated companies. Additions and disposals in foreign currency have been translated at average rates.

[29] Segment information

IFRS 8 Operating Segments requires information to be provided for each operating segment. The definition of operating segments and the scope of the information prepared for segment reporting is based, among other things, on the information made available on a regular basis to the full Executive Board and, as a result, on the internal management within the organisation. The full Executive Board is regularly provided with key profitability and revenue figures that are relevant from a decision-making perspective for the following areas:

EMEA (Europe, Middle East and Africa)

Asia/Pacific

Americas

Engineering Division

Other Activities

In accordance with IFRS 8, The Linde Group therefore reports in five segments. The Reconciliation column comprises corporate activities and consolidation adjustments.

Core financial performance indicators

One of the key elements of Linde's corporate strategy is the pursuit of sustainable earnings-based growth, with the aim of achieving a steady increase in corporate value. To measure the medium-term and long-term financial success of this value-based management strategy, the Group uses the following core performance indicators:

Group revenue and the revenue of the Gases Division and the Engineering Division,

Segment group operating profit (Earnings before Interest, Tax, Depreciation and Amortisation, EBITDA) and the operating profit of the Gases Division and the Engineering Division.

These performance indicators are submitted on a regular basis to the entire Executive Board and are used for internal management purposes. The variable remuneration of the Executive Board is also based on these performance indicators.

Calculation of the core financial performance indicators

Operating profit is calculated by adjusting the Net profit on operating activities for the amortisation of intangible assets and depreciation of tangible assets. The amortisation of intangible assets and depreciation of tangible assets are included in functional costs.

F.3-83

Table of Contents

In addition, the Net profit on operating activities is also adjusted for special items (i.e cost reduction programs and merger costs).

A brief description of the segments is given below:

Gases Division

(EMEA, Asia/Pacific and Americas):

The activities of the Gases Division comprise the production, sale and distribution of gases for applications in industry, medicine, environmental protection and in research and development. In addition, this division offers technical application know-how, specialised services and the necessary hardware to use the gases. The business model in the three segments within the Gases Division (EMEA, Asia/Pacific and Americas) is largely identical in each segment.

Engineering Division:

The activities of the Engineering Division comprise the design and realisation of turnkey olefin plants, plants for the production of hydrogen and synthesis gases and the processing of natural gas, and air separation plants. This division also develops and manufactures plant components and offers specialised services.

Other Activities:

Other Activities comprises Gist, a leading supplier of logistics and supply chain solutions with business operations mainly in the UK. As this business area is to be sold, it has been reported as a discontinued operation in this Annual Report.

Segment accounting policies

The same accounting policies apply as those set out in Note 5 to the segments. Exceptions apply to Group financing, which is allocated to Corporate. Pension obligations are allocated to the segment in which the relevant employees work. The provision for existing pension obligations arising from the BOC pension plan in respect of the legal entities in the UK is allocated to the EMEA segment. The service cost was charged to the EMEA and Corporate segments. Transactions between the reportable segments described above are conducted under the same conditions as for non-related third parties.

To arrive at the figure for the Gases Division as a whole from the figures for the three segments within the Gases Division, consolidation adjustments of EUR 185 m (2015: EUR 182 m; 2014: EUR 124 m) have been applied to revenue. This means that it is not possible to arrive at the figure for the Gases Division as a whole by adding together the segments in the Gases Division.

Table of Contents

Capital expenditure per segment represents the amounts invested during the financial year from the point of view of the subsidiary. Included in the Reconciliation column are not only consolidation adjustments required from the Group's point of view, but also adjustments as a result of variances in Group acquisition and manufacturing cost as a result of supplies made by the Engineering Division to the Gases Division.

RECONCILIATIONS OF SEGMENT REVENUE**AND OF THE SEGMENT RESULT**

<i>in EUR m</i>	2014	2015	2016
Revenue			
Total revenue from the segments	17,655	18,369	17,845
Revenue from discontinued operations	-565	-599	-587
Consolidation	-608	-425	-310
Group revenue from continuing operations	16,482	17,345	16,948
Operating profit			
Operating profit from segments	4,197	4,411	4,450
Operating profit from corporate activities	-245	-288	-338
Operating profit from discontinued operations	-62	-44	-44
Consolidation	-31	8	30
Special items (i.e restructuring and merger costs)	66	192	126
Amortisation and depreciation	1,936	1,866	1,897
Financial income	50	42	29
Financial expenses	415	439	353
Profit before tax from continuing operations	1,492	1,632	1,751

SALES BY PRODUCT LINES

<i>in EUR m</i>	2014	2015	2016
Gases Division	13,982	15,168	14,892
On-Site	3,698	3,847	3,757
Healthcare	3,059	3,665	3,740
Liquefied gases	3,335	4,040	3,575
Cylinder gases	3,890	3,616	3,820
Engineering Division	3,106	2,594	2,351
Olefin plant	494	683	819
Natural gas plants	835	572	448
Air separation plants	901	406	419
Hydrogen and synthesis gas plants	631	690	485
Other	245	243	180
Consolidation	-606	-417	-295
Group revenue from continuing operations	16,482	17,345	16,948

[30] Recommendation for the approval of the annual financial statements and appropriation of profit of Linde AG

The unappropriated profit at December 31, 2016 was EUR 686,860,862.70 (2015: EUR 640,451,344.95; 2014: EUR 584,759,923.65).

The Executive Board recommends that, when the annual financial statements of Linde AG are approved at the meeting of the Supervisory Board on March 8, 2017, the Supervisory Board proposes that the appropriation of profit of EUR 686,860,862.70 (2015: EUR 640,451,344.95, 2014: EUR 584,759,923.65) be voted on at the Annual General Meeting on May 10, 2017 as follows:

payment of a dividend of EUR 3.70 (2015: EUR 3.45; 2014: EUR 3.15) per no-par value share entitled to dividend. The total dividend payout for 185,638,071 (2015: 185,638,071) no-par value shares entitled to dividend therefore amounts to EUR 686,860,862.70 (2015: EUR 640,451,344.95; 2014: EUR 584,759,923.65).

F.3-85

Table of Contents

The 95,109 treasury shares held by the company without any dividend entitlement at the time of the proposal are not included in the calculation of the amount to be distributed.

[31] Related party transactions

In addition to the subsidiaries included in the Group financial statements, Linde AG is related, directly or indirectly, while carrying out its normal business activities to non-consolidated subsidiaries, joint ventures and associates. The business relationships with these companies are generally conducted under the same conditions as for non-related third parties. Related companies which are controlled by The Linde Group or over which The Linde Group may exercise significant influence are disclosed in the list of shareholdings, arranged by division.

REVENUE WITH RELATED PARTIES

<i>in EUR m</i>	2014			2015			2016			Total		
	Associates			Associates			Associates					
	Non-consolidated subsidiaries	or joint ventures	Other related parties	Non-consolidated subsidiaries	and joint ventures	Other related parties	Non-consolidated subsidiaries	and joint ventures	Other related parties			
Sales of goods	-	12	-	12	-	14	-	14	-	18	-	18
Revenue based on												
PoC	-	19	-	19	-	7	-	7	-	40	-	40
Other revenue	-	-	-	-	-	-	-	-	-	2	-	2

PURCHASED GOODS AND SERVICES FROM RELATED PARTIES

<i>in EUR m</i>	2014			2015			2016			Total		
	Associates			Associates			Associates					
	Non-consolidated subsidiaries	and joint ventures	Other related parties	Non-consolidated subsidiaries	and joint ventures	Other related parties	Non-consolidated subsidiaries	and joint ventures	Other related parties			
Goods and services purchased from related parties	5	120	-	125	4	110	-	114	2	88	-	90

Related persons are mainly the members of the Executive Board and Supervisory Board. In 2016, there were no significant transactions (2015: none; 2014: none) between The Linde Group and members of the Executive Board and Supervisory Board or their family members which are outside the bounds of existing employment, service or appointment agreements or remuneration contracts.

Some members of Linde's Executive Board and Supervisory Board hold similar positions in other companies. Linde has normal business relationships with virtually all these companies. The sale and purchase of goods and services to and from these companies take place under the usual market conditions.

RECEIVABLES FROM AND LIABILITIES TO RELATED PARTIES

<i>in EUR m</i>	12/31/2015		12/31/2016	
		Total		Total

	Non- Associates consolidated and subsidiaries joint ventures			Non- Associates consolidated and subsidiaries joint ventures			Other related parties	
Receivables from related parties	3	31	-	34	-	46	-	46
Liabilities to related parties	1	38	-	39	-	63	-	63

There were no charge-free guarantee agreements in place for associates or joint ventures on the reporting date (2015: EUR 0 m; 2014: EUR 4 m). The open orders from joint ventures came to EUR 1 m (2015: EUR 0 m).

F.3-86

Table of Contents**[32] Additional information about the Supervisory Board and Executive Board***Supervisory Board*

The total emoluments of the Supervisory Board shown in the table below are based on the cost incurred in the financial year in accordance with IAS 24.17. In the reporting year, as in the year before, there were no advances or loans to members of the Supervisory Board.

EMOLUMENTS OF THE SUPERVISORY BOARD (INCL. VAT)

<i>in EUR m</i>	2014	2015	2016
Fixed emoluments	2,891,700	2,891,700	2,886,433
Attendance fees	94,010	97,580	133,280
Total emoluments	2,985,710	2,989,280	3,019,713

*Executive Board***SHARES GRANTED FROM SHARE-BASED PAYMENTS**

	2014		2015		2016	
	units	Value per unit when granted in EUR	units	Value per unit when granted in EUR	units	Value per unit when granted in EUR
Options (LTIP 2012)	38,450	65.02	40,231	67.11	41,196	55.83
Matching shares (LTIP 2012)	4,463	140.01	4,275	157.91	4,737	121.40

In the reporting year as well as the in the year before, there were no advances or loans to members of the Executive Board. Total remuneration paid to former members of the Executive Board and their surviving dependants amounted to EUR 10,202,212 (2015: EUR 2,214,936). A provision of EUR 59,710,818 (2015: EUR 58,771,380) has been made in The Linde Group for current pensions and future pension benefits in respect of former members of the Executive Board and their surviving dependants. Within Linde AG, the corresponding provision was EUR 46,747,736 (2015: EUR 50,381,450).

The emoluments of the Executive Board in accordance with IAS 24.17, based on the cost incurred in the financial year, were as follows:

EMOLUMENTS OF THE EXECUTIVE BOARD IN ACCORDANCE WITH IFRS

<i>in EUR</i>	2014	2015	2016
Short-term cash emoluments	8,885,935	8,665,205	7,551,570
Long-term cash emoluments	3,081,804	2,912,840	2,519,268
Total cash emoluments	11,967,739	11,578,045	10,070,838

Change in value of virtual shares	285,411	65,644	-133,253
Cost Long Term Incentive Plan	4,869,835	1,122,133	-161,942
Service cost for pension obligation	1,228,535	2,105,419	953,525
Total emoluments (IFRS)	18,351,520	14,871,241	10,729,168

In addition, post-employment benefits of EUR 6,565,134 arose (2015: EUR 0).

[33] Contingent liabilities and other financial commitments

CONTINGENT LIABILITIES

<i>in EUR m</i>	12/31/2015	12/31/2016
Guarantees	4	-
Warranties	8	1
Other contingent liabilities	54	73
Total	66	74

F.3-87

Table of Contents*Warranties and guarantee agreements*

Contingent liabilities arise in Linde primarily from warranties and guarantee agreements. In exceptional cases, Linde enters into guarantee agreements with banks to secure loans in non-consolidated subsidiaries.

Other contingencies

The Engineering Division regularly enters into contracts with consortium partners to build turnkey industrial plants, under which the consortium partners assume joint and several liability to the customer for the total volume of the contract. There are clear internal rules here as to how the liability should be split between the partners. At present, there are plant construction orders with one of our consortium partners totaling EUR 773 m (2015: EUR 736 m). Linde currently anticipates that there will be no joint and several liability claim and has therefore not disclosed any contingent liability in respect of these contracts.

Other financial commitments

Other financial commitments include lease commitments relating to operating leases and commitments relating to orders. Commitments relating to orders are in respect of open orders for which a contractual payment obligation has already been agreed.

OTHER FINANCIAL COMMITMENTS

<i>in EUR m</i>	12/31/2015	12/31/2016
Obligations under non-cancellable operating leases	507	538
Capital expenditure commitment (tangible fixed assets)	335	247
Capital expenditure commitment (intangible assets)	9	3
Total	851	788

PROCUREMENT LEASES

<i>in EUR m</i>	12/31/2015	12/31/2016
Total minimum lease payments (gross investment)		
due within one year	131	131
due in one to five years	259	262
due in more than five years	117	145
Total minimum lease payments (gross investment)	507	538

The minimum lease payments relate to leased buildings, technical equipment, fixtures, furniture and equipment (procurement leases). They are in respect of a large number of individual contracts. In the 2016 financial year, costs arising from operating leases of EUR 297 m (2015: EUR 281 m).

Litigation

Linde or one of its Group companies is involved in current or foreseeable legal or arbitration proceedings in the normal course of business.

In 2010, the Brazilian competition authority CADE imposed fines on a number of gases companies, including Linde's Brazilian subsidiary, on the grounds of alleged anti-competitive business conduct in the years 1998 to 2004. An amount of around BRL 188 m is attributable to The Linde Group in this respect. Based on the exchange rate on reporting date, this equates to around EUR 55 m. Seen from today's perspective and as a result of a positive judgment in the first instance, Linde assumes that this decision will not stand up to judicial review in the second instance either, and deems the possibility of an outflow of resources to be extremely unlikely. As a result, no provision has been set up as a liability and the matter is not reflected in the contingent liabilities either.

F.3-88

Table of Contents

Linde is also party to various current or foreseeable legal or arbitration proceedings in respect of which the probability of a claim is unlikely or the impact on the economic situation of The Linde Group will be immaterial. Appropriate provisions for potential financial liabilities have been made in the relevant Group company for all other proceedings in which Linde is involved.

[34] Events after the reporting date

No other significant events occurred for The Linde Group between the reporting date and February 21, 2017.

On February 21, 2017, the Executive Board of Linde AG released the consolidated financial statements for submission to the Supervisory Board.

F.3-89

Table of Contents

EXECUTION VERSION

ANNEX A BUSINESS COMBINATION AGREEMENT

BUSINESS COMBINATION AGREEMENT

by and among

LINDE AKTIENGESELLSCHAFT,

PRAXAIR, INC.,

ZAMALIGHT PLC,

ZAMALIGHT HOLDCO LLC

and

ZAMALIGHT SUBCO, INC.

Dated as of June 1, 2017

Table of Contents

TABLE OF CONTENTS

ARTICLE I

THE OFFER

1.1	Announcement of the Offer	A-2
1.2	Submission of the Offer Documents to the Regulators	A-2
1.3	Commencement of the Offer	A-3
1.4	Offer Consideration	A-4
1.5	Cancellation of Linde Excluded Shares	A-4
1.6	Fractional Shares	A-4
1.7	Acceptance Period of the Offer	A-4
1.8	Conditions to the Offer	A-5
1.9	Other Terms of the Offer	A-5
1.10	Closing of the Offer	A-5
1.11	Additional Acceptance Period	A-5
1.12	Effect of the Offer on Linde Equity Awards and Linde Shares Held by Board Members and Employees	A-6
1.13	Cooperation to Transmit the Offer	A-8
1.14	Required Amendments	A-8
1.15	Reasoned Statements	A-9
1.16	Withholding Rights	A-9

ARTICLE II

THE MERGER

2.1	Appointment of Exchange Agent	A-10
2.2	Shares of US Intermediate Holding Sub and Merger Sub	A-10
2.3	The Merger	A-10
2.4	Effects of the Merger	A-10
2.5	Closing	A-10
2.6	Effective Time	A-10
2.7	Effect of the Merger on Shares	A-11
2.8	Effect of the Merger on Praxair Stock Options and Awards	A-11
2.9	Delivery of Merger Consideration	A-12

ARTICLE III

POST-CLOSING REORGANIZATION

3.1	Post-Closing Reorganization of Linde	A-15
-----	--------------------------------------	------

ARTICLE IV

GOVERNANCE AND ADDITIONAL MATTERS CONCERNING NEW HOLDCO GROUP

4.1 Governance and Additional Matters

A-15

Table of Contents

ARTICLE V

REPRESENTATIONS AND WARRANTIES

5.1	Representations and Warranties of Linde and Praxair	A-15
5.2	Representations and Warranties of New Holdco, US Intermediate Holding Sub and Merger Sub	A-20

ARTICLE VI

COVENANTS

6.1	Interim Operations	A-20
6.2	Acquisition Proposals	A-22
6.3	Stockholders Meeting; Offer Recommendation	A-25
6.4	Cooperation; Efforts to Consummate	A-26
6.5	Access	A-28
6.6	Listing; Indices	A-29
6.7	Publicity	A-29
6.8	Expenses	A-29
6.9	Stamp Taxes	A-30
6.10	Indemnification; Directors and Officers Insurance	A-30
6.11	Other Actions by Linde and Praxair	A-32
6.12	New Holdco Capital Increase	A-32
6.13	Financing Matters	A-32
6.14	Employee Matters	A-33
6.15	Linde Engineering Setup	A-34
6.16	Agreements Concerning New Holdco, US Intermediate Holding Sub and Merger Sub	A-34
6.17	Creation of Distributable Reserves	A-35
6.18	Pension and Deferred Compensation Matters	A-35
6.19	Agreements with Employees	A-35
6.20	Tax Matters	A-36
6.21	American Depositary Receipts	A-36
6.22	Compliance Matters	A-36
6.23	Preservation of Heritage	A-36

ARTICLE VII

CONDITIONS TO THE OFFER / MERGER

7.1	Conditions to the Completion of the Offer	A-36
7.2	Condition to the Completion of the Merger	A-39

ARTICLE VIII

TERMINATION

8.1	Term of the Agreement	A-39
8.2	Full Termination of the Agreement by Mutual Consent	A-39

8.3	Termination by Either Linde or Praxair	A-39
8.4	Full Termination of the Agreement by Praxair	A-40
8.5	Full Termination of the Agreement by Linde	A-41

Table of Contents

8.6	Effect of Termination and Abandonment; Termination Fees	A-41
8.7	Exclusive Means of Termination	A-42

ARTICLE IX

MISCELLANEOUS AND GENERAL

9.1	Survival	A-43
9.2	Modification or Amendment	A-43
9.3	Waiver of Conditions	A-43
9.4	Counterparts	A-43
9.5	Governing Law, Venue and Jurisdiction; Waiver of Trial by Jury	A-43
9.6	Notices	A-45
9.7	Entire Agreement	A-47
9.8	No Third-Party Beneficiaries	A-48
9.9	Fulfillment of Obligations	A-48
9.10	Transfer Taxes	A-48
9.11	Severability	A-48
9.12	Interpretation; Construction	A-48
9.13	Defined Terms	A-49
9.14	Disclosure Letters	A-49
9.15	Assignment	A-49
9.16	Specific Performance	A-49

Annex I: Defined Terms

Annex II: Form of Certificate of Incorporation of the Surviving Corporation

Annex III: Governance Matters

Table of Contents**BUSINESS COMBINATION AGREEMENT**

This BUSINESS COMBINATION AGREEMENT (this **Agreement**), dated as of June 1, 2017, is by and among Linde Aktiengesellschaft, a stock corporation (*Aktiengesellschaft*) organized under the Laws of the Federal Republic of Germany (**Linde**), Praxair, Inc., a Delaware corporation (**Praxair**), Zamalight PLC, a public limited company incorporated under the Laws of Ireland (**New Holdco**), Zamalight Holdco LLC, a Delaware limited liability company and newly formed wholly-owned Subsidiary of New Holdco (**US Intermediate Holding Sub**), and Zamalight Subco, Inc., a Delaware corporation and newly formed, wholly-owned Subsidiary of US Intermediate Holding Sub (**Merger Sub**).

RECITALS

WHEREAS, Linde and Praxair desire to effect a strategic combination of their businesses;

WHEREAS, in furtherance thereof, the parties hereto propose that, upon the terms and subject to the conditions set forth in this Agreement: (a) New Holdco shall make a public exchange offer following the legal provisions of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*), as amended (the **German Takeover Act**), and the U.S. Securities Exchange Act of 1934, as amended (the **Exchange Act**), to acquire all of the issued and outstanding, no-par value bearer shares of Linde (the **Linde Shares**), pursuant to which each Linde Share tendered and not withdrawn and accepted for exchange shall be exchanged for 1.540 (the **Linde Exchange Ratio**) ordinary shares of New Holdco (**New Holdco Shares**) (such offer, as it may be amended from time to time in accordance with this Agreement, the German Takeover Act and the Exchange Act, the **Offer**); and (b) immediately following, and in no event prior to, the completion of the exchange of Linde Shares for New Holdco Shares pursuant to the Offer, Merger Sub shall merge with and into Praxair (the **Merger**), with Praxair surviving the Merger as a wholly-owned indirect Subsidiary of New Holdco, pursuant to which each share of common stock, par value \$0.01 per share, of Praxair (the **Praxair Shares**), shall be converted into the right to receive one (1) New Holdco Share;

WHEREAS, the board of directors of Praxair (the **Praxair Board**) has unanimously (a) determined that the Merger and the other transactions contemplated by this Agreement are consistent with, and will further, the business strategies and goals of Praxair, and are advisable and fair to, and in the best interests of, the stockholders of Praxair, (b) approved and declared advisable this Agreement and the transactions contemplated by this Agreement, including the Merger, and (c) determined, subject to applicable Law, to unanimously recommend that the Praxair stockholders adopt this Agreement (such recommendation, the **Praxair Recommendation**);

WHEREAS, the Executive Board of Linde (the **Linde Executive Board**) has unanimously (a) determined that the Offer and the other transactions contemplated by this Agreement are consistent with, and will further, the business strategies and goals of Linde, and are in the best interests of Linde and its shareholders, (b) approved the transactions contemplated by this Agreement, including the Offer, and (c) determined that, subject to the review of the German Exchange Offer Document and its fiduciary duties under German Law, in its statement on the Offer under Section 27 of the German Takeover Act, it will unanimously recommend that the Linde shareholders accept the Offer and tender their Linde Shares in the Offer (such recommendation, the **Linde Executive Board Recommendation**);

WHEREAS, the Supervisory Board of Linde (the **Linde Supervisory Board** and, together with the Linde Executive Board, the **Linde Boards**) has (a) determined that the Offer and the other transactions contemplated by this Agreement are consistent with, and will further, the business strategies and goals of Linde, and are in the best interests of Linde and its shareholders, (b) approved the transactions contemplated by this Agreement, including the Offer, and (c) determined that, subject to the review of the German Exchange Offer Document and its fiduciary duties under

German Law, in its statement on the Offer under Section 27 of the German Takeover Act, it will recommend that the Linde shareholders accept the Offer and tender their Linde Shares in the Offer (such recommendation, the **Linde Supervisory Board Recommendation**);

Table of Contents

WHEREAS, the board of directors of New Holdco (the **New Holdco Board**) and, to the extent applicable, the shareholders of New Holdco have approved this Agreement and the transactions contemplated by this Agreement, including the Offer, the Merger and the New Holdco Capital Increase;

WHEREAS, New Holdco, as indirect stockholder of Merger Sub, has determined that the Merger and the other transactions contemplated by this Agreement are consistent with, and will further, the business strategies and goals of Merger Sub, and are in the best interests of Merger Sub;

WHEREAS, US Intermediate Holding Sub, as sole stockholder of Merger Sub, has determined that the Merger and the other transactions contemplated by this Agreement are consistent with, and will further, the business strategies and goals of US Intermediate Holding Sub and Merger Sub, and are in the best interests of US Intermediate Holding Sub and Merger Sub, and has determined that it will adopt this Agreement and approve the transactions contemplated by this Agreement, including the Merger;

WHEREAS, the board of directors of Merger Sub has (a) determined that the Merger and the other transactions contemplated by this Agreement are consistent with, and will further, the business strategies and goals of Merger Sub, and are advisable and fair to, and in the best interests of, the sole stockholder of Merger Sub, (b) approved and declared advisable this Agreement and the transactions contemplated by this Agreement, including the Merger, and (c) determined, subject to applicable Law, to recommend that its sole stockholder adopt this Agreement; and

WHEREAS, each of the parties hereto desires to make certain representations, warranties, covenants and agreements in connection with this Agreement.

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

ARTICLE I

THE OFFER

1.1 **Announcement of the Offer.** On the date of this Agreement, New Holdco will (i) notify the relevant stock exchanges and the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*) (**BaFin**) of its intention to make the Offer and (ii) publish its decision to launch the Offer (the **Offer Announcement**) in accordance with Section 10 para. 1 sentence 1, para. 3 of the German Takeover Act, which Offer Announcement shall include a description of the Offer Consideration (as defined below) and such further information about the Offer as is deemed to be necessary or beneficial by the parties for further communication with Linde shareholders until the publication of the German Exchange Offer Document (as defined in Section 1.2(d)) has been cleared by BaFin. On the date of this Agreement, Linde and Praxair shall also issue an initial press release pursuant to Section 6.7, and Linde shall issue an ad hoc release in accordance with Art. 17 of Regulation (EU) No 596/2014 of 16 April 2014 on market abuse (**Market Abuse Regulation**), in each case, in the forms agreed by Linde and Praxair prior to the execution of this Agreement.

1.2 **Submission of the Offer Documents to the Regulators.**

(a) As promptly as practicable after the date of this Agreement, and in no event more than three (3) business days after the date of this Agreement, Linde, Praxair and New Holdco shall prepare, and New Holdco shall file with the U.S. Securities and Exchange Commission (the **SEC**) a registration statement on Form S-4 (together with any supplements or amendments thereto, the **Registration Statement**) to register the offer and sale of New Holdco Shares to be issued

pursuant to the Offer and the Merger. The Registration Statement will include (1) a proxy statement/prospectus (the **Proxy Statement/Prospectus**) to be used in connection with the Praxair Stockholders Meeting to vote on the adoption of this Agreement and the approval of the transactions

A-2

Table of Contents

contemplated by this Agreement, the Praxair Distributable Reserves Resolution, the non-binding advisory proposal to approve certain compensation arrangements and the proposal to permit the chairman of the Praxair Board to adjourn or postpone the Praxair Stockholders Meeting in certain circumstances and (2) a U.S. prospectus to be delivered to Linde shareholders in connection with the Offer (the **U.S. Exchange Offer Prospectus** and, together with the Proxy Statement/Prospectus, the **S-4 Prospectuses**).

(b) As promptly as practicable after the date of this Agreement, New Holdco shall apply to BaFin for an extension of the interim period between the date of the Offer Announcement and submission of the German Exchange Offer Document to BaFin from four (4) to eight (8) weeks and ask BaFin to extend its review period from ten (10) to fifteen (15) Working Days.

(c) Timely prior to the Offer Closing Time and only if necessary, Linde, Praxair and New Holdco shall prepare, and New Holdco shall submit to the CBI or, to the extent applicable, to BaFin, for the purpose of admission of the New Holdco Shares to trading on the regulated market of the Frankfurt Stock Exchange, (i) a listing prospectus (the **Admission Prospectus**) in accordance with applicable Irish Law or German Law, as the case may be, and (ii) applications for notification of the Admission Prospectus to the relevant authority in Germany. Alternatively, New Holdco may, for the purpose of admission of the New Holdco Shares to trading on the regulated market of the Frankfurt Stock Exchange and as to be agreed with the Frankfurt Stock Exchange and with the approval of Linde and Praxair, use an alternative document (*gleichwertiges Dokument*) (an **Alternative Admission Document**).

(d) Within a period of eight (8) weeks following the Offer Announcement or such earlier time as may be required by applicable Law, New Holdco shall submit to BaFin an exchange offer document (*Angebotsunterlage*) in accordance with the German Takeover Act, including as an annex the offering disclosure information as required by Section 2 number 2 of the German Takeover Regulation (*WpÜG-Angebotsverordnung*) in connection with Section 7 of the German Securities Prospectus Act (*Wertpapierprospektgesetz*) in combination with Commission Regulation (EC) No. 809/2004 of 29 April 2004 and any further disclosure information as deemed necessary or beneficial by the parties (the **German Exchange Offer Document** and, together with the S-4 Prospectuses and any other ancillary documents with respect to the Offer, the **Offer Documents**).

(e) Subject to applicable Law, Linde, Praxair and New Holdco agree that the information relating to Linde, Praxair and New Holdco and their respective businesses included in the Offer Documents, the Admission Prospectus and any Alternative Admission Document shall be identical in terms of content to the greatest extent practicable. The parties agree to correct promptly any information provided by such party for use in the Offer Documents, the Admission Prospectus or any Alternative Admission Document, if and to the extent that such information shall have become false or misleading in any material respect or as otherwise required by applicable Law. Subject to Section 6.4(b), the parties further agree to take all steps necessary to cause the Offer Documents, the Admission Prospectus or any Alternative Admission Document, as so corrected, to be filed with the SEC, BaFin and, if applicable, the CBI, and to be disseminated to Praxair stockholders and Linde shareholders, as applicable, in each case as and to the extent required by applicable Law.

(f) As soon as practicable after the date of this Agreement and prior to the Closing Date (as defined below), New Holdco shall apply for admission of its entire issued share capital to trading on (i) the regulated market and the prime standard of the regulated market of the Frankfurt Stock Exchange on the basis of the Admission Prospectus or the Alternative Admission Document and (ii) the New York Stock Exchange (**NYSE**).

1.3 **Commencement of the Offer**. Following approval by BaFin (or the expiration of the review period required under the German Takeover Act) of the publication of the German Exchange Offer Document filed by New Holdco as set forth in Section 1.2(d), New Holdco shall (i) publish the German Exchange Offer Document without undue delay

(ohne schuldhaftes Zögern) in accordance with Section 14 para. 2 and 3 of the German Takeover Act and thereby commence the Offer (the **Commencement of the Offer**) and (ii) file with the SEC

A-3

Table of Contents

the U.S. Exchange Offer Prospectus, together with the other ancillary documents with respect to the Offer, pursuant to Rule 424 under the U.S. Securities Act of 1933, as amended (the **Securities Act**), and deliver the U.S. Exchange Offer Prospectus and such documents to Linde shareholders in accordance with the Exchange Act. If the Registration Statement has not yet been declared effective by the SEC following approval by BaFin (or the expiration of the review period required under the German Takeover Act) of the publication of the German Exchange Offer Document, New Holdco may, in reliance on Rule 162(a) under the Securities Act (*Early Commencement Rule*), nevertheless commence the Offer.

1.4 Offer Consideration. In compliance with the requirements of the German Takeover Act as well as the German Takeover Regulation (*WpÜG-Angebotsverordnung*) regarding, among others, the minimum offer consideration, each Linde Share (other than Linde Excluded Shares) validly tendered by Linde shareholders pursuant to the Offer (including during the additional acceptance period (*weitere Annahmefrist*)) shall be exchanged for the number of New Holdco Shares equal to the Linde Exchange Ratio (the **Offer Consideration**) at the Offer Closing Time. **Linde Excluded Shares** means any Linde Shares that are held in the treasury of Linde or owned by any direct or indirect wholly-owned Subsidiary of Linde, but does not include Linde Shares that are held by Linde or any direct or indirect wholly-owned Subsidiary of Linde on behalf of third parties.

1.5 Cancellation of Linde Excluded Shares. Within three (3) months following the Offer Closing Time, Linde shall cause each Linde Excluded Share to cease to be outstanding and be cancelled and retired without payment of any consideration therefor and to cease to exist.

1.6 Fractional Shares. No fractional New Holdco Shares will be exchanged for any Linde Shares tendered in the Offer by any Linde shareholder. Notwithstanding any other provision of this Agreement, each holder of Linde Shares validly tendered into the Offer who would otherwise have been entitled to receive a fraction of a share of New Holdco Shares shall receive from its custodian bank, in lieu thereof, cash (without interest) in an amount representing such holder's proportionate interest in the net proceeds from the sale by Clearstream and/or its custodian bank for the account of all such holders of New Holdco Shares which would otherwise be issued (the **Excess Offer Shares**). The sale of the Excess Offer Shares by Clearstream and the custodian banks shall be executed on the NYSE and/or the Frankfurt Stock Exchange, and shall be executed in round lots to the extent practicable. The receipt of the net proceeds resulting from the sale of the Excess Offer Shares shall be free of commissions, transfer taxes and other out-of-pocket transaction costs for such holders of tendered Linde Shares. The net proceeds of such sale will be distributed to the holders of tendered Linde Shares with each such holder receiving an amount of such proceeds proportionate to the amount of fractional interests which such holder would otherwise have been entitled to receive. The net proceeds credited for any fractional New Holdco Shares will be determined on the average net proceeds per New Holdco Share. As soon as practicable after the determination of the amount of cash, if any, to be paid to holders of tendered Linde Shares in lieu of fractional interests, the custodian banks shall make available such amounts to such holders of tendered Linde Shares. Any such sale shall be made within ten (10) business days or such shorter period as may be required by applicable Law after the Offer Closing Time.

1.7 Acceptance Period of the Offer. The Offer shall have an acceptance period that ends at a time (such time, as it may be extended in accordance with this Agreement and applicable Laws, the **Expiration Time**) on a date that is ten (10) weeks after the commencement of the Offer pursuant to Section 1.3 (the period beginning at the Commencement of the Offer and ending at the Expiration Time, the **Acceptance Period**); provided that (i) in no event shall the Expiration Time occur on a date that is earlier than twenty (20) business days (as defined in Rule 14d-1(g)(3) under the Exchange Act) after (and including the day of) the date of commencement (within the meaning of Rule 14d-2(a) under the Exchange Act) of the Offer; and (ii) New Holdco shall be permitted to extend the Expiration Time if such extension is permitted by applicable Law and Linde and Praxair mutually agree to such extension.

Table of Contents**1.8 Conditions to the Offer.**

(a) New Holdco's obligation to accept for exchange, and to exchange, any Linde Share validly tendered and not withdrawn prior to the expiration of the Offer shall be solely (*ausschließlich*) subject to the satisfaction or waiver of the conditions (*aufschiebende Bedingungen*) set forth in Section 7.1 (the **Offer Conditions**). Except as provided in Section 1.14, New Holdco will refrain from adding additional closing conditions to the German Exchange Offer Document without the consent of each of Linde and Praxair.

(b) To the extent the determination of whether an Offer Condition has been satisfied depends on the opinion of a third party Independent Expert (as defined in Section 7.1(d)), Linde or Praxair, respectively, will, to the extent legally permissible, provide at its own expense (i) reasonable support to the Independent Expert and (ii) all requisite information regarding itself, its Subsidiaries and the business they operate.

1.9 Other Terms of the Offer.

(a) Linde has determined the percentage of its share capital held by U.S. holders in accordance with Instruction 2 to subsections (c) and (d) of Exchange Act Rule 14d-1 as of December 31, 2016, and that the conditions set forth for a Tier II offer, as set forth in Rule 14d-1(d) under the Exchange Act, are satisfied for the Offer. Accordingly, subject to Section 1.9(b), New Holdco will conduct the Offer in reliance on the exemptions for Tier II offers pursuant to Rule 14d-1(d) under the Exchange Act. Subject to its duties under applicable Law, Linde will continue to provide such information as Praxair and New Holdco reasonably request to allow Praxair and New Holdco to make a determination that U.S. holders do not hold more than 40% of the outstanding Linde Shares and will otherwise cooperate with their reasonable inquiries. The parties agree to comply with, and agree that the terms and conditions of the Offer shall be conducted so as to comply with, Regulation 14E of the Exchange Act, as modified by any applicable exemptions pursuant to Rule 14d-1(d)(2) under the Exchange Act.

(b) If, after the date of this Agreement, the conditions set forth for a Tier II offer, as set forth in Rule 14d-1(d) under the Exchange Act, are no longer satisfied for the Offer, the parties hereto will in good faith cooperate to (i) amend this Agreement and modify the Offer and/or (ii) seek no action relief from the SEC, in each case such that (1) the Offer is conducted so as to comply with the Exchange Act and (2) the terms, conditions and proposed economic impact of the revised Offer on each of the parties hereto come as close as reasonably possible to the terms, conditions and proposed economic impact of the Offer contemplated by this Agreement as of the date hereof.

1.10 Closing of the Offer. Subject to the prior satisfaction or waiver of the Offer Conditions, New Holdco shall promptly settle the Offer in accordance with its terms and applicable Law, and accept for exchange, and exchange, all Linde Shares validly tendered and not withdrawn pursuant to the Offer (the time that New Holdco accepts for exchange, and exchanges, all of the Linde Shares validly tendered and not withdrawn, the **Offer Closing Time**). The share register of New Holdco shall be updated immediately following the Offer Closing Time, and in any event prior to the Effective Time. After the Offer Closing Time, New Holdco intends to contribute all Linde Shares received at the Offer Closing Time to a direct or indirect wholly-owned Subsidiary of New Holdco in the legal form of a German limited liability company (GmbH) domiciled in Germany (**German Intermediate Holding Sub**) and New Holdco intends to cause German Intermediate Holding Sub to contribute such Linde Shares received after the Offer Closing Time to a direct or indirect wholly-owned Subsidiary of German Intermediate Holding Sub in the legal form of a German stock corporation (AG) domiciled in Germany (**German Intermediate Sub**).

1.11 Additional Acceptance Period. Following the Expiration Time and the satisfaction or waiver by New Holdco of the Offer Conditions, with the exception of the Offer Condition set forth in Section 7.1(a)(ii) (the **Regulatory Condition**), New Holdco shall provide an additional acceptance period (*weitere Annahmefrist*) (the **Additional**

Acceptance Period) for the Offer in accordance with Section 16 para. 2 of the German Takeover Act, during which New Holdco shall offer to acquire all remaining outstanding Linde Shares.

A-5

Table of Contents**1.12 Effect of the Offer on Linde Equity Awards and Linde Shares Held by Board Members and Employees.**

(a) Immediately after the Offer Closing Time, Linde shall terminate the Linde LTIP with respect to any holder of Linde Equity Awards who is not a member of the Linde Executive Board at such time. With respect to any holder of Linde Equity Awards who is a member of the Linde Executive Board at such time, Linde shall terminate the Linde LTIP immediately after a Post-Closing Reorganization of Linde becomes effective; provided that, in the event that a Post-Closing Reorganization of Linde does not become effective within the first 18 months following the Offer Closing Time, (i) the Linde LTIP will not be terminated in connection with the transactions contemplated by this Agreement in respect of the members of the Linde Executive Board, (ii) there will be no LTIP Termination Time in respect of such Persons and (iii) any then outstanding Linde Stock Options and Linde Matching Share Rights then held by such Persons will be subject to the terms of Section 1.12(f) or 1.12(g), as applicable.

(b) Except as set forth in Section 1.12(f), upon the relevant LTIP Termination Time, a member of the Linde Group will pay to each relevant holder of a Linde Stock Option the Beneficiary Option Termination Value in respect of such holder's then outstanding Linde Stock Options. The Beneficiary Option Termination Value shall be paid in cash to the applicable holder of the Linde Stock Options (less any Taxes required to be withheld) as soon as reasonably practicable following the LTIP Termination Time and in no event later than the next available payroll date following the relevant LTIP Termination Time; provided that, unless otherwise determined by Linde in its sole discretion, such cash shall be paid as soon as reasonably practicable following the earliest time that it may be paid in compliance with applicable Law (including Section 409A of the Code) to the extent necessary to avoid the imposition of any Tax penalties on any holder of Linde Stock Options (including pursuant to Section 409A of the Code).

(c) Except as set forth in Section 1.12(g), upon the relevant LTIP Termination Time, a member of the Linde Group will pay to each relevant holder of a Linde Matching Share Right the Beneficiary Matching Share Termination Value in respect of such holder's then outstanding Linde Matching Share Rights. The Beneficiary Matching Share Termination Value shall be paid in cash to the applicable holder of the Linde Matching Share Rights (less any Taxes required to be withheld) as soon as reasonably practicable following the LTIP Termination Time and in no event later than the next available payroll date following the relevant LTIP Termination Time; provided that, unless otherwise determined by Linde in its sole discretion, such cash shall be paid as soon as reasonably practicable following the earliest time that it may be paid in compliance with applicable Law (including Section 409A of the Code) to the extent necessary to avoid the imposition of any Tax penalties on any holder of Linde Matching Share Rights (including pursuant to Section 409A of the Code).

(d) Except as otherwise set forth in Section 1.12(f), as per the relevant New Grant Date, New Holdco shall grant to each Person who is in service or employment with a member of the Linde Group and has not given or received notice of termination of such service or employment and who held any Linde Stock Options that were outstanding and for which the Waiting Period had not yet expired as of immediately prior to the Offer Closing Time (such Linde Stock Options, the Linde Active Options) an award of New Holdco Stock Options with respect to a number of New Holdco Shares equal to the result of (i) the number of Linde Shares that were subject to such Linde Active Options as of immediately prior to the Offer Closing Time, multiplied by (ii) the Linde Exchange Ratio, multiplied by (iii) a fraction equal to 1.00 minus the Proration Fraction, multiplied by (iv) the Target Achievement Fraction, the result being rounded down to the nearest whole share. Each such New Holdco Stock Option will have a per-share exercise price equal to (x) EUR 2.56 divided by (y) the Linde Exchange Ratio (the result being rounded up to the nearest cent), and the exercise period with respect to such New Holdco Stock Option shall expire on the same date that the exercise period with respect to the applicable Linde Active Option would have expired (treating service with New Holdco and its Subsidiaries or Listed Subsidiaries as service with the Linde Group for this purpose).

(e) Except as otherwise set forth in Section 1.12(g), as per the relevant New Grant Date, New Holdco shall grant to each Person who is in service or employment with a member of the Linde Group and has not given or

A-6

Table of Contents

received notice of termination of such service or employment and who held any Linde Matching Share Rights that were outstanding and for which the Waiting Period had not yet expired as of immediately prior to the Offer Closing Time (such Linde Matching Share Rights, the **Linde Active Matching Share Rights**) an award of New Holdco RSUs covering a number of New Holdco Shares equal to the result of (i) the number of Linde Shares that were subject to such Linde Active Matching Share Rights as of immediately prior to the Offer Closing Time, **multiplied by** (ii) the Linde Exchange Ratio, **multiplied by** (iii) a fraction equal to 1.00 minus the Proration Fraction, the result being rounded down to the nearest whole share.

(f) In the event that the Waiting Period in respect of a Linde Active Option that is not terminated immediately following the Offer Closing Time (each such option, a **Delayed Termination Option**) expires prior to the relevant LTIP Termination Time (including in the event that the LTIP Termination Time never occurs), such Delayed Termination Option may be exercised according to its terms, and in such case the holder thereof shall receive an amount in cash (less any Taxes required to be withheld) in accordance with Section 4(3)(b) of the Linde LTIP, until the earlier of (i) 18 months following the Offer Closing Time and (ii) the relevant LTIP Termination Time, and the holder will not receive any New Holdco Stock Options in respect of any Delayed Termination Option so exercised. In the event that the LTIP Termination Time does not occur within 18 months following the Offer Closing Time, then such Delayed Termination Option may be exercised according to its terms and the holder thereof will receive upon exercise Linde Shares or cash in accordance with the terms of the Linde LTIP. In the event that the Waiting Period in respect of a Delayed Termination Option expires prior to the relevant LTIP Termination Time and such Delayed Termination Option remains outstanding and unexercised on the New Grant Date, as per such date, such holder will receive a number of fully vested New Holdco Stock Options determined in accordance with Section 1.12(d).

(g) In the event that the Waiting Period in respect of a Linde Active Matching Share Right that is not terminated immediately following the Offer Closing Time (each such Linde Active Matching Share Right, a **Delayed Termination MSR**) expires prior to the relevant LTIP Termination Time (including in the event that the LTIP Termination Time never occurs), such Delayed Termination MSR shall be settled through delivery of an amount in cash (less any Taxes required to be withheld) in accordance with Section 2(11) of the Linde LTIP.

(h) Any New Holdco Stock Option or New Holdco RSU granted in accordance with Section 1.12(d) or (e) will (i) be subject to service-based (but not performance-based) vesting conditions and will vest in full in the event that either (A) the holder remains in service or employment with New Holdco, Linde or one of their respective Subsidiaries or Listed Subsidiaries and has not given or received notice of termination of such service or employment until the last day of the Waiting Period applicable to the Linde Active Option or Linde Active Matching Share Right, as applicable, that is replaced by such New Holdco Stock Option or New Holdco RSU, as the case may be, or (B) the holder's employment is terminated prior to the end of the Waiting Period in circumstances that constitute a Good Leaver Termination and (ii) otherwise be subject to the terms and conditions of the equity compensation plan of New Holdco under which such New Holdco Stock Option or New Holdco RSU is granted (together with any applicable award agreement), including those requiring payment of the exercise price of each New Holdco Stock Option and permitting New Holdco to settle such New Holdco Stock Option or New Holdco RSU either through the issuance or delivery of New Holdco Shares or through delivery of cash of equal value (in each case, less any Taxes required to be withheld).

(i) Prior to the relevant LTIP Termination Time (if applicable), Linde shall take all necessary actions for the treatment of the Linde Stock Options and Linde Matching Share Rights in accordance with Sections 1.12(a), (b), (c), (f) and (g).

(j) As soon as practicable after the applicable New Grant Date, New Holdco shall deliver to the former holders of Linde Active Options and Linde Active Matching Share Rights appropriate notices setting forth such holders' rights with respect to their New Holdco Stock Options and New Holdco RSUs.

(k) Linde, Praxair and New Holdco hereby acknowledge and agree that, notwithstanding any provision of the Linde LTIP, any other Benefit Plan of the Linde Group or any Linde Group share ownership or share

A-7

Table of Contents

retention requirements to the contrary, any Linde Shares that are held at any time up to the expiration of the Additional Acceptance Period by any member of the Linde Executive Board or the Linde Supervisory Board or any employee of any member of the Linde Group (including any Investment Shares and any deferral Linde Shares (relating to variable compensation of the members of the Linde Executive Board)) may be released from all holding, retention and ownership requirements solely in order to allow the holder thereof to tender such Linde Shares in the Offer and contingent on the holder thereof tendering such Linde Shares in the Offer, and the holder shall not forfeit any compensation or benefits or otherwise be subject to any adverse consequences pursuant to any Benefit Plan of the Linde Group as a result of tendering such Linde Shares; provided that, from and after the Offer Closing Time, any New Holdco Shares that such holder receives in exchange for Linde Shares will be subject to the same holding, ownership and retention requirements (if any) as the corresponding Linde Shares (including, solely in the case of Investment Shares, the requirement to retain New Holdco Shares until the end of the applicable Waiting Period in order for (x) the New Holdco RSUs described in Section 1.12(e) and, in the case of Persons who were required to hold Investment Shares in respect of Linde Active Options, the New Holdco Stock Options described in Section 1.12(d), to vest, and (y) the Delayed Termination Options described in Section 1.12(f) and the Delayed Termination MSRs described in Section 1.12(g) to vest); provided, further, that, in the case of any New Holdco Shares that are received in respect of Investment Shares, (i) in the case of Persons who do not hold Delayed Termination Options or Delayed Termination MSRs, the number of New Holdco Shares subject to such requirements shall be equal to the number of New Holdco Shares subject to New Holdco RSUs that the holder receives on the New Grant Date pursuant to Section 1.12(e) and (ii) in the case of Persons who hold Delayed Termination Options or Delayed Termination MSRs, all such New Holdco Shares received in respect of Investment Shares shall be subject to the same requirements as the corresponding Investment Shares until the New Grant Date, at which time the number of New Holdco Shares subject to such requirements shall be reduced to equal the number of New Holdco Shares subject to New Holdco RSUs that the holder receives on the New Grant Date pursuant to Section 1.12(e). For the avoidance of doubt, in the case of any Person who is not a member of the Linde Executive Board, in lieu of tendering Investment Shares in the Offer in exchange for New Holdco Shares, any requirement to hold and retain New Holdco Shares until the end of the applicable Waiting Period with respect to New Holdco RSUs contemplated by this Section 1.12 may be satisfied by acquiring New Holdco Shares through market purchases or otherwise; provided that such New Holdco Shares must be acquired within four months following the Offer Closing Time and held until the end of the applicable Waiting Period.

(l) Linde and each member of the Linde Executive Board shall amend the terms of the Linde LTIP for the members of the Linde Executive Board to the effect that (i) Linde shall be entitled to exercise the termination rights set forth in Sections 5(4) and 5(5) of the plan conditions for the Linde LTIP after the Offer Closing Time and until the relevant LTIP Termination Time and (ii) the stock holding, ownership and retention obligations of the members of the Linde Executive Board under the Linde LTIP plan conditions shall, during the interim period between the Offer Closing Time and relevant LTIP Termination Time, be fulfilled through holding, owning and retaining the New Holdco Shares allocable to such Person pursuant to, and in accordance with the terms of, Section 1.12(k).

(m) For the avoidance of doubt, all terms of this Section 1.12 shall be subject to Section 9.8 (*No Third-Party Beneficiaries*).

1.13 Cooperation to Transmit the Offer. In connection with the Offer, Linde shall, to the extent consistent with applicable Law, promptly furnish New Holdco with such information and assistance as New Holdco or its agent(s) may reasonably request for the purpose of communicating the Offer to the record and beneficial holders of Linde Shares.

1.14 Required Amendments. Notwithstanding anything to the contrary in this Agreement, nothing shall require the parties to agree to amend or waive any Offer Condition or any of the terms of this Agreement or to impose additional terms or conditions to the Offer without the prior written consent of both Linde and Praxair, including any reduction

of the Acceptance Period; provided, however, that each party shall agree, and undertake to, implement such amendment, waiver or additional term or condition to the Offer or this Agreement, as the case

A-8

Table of Contents

may be, required by BaFin or the SEC and necessary to consummate the transactions contemplated in this Agreement (**Required Amendment**) to the extent the Required Amendment is not in any manner materially adverse to either the Praxair stockholders or Linde shareholders (it being agreed that any change as to the form or amount of the Offer Consideration or the Merger Consideration or the addition of any condition shall be deemed to be so materially adverse).

1.15 **Reasoned Statements.**

(a) The Linde Executive Board will, subject to the review of the German Exchange Offer Document and its fiduciary duties under German Law, in particular, the duty of care and loyalty and the business judgment rule under Sections 93, 76 German Stock Corporation Act (*Aktiengesetz* the **German Stock Corporation Act**), within twenty (20) business days of the Commencement of the Offer, unanimously confirm in its reasoned statement pursuant to Section 27 of the German Takeover Act that, in its unanimous opinion, (i) the Offer Consideration is fair and adequate, (ii) it endorses and supports the Offer and (iii) it recommends that the Linde shareholders tender their Linde shares into the Offer (such statement, the **Linde Executive Board Reasoned Statement**). The individuals serving as of the date of this Agreement as members of the Linde Executive Board will tender their respective Linde Shares, if any, into the Offer, excluding any Linde Shares that are subject to any contractual obligation to be kept for a certain minimum period or the holding of which is a prerequisite for the granting of any matching shares or the qualification to participate in any incentive program.

(b) The Linde Supervisory Board will, subject to the review of the German Exchange Offer Document and its fiduciary duties under German Law, in particular, the duty of care and loyalty and the business judgment rule under Sections 93, 76 German Stock Corporation Act, within twenty (20) business days of the Commencement of the Offer, confirm in its reasoned statement pursuant to Section 27 of the German Takeover Act that, in its opinion, (i) the Offer Consideration is fair and adequate, (ii) it endorses and supports the Offer and (iii) it recommends that the Linde shareholders tender their Linde shares into the Offer (such statement, the **Linde Supervisory Board Reasoned Statement**). The individuals serving as of the date of this Agreement as shareholder representative members of the Linde Supervisory Board will tender their respective Linde Shares, if any, into the Offer, excluding any Linde Shares that are subject to any commitment to be kept for a certain minimum period.

(c) The Linde Executive Board and the Linde Supervisory Board may, in lieu of issuing a separate Linde Executive Board Reasoned Statement and Linde Supervisory Board Reasoned Statement, respectively, elect to issue a joint reasoned statement pursuant to Section 27 of the German Takeover Act. Any such joint reasoned statement shall be consistent with both Section 1.15(a) and Section 1.15(b).

(d) Notwithstanding anything in this Agreement to the contrary, neither (i) a statement in a Linde Reasoned Statement that each Linde shareholder must make its own investment decision nor (ii) any dissenting statement and any reasons therefor made by any member of the Linde Supervisory Board in the Linde Supervisory Board Reasoned Statement shall constitute a Change in Linde Recommendation or a breach of this Agreement.

(e) The obligations of the Linde Boards under this Section 1.15 are subject to Section 6.2(c).

1.16 **Withholding Rights.** Each of New Holdco, the Offer Exchange Agent and any other paying agents or custodians of Linde shareholders shall be entitled to deduct and withhold from any amounts payable pursuant to this Article I to any Person who was a holder of Linde Shares or Linde Equity Awards such amounts as it is required to deduct and withhold with respect to the making of such payment under the German Income Tax Code (*Einkommensteuergesetz-ESStG*) or any other provision of Tax Law whether in Germany or elsewhere. To the extent that amounts are so deducted and withheld by or on behalf of New Holdco, the Offer Exchange Agent or any other paying agents or

custodians, as the case may be, and paid over to the relevant Governmental Entity, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the Linde Shares or Linde Equity Awards, as the case may be, in respect of which such deduction and withholding was made.

A-9

Table of Contents

ARTICLE II

THE MERGER

2.1 **Appointment of Exchange Agent.** As promptly as possible following the date hereof, New Holdco shall appoint a United States bank or trust company or other independent financial institution in the United States reasonably satisfactory to Praxair and Linde (the **Exchange Agent**) to act, among other things, as exchange agent for the Merger and to deliver the Merger Consideration to former Praxair stockholders. Praxair and New Holdco shall enter into an exchange agent agreement with the Exchange Agent, which agreement shall set forth the duties, responsibilities and obligations of the Exchange Agent consistent with the terms of this Agreement.

2.2 **Shares of US Intermediate Holding Sub and Merger Sub.** US Intermediate Holding Sub is a limited liability company organized under the Laws of Delaware. New Holdco directly owns 100% of the outstanding limited liability company interests of US Intermediate Holding Sub. Merger Sub is a corporation incorporated under the Laws of Delaware and is a constituent company in the Merger. US Intermediate Holding Sub directly owns 100% of the outstanding capital stock of Merger Sub.

2.3 **The Merger.** Upon the terms and subject to the conditions set forth in this Agreement and in accordance with the Delaware General Corporation Law (the **DGCL**), at the Effective Time, the Merger shall occur, pursuant to which Merger Sub shall be merged with and into Praxair, with Praxair surviving the Merger (the **Surviving Corporation**) and the separate corporate existence of Merger Sub shall thereupon cease, in each case, by operation of the Laws of the State of Delaware. The Surviving Corporation shall continue to exist under the Laws of the State of Delaware, with all its rights, privileges, immunities, powers and franchises unaffected by the Merger except as set forth in this Article II. After the Merger, the Surviving Corporation shall be a wholly-owned direct Subsidiary of US Intermediate Holding Sub.

2.4 **Effects of the Merger.**

(a) The Merger shall have the effects provided in this Agreement and as set forth in the applicable provisions of the DGCL.

(b) **Certificate of Incorporation and Bylaws of the Surviving Corporation.** At the Effective Time, the certificate of incorporation of Praxair, as in effect immediately prior to the Effective Time, shall be amended and restated as of the Effective Time to be in the form of Annex II, and as so amended and restated shall be the certificate of incorporation of the Surviving Corporation until thereafter amended as provided therein or by applicable Law. At the Effective Time, the bylaws of Merger Sub, as in effect immediately prior to the Effective Time, shall be amended as of the Effective Time to change the corporate name set forth therein to Praxair, Inc. , and as so amended shall be the bylaws of the Surviving Corporation until thereafter amended as provided therein or by applicable Law.

(c) **Directors and Officers of the Surviving Corporation.** The directors of Merger Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation immediately following the Effective Time, and the officers of Merger Sub immediately prior to the Effective Time shall be the officers of the Surviving Corporation immediately following the Effective Time, in each case until their respective successors are duly elected or appointed and qualified or their earlier death, resignation or removal, in each case as provided in the certificate of incorporation and bylaws of the Surviving Corporation and by applicable Law.

2.5 **Closing.** Unless otherwise mutually agreed in writing between Linde and Praxair, the closing of the Merger (the **Closing**) shall take place at the offices of Sullivan & Cromwell LLP, 125 Broad Street, New York, New York 10004,

on the date on which the Offer Closing Time shall occur (the **Closing Date**).

2.6 Effective Time. As soon as practicable following the Offer Closing Time, and on the Closing Date, Praxair shall cause a Certificate of Merger (the **Certificate of Merger**) to be executed, acknowledged and filed

A-10

Table of Contents

with the Secretary of State of the State of Delaware as provided in Section 251 of the DGCL. The Merger shall become effective at the time when the Certificate of Merger has been duly filed with the Secretary of State of the State of Delaware or at such later time as may be agreed by the parties in writing and specified in the Certificate of Merger (the **Effective Time**). The parties agree to cause the Effective Time to occur immediately after, and in no event prior to, the Offer Closing Time.

2.7 **Effect of the Merger on Shares.**

(a) **Merger Consideration.** At the Effective Time, as a result of the Merger and without any action on the part of any holder of any capital stock of Praxair, each Praxair Share issued and outstanding immediately prior to the Effective Time other than Praxair Excluded Shares (the **Praxair Eligible Shares**) shall automatically be converted into the right to receive one (1) fully paid and non-assessable New Holdco Share (the **Merger Consideration**). **Praxair Excluded Shares** means any Praxair Shares that are held in the treasury of Praxair or owned by New Holdco or any direct or indirect wholly-owned Subsidiary of New Holdco or Praxair, but does not include Praxair Shares that are held by New Holdco or Praxair or any direct or indirect wholly-owned Subsidiary of New Holdco or Praxair on behalf of third parties.

(b) **Conversion of Praxair Eligible Shares.** As a result of the Merger and without any action on the part of any holder of any capital stock of Praxair, all of the Praxair Eligible Shares converted into the right to receive the Merger Consideration pursuant to this Article II shall cease to be outstanding, shall be cancelled and shall cease to exist as of the Effective Time, and each certificate formerly representing any of the Praxair Eligible Shares (each, a **Praxair Certificate**) and each book-entry interest formerly representing any non-certificated Praxair Eligible Shares (each, a **Praxair Book-Entry Share**) shall thereafter represent only the right to receive the Merger Consideration and the right, if any, to receive any dividends or other distributions pursuant to Section 2.9(d).

(c) **Cancellation of Praxair Excluded Shares.** As a result of the Merger and without any action on the part of any holder of any capital stock of Praxair, each Praxair Excluded Share shall cease to be outstanding, shall be cancelled and retired without payment of any consideration therefor and shall cease to exist.

(d) **Merger Sub.** At the Effective Time, as a result of the Merger and without any action on the part of any holder of any capital stock of Merger Sub, each share of common stock, par value \$0.01 per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall cease to be outstanding, be cancelled and cease to exist and shall be converted into one (1) fully paid and non-assessable share of common stock of the Surviving Corporation, which shall constitute the only outstanding share of capital stock, par value \$0.01 per share, of the Surviving Corporation at the Effective Time and which shall be held by US Intermediate Holding Sub.

(e) **Issue of Shares by US Intermediate Holding Sub.** At the Effective Time, US Intermediate Holding Sub shall issue additional fully paid and non-assessable limited liability company membership interests of US Intermediate Holding Sub to New Holdco in consideration for the issue by New Holdco of New Holdco Shares in respect of Praxair Eligible Shares and the cancellation of such Praxair Eligible Shares in the Merger, and shall issue certificates in respect of such interest to New Holdco.

(f) **Appraisal.** In accordance with Section 262 of the DGCL, no appraisal rights shall be available to Praxair stockholders in connection with the Merger.

2.8 **Effect of the Merger on Praxair Stock Options and Awards.**

(a) Each option to purchase Praxair Shares (a **Praxair Stock Option**) granted under the Praxair Stock Plans, whether vested or unvested, that is outstanding immediately prior to the Effective Time shall cease to represent a Praxair Stock Option and shall be converted, at the Effective Time, into a New Holdco Stock Option

A-11

Table of Contents

on substantially the same terms and conditions as were applicable under such Praxair Stock Option. The number of New Holdco Shares subject to each such New Holdco Stock Option shall be equal to the product (rounded down to the nearest whole share) of (x) the number of Praxair Shares subject to such Praxair Stock Option immediately prior to the Effective Time and (y) the Merger Consideration, and such New Holdco Stock Option shall have an exercise price per share (rounded up to the nearest penny) equal to (A) the per-share exercise price applicable to such Praxair Stock Option immediately prior to the Effective Time divided by (B) the Merger Consideration.

(b) At the Effective Time, each restricted stock unit measured in Praxair Shares (a **Praxair RSU**), whether vested or unvested, which is outstanding immediately prior to the Effective Time shall cease to represent a Praxair RSU and shall be converted into a New Holdco RSU on substantially the same terms and conditions as were applicable to such Praxair RSU. The number of New Holdco Shares subject to each such New Holdco RSU shall be equal to the product (rounded down to the nearest whole share) of (x) the number of Praxair Shares subject to such Praxair RSU immediately prior to the Effective Time and (y) the Merger Consideration.

(c) At the Effective Time, each performance share unit measured in Praxair Shares (a **Praxair PSU**), whether vested or unvested, which is outstanding immediately prior to the Effective Time shall cease to represent a Praxair PSU and shall be converted into a New Holdco RSU on substantially the same terms and conditions as were applicable to such Praxair PSU. The number of New Holdco Shares subject to each such New Holdco RSU shall be equal to the product (rounded down to the nearest whole share) of (x) the greater of (i) the target number of Praxair Shares subject to such Praxair PSU and (ii) the number of Praxair Shares subject to such Praxair PSU determined by the Compensation Committee of the Praxair Board in good faith based on the achievement of the performance goals applicable to such Praxair PSU immediately prior to the Effective Time, and (y) the Merger Consideration.

(d) As soon as practicable after the Effective Time, New Holdco shall deliver to the holders of Praxair Stock Options, Praxair RSUs and Praxair PSUs (collectively, **Praxair Stock-Based Awards**) appropriate notices setting forth such holders' rights pursuant to the respective Praxair Stock Plans and agreements evidencing the grants of such Praxair Stock-Based Awards and stating that such Praxair Stock-Based Awards have been assumed by New Holdco and converted into New Holdco Stock Options and New Holdco RSUs and shall continue in effect on substantially the same terms and conditions (but subject to the adjustments required by this Section 2.8 after giving effect to the Merger, the adjustment of Praxair PSUs required by Section 2.8(c) and the terms of the Praxair Stock Plans).

(e) Prior to the Effective Time, Praxair shall take all necessary action for the adjustment of Praxair Stock-Based Awards under this Section 2.8.

2.9 Delivery of Merger Consideration.

(a) As soon as possible following the Effective Time and on the Closing Date, New Holdco shall issue and deliver to the Exchange Agent solely for the account and benefit of the former Praxair stockholders, the maximum number of New Holdco Shares that has become issuable pursuant to Section 2.7(a) for delivery of the Merger Consideration to the recipients entitled thereto (such New Holdco Shares being the **Exchange Fund**). At the Effective Time, the obligations of New Holdco and the Exchange Agent under this Section 2.9(a) shall be unconditional.

(b) **Merger Letter of Transmittal.** As promptly as practicable after the Effective Time, the Surviving Corporation and New Holdco shall cause the Exchange Agent to mail to each holder of record of Praxair Eligible Shares that are (i) Praxair Certificates or (ii) Praxair Book-Entry Shares not held through the Depository Trust Company (**DTC**) notice advising such holder of the effectiveness of the Merger, including (A) appropriate transmittal materials specifying that delivery shall be effected, and risk of loss and title to the Praxair Certificates or Praxair Book-Entry Shares shall pass only upon delivery of the Praxair Certificates (or affidavits of loss in lieu

A-12

Table of Contents

of the Praxair Certificates as provided in Section 2.9(h)) or transfer of the Praxair Book-Entry Shares to the Exchange Agent (including customary provisions with respect to delivery of an agent's message with respect to Praxair Book-Entry Shares), such materials to be in such form and have such other provisions as Praxair and Linde, or after the Effective Time, New Holdco, desire (the **Merger Letter of Transmittal**), and (B) instructions for surrendering the Praxair Certificates (or affidavits of loss in lieu of the Praxair Certificates) or transferring the Praxair Book-Entry Shares to the Exchange Agent in exchange for the Merger Consideration and any dividends or distributions, in each case, to which the holder has the right to receive pursuant to Section 2.9(d). With respect to Praxair Book-Entry Shares held through DTC, Praxair and New Holdco shall cooperate to establish procedures with the Exchange Agent and DTC to ensure that the Exchange Agent will transmit to DTC or its nominees as soon as reasonably practicable on or after the Closing Date, upon surrender of Praxair Eligible Shares held of record by DTC or its nominees in accordance with DTC's customary surrender procedures, the Merger Consideration and any dividends or distributions, in each case, to which the beneficial owners thereof are entitled pursuant to the terms of this Agreement.

(c) **Procedures for Surrender.**

(i) After the Effective Time, and (x) upon surrender to the Exchange Agent of Praxair Eligible Shares that are Praxair Certificates, by physical surrender of such Praxair Certificate (or affidavit of loss in lieu of a Praxair Certificate, as provided in Section 2.9(h)) in accordance with the terms of the Merger Letter of Transmittal and accompanying instructions, (y) upon the transfer of Praxair Eligible Shares that are Praxair Book-Entry Shares not held through DTC, in accordance with the terms of the Merger Letter of Transmittal and accompanying instructions or (z) upon the transfer of Praxair Eligible Shares that are Praxair Book-Entry Shares held through DTC, including by delivery of an agent's message , in accordance with DTC's customary procedures and such other procedures as agreed by Praxair, Linde, New Holdco, the Exchange Agent and DTC, the holder of such Praxair Eligible Shares shall be entitled to receive in exchange therefor, and the Exchange Agent shall be required to deliver to each such holder (subject to Section 2.9(g)), (A) the number of New Holdco Shares (in certificates or evidence of shares in book-entry form, as applicable) in respect of the aggregate Merger Consideration that such holder is entitled to receive pursuant to Section 2.7 (after taking into account all Praxair Eligible Shares then held by such holder), and (B) any cash in respect of any dividends or other distributions which the holder has the right to receive pursuant to Section 2.9(d).

(ii) No interest will be paid or accrued on any amount payable upon due surrender of the Praxair Eligible Shares, and any Praxair Certificate formerly representing Praxair Eligible Shares that have been so surrendered shall be cancelled by the Exchange Agent. The New Holdco Shares issued and paid in accordance with the terms of this Section 2.9 upon conversion of any Praxair Eligible Shares shall be deemed to have been issued and paid in full satisfaction of all rights pertaining to such Praxair Eligible Shares.

(iii) In the event of a transfer of ownership of any Praxair Eligible Share that is not registered in the transfer records of Praxair, the proper number of New Holdco Shares may be transferred by the Exchange Agent to such a transferee if (A) in the case of Praxair Book-Entry Shares, written instructions authorizing the transfer of the Praxair Book-Entry Shares are presented to the Exchange Agent, (B) in the case of Praxair Certificates, the Praxair Certificates formerly representing such Praxair Eligible Shares are surrendered to the Exchange Agent, and (C) the written instructions, in the case of clause (A), and Praxair Certificates, in the case of clause (B), are accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer Taxes have been paid or are not applicable, in each case, in form and substance, reasonably satisfactory to New Holdco and the Exchange Agent. If any New Holdco Shares are to be delivered to a Person other than the holder in whose name any Praxair Eligible Shares are registered, it shall be a condition of such exchange that the Person requesting such delivery shall pay any transfer or other similar Taxes required by reason of the transfer of New Holdco Shares to a Person other than the registered holder of any Praxair Eligible Shares, or shall establish to the satisfaction of New Holdco and the Exchange Agent that such Tax has been paid or is not applicable. For the purposes of this Agreement, the term **Person** means

any individual, corporation (including not-for-profit), general or

A-13

Table of Contents

limited partnership, limited liability company, joint venture, estate, trust, association, organization or Governmental Entity or other entity of any kind or nature.

(d) **Distributions with Respect to Unexchanged Shares; Voting.** All New Holdco Shares to be transferred to the Exchange Agent pursuant to Section 2.9(a) shall be deemed issued and outstanding as of the Effective Time and whenever a dividend or other distribution is declared by New Holdco in respect of New Holdco Shares, the record date for which is at or after the Effective Time, that declaration shall include dividends or other distributions in respect of all New Holdco Shares issuable pursuant to this Agreement. No dividends or other distributions in respect of the New Holdco Shares shall be paid to any holder of Praxair Eligible Shares until the Praxair Certificate is surrendered (or affidavit of loss in lieu of the Praxair Certificate is delivered as provided in Section 2.9(h)) or the Praxair Book-Entry Share is transferred for exchange in accordance with this Section 2.9. Subject to the effect of applicable Laws, following such surrender or transfer, there shall be issued to the holder of New Holdco Shares issued in exchange for Praxair Eligible Shares in accordance with this Section 2.9, without interest, (A) at the time of such surrender or transfer, the dividends or other distributions with a record date after the Effective Time theretofore payable with respect to such New Holdco Shares and not paid and (B) at the appropriate payment date, the dividends or other distributions payable with respect to such New Holdco Shares with a record date after the Effective Time but with a payment date subsequent to surrender.

(e) **Transfers.** From and after the Effective Time, there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of Praxair Shares that were outstanding immediately prior to the Effective Time. If, after the Effective Time, any Praxair Book-Entry Shares or Praxair Certificates formerly representing Praxair Shares are presented to the Surviving Corporation or the Exchange Agent for any reason, they shall be canceled and exchanged as provided in this Article II.

(f) **Withholding Rights.** Each of New Holdco, the Surviving Corporation and the Exchange Agent shall be entitled to deduct and withhold from any amounts payable pursuant to this Article II to any Person who was a holder of Praxair Shares or Praxair Stock-Based Awards immediately prior to the Effective Time, such amounts as it is required to deduct and withhold with respect to the making of such payment under the U.S. Internal Revenue Code of 1986, as amended (the **Code**), or any provision of state, local or non-U.S. tax Law. To the extent that amounts are so deducted and withheld by or on behalf of New Holdco, the Surviving Corporation or the Exchange Agent, as the case may be, and paid over to the relevant Governmental Entity, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of the Praxair Shares or Praxair Stock-Based Awards, as the case may be, in respect of which such deduction and withholding was made.

(g) **Termination of Exchange Fund.** Any portion of the Exchange Fund that remains unclaimed by the former Praxair stockholders for 180 days after the Effective Time shall be delivered to New Holdco. Any former Praxair stockholders who have not theretofore complied with this Article II shall thereafter look only to New Holdco for delivery of any New Holdco Shares of such stockholders and payment of any dividends and other distributions in respect of New Holdco Shares of such stockholders payable and/or issuable pursuant to Sections 2.7(a) and 2.9(d), in each case, without any interest thereon. Notwithstanding the foregoing, none of New Holdco, the Surviving Corporation, Linde, Merger Sub, the Exchange Agent or any other Person shall be liable to any former Praxair stockholder for any amount properly delivered to a public official pursuant to applicable abandoned property, escheat or similar Laws.

(h) **Lost, Stolen or Destroyed Praxair Certificates.** In the event any Praxair Certificate representing Praxair Shares shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Praxair Certificate to be lost, stolen or destroyed and, if required by New Holdco, the posting by such Person of a bond in customary amount and upon such terms as may be required by New Holdco or the Exchange Agent as indemnity against any claim that may be made against it with respect to such Praxair Certificate, the Exchange Agent

will issue in exchange for such lost, stolen or destroyed Praxair Certificate the New Holdco Shares and any dividends or other distributions that would be payable or deliverable in respect thereof pursuant to this Agreement had such lost, stolen or destroyed Praxair Certificate been surrendered.

A-14

Table of Contents

ARTICLE III

POST-CLOSING REORGANIZATION

3.1 **Post-Closing Reorganization of Linde**. Nothing in this Agreement shall prevent New Holdco, German Intermediate Holding Sub, German Intermediate Sub or Linde from seeking to enter into and/or to adopt resolutions in favor of any enterprise agreements pursuant to Section 291 of the German Stock Corporation Act (such as a domination and/or a profit and loss transfer agreement), merger under the German Transformation Act (*Umwandlungsgesetz* **German Transformation Act**), change of corporate form under the German Transformation Act, squeeze-out under the German Stock Corporation Act or the German Takeover Act, cash-out merger under the German Transformation Act or integration under the German Stock Corporation Act in relation to New Holdco, German Intermediate Holding Sub, German Intermediate Sub or Linde (the **Post-Closing Reorganization**). Following any merger of Linde and German Intermediate Holding Sub, German Intermediate Sub or New Holdco, all and any stipulations hereunder relating to rights and obligations of Linde shall apply to the merged company *mutatis mutandis*.

ARTICLE IV

GOVERNANCE AND ADDITIONAL MATTERS CONCERNING NEW HOLDCO GROUP

4.1 **Governance and Additional Matters**. Subject to applicable Law, each of the parties shall take all actions necessary to cause the matters set forth on Annex III to occur.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

5.1 **Representations and Warranties of Linde and Praxair**. Except as (1) in the case of any representation and warranty made by Praxair, set forth in the disclosure letter dated as of the date hereof, delivered to Linde by Praxair on or prior to entering into this Agreement (the **Praxair Disclosure Letter**) or disclosed in any report, schedule, form, statement or other document of Praxair filed with or furnished to the SEC prior to the date hereof and on or after December 31, 2014 and publicly available on the date hereof on the SEC's Electronic Data Gathering, Analysis and Retrieval System (EDGAR) (collectively, the **Praxair Reports**) (other than disclosures in the Risk Factors or Forward Looking Statements sections of any Praxair Report or any other disclosure in any Praxair Report to the extent that such disclosure is predictive or forward-looking in nature), and (2) in the case of any representation and warranty made by Linde, set forth in the disclosure letter dated as of the date hereof, delivered to Praxair by Linde on or prior to entering into this Agreement (the **Linde Disclosure Letter**) or disclosed in (x) any annual report of Linde prior to the date hereof and on or after December 31, 2014, (y) any ad hoc announcement of Linde prior to the date hereof and on or after December 31, 2014 or (z) any report, schedule, form, statement or other document of Linde or Linde Finance B.V. filed with or furnished to BaFin, the German Commercial Register (*Handelsregister*) or the Luxembourg Stock Exchange prior to the date hereof and on or after December 31, 2014 and, in each of cases (x), (y) and (z), only if such annual report, ad hoc announcement or other report, schedule, form, statement or document is publicly available on the website of Linde or the Luxembourg Stock Exchange or otherwise publicly available via the German Commercial Register (*Handelsregister*) on the date hereof ((x), (y) and (z), collectively, the **Linde Reports**) (other than, in the case of the annual report or other report, schedule, form, statement or document filed with or furnished to BaFin, the German Commercial Register (*Handelsregister*) or the Luxembourg Stock Exchange, disclosures in the Risk Factors, Forward Looking Statements or Risk Report sections of any Linde Report or any other disclosure in any Linde Report to the extent that such disclosure is predictive or forward-looking in nature), each of Linde and Praxair hereby

represents and warrants to the other as set forth in this Section 5.1;

A-15

Table of Contents

provided that any representation or warranty in this Section 5.1 that relates (i) to Praxair, its Subsidiaries or its Listed Subsidiaries shall be deemed to be a representation or warranty made only by Praxair to Linde solely with respect to Praxair, its Subsidiaries or its Listed Subsidiaries, as applicable, or (ii) to Linde, its Subsidiaries or its Listed Subsidiaries shall be deemed to be a representation or warranty made only by Linde to Praxair solely with respect to Linde, its Subsidiaries or its Listed Subsidiaries, as applicable.

(a) **Organization and Good Standing**. Such party is an entity duly organized, validly existing and in good standing (where such concept is recognized under applicable Law) under the Laws of its jurisdiction of organization. Each of such party's Subsidiaries is an entity duly organized, validly existing and in good standing (where such concept is recognized under applicable Law) under the Laws of its respective jurisdiction of organization, except where the failure to be so organized, existing or in good standing when taken together with all other such failures, individually or in the aggregate, has not had and is not reasonably expected to have a Material Adverse Change on such party. Each of such party and its Subsidiaries has all requisite corporate, company or similar power and authority to own and operate its properties and assets and to carry on its business as presently conducted, except where the failure to have such power or authority when taken together with all other such failures, individually or in the aggregate, has not had and is not reasonably expected to have a Material Adverse Change on such party.

(b) **Capitalization**.

(i) At the close of business on May 26, 2017, the authorized capital stock of Praxair consisted of 800,000,000 Praxair Shares, of which 285,861,268.89 Praxair Shares were outstanding (not including 97,369,356 Praxair Shares held directly by Praxair in treasury) as of such date, and 25,000,000 shares of preferred stock, par value \$0.01 per share (the **Praxair Preferred Shares**), of which none are outstanding as of the date hereof. All of the outstanding Praxair Shares have been duly authorized and are validly issued, fully paid and non-assessable. Except as set forth above, at the close of business on May 26, 2017, no shares of capital stock or other equity interests in Praxair were issued or outstanding. As of the date hereof, Praxair has no Praxair Preferred Shares reserved for issuance. At the close of business on May 26, 2017, Praxair had no Praxair Shares reserved for issuance, except there were 9,842,549 Praxair Shares reserved for issuance pursuant to the Praxair Stock Plans. As of the date hereof, each of the outstanding shares of capital stock or other equity interests in each of Praxair's Subsidiaries is duly authorized, validly issued and, where applicable, non-assessable. Except as set forth above, as of May 26, 2017, there are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or rights of any kind that obligate Praxair or any of its Subsidiaries to issue or sell any shares of capital stock or other securities of Praxair or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any shares of capital stock or other securities of Praxair, and no securities or obligations evidencing such rights are authorized, issued or outstanding. As of the date hereof, Praxair does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders of Praxair on any matter.

(ii) At the close of business on May 26, 2017, the authorized capital stock (*Grundkapital*) of Linde consisted of 185,733,180 Linde Shares, of which 185,638,071 Linde Shares were outstanding (not including 95,109 Linde Shares held directly by Linde in treasury (**Linde Treasury Shares**)) as of such date. All of the outstanding Linde Shares have been duly authorized and are validly issued and fully paid. Except as set forth above, at the close of business on May 26, 2017, no shares of capital stock or other equity interests in Linde were issued or outstanding. At the close of business on May 26, 2017, except for the authorized and conditional capital disclosed in Linde's articles of association as of such date, Linde has no Linde Shares reserved for issuance. As of the date hereof, each of the outstanding shares of capital stock or other equity interests in each of Linde's Subsidiaries is duly authorized, validly issued and, where applicable, non-assessable. Except as set forth above, as of May 26, 2017, there are no preemptive or other

outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights,

A-16

Table of Contents

agreements, arrangements, calls, commitments or rights of any kind that obligate Linde or any of its Subsidiaries to issue or sell any shares of capital stock or other securities of Linde or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any shares of capital stock or other securities of Linde, and no securities or obligations evidencing such rights are authorized, issued or outstanding. As of the date hereof, Linde does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders of Linde on any matter.

(c) **Corporate Authority.**

(i) Praxair has all requisite corporate power and authority and has taken all corporate action necessary in order to authorize, execute, deliver and perform its obligations under this Agreement, and to consummate the Merger and the other transactions contemplated hereby, subject only (x) in the case of the Merger, to the adoption of this Agreement and the approval of the transactions contemplated by this Agreement by a vote of the holders of a majority of the outstanding Praxair Shares entitled to vote thereon (the **Praxair Requisite Vote**), (y) to the approval of the Praxair Distributable Reserves Resolution by a vote of the holders of a majority of the outstanding Praxair Shares present at the Praxair Stockholders Meeting and (z) to the extent required, to approval of the SEC or a Regulatory Authority. This Agreement is a valid and binding agreement of Praxair enforceable against Praxair in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the **Bankruptcy and Equity Exception**).

(ii) Linde has all requisite company power and authority and has taken all company action necessary in order to authorize, execute, deliver and perform its obligations under this Agreement, and to consummate the transactions contemplated hereby, subject only, to the extent required, to approval of BaFin, the SEC or a Regulatory Authority. This Agreement is a valid and binding agreement of Linde, enforceable against Linde in accordance with its terms, subject, as to enforcement, to the Bankruptcy and Equity Exception.

(d) **No Conflicts.** Neither the execution and delivery by such party of this Agreement, the compliance by it with all of the provisions of and the performance by it of its obligations under this Agreement, nor the consummation of the Offer, the Merger and the other transactions contemplated hereby, will result in any breach or violation of, or a default under, the provisions of the Organizational Documents of such party, or any Law applicable to it, except for such breaches, violations, or defaults that, individually or in the aggregate, have not had and are not reasonably expected to have a Material Adverse Change on such party.

(e) **Governmental Approvals and Consents.** Other than (i) the filings and/or notices under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the Council Regulation (EC) 139/2004 of the European Community, (ii) other merger control or competition Law filings and/or notices (as mutually determined necessary or advisable by the parties), (iii) the approvals and consents to be obtained from any Regulatory Authority, including with respect to the Offer Documents and applicable foreign investment Laws, (iv) the filing of the Certificate of Merger, (v) as required in order to comply with state securities, takeover and "blue sky" Laws and (vi) such other authorizations, consents, approvals, orders, permits, notices, reports, filings, registrations, qualifications and exemptions the failure of which to be made or obtained, individually or in the aggregate, have not had and are not reasonably expected to have a Material Adverse Change on such party, no authorizations, consents, approvals, orders, permits, notices, reports, filings, registrations, qualifications and exemptions of, with or from, or other actions are required to be made by such party or any of its Subsidiaries with, or obtained by such party or any of its Subsidiaries from, any governmental, taxation or regulatory authority, agency, commission, body or other governmental or regulatory entity, U.S. or non-U.S., including the SEC and the other Regulatory Authorities (**Governmental Entity**),

in connection with the execution and delivery by such party of this Agreement, the performance by such party of its obligations hereunder and the consummation of the transactions contemplated hereby.

A-17

Table of Contents**(f) Financial Statements.**

(i) All of the audited consolidated financial statements and unaudited consolidated interim financial statements of Praxair included in the Praxair Reports or any report filed after the date of this Agreement and prior to the Effective Time of the type that would be a Praxair Report if filed prior to the date of this Agreement (collectively, the **Praxair Financial Statements**) (i) fairly present in all material respects the consolidated financial position and the results of operations, cash flows and changes in stockholders' equity of Praxair as of the dates and for the periods referred to therein and (ii) have been or will be, as the case may be, prepared in all material respects in accordance with United States generally accepted accounting principles (**GAAP**) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of interim financial statements, for normal and recurring year-end adjustments that are not material in amount or nature).

(ii) All of the audited consolidated financial statements and unaudited consolidated interim financial statements of Linde included in the Linde Reports or any report filed after the date of this Agreement and prior to the Effective Time of the type that would be a Linde Report if filed prior to the date of this Agreement (collectively, the **Linde Financial Statements**) (i) give a true and fair view in all material respects of the consolidated financial position and the results of operations, cash flows and changes in stockholders' equity of Linde as of the dates and for the periods referred to therein and (ii) have been or will be, as the case may be, prepared in all material respects in accordance with International Financial Reporting Standards as adopted by the European Union (**IFRS**) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of interim financial statements, for normal and recurring year-end adjustments that are not material in amount or nature).

(g) **Absence of Certain Changes.** Except as disclosed in the Praxair Financial Statements (in the case of Praxair) or the Linde Financial Statements (in the case of Linde), since December 31, 2016, there has not been any change, event, occurrence or effect that, individually or in the aggregate, has had or is reasonably expected to have a Material Adverse Change on such party.

(h) **Compliance.** As of the date hereof, neither such party nor any of its Subsidiaries nor, to the Knowledge of such party, any of its Listed Subsidiaries is in conflict with, or in default or violation of, (i) any Laws of any Governmental Entity or (ii) any Contract to which such party or any of its Subsidiaries is a party or by which such party or any of its Subsidiaries or its or any of their respective properties is bound or affected, except in each of clauses (i) and (ii), for any such conflicts, defaults or violations that, individually or in the aggregate, have not had and are not reasonably expected to have a Material Adverse Change on such party. As of the date hereof, each of such party and its Subsidiaries and, to the Knowledge of such party, its Listed Subsidiaries has all permits, licenses, franchises, variances, exemptions, orders and other authorizations, consents and approvals (together, **Permits**) of all Governmental Entities necessary to conduct its business as presently conducted, except where the failure to have such Permits, individually or in the aggregate, has not had and is not reasonably expected to have a Material Adverse Change on such party.

(i) **Litigation and Liabilities.** There are no (i) civil, criminal or administrative actions, suits, claims, hearings, investigations or proceedings pending or, to the Knowledge of such party, threatened against such party, any of its Subsidiaries or any of their respective directors or officers in their capacity as such or (ii) except as disclosed in (A) Praxair's audited consolidated balance sheet (or the notes thereto) as of December 31, 2016 included in the Praxair Reports (in the case of Praxair), or (B) Linde's audited consolidated balance sheet (or the notes thereto) as of December 31, 2016 included in the Linde Reports (in the case of Linde), obligations or liabilities, whether or not accrued, contingent or otherwise and whether or not required to be disclosed, including those relating to, or any other facts or circumstances of which, to the knowledge of such party, could result in any claims against, or obligations or liabilities of, such party or any of its affiliates, except, in case of either clause (i) or (ii), for those that, individually or

in the aggregate, have not had and are not reasonably expected to have a Material Adverse Change on such party.

A-18

Table of Contents

(j) Tax Matters. Neither Linde nor Praxair nor any of its Subsidiaries has knowledge of any facts or of any reason that would reasonably be expected to cause New Holdco to be treated under current Law, as a result of the transactions contemplated by this Agreement, as a domestic corporation within the meaning of the Code.

(k) Anti-Corruption, Trade Sanctions and Export Controls.

(i) Neither such party nor any of its Subsidiaries nor, to the Knowledge of such party, any Listed Subsidiary, officer or director of such party has in the past three (3) years, directly or indirectly, in violation of any applicable Anti-Corruption Law (as defined below), corruptly offered, paid, given, promised, authorized, requested, solicited or accepted any money, financial or other advantage or anything else of value, to or from any Person, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party.

(ii) Such party, its Subsidiaries and, to the Knowledge of such party, its Listed Subsidiaries are and in the past three (3) years have been, to the extent applicable, in compliance with and have not committed any offense under the United States Foreign Corrupt Practices Act of 1977 (the FCPA), the UK Bribery Act 2010 (the Bribery Act), European and German anti-bribery Laws as codified, among others, in the German Criminal Code (*Strafgesetzbuch*) and the law on regulatory offences (*Ordnungswidrigkeitengesetz*) or any other applicable Law regarding bribery or corruption, including all Laws enacted to implement the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions (together with the FCPA and the Bribery Act, Anti-Corruption Laws), except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party.

(iii) There is not currently any pending or, to the Knowledge of such party, threatened investigation, litigation or inquiry by any Governmental Entity with respect to compliance with any applicable Anti-Corruption Laws by such party, its Subsidiaries or, to the Knowledge of such party, its Listed Subsidiaries, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party.

(iv) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party, such party, its Subsidiaries and, to the Knowledge of such party, its Listed Subsidiaries are, and for the past three (3) years have been, in compliance with applicable Trade Sanctions and Export Control Laws. Neither such party nor, to the Knowledge of such party, its Subsidiaries, is currently designated on the list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) or on any similar, publicly available sanctions list maintained by the United Nations Security Council, the European Union or Her Majesty's Treasury. Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party, such party has obtained, and is in compliance with, all required export and import licenses, license exceptions and other consents, notices, approvals, orders, permits, authorizations, declarations, classifications and filings with any Governmental Entity required for the import, export and re-export of products, software and technology. Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party, there are not currently any pending or, to the Knowledge of such party, threatened investigation, litigation or inquiry by any Governmental Entity with respect to compliance by such party, its Subsidiaries or, to the Knowledge of such party, its Listed Subsidiaries with any applicable Trade Sanctions or Export Control Laws.

(v) Such party, its Subsidiaries and, to the Knowledge of such party, its Listed Subsidiaries have instituted and maintain policies and procedures reasonably designed to ensure compliance with applicable Anti-Corruption Laws, Trade Sanctions and Export Control Laws, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Change on such party.

(vi) For the avoidance of doubt, this Section 5.1(k) shall not be interpreted or applied in relation to such party or its Subsidiaries or Listed Subsidiaries to the extent that the obligations under this Section 5.1(k)

A-19

Table of Contents

would violate or expose such entity or any directors, officers or employees thereof to any liability under any anti-boycott or blocking Law that is in force from time to time in the European Union (and/or any of its member states) and that are applicable to such entity including EU Regulation (EC) 2271/96 and Section 7 of the German Foreign Trade Ordinance (AWV) (*Außenwirtschaftsverordnung*).

5.2 Representations and Warranties of New Holdco, US Intermediate Holding Sub and Merger Sub. Each of New Holdco, US Intermediate Holding Sub and Merger Sub hereby represents and warrants to Praxair and to Linde as set forth in this Section 5.2.

(a) Organization, Good Standing and Qualification. Each of New Holdco, US Intermediate Holding Sub and Merger Sub is an entity duly organized, validly existing and in good standing (where such concept is recognized under applicable Law) under the Laws of its jurisdiction of organization. None of New Holdco, US Intermediate Holding Sub or Merger Sub has conducted any business other than activities incidental to its organization and the consummation of the transactions contemplated by this Agreement.

(b) Capitalization. The authorized capital stock of New Holdco consists of 25,000 New Holdco Shares, of which 25,000 are outstanding as of the date hereof. All of the outstanding New Holdco Shares have been duly authorized and are validly issued, fully paid and non-assessable. The authorized membership interests of US Intermediate Holding Sub consist of 1,000 limited liability company membership interests, of which one is outstanding as of the date hereof. All of the outstanding limited liability company membership interests of US Intermediate Holding Sub have been duly authorized and are validly issued, fully paid and non-assessable. The authorized capital stock of Merger Sub consists of one share of common stock, par value \$0.01 per share, which is outstanding as of the date hereof. The outstanding share of Merger Sub common stock has been duly authorized and is validly issued, fully paid and non-assessable.

(c) Corporate Authority. Each of New Holdco, US Intermediate Holding Sub and Merger Sub has all requisite corporate or company power and authority and has taken all corporate or company action necessary in order to authorize, execute, deliver and perform its obligations under this Agreement, and to consummate the transactions contemplated hereby, subject only, to the extent required, to approval of BaFin, the SEC or a Regulatory Authority. This Agreement is a valid and binding agreement of each of New Holdco, US Intermediate Holding Sub and Merger Sub, enforceable against it in accordance with its terms, subject, as to enforcement, to the Bankruptcy and Equity Exception. Each of the shareholders of New Holdco and the New Holdco Board has approved and authorized this Agreement, the Offer, the Merger and the other transactions contemplated hereby. The sole member of US Intermediate Holding Sub has approved and authorized this Agreement, the Merger and the other transactions contemplated hereby. The board of directors of Merger Sub has approved and authorized this Agreement, the Merger and the other transactions contemplated hereby.

(d) No Conflicts. Neither the execution and delivery by New Holdco, US Intermediate Holding Sub and Merger Sub of this Agreement, the compliance by each such party with all of the provisions of and the performance by it of its obligations under this Agreement, nor the consummation of the Offer, the Merger and the other transactions contemplated hereby, will result in any breach or violation of, or a default under, the provisions of the Organizational Documents of New Holdco, US Intermediate Holding Sub or Merger Sub, or any Law applicable to it, except for such breaches, violations, or defaults that, individually or in the aggregate, have not had and are not reasonably expected to have a Material Adverse Change on Linde or Praxair.

ARTICLE VI

COVENANTS

6.1 Interim Operations. Each of Linde and Praxair covenants and agrees as to itself and its Subsidiaries that, from and after the date hereof and until the earliest of the Effective Time, the termination of the Specified

A-20

Table of Contents

Covenants and the termination of this Agreement in accordance with Article VIII, unless Praxair (in the case of any action proposed to be taken by Linde or any Subsidiary of Linde) or Linde (in the case of any action proposed to be taken by Praxair or any Subsidiary of Praxair) shall otherwise approve in writing, which approval shall not be unreasonably withheld, conditioned or delayed, and except as otherwise expressly contemplated by this Agreement or required by applicable Law or, in the case of Praxair, except as otherwise set forth in Section 6.1 of the Praxair Disclosure Letter or, in the case of Linde, except as otherwise set forth in Section 6.1 of the Linde Disclosure Letter:

- (a) the business of it and its Subsidiaries shall be conducted in the ordinary and usual course consistent with past practice;
- (b) (i) it shall not issue, sell, pledge, dispose of or encumber any capital stock owned by it in any of its Subsidiaries, except as otherwise permitted by Section 6.1(e)(i); (ii) it shall not amend its Organizational Documents, other than amendments to the Organizational Documents of Subsidiaries that are not material in the context of the transactions contemplated by this Agreement; (iii) it shall not split, combine or reclassify the outstanding shares of capital stock of Linde or Praxair, as applicable; (iv) it shall not declare, set aside or pay any type of dividend, whether payable in cash, stock or property, in respect of any capital stock other than (x) dividends made in accordance with Section 6.1(b) of the Linde Disclosure Letter or Section 6.1(b) of the Praxair Disclosure Letter, (y) dividends payable by its direct or indirect wholly-owned Subsidiaries to it or another of its direct or indirectly wholly-owned Subsidiaries and (z) cash dividends paid by Subsidiaries in the ordinary and usual course of business consistent with past practice; and (v) it shall not repurchase, redeem or otherwise acquire, or permit any of its Subsidiaries to purchase or otherwise acquire, any interests or shares of capital stock of Linde or Praxair, as applicable, or any securities convertible into or exchangeable or exercisable for any shares of such capital stock;
- (c) neither it nor any of its Subsidiaries shall (i) issue, sell, pledge, dispose of or encumber (A) any (1) shares of, or (2) securities convertible into or exchangeable or exercisable for, or (3) options, warrants, calls, commitments or rights of any kind to acquire, capital stock of any class, as appropriate, other than, in the case of this clause (A), (x) Praxair Shares or Linde Shares issuable pursuant to stock-based awards outstanding on or awarded prior to the date hereof under the Praxair Stock Plans or Linde LTIP that are issued in accordance with their terms and the applicable Praxair Stock Plan or Linde LTIP, as in effect on the date hereof; or (y) the issuance, sale or disposal of capital stock of a Subsidiary to such party or any of its other Subsidiaries or as otherwise permitted by Section 6.1(e)(i), or (B) any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with its shareholders on any matter; (ii) increase, in comparison to March 31, 2017, the long-term indebtedness for borrowed money (including any guarantee of such indebtedness) of such party and its Subsidiaries, other than (A) transactions between it and any of its Subsidiaries or transactions between its Subsidiaries, (B) as a refinancing of existing indebtedness or (C) in the ordinary and usual course of business and consistent with past practice and in an amount not to exceed 1,500 million in the aggregate; or (iii) (A) make any capital expenditures in financial year 2017 or financial year 2018, or commit (in financial year 2017 or financial year 2018) to make in financial year 2018 capital expenditures, that, in the aggregate for financial year 2017 or financial year 2018, exceed by 400 million or more the capital expenditure target for such party for such financial year that has been provided to the other party prior to the date of this Agreement or such other capital expenditure targets as may be mutually agreed by Linde and Praxair or (B) commit to any capital expenditures to be made in any financial year after financial year 2018 that exceed 400 million for an individual project;
- (d) except as required by any Benefit Plan as in effect on the date hereof, neither it nor any of its Subsidiaries shall (i) except in the ordinary and usual course of business, terminate, establish, adopt, enter into, make any new grants or awards under, amend or otherwise modify any Benefit Plan, as the case may be, or any other arrangement that would be a Benefit Plan if in effect on the date hereof, in each case other than as would not reasonably be expected to

materially increase the cost of benefits under any Benefit Plan or any other arrangement that would be a Benefit Plan if in effect on the date hereof, (ii) except in the ordinary and usual

A-21

Table of Contents

course of business consistent with past practice, increase the salary, wage, bonus or other compensation of any employees or fringe benefits of any director, officer or employee or (iii) except in the ordinary and usual course of business consistent with past practice, take any action to accelerate the vesting or lapsing of restrictions or payment, or fund or in any other way secure the payment, of compensation or benefits under any Benefit Plan;

(e) neither it nor any of its Subsidiaries shall (i) sell, pledge, encumber or otherwise dispose of (whether by way of merger, consolidation, sale of stock or assets, or otherwise) any assets, business units or capital stock of Subsidiaries, except for sales or dispositions of assets, business units or capital stock of Subsidiaries in transactions that individually (but aggregating related transactions) involve consideration of less than 200 million or (ii) acquire or agree to acquire (whether by merger, consolidation, purchase or otherwise) any Person or assets (x) in which the expected gross expenditures and commitments (including the amount of any indebtedness assumed) for such acquisition individually (but aggregating related transactions) exceeds 500 million (provided that such threshold shall be 75 million in respect of any acquisition individually (but aggregating related transactions) of any asset not related to a line of business of such party or its Subsidiaries in existence as of the date hereof, or any Person whose primary business is not focused on any such line of business), or (y) that is reasonably likely, individually or in the aggregate, to materially delay the satisfaction of the conditions set forth in Article VII or prevent the satisfaction of such conditions, other than, in the case of each of clauses (i) and (ii), transactions between it and any of its Subsidiaries or transactions between its Subsidiaries;

(f) except in the ordinary and usual course of business consistent with past practice, neither it nor any of its Subsidiaries shall settle or compromise any material claims or litigation if such settlement or compromise would involve the cash payment by such party or its Subsidiaries of (i) 50 million or more in respect of an individual settlement or compromise or (ii) 150 million or more calculated on an aggregate basis in respect of all such settlements or compromises;

(g) neither it nor any of its Subsidiaries shall enter into any non-compete or similar Contract that would materially restrict the business of the New Holdco Group following the Effective Time; and

(h) neither it nor any of its Subsidiaries will authorize or enter into an agreement to do any of the foregoing set forth in Sections 6.1(a) through (g) if it would be prohibited by the terms of Sections 6.1(a) through (g) from doing the foregoing.

6.2 Acquisition Proposals.

(a) Without limiting any of such party's other obligations under this Agreement, each of Linde and Praxair agrees that neither it nor any of its Subsidiaries nor any of their respective officers or directors (including any member of the Praxair Board or the Linde Boards) shall, and that it shall instruct and use its reasonable best efforts to cause its and its Subsidiaries' employees, agents and Representatives not to, directly or indirectly, (i) initiate, solicit, propose, knowingly encourage (including by way of furnishing information), facilitate or induce any inquiries or the making, submission or announcement of any proposal or offer that constitutes, or could reasonably be expected to lead to, an Acquisition Proposal, (ii) engage in, continue or otherwise participate in any discussions or negotiations relating to any Acquisition Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to an Acquisition Proposal, (iii) provide any information or data to any Person in relation to an Acquisition Proposal or any inquiry, proposal or offer that could reasonably be expected to lead to an Acquisition Proposal, (iv) approve or recommend, or propose publicly to approve or recommend, any Acquisition Proposal, (v) approve or recommend, or propose to approve or recommend, or execute or enter into, any letter of intent, agreement in principle, merger agreement, acquisition agreement, business combination agreement, option agreement or other similar agreement (any of the preceding in this clause (v), an **Alternative Acquisition Agreement**) or propose publicly or agree to do any of the

foregoing related to any Acquisition Proposal or (vi) otherwise facilitate any effort or attempt to make an Acquisition Proposal.

(b) Each of Linde and Praxair shall promptly (and, in any event, within twenty-four (24) hours) after (i) receipt of an Acquisition Proposal, (ii) any inquiries, proposals or offers with respect to an Acquisition

A-22

Table of Contents

Proposal, (iii) any request for information in connection with an Acquisition Proposal, (iv) any discussions or negotiations with respect to an Acquisition Proposal that are sought to be initiated or continued with such party or (v) any request for nonpublic information or inquiry that Praxair reasonably believes could lead to an Acquisition Proposal for Praxair or that Linde reasonably believes could lead to an Acquisition Proposal for Linde, provide the other party hereto with written notice of the material terms and conditions of such Acquisition Proposal, request or inquiry, the identity of the Person making any such Acquisition Proposal, request or inquiry, and the most current version of the relevant Alternative Acquisition Agreement or transaction proposal and any material agreements or documents ancillary thereto, including any schedule, exhibit and annex thereto. Thereafter, Linde or Praxair, as applicable, shall promptly and on a current basis (and, in any event, within twenty-four (24) hours) provide the other party hereto with oral and written notice setting forth all such information as is reasonably necessary to keep such other party informed in all material respects of the status and details (including material amendments or proposed material amendments) of any such Acquisition Proposal, request or inquiry.

(c) Notwithstanding anything in this Agreement to the contrary, each of Linde and Praxair or their respective Boards shall be permitted to (A) in the case of Praxair, comply with Rule 14d-9 and Rule 14e-2 under the Exchange Act and, in the case of Linde, comply with the German Takeover Act and the publication requirements under the Market Abuse Regulation or Rule 14e-2 under the Exchange Act; provided, however, that if such disclosure has the effect of withdrawing or adversely modifying or qualifying the Praxair Recommendation or the Linde Recommendation, as the case may be, such disclosure shall be deemed to be a Change in Praxair Recommendation or Change in Linde Recommendation, as applicable, and Linde or Praxair, as the case may be, shall have the right to terminate this Agreement as set forth in Article VIII, unless such party expressly reaffirms the Praxair Recommendation or the Linde Recommendation, as applicable, in such disclosure; it being understood that a stop, look and listen or similar communication of the type contemplated by Rule 14d-9(f) under the Exchange Act shall not be deemed to be a Change in Praxair Recommendation, (B) after complying with Section 6.2(d) and (x) in the case of Praxair, prior to the receipt by Praxair of the Praxair Requisite Vote and (y) in the case of Linde, prior to the Expiration Time, effect a Change in Praxair Recommendation or Change in Linde Recommendation, or (C) (x) in the case of Praxair, prior to the receipt by Praxair of the Praxair Requisite Vote and (y) in the case of Linde, prior to the Expiration Time, engage in any discussions or negotiations with, or provide any information or data to, any Person (provided that such information has previously been made available to, or is made available to, Linde or Praxair, as the case may be, prior to or concurrently with the time such information is made available to such Person) in response to an unsolicited bona fide written Acquisition Proposal by any such Person, if and only to the extent that, (i) in the case of clause (B) above, if (1)(x) such Change in Praxair Recommendation or Change in Linde Recommendation is made in response to an Acquisition Proposal for Praxair or Linde, respectively, and such Acquisition Proposal is an unsolicited bona fide written Acquisition Proposal from a third party that its Board concludes in good faith (after consultation with its outside legal counsel and financial advisors) constitutes a Superior Proposal or (y) such Change in Praxair Recommendation or Change in Linde Recommendation is not made in response to an Acquisition Proposal for Linde or Praxair, as applicable, and is made in response to an Intervening Event, and (2) its Board determines in good faith (after consultation with its outside legal counsel and financial advisors) that the failure to make such Change in Praxair Recommendation or Change in Linde Recommendation, as the case may be, would be inconsistent with its fiduciary duties under applicable Law, and (ii) in the case of clause (C) above, (1) prior to providing any information or data to any Person in connection with an Acquisition Proposal by any such Person, its Board receives from such Person an executed confidentiality agreement with confidentiality terms no less restrictive than those contained in the Confidentiality Agreement and an executed clean team and common interest agreement or agreements with provisions no less restrictive than those contained in the Clean Team Confidentiality Agreement and Common Interest Agreement, (2) its Board determines in good faith (after consultation with its outside legal counsel and financial advisors) that the Acquisition Proposal either constitutes a Superior Proposal or would reasonably be expected to result in a Superior Proposal, and that the failure to take such action would be inconsistent with its fiduciary duties under applicable Law, and (3) such party is not then in breach of its obligations under this Section 6.2. For purposes of

this Section 6.2(c), references to **Board** mean, in relation to Praxair, the Praxair Board and, in relation to Linde, the Linde Boards.

A-23

Table of Contents

(d) Prior to effecting any Change in Praxair Recommendation, Praxair shall provide Linde with a written notice (the **Praxair Change in Recommendation Notice**) of Praxair's intention to make a Change in Praxair Recommendation at least five (5) business days prior to making a Change in Praxair Recommendation and Linde and Praxair shall negotiate in good faith during such five-business day period with respect to any modifications to the terms of the transaction contemplated by this Agreement that are proposed by Linde, and Praxair shall consider any such modifications agreed by Linde in determining in good faith (after consultation with its outside legal counsel and financial advisors) whether such Acquisition Proposal still constitutes a Superior Proposal for Praxair, if such Change in Praxair Recommendation relates to an Acquisition Proposal, and whether the failure to take action to effect a Change in Praxair Recommendation would be inconsistent with the Praxair Board's fiduciary duties under applicable Law, in each case, after such five-business day period; provided that, in the event of a subsequent modification to the material terms of such Superior Proposal, Praxair shall provide Linde with an additional written notice consistent with the foregoing and the notice and negotiation period shall recommence, except that such notice and negotiation period shall be at least three (3) business days prior to making a Change in Praxair Recommendation (rather than the five (5) business days otherwise contemplated by the foregoing). Prior to any Change in Linde Recommendation, Linde shall provide Praxair written notice (the **Linde Change in Recommendation Notice**) of Linde's intention to make a Change in Linde Recommendation at least five (5) business days prior to making a Change in Linde Recommendation, and Linde and Praxair shall negotiate in good faith during such five-business day period with respect to any modifications to the terms of the transaction contemplated by this Agreement that are proposed by Praxair, and Linde shall consider any such modifications agreed by Praxair in determining in good faith (after consultation with its outside legal counsel and financial advisors) whether such Acquisition Proposal still constitutes a Superior Proposal for Linde, if such Change in Linde Recommendation relates to an Acquisition Proposal, and whether the failure to take action to effect a Change in Praxair Recommendation would be inconsistent with the Linde Executive Board's or Linde Supervisory Board's fiduciary duties under applicable Law, in each case, after such five-business day period; provided that, in the event of a subsequent modification to the material terms of such Superior Proposal, Linde shall provide Praxair with an additional written notice consistent with the foregoing and the notice and negotiation period shall recommence, except that such notice and negotiation period shall be at least three (3) business days prior to making a Change in Linde Recommendation (rather than the five (5) business days otherwise contemplated by the foregoing).

(e) In the event that a third party who has previously made an Acquisition Proposal that the Praxair Board or either of the Linde Boards, as the case may be, has determined in accordance with this Section 6.2 is a Superior Proposal subsequently modifies or amends in an adverse manner any financial or other material term of such Superior Proposal such that the Acquisition Proposal is no longer a Superior Proposal, then such Board's prior determination shall be null and void and such Board shall be subject to the provisions of Section 6.2(c) and (d) in all respects (including the obligation to deliver a new Praxair Change in Recommendation Notice or Linde Change in Recommendation Notice, as applicable, and negotiate in good faith with Linde or Praxair, as applicable).

(f) Each of Linde and Praxair agrees that it will, and will cause its officers, directors and Representatives and its Subsidiaries and such Subsidiaries' officers, directors and Representatives to, immediately cease and cause to be terminated any activities, discussions or negotiations existing as of the date of this Agreement with any Person conducted heretofore with respect to any Acquisition Proposal or proposal that would reasonably be expected to lead to an Acquisition Proposal. Each of Linde and Praxair shall promptly deliver a written notice to each such Person providing only that Linde or Praxair, as applicable, is ending all discussions and negotiations with such Person with respect to any Acquisition Proposal, or any proposal or transaction that could reasonably be expected to lead to an Acquisition Proposal, which notice shall also request the prompt return or destruction of all confidential information concerning Linde or Praxair and any of its Subsidiaries, as applicable. Each of Linde and Praxair agrees that it will (i) promptly inform its and its Subsidiaries' directors, officers, agents and Representatives of, (ii) use its reasonable best efforts to cause each of its and its Subsidiaries' directors, officers, agents and Representatives to comply with and

(iii) be responsible for any breach by any of its and its Subsidiaries directors, officers, agents and Representatives of, the obligations undertaken in this Section 6.2

A-24

Table of Contents

(and any such breach by its and its Subsidiaries' directors, officers, agents and Representatives shall be deemed to be a breach of this Section 6.2 by Linde or Praxair, as applicable). Nothing in this Section 6.2 shall permit Linde or Praxair to terminate this Agreement (except as specifically provided in Article VIII) or affect any other obligation of Linde or Praxair under this Agreement, except as otherwise expressly set forth in this Agreement. Unless this Agreement shall have been earlier terminated, neither Linde nor Praxair shall submit to the vote of its stockholders any Acquisition Proposal (other than the Offer or the Merger).

(g) Each of Linde and Praxair shall not terminate, amend, modify or waive any provision of any confidentiality, standstill or similar agreement to which it or any of its Subsidiaries is a party and that was entered into in connection with a potential Acquisition Proposal, and shall enforce, to the fullest extent permitted under applicable Law, the provisions of any such agreement, including by obtaining injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof. Notwithstanding anything to the contrary contained in this Agreement, Linde and Praxair shall be permitted to terminate, amend, modify, waive or fail to enforce any provision of any confidentiality, standstill or similar obligation of any Person if the Praxair Board or the Linde Executive Board, as applicable, determines in good faith, after consultation with its outside legal counsel and financial advisors, that the failure to take such action would be inconsistent with the directors' fiduciary duties under applicable Law.

6.3 Stockholders Meeting: Offer Recommendation.

(a) Praxair will take, in accordance with applicable Law and the Praxair Organizational Documents, all action necessary to convene a meeting of its stockholders (the **Praxair Stockholders Meeting**) the business day prior to the date of the initial scheduled Expiration Time (the **Praxair Meeting Date**), which date shall be after the Registration Statement is declared effective (it being agreed that, in the event that the scheduled Expiration Time shall be postponed as a result of an extension of the Offer, Praxair may adjourn or postpone the Praxair Stockholders Meeting, or call a new Praxair Stockholders Meeting in the event that the record date for such Praxair Stockholders Meeting becomes stale, so that the Praxair Meeting Date is no later than the business day prior to such newly scheduled Expiration Time). Subject to Section 6.2, the Praxair Board shall make the Praxair Recommendation and include the Praxair Recommendation in the Proxy Statement/Prospectus. In the event that on or subsequent to the date hereof and prior to the Praxair Stockholders Meeting (including any adjournment thereof), the Praxair Board determines either to make no recommendation for the Merger, or to withdraw, modify or qualify its recommendation for the Merger in a manner that is adverse to Linde or New Holdco (such determination not to make a recommendation or any such withdrawal, modification or qualification, a **Change in Praxair Recommendation**), which Change in Praxair Recommendation shall be made only in accordance with Section 6.2(c), then Linde shall have a right to terminate this Agreement in accordance with Section 8.5(a). Any Change in Praxair Recommendation shall not limit or modify the obligation of Praxair to present this Agreement for adoption at the Praxair Stockholders Meeting prior to the date of the scheduled Expiration Time nor limit or modify the obligation of Linde's and Praxair's representatives to the New Holdco Board to consent to New Holdco's commencement, continuation and completion of the Offer in accordance with the terms of this Agreement, and, if this Agreement or the Specified Covenants are not otherwise terminated by either Linde or Praxair in accordance with the terms hereof, this Agreement shall be submitted to the Praxair stockholders at the Praxair Stockholders Meeting for the purpose of voting on adopting this Agreement.

(b) The Linde Executive Board has determined that, subject to the review of the German Exchange Offer Document and its fiduciary duties under German Law, in particular, the duty of care and loyalty and the business judgment rule under Sections 93, 76 German Stock Corporation Act, it will recommend, in its statement on the Offer under Section 27 of the German Takeover Act, that the Linde shareholders accept the Offer and tender their Linde Shares in the Offer. In the event that on or after the date hereof and prior to the Expiration Time, the Linde Executive Board fails to recommend, in its statement on the Offer under Section 27 of the German Takeover Act, that the Linde shareholders accept the Offer and tender their Linde Shares in the Offer, or, after such recommendation, withdraws,

modifies or qualifies such recommendation in a manner that is adverse to Praxair or

A-25

Table of Contents

New Holdco (such failure to make such recommendation or any such withdrawal, modification or qualification, a **Change in Linde Executive Board Recommendation**), which Change in Linde Executive Board Recommendation shall be made only in accordance with Section 6.2(c), then Praxair shall have a right to terminate this Agreement in accordance with Section 8.4(b)(i).

(c) The Linde Supervisory Board has determined that, subject to the review of the German Exchange Offer Document and its fiduciary duties under German Law, in particular, the duty of care and loyalty and the business judgment rule under Sections 93, 76 German Stock Corporation Act, it will recommend, in its statement on the Offer under Section 27 of the German Takeover Act, that the Linde shareholders accept the Offer and tender their Linde Shares in the Offer. In the event that (i) on or after the date hereof and prior to the Expiration Time, the Linde Supervisory Board fails to recommend, in its statement on the Offer under Section 27 of the German Takeover Act, that the Linde shareholders accept the Offer and tender their Linde Shares in the Offer, or, after such recommendation, withdraws, modifies or qualifies such recommendation in a manner that is adverse to Praxair or New Holdco (such failure to make such recommendation or any such withdrawal, modification or qualification, a **Change in Linde Supervisory Board Recommendation**), which Change in Linde Supervisory Board Recommendation shall be made only in accordance with Section 6.2(c), and (ii) in connection therewith the Linde Supervisory Board recommends that Linde shareholders not accept the Offer, then Praxair shall have a right to terminate this Agreement in accordance with Section 8.4(b)(ii).

(d) Any Change in Linde Recommendation shall not limit or modify the obligation of Linde's and Praxair's representatives to the New Holdco Board to consent to New Holdco's commencement, continuation and completion of the Offer in accordance with the terms of this Agreement and, if this Agreement or the Specified Covenants are not otherwise terminated by either Linde or Praxair in accordance with the terms hereof, New Holdco shall be obligated to commence, continue and complete the Offer in accordance with the terms of this Agreement (and Linde and Praxair agree to consent to such actions by New Holdco).

6.4 Cooperation: Efforts to Consummate.

(a) Subject to the terms and conditions set forth in this Agreement, New Holdco, Linde and Praxair shall cooperate with each other and use (and shall (i) cause their respective Subsidiaries to use and (ii) use their respective reasonable best efforts to cause their respective Listed Subsidiaries to use) their respective reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under this Agreement and applicable Laws to consummate and make effective the Offer, the Merger and the other transactions contemplated by this Agreement as soon as reasonably practicable, including preparing and filing as promptly as reasonably practicable all documentation to effect all necessary notices, reports and other filings and to obtain as promptly as reasonably practicable all consents, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any third party and/or any Governmental Entity in order to consummate the Offer, the Merger or any of the other transactions contemplated by this Agreement.

(b) Subject to applicable Laws relating to the exchange of information, Linde and Praxair shall have the right to review in advance and, to the extent reasonably practicable, each will consult with the other on and consider in good faith the views of the other in connection with, the contents of any filing made with, or written materials submitted to, any third party and/or any Governmental Entity in connection with the Offer, the Merger and the other transactions contemplated by this Agreement (including the Offer Documents, the Admission Prospectus and any Alternative Admission Document), and such filings and submissions shall be prepared and submitted jointly where reasonably practicable. Neither Linde nor Praxair shall permit any of its officers or any other Representatives or agents to participate in any meeting or telephone call with any Governmental Entity in respect of any filings, investigation or other inquiry relating to the transactions contemplated hereby unless it consults with the other party in advance and, to

the extent permitted by such Governmental Entity, gives the other party the opportunity to attend and participate in such meeting or telephone call. Praxair and its Subsidiaries, on the one hand, and Linde and its Subsidiaries, on the other hand, shall not agree to any Settlement

A-26

Table of Contents

Actions without the prior written consent of Linde and Praxair, as applicable, which consent shall not be unreasonably conditioned, withheld or delayed. In exercising the foregoing rights, each of Linde and Praxair shall act reasonably and as promptly as reasonably practicable.

(c) Without limiting the generality of the undertakings pursuant to this Section 6.4, but subject to the terms and conditions set forth in this Agreement, including Section 6.4(d), each of Linde and Praxair agrees to take or cause to be taken the following actions:

(i) the prompt provision to each and every federal, state, local or foreign court or Governmental Entity with jurisdiction over enforcement of any applicable antitrust or competition Laws (such Laws, **Antitrust Laws** , and any such Governmental Entity, a **Governmental Antitrust Entity**) of non-privileged information, data and documents requested by any Governmental Antitrust Entity or that are necessary, proper or advisable to permit consummation of the transactions contemplated by this Agreement;

(ii) the prompt notification of each party (and the provision of copies or, in the case of non-written communications, details) of any communications relating to the transactions contemplated by this Agreement to, with or from any Governmental Antitrust Entity, where permitted by the relevant Governmental Antitrust Entity;

(iii) the prompt use of its reasonable best efforts to take all reasonably necessary, proper or advisable steps to (A) avoid the entry of, and (B) resist, vacate, modify, reverse, suspend, prevent, eliminate or remove, any actual, anticipated or threatened permanent, preliminary or temporary injunction or other order, decree, decision, determination or judgment entered or issued, or that becomes reasonably foreseeable to be entered or issued, in any proceeding or inquiry of any kind, in the case of each of the foregoing clauses (A) and (B), that would reasonably be expected to materially delay, restrain, prevent, enjoin or otherwise prohibit or make unlawful the consummation of the Offer, the Merger or the other transactions contemplated by this Agreement;

(iv) the regular joint review of the progress of the satisfaction of the Regulatory Condition and alignment on the strategy in relation to such condition on an ongoing basis; and

(v) the prompt provision to the other party of any information or assistance reasonably required for the receiving party to evaluate or offer any Settlement Actions.

(d) Without limiting any of its other obligations hereunder, each of New Holdco, Linde and Praxair shall, and shall cause its Subsidiaries (and shall use their respective reasonable best efforts to cause their respective Listed Subsidiaries) to, take all such further action as may be necessary to resolve such objections, if any, as the Governmental Antitrust Entity of any nation or other jurisdiction (including multinational or supranational) may assert under applicable Antitrust Law with respect to the transactions contemplated hereby, and to avoid or eliminate, and minimize the impact of, each and every impediment under any Antitrust Law that may be asserted by any Governmental Antitrust Entity with respect to the transactions contemplated by this Agreement, in each case so as to enable the transactions contemplated hereby to occur as promptly as practicable, and in no event later than the Longstop Date. In furtherance thereof, each of New Holdco, Linde and Praxair shall, and shall cause its Subsidiaries (and shall use their respective reasonable best efforts to cause their respective Listed Subsidiaries) to, propose, negotiate and offer to commit and effect (and if such offer is accepted, commit to and effect), by agreement, consent decree, hold separate order, trust or otherwise, (i) the sale, divestiture, lease, license or other disposition of such assets, businesses, services, products, product lines, licenses or other operations or interests therein of New Holdco, Linde or Praxair (or any of their respective Subsidiaries or Listed Subsidiaries, as applicable) or (ii) behavioral limitations, conduct restrictions or commitments with respect to any such assets, businesses, services, products, product lines, licenses or other operations or interests therein of New Holdco, Linde or Praxair (or any of their respective

Subsidiaries or Listed Subsidiaries, as applicable) or other action that would limit the freedom of action, ownership or control of New Holdco, Linde or Praxair or any of their respective Subsidiaries or Listed Subsidiaries, as applicable, with respect to, or its ability to retain or hold, one or more of its or its Subsidiaries and Listed Subsidiaries (including Praxair's or Linde's) assets, businesses,

A-27

Table of Contents

services, products, product lines, licenses or other operations or interests therein which it is lawfully capable of taking, in each case to the extent such action is required in order (A) to obtain all consents from any Governmental Antitrust Entity to the transactions contemplated hereby, (B) to avoid the commencement of any Action to prohibit or make unlawful the consummation of any of the transactions contemplated by this Agreement or (C) to avoid the entry of, or effect the dissolution of, any Governmental Order in any Action that would otherwise have the effect of preventing or making unlawful the consummation of any of the transactions contemplated by this Agreement (any such action described in this Section 6.4(d), a **Settlement Action**); provided, however, that in no event will New Holdco, Linde or Praxair be required to take or effect any Settlement Action that is not conditioned upon the consummation of the Closing. Notwithstanding the foregoing, none of New Holdco, Linde or Praxair or any of their respective Subsidiaries or Listed Subsidiaries shall be required to take any Settlement Action required by any Governmental Antitrust Entity under any Antitrust Laws that, individually or in the aggregate, would result in a Non-Required Remedy. No party hereto shall, without the other party's prior written consent, which shall not be unreasonably conditioned, withheld or delayed, enter into any agreement with any Governmental Antitrust Entity to extend any waiting period under any Antitrust Law, withdraw any filing with any Governmental Antitrust Entity or agree with any Governmental Antitrust Entity not to consummate the transactions contemplated by this Agreement. **Non-Required Remedy** has the meaning set forth in Section 6.4(d) of the Praxair Disclosure Letter and Section 6.4(d) of the Linde Disclosure Letter.

(e) **Treatment of Sensitive/Privileged Information**. Notwithstanding anything to the contrary contained herein, for any information exchanged under this Section 6.4, it is understood that Linde and Praxair may, as each deems necessary, reasonably designate any competitively sensitive material provided to the other party under this Section 6.4 or any subsection thereof as outside counsel only. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and will not be disclosed by such outside counsel to employees, officers, or directors of the recipient unless express permission is obtained in advance from the source of the materials (Linde or Praxair, as the case may be) or its legal counsel. Notwithstanding anything to the contrary contained herein, materials provided to the other party pursuant to this Section 6.4 or any subsection thereof may be redacted (i) to remove references concerning the valuation of the transactions contemplated hereby and (ii) as necessary to address reasonable privilege concerns. The parties agree to treat information protected from disclosure under the attorney-client privilege, work product doctrine, joint defense privilege or any other privilege pursuant to this Section 6.4 in a manner so as to preserve the applicable privilege.

6.5 **Access**. Subject to applicable Law, each of Linde and Praxair shall (and shall cause its Subsidiaries to), upon reasonable notice, afford the officers, employees, counsel, accountants, consultants, investment bankers and other authorized representatives (**Representatives**) of the other party reasonable access, during normal business hours throughout the period prior to the Effective Time, to its properties, books, Contracts and records and, during such period, each shall (and shall cause its Subsidiaries to) furnish promptly to the other party all information concerning its business, properties and personnel as may reasonably be requested; provided that the foregoing provisions shall not be construed to require either Linde or Praxair to permit any inspection, or to disclose any information, that in the reasonable judgment of Linde or Praxair, as the case may be, would (i) result in the disclosure of any trade secrets of Linde or Praxair, as the case may be, or any of its Subsidiaries or any third parties or violate the terms of any confidentiality provisions in any agreement with a third party entered into prior to the date of this Agreement if Linde or Praxair, as the case may be, shall have used reasonable best efforts (without payment of any consideration, fees or expenses) to (A) obtain the consent of such third party to such inspection or disclosure or (B) provide such information in a permitted manner, (ii) result in a violation of applicable Laws, including any fiduciary duty or Antitrust Laws, (iii) waive the protection of any attorney-client privilege or (iv) result in the disclosure of any sensitive or personal information that would expose Linde or Praxair, as the case may be, or any of its Subsidiaries to the risk of liability. No exchange of information or investigation pursuant to this Section 6.5 shall affect, modify or waive or be deemed to affect, modify or waive any representation or warranty of Linde or Praxair set forth in this Agreement. All requests for information made pursuant to this Section 6.5 shall be directed to an executive officer of

Linde or Praxair, as the case may be, or such Person as may be designated by either of their executive officers, as the case may be, with a copy to the General Counsel of such party. All such information shall be governed by the terms of the Confidentiality Agreement.

A-28

Table of Contents**6.6 Listing; Indices.**

(a) Delisting and Deregistration Matters. Prior to the Effective Time, Praxair shall take all actions as may be reasonably necessary such that the delisting of the Praxair Shares from the NYSE and the deregistration of the Praxair Shares under the Exchange Act shall occur promptly after the Effective Time.

(b) Exchange Listing. Prior to the Effective Time, New Holdco, Linde and Praxair shall use their respective reasonable best efforts to cause the New Holdco Shares to be issued pursuant to the Offer and the Merger and in accordance with this Agreement and the New Holdco Shares to be reserved for issuance upon exercise of the New Holdco Stock Options to be approved for listing on the NYSE and the regulated market and the prime standard of the regulated market of the Frankfurt Stock Exchange, subject, in each case, to official notice of issuance. If at any time prior to the Effective Time any of the parties discover that an amendment or supplement to documents or other information filed with the NYSE or Frankfurt Stock Exchange should be filed pursuant to applicable Law, or so that any such documents or information would not include any misstatement of a material fact or any omission of any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party that makes such discovery shall promptly notify the other parties and each party shall use reasonable best efforts to cause an appropriate amendment or supplement to be filed with the NYSE and Frankfurt Stock Exchange, as applicable, and, to the extent required by applicable Law, to cause such information to be made public.

(c) Inclusion of New Holdco Shares in Indices. Linde and Praxair shall use their respective reasonable best efforts to seek the inclusion after the Effective Time of the New Holdco Shares in the DAX30 and S&P500 indices.

6.7 Publicity. The initial press release regarding this Agreement and the Offer and the Merger shall be a joint press release mutually agreed by Linde and Praxair, and Linde and Praxair shall use reasonable best efforts to develop a joint communications plan and each party shall use reasonable best efforts to ensure that all press releases and other public statements with respect to the transactions contemplated hereby, to the extent they have not been previously issued or disclosed, shall be consistent with such joint communications plan. Unless otherwise required by applicable Law or by obligations pursuant to any listing agreement with or rules of any securities exchange, Linde and Praxair shall consult with each other before issuing any press release or public statement with respect to the transactions contemplated by this Agreement and shall not issue any such press release or public statement prior to such consultation. In addition to the foregoing, except to the extent disclosed in or consistent with the Offer Documents, neither Linde nor Praxair shall issue any press release or otherwise make any public statement or disclosure concerning the other party or the other party's business, financial condition or results of operations, to the extent not previously disclosed, without the consent of the other party, which consent shall not be unreasonably conditioned, withheld or delayed. Each of Linde and Praxair may make any public statements in response to questions by the press, analysts, investors, rating agencies or those attending industry conferences or analyst or investor conference calls, so long as such statements are not inconsistent with previous statements made jointly by Linde and Praxair.

6.8 Expenses. All Expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such Expenses; provided that (i) if the Business Combination is not consummated, any Expenses incurred by New Holdco and/or its affiliates shall be borne equally by Linde and Praxair as joint and several debtors and New Holdco and/or its affiliates shall be indemnified by Linde and Praxair therefor to the extent not prohibited by applicable Law, and (ii) to the extent that New Holdco does not have sufficient funds available under any third party debt financing arrangements and notwithstanding (i), Praxair shall provide financing to New Holdco in order to enable New Holdco to pay Expenses incurred by it when due; provided that if any nominee of Linde or Praxair, respectively, to the board or management of New Holdco and/or its affiliates shall have caused New Holdco to have breached its obligations under this Agreement, then Linde or Praxair, respectively, shall be solely

obligated to provide such indemnification in relation to such breach. As used in this Agreement, Expenses includes all out-of-pocket expenses (including all fees and

A-29

Table of Contents

expenses of Representatives to a party hereto and its affiliates) incurred by a party or on its behalf in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement and the transactions contemplated hereby, including any stamp duty, the preparation, printing, filing and mailing of the Offer Documents and the solicitation of stockholder approvals and tenders and all other matters related to the transactions contemplated hereby and thereby, including in the case of New Holdco any Expenses incurred by it and/or its affiliates in connection with the incorporation and financing of New Holdco prior to the date of this Agreement.

6.9 Stamp Taxes.

(a) (i) Each party shall use its reasonable best efforts and cooperate with respect to the application for written confirmations from the Revenue Commissioners of Ireland (**Revenue**) in relation to the Irish stamp duty that the Depository Trust Company and/or Clearstream Banking AG reasonably requests in connection with the issuance, delivery and/or future trading of New Holdco Shares and/or any other securities of New Holdco in connection with the Offer and the Merger and (ii) the parties shall cooperate to obtain any additional confirmations from Revenue in relation to stamp duty that they consider (acting reasonably) to be necessary in connection with the Offer and the Merger.

(b) The parties' authorized representatives shall execute this Agreement outside of Ireland, and New Holdco's authorized representative shall execute this Agreement while physically located in the United Kingdom.

(c) Any Irish stamp duty arising in connection with the issuance of New Holdco Shares to former Linde shareholders or former Praxair stockholders pursuant to this Agreement shall be borne by New Holdco.

6.10 Indemnification; Directors and Officers Insurance.

(a) From and after the Effective Time, New Holdco shall, or shall cause one of its Subsidiaries to, (i) indemnify and hold harmless, and provide advancement of expenses to, all past and present directors, officers and employees of Praxair, its Subsidiaries and its Listed Subsidiaries (in all of their capacities) (A) to the same extent such persons are indemnified or have the right to advancement of expenses as of the date of this Agreement by Praxair pursuant to the Organizational Documents of Praxair, its Subsidiaries or its Listed Subsidiaries and indemnification agreements, if any, in existence on the date hereof with any directors, officers and employees of Praxair, its Subsidiaries and its Listed Subsidiaries, and (B) without limitation to clause (A), to the fullest extent permitted by Law, in each case, for acts or omissions occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including for acts or omissions occurring in connection with the approval of this Agreement and the consummation of the transactions contemplated hereby) and (ii) to the fullest extent permitted by Law, include and cause to be maintained in effect in the Organizational Documents of New Holdco (or any successor) for a period of at least ten (10) years after the Effective Time, provisions regarding elimination of liability of directors, indemnification of officers, directors and employees and advancement of expenses which are, in the aggregate, no less advantageous to the intended beneficiaries than the corresponding provisions contained in the Organizational Documents of Praxair. Prior to the Effective Time, Praxair shall, and if Praxair is unable to, New Holdco shall as of the Effective Time, obtain and fully pay the premium for tail insurance policies for the extension of (x) the directors' and officers' liability coverage of Praxair's existing directors' and officers' insurance policies and (y) Praxair's existing fiduciary liability insurance policies, in each case for a claims reporting or discovery period of ten (10) years from and after the Effective Time (the **Tail Period**) from one or more insurance carriers with the same or better credit rating as Praxair's insurance carrier as of the date hereof with respect to directors' and officers' liability insurance and fiduciary liability insurance (collectively, **D&O Insurance**) with terms, conditions, retentions and limits of liability that are at least as favorable to the insureds as Praxair's existing policies with respect to matters existing or occurring at or prior to the Effective Time (including in connection with this Agreement or the transactions or actions contemplated hereby). If

Praxair or New Holdco for any reason fails to

A-30

Table of Contents

obtain such tail insurance policies as of the Effective Time, New Holdco shall continue to maintain in effect for the Tail Period the D&O Insurance in place as of the date of this Agreement with terms, conditions, retentions and limits of liability that are at least as favorable to the insured as provided in Praxair's existing policies as of the date of this Agreement, or New Holdco shall purchase comparable D&O Insurance for the Tail Period with terms, conditions, retentions and limits of liability that are at least as favorable as provided in Praxair's existing policies as of the date of this Agreement. The obligations of New Holdco under this Section 6.10(a) shall be subject to any restrictions of applicable Law and shall not be terminated or modified in such a manner as to adversely affect any indemnitee to whom this Section 6.10(a) applies without the consent of such affected indemnitee (it being expressly agreed that the indemnitees to whom this Section 6.10(a) applies shall be third-party beneficiaries of this Section 6.10(a) and Praxair enters into this Agreement, for the purpose of this Section 6.10(a), on its own behalf and as agent and trustee for and on behalf of each such indemnitee).

(b) From and after the Effective Time, New Holdco shall, or shall cause one of its Subsidiaries to, (i) indemnify and hold harmless, and provide advancement of expenses to, all past and present directors, officers and employees of Linde, its Subsidiaries and its Listed Subsidiaries (in all of their capacities) (A) to the same extent such persons are indemnified or have the right to advancement of expenses as of the date of this Agreement by Linde pursuant to the Organizational Documents of Linde, its Subsidiaries or its Listed Subsidiaries and indemnification agreements, if any, in existence on the date hereof with any directors, officers and employees of Linde, its Subsidiaries and its Listed Subsidiaries, and (B) without limitation to clause (A), to the fullest extent permitted by Law, in each case, for acts or omissions occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including for acts or omissions occurring in connection with the approval of this Agreement and the consummation of the transactions contemplated hereby) and (ii) to the fullest extent permitted by Law, include and cause to be maintained in effect in the Organizational Documents of New Holdco (or any successor) for a period of at least ten (10) years after the Effective Time, provisions regarding elimination of liability of directors, indemnification of officers, directors and employees and advancement of expenses which are, in the aggregate, no less advantageous to the intended beneficiaries than the corresponding provisions contained in the Organizational Documents of Linde. Prior to the Effective Time, Linde shall, and if Linde is unable to, New Holdco shall as of the Effective Time, obtain and fully pay the premium for tail insurance policies for the extension of (x) the directors and officers liability coverage of Linde's existing directors and officers insurance policies and (y) Linde's existing fiduciary liability insurance policies, including, for the avoidance of doubt, pension trust liability insurance policies, in each case for the Tail Period from one or more insurance carriers with the same or better credit rating as Linde's insurance carrier as of the date hereof with respect to D&O Insurance with terms, conditions, retentions and limits of liability that are at least as favorable to the insureds as Linde's existing policies with respect to matters existing or occurring at or prior to the Effective Time (including in connection with this Agreement or the transactions or actions contemplated hereby). If Linde or New Holdco for any reason fails to obtain such tail insurance policies as of the Effective Time, New Holdco shall continue to maintain in effect for the Tail Period the D&O Insurance in place as of the date of this Agreement with terms, conditions, retentions and limits of liability that are at least as favorable to the insured as provided in Linde's existing policies as of the date of this Agreement, or New Holdco shall purchase comparable D&O Insurance for the Tail Period with terms, conditions, retentions and limits of liability that are at least as favorable as provided in Linde's existing policies as of the date of this Agreement. The obligations of New Holdco under this Section 6.10(b) shall be subject to any restrictions of applicable Law and shall not be terminated or modified in such a manner as to adversely affect any indemnitee to whom this Section 6.10(b) applies without the consent of such affected indemnitee (it being expressly agreed that the indemnitees to whom this Section 6.10(b) applies shall be third-party beneficiaries of this Section 6.10(b) and Linde enters into this Agreement, for the purpose of this Section 6.10(b), on its own behalf and as agent and trustee for and on behalf of each such indemnitee).

(c) From and after the date of this Agreement, New Holdco shall, or shall cause one of its Subsidiaries to, (i) indemnify and hold harmless, and provide advancement of expenses to, all past and present directors, officers and

employees of New Holdco (in all of their capacities) (A) to the same extent such persons are indemnified or have the right to advancement of expenses as of the date of this Agreement by New Holdco pursuant to the

A-31

Table of Contents

Organizational Documents of New Holdco and indemnification agreements, if any, in existence on the date hereof with any directors, officers and employees of New Holdco, and (B) without limitation to clause (A), to the fullest extent permitted by Law, in each case, for acts or omissions occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time (including for acts or omissions occurring in connection with the approval of this Agreement and the consummation of the transactions contemplated hereby) and (ii) to the fullest extent permitted by Law, include and cause to be maintained in effect in the Organizational Documents of New Holdco (or any successor) for a period of at least ten (10) years after the Effective Time, provisions regarding elimination of liability of directors, indemnification of officers, directors and employees and advancement of expenses which are, in the aggregate, no less advantageous to the intended beneficiaries than the corresponding provisions contained in the Organizational Documents of New Holdco. The obligations of New Holdco under this Section 6.10(c) shall be subject to any restrictions of applicable Law and shall not be terminated or modified in such a manner as to adversely affect any indemnitee to whom this Section 6.10(c) applies without the consent of such affected indemnitee (it being expressly agreed that the indemnitees to whom this Section 6.10(c) applies shall be third-party beneficiaries of this Section 6.10(c) and New Holdco enters into this Agreement, for the purpose of this Section 6.10(c), on its own behalf and as agent and trustee for and on behalf of each such indemnitee). Prior to the Effective Time, Linde and Praxair shall be jointly and severally liable for the obligations of New Holdco under this Section 6.10(c); provided that if any nominee of Linde or Praxair, respectively, to the board or management of New Holdco and/or its affiliates shall have caused New Holdco to have breached its obligations under this Section 6.10(c), then Linde or Praxair, respectively, shall be solely obligated to provide such indemnification in relation to such breach.

6.11 Other Actions by Linde and Praxair.

(a) Section 16 Matters. Prior to the Effective Time, Praxair and New Holdco shall take all such steps as may be required to cause any dispositions of Praxair Shares (including derivative securities with respect to Praxair Shares) or acquisitions of New Holdco Shares (including derivative securities with respect to New Holdco Shares) resulting from the transactions contemplated by this Agreement by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to Praxair or New Holdco, as applicable, to be exempt under Rule 16b-3 promulgated under the Exchange Act.

(b) Non-Tender Agreement. Linde agrees and undertakes not to tender the Linde Excluded Shares into the Offer, and to enter into, as promptly as practicable after execution of this Agreement, the necessary agreements to the effect that BaFin will not require the Offer Consideration to also cover the Linde Treasury Shares.

6.12 New Holdco Capital Increase. Prior to the approval of the publication of the German Exchange Offer Document by BaFin, New Holdco shall take or cause to be taken all such steps as may be required for New Holdco to issue the New Holdco Shares and the New Holdco Stock-Based Awards (and New Holdco Shares underlying such awards) in respect of the Offer and the Merger (the New Holdco Capital Increase), including the due passing of (i) shareholders resolutions and (ii) board resolutions, in each case to enable New Holdco to deliver New Holdco Shares to the Linde shareholders accepting the Offer at the Offer Closing Time.

6.13 Financing Matters. To the extent the consummation of the transactions contemplated hereby will result in any breach or violation of, or a default under, or give rise to any mandatory repurchase under, the provisions of any material Contract related to indebtedness for borrowed money, between the date of this Agreement and the Effective Time each of Linde and Praxair shall, and shall cause its Subsidiaries to, use reasonable best efforts to (a) obtain all necessary waivers or consents for the purpose of waiving any terms or provisions of such Contracts that would have such an effect, (b) refinance, renew or replace the indebtedness under such Contracts; provided that the transactions contemplated hereby shall not result in any breach or violation of, or a default under, or give rise to any mandatory

repurchase under, the provisions of any Contract under which such indebtedness is refinanced, renewed or replaced, or (c) ensure that sufficient cash is available for the prompt payment of any indebtedness under any such Contracts. In addition, between the date of this Agreement and the Effective Time, each of Linde and Praxair shall, and shall cause its Subsidiaries to, use reasonable best efforts to cooperate to

A-32

Table of Contents

develop a mutually agreed global financing structure for New Holdco and its Subsidiaries from and after the Effective Time and to arrange such financing.

6.14 Employee Matters.

(a) For the period beginning at the Effective Time and ending on December 31 of the year in which the Closing occurs (the **Benefit Continuation Period**), New Holdco shall, to the fullest extent permitted by applicable Law, provide or cause to be provided to each individual who is employed as of the Effective Time by Praxair or any of its Subsidiaries or Listed Subsidiaries or by Linde or any of its Subsidiaries or Listed Subsidiaries and who remains employed by Praxair or any of its Subsidiaries or Listed Subsidiaries or by Linde or any of its Subsidiaries or Listed Subsidiaries (such employees collectively, the **Affected Employees**) (i) base salary in an amount substantially comparable to the base salary provided to the Affected Employee immediately prior to the Effective Time, (ii) an annual bonus opportunity that is substantially comparable to the annual bonus opportunity provided to the Affected Employee immediately prior to the Effective Time, and (iii) other compensation opportunities and employee benefits that are substantially comparable in the aggregate to those provided to the Affected Employee immediately prior to the Effective Time. Without limiting the generality of the foregoing, during the Benefit Continuation Period New Holdco shall cause Praxair, its Subsidiaries or its Listed Subsidiaries or Linde, its Subsidiaries or its Listed Subsidiaries to provide to each Affected Employee who suffers a termination of employment by Praxair, Linde or their respective Subsidiaries or Listed Subsidiaries severance benefits in amounts and on terms and conditions no less favorable in the aggregate to such Affected Employee than such Affected Employee would have received under the severance plans, programs, policies and arrangements applicable to such Affected Employee as of Closing. Notwithstanding the foregoing, the provisions of this Section 6.14(a) shall not apply with respect to Affected Employees whose employment is governed by a collective bargaining or similar agreement.

(b) With respect to any Benefit Plans in which any Affected Employees first become eligible to participate on or after the Effective Time, and in which such Affected Employees did not participate prior to the Effective Time (the **New Plans**), New Holdco shall, or shall cause its Subsidiaries (subject to applicable Law and applicable tax qualification requirements) to: (i) waive all pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the Affected Employees and their eligible dependents under any New Plans in which such Affected Employees may be eligible to participate after the Effective Time, except to the extent such pre-existing conditions, exclusions or waiting periods would apply under the analogous Benefit Plan of Linde or Praxair, as the case may be; (ii) provide each Affected Employee and his or her eligible dependents with credit for any co-payments and deductibles paid prior to the Effective Time under a Benefit Plan (to the same extent that such credit was given under the analogous Benefit Plan of Linde or Praxair, as applicable, prior to the Effective Time) in satisfying any applicable deductible or out-of-pocket requirements under any New Plans in which such Affected Employee may be eligible to participate after the Effective Time for the same plan year; and (iii) recognize all service of the Affected Employees with Linde and Praxair and their respective affiliates for all purposes (including purposes of eligibility to participate, vesting credit and entitlement to benefits) in any New Plan in which such employees may be eligible to participate after the Effective Time, including any severance plan, to the extent such service is taken into account under the applicable New Plan (to the extent recognized under the corresponding Benefit Plan of Linde or Praxair); provided that the foregoing shall not apply for purposes of benefit accrual under any New Plan that is a final average pay defined benefit plan (unless such New Plan is responsible for any liabilities accrued under a final average pay defined benefit plan sponsored by Praxair, Linde or one of their respective Subsidiaries) or to the extent it would result in duplication of benefits.

(c) No provision of this Section 6.14 shall be construed (i) as an amendment of any particular Benefit Plan, (ii) as a limitation on the right of New Holdco and its Subsidiaries to amend or terminate any specific Benefit Plan that Linde or Praxair would otherwise have under the terms of such Benefit Plan, (iii) to require the continuation of the

employment of any particular Affected Employee or (iv) to create any third-party beneficiary rights in any employee of Praxair or Linde or any of their respective Subsidiaries or Listed Subsidiaries, any

A-33

Table of Contents

beneficiary or dependent thereof, or any collective bargaining representative thereof, with respect to the compensation, terms and conditions of employment and/or benefits that may be provided to any Affected Employee by Praxair, Linde, New Holdco or any of their affiliates or under any benefit plan which Praxair, Linde, New Holdco or any of their affiliates may maintain. The provisions of this Section 6.14 are solely for the benefit of the parties to this Agreement, and no current or former director, officer, employee or independent contractor or any other person shall be a third-party beneficiary of this Agreement.

(d) Linde and Praxair shall consult with each other in good faith and in a reasonably timely manner in advance of any material written or oral communications to the directors, officers or employees of Praxair or any of its Subsidiaries or its Listed Subsidiaries or Linde or any of its Subsidiaries or its Listed Subsidiaries pertaining to compensation or benefit matters that are affected by the transactions contemplated by this Agreement.

(e) New Holdco shall ensure that there is a sufficient number of authorized but unissued New Holdco Shares in the share capital of New Holdco so that New Holdco may issue at least the maximum number of New Holdco Shares that will be subject to New Holdco Stock-Based Awards as a result of the actions contemplated by Sections 1.12 and 2.8. For the avoidance of doubt, pre-emption rights shall not apply, or, to the extent they would otherwise apply, shall be dis-applied, to any allotment of New Holdco Shares subject to New Holdco Stock-Based Awards. As soon as practicable following the Effective Time, New Holdco shall file a registration statement on Form S-8 (or any successor form, or, if Form S-8 is not available, other appropriate forms) with respect to the New Holdco Shares subject to such New Holdco Stock-Based Awards and shall maintain the effectiveness of such registration statement or registration statements (and maintain the current status of the prospectus or prospectuses contained therein) for so long as such New Holdco Stock-Based Awards remain outstanding.

6.15 Linde Engineering Setup. New Holdco, Linde and Praxair have the mutual understanding that Linde may take any action necessary to set up its worldwide engineering business, which comprises the engineering division of Linde (Linde Engineering), as a legally separate entity, so long as Linde and Praxair agree on the corporate set-up and arrangements of Linde Engineering prior to such legal separation. In the event of such a legal separation, Linde Engineering shall be incorporated as a corporation organized under the Laws of the Federal Republic of Germany (Linde Engineering Co) as a wholly-owned Subsidiary of Linde with its own management team and having its registered seat in Munich, Germany. The parties acknowledge that Linde Engineering's scope of business shall comprise Linde Engineering's current business including activities related to process engineering worldwide, and certain business opportunities of Linde will require appropriate governance and management structures to comply with applicable Laws and local market requirements. In order to secure such business of Linde Engineering or Linde Engineering Co, as the case may be, the parties will undertake all necessary steps that Linde Engineering or Linde Engineering Co, as the case may be, shall be provided with all rights and benefits consistent with past practice for as long as Linde Engineering or Linde Engineering Co is directly or indirectly controlled by either New Holdco or Linde, including the provision of financial services and/or guarantees, the right to use the Linde trademark, the status as supplier for the internal gases business, and the status as a separate division or entity. After the Effective Time, Linde and Praxair will operationally combine Linde Engineering and Praxair's engineering business, including having Praxair's engineering business report to, and be led by, the leader of Linde Engineering or, if applicable, Linde Engineering Co.

6.16 Agreements Concerning New Holdco, US Intermediate Holding Sub and Merger Sub. From the date of this Agreement until the Effective Time, New Holdco, US Intermediate Holding Sub and Merger Sub shall not engage in any activities of any nature except as provided in or contemplated by this Agreement and activities incidental thereto. Immediately following the execution of this Agreement, US Intermediate Holding Sub, as the sole stockholder of Merger Sub, shall execute and deliver a written consent adopting this Agreement in accordance with the DGCL.

Table of Contents

6.17 Creation of Distributable Reserves.

- (a) Unless Linde and Praxair otherwise agree, Praxair shall use its reasonable best efforts to submit to the vote of the Praxair stockholders at the Praxair Stockholders Meeting a resolution (the **Praxair Distributable Reserves Resolution**) to approve the creation of distributable reserves of New Holdco by (1) the reduction of the share premium or other undenominated capital of New Holdco resulting from the transactions contemplated by this Agreement; and (2) by any other means (clauses (1) and (2) together, the **New Holdco Distributable Reserves Creation**).
- (b) The parties agree that neither the approval of the Praxair Distributable Reserves Resolution nor the implementation of the New Holdco Distributable Reserves Creation shall be a condition to the parties' obligations to effect the Closing.
- (c) Subject to approval of the Praxair Distributable Reserves Resolution by the Praxair stockholders, New Holdco shall:
- (i) prior to completion of the transactions contemplated by this Agreement, procure the passing of a resolution of the shareholders of New Holdco providing for the reduction of share capital of New Holdco in order to allow an application to be made under Chapter 4 of Part 3 of the Companies Act 2014 to the High Court to allow for the New Holdco Distributable Reserves Creation; and
- (ii) as promptly as reasonably practicable following completion of the transactions contemplated by this Agreement, prepare and file an application to the High Court, and take all other steps, for an order pursuant to the Companies Act 2014 approving the New Holdco Distributable Reserves Creation.

6.18 Pension and Deferred Compensation Matters. New Holdco shall ensure that, from and after the Effective Time, Linde honors all financial obligations (including those accruing prior to, upon or following the date of this Agreement in accordance with the applicable Benefit Plan that is in effect as of the date of this Agreement) of Linde and of any of its German Subsidiaries with whom Linde has entered, directly or indirectly (through Subsidiaries of Linde), into any enterprise agreements (*Unternehmensverträge*) as of the date of this Agreement with respect to pension and deferred compensation benefits to current and former directors, officers and employees pursuant to any Benefit Plan in effect as of the date of this Agreement. Prior to, but only effective upon, the Effective Time, New Holdco shall enter into a guarantee with Linde Vorsorge Aktiv Fonds e.V., as representative of the pension and deferred compensation beneficiaries, to guarantee Linde's financial obligations set forth in the preceding sentence.

6.19 Agreements with Employees.

- (a) The parties acknowledge that Linde has undertaken certain commitments vis-à-vis the Linde employee representatives set forth in the Key Issue Paper on Employment Protection for Linde Germany and the Letter of Interest on Employment Protection for Linde Germany, both dated December 6, 2016, copies of which are set forth in Section 6.19(a) of the Linde Disclosure Letter.
- (b) From and after the date hereof and until the earliest of the Effective Time, the termination of the Specified Covenants and the termination of this Agreement in accordance with Article VIII, except in the ordinary and usual course of business consistent with past practice, or except, in the case of Praxair, as otherwise set forth in Section 6.19(b) of the Praxair Disclosure Letter or, in the case of Linde, as otherwise set forth in Section 6.19(b) of the Linde Disclosure Letter, neither party nor any of its Subsidiaries shall become a party to, establish, adopt, amend, commence participation in or terminate any collective bargaining agreement or other agreement with a labor union, works council or similar organization without obtaining, to the extent permitted by applicable Law, the prior approval

of the other party (which approval shall not be unreasonably withheld, conditioned or delayed).

A-35

Table of Contents

(c) It is anticipated that the existing agreements with German and European works councils will continue to be in effect after the Closing Date. The parties acknowledge that New Holdco will remain committed to working with such works councils in a cooperative manner consistent with past practice as well as the future best interests of New Holdco, its employees and shareholders.

6.20 Tax Matters. Each party shall use its reasonable best efforts and cooperate to cause the Tax treatment of the transactions contemplated by this Agreement for U.S. Federal income Tax purposes to be the Intended Tax Treatment. Neither Linde nor Praxair shall knowingly take or fail to take (and, following the consummation of the transactions contemplated by this Agreement, New Holdco shall cause Linde and Praxair not to knowingly take or fail to take) any action that would be inconsistent with the Tax treatment of the transactions contemplated by this Agreement for U.S. Federal income Tax purposes being the Intended Tax Treatment. Linde and Praxair shall each use its reasonable best efforts and cooperate to exchange any information reasonably necessary to confirm that the Tax treatment of the transactions contemplated by this Agreement for U.S. Federal income Tax purposes shall be the Intended Tax Treatment, including complying with the Tax Resolution Procedures.

6.21 American Depositary Receipts. The American depositary receipts (the ADRs) evidencing American depositary shares, each of which depositary share represents a beneficial interest in one tenth of a Linde Share, deposited with Deutsche Bank Trust Company Americas (the Depository) pursuant to the deposit agreement (the Deposit Agreement) between Linde and the Depository, dated January 11, 2010, shall not be subject to the Offer. The parties acknowledge that, pursuant to the Deposit Agreement, a holder of ADRs may surrender some or all of its ADRs to the Depository and receive the deposited Linde Shares represented thereby and subsequently tender such Linde Shares in the Offer. The parties further acknowledge that Linde may at any time and at its discretion terminate the Deposit Agreement in accordance with its terms.

6.22 Compliance Matters. New Holdco, Linde and Praxair shall use their reasonable best efforts to develop and adopt an economic sanctions compliance plan for the New Holdco Group in accordance with Section 4.1, which plan shall become effective upon the Effective Time.

6.23 Preservation of Heritage. From and after the Effective Time, New Holdco shall, or shall cause Linde or one of its Subsidiaries to, preserve Linde's museum and historic archive in a manner consistent with Linde's past practice.

ARTICLE VII

CONDITIONS TO THE OFFER / MERGER

7.1 Conditions to the Completion of the Offer. Notwithstanding any other provisions of the Offer or this Agreement, and in addition to (and not in limitation of) New Holdco's rights to extend and amend the Offer at any time (subject to the provisions of this Agreement, including Section 1.7, and to applicable Laws, including for the avoidance of doubt Rule 14e-1(c) under the Exchange Act (relating to New Holdco's obligation to pay for or return tendered Linde Shares promptly after termination or withdrawal of the Offer)), New Holdco shall not be required to accept for exchange or exchange for, and may delay the acceptance for exchange of or the exchange for, any validly tendered Linde Shares unless each of the following conditions shall be satisfied (or waived as set forth below). For purposes of this Agreement, when reference is made to one or more of the conditions to completion of the Offer being satisfied (or words of similar import), it shall mean, in the case of any condition contained in Section 7.1(a) (other than Sections 7.1(a)(ii)(C), 7.1(a)(iii)(B) and 7.1(a)(v)), that such condition shall have been satisfied and, in the case of any condition contained in Section 7.1(a)(ii)(C), 7.1(a)(iii)(B), 7.1(a)(v), 7.1(b) or 7.1(c), that such condition does not exist.

(a) Mutual Conditions. The following conditions shall be waived by New Holdco only following approval by both Linde and Praxair, acting together (except for the condition in Section 7.1(a)(iv), which may not be

A-36

Table of Contents

waived, and except as provided in Section 1.14), in each case, if and to the extent that such waiver is permitted by the German Takeover Act:

(i) **Minimum Acceptance Condition**. At the Expiration Time, the sum of (A) the number of Linde Shares validly tendered in the Offer and not withdrawn prior to the Expiration Time, (B) the number of Linde Shares, if any, held by New Holdco, any member of the New Holdco group or any person acting in concert with New Holdco within the meaning of Section 2 para. 5 of the German Takeover Act, (C) the number of Linde Shares that must be attributed to New Holdco or any member of the New Holdco Group in accordance with Section 30 of the German Takeover Act, (D) the number of Linde Shares for which New Holdco, any member of the New Holdco Group or any person acting in concert with New Holdco within the meaning of Section 2 para. 5 of the German Takeover Act has entered into an agreement outside of the Offer, giving them the right to demand the transfer of title of such Linde Shares, and (E) the number of Linde Shares for which irrevocable undertakings to tender such shares have been executed and delivered to New Holdco (Linde Shares that fall within the scope of several of the categories (A) through (E) shall only be counted once) shall be equal to or greater than 75% of the sum of (x) the number of Linde Shares (other than any Linde Excluded Shares) outstanding as of the Commencement of the Offer and (y) the number of Further Linde Shares (such condition, the **Minimum Acceptance Condition**).

(ii) **Regulatory Approvals**. (A) After publication of the German Exchange Offer Document and at the latest by the date that is twelve (12) months after the Expiration Time (the **Longstop Date**), the Business Combination contemplated by this Agreement shall have been approved by the Governmental Antitrust Entities in the following jurisdictions or the statutory waiting periods in the following jurisdictions shall have expired, with the result that the Business Combination contemplated by this Agreement may be completed:

(1) European Union,

(2) The United States of America,

(3) China,

(4) India,

(5) South Korea,

(6) Brazil,

(7) Russia,

(8) Canada, and

(9) Mexico.

(B) After publication of the German Exchange Offer Document and at the latest by the Longstop Date, the CFIUS Approval shall have been obtained.

(C) Prior to the Offer Closing Time, no Governmental Entity that must grant a regulatory approval required under clause (A) or (B) of this Section 7.1(a)(ii) has denied such grant in writing and such denial has become final, binding and non-appealable.

(iii) Registration Statement. (A) Prior to the Expiration Time, the Registration Statement shall have been declared effective by the SEC.

(B) As of the Expiration Time, the Registration Statement shall not be the subject of any stop order issued by the SEC pursuant to Section 8(d) of the Securities Act or any proceeding initiated by the SEC seeking such a stop order.

(iv) Praxair Requisite Vote. Prior to the Expiration Time, the Praxair Requisite Vote shall have been obtained after a vote of the Praxair stockholders has been taken and completed at the Praxair Stockholders Meeting or at any adjournment or postponement thereof.

A-37

Table of Contents

(v) **No Injunction or Illegality**. As of the Expiration Time, there shall not be any Law, regulation, administrative act, injunction, temporary restraining order or preliminary or permanent injunction or other order issued by any Governmental Entity in Ireland, the United Kingdom, Germany or the United States of America that shall prohibit or make illegal the consummation of the Offer or the Merger or the acquisition or ownership of the Linde Shares or the Praxair Shares by New Holdco.

(b) **Conditions Waivable by Praxair**

(i) **No Material Adverse Effect on Linde**. After the date of this Agreement and prior to the Expiration Time, (A) Linde shall not have published new circumstances pursuant to Article 17 of the Market Abuse Regulation and (B) there shall not have occurred any change, event, circumstance or development that would have had to be published by Linde pursuant to Article 17 of the Market Abuse Regulation and that Linde did not publish pursuant to Article 17 para. 4 of the Market Abuse Regulation and that, in each case of clause (A) or (B), such circumstances have resulted in, or would reasonably be expected to result in, individually or in the aggregate, a recurring (for at least two (2) consecutive financial years) negative effect on annual EBITDA in financial years 2017 and 2018 or 2018 and 2019 in excess of 410 million or a one-time negative effect on annual EBITDA in financial year 2017, 2018 or 2019 in excess of 820 million (a **Linde Material Adverse Effect**). This condition shall be waived by New Holdco following approval by Praxair if and to the extent that such waiver is permitted by the German Takeover Act.

(ii) **No Material Compliance Violation by Linde**. Between the Commencement of the Offer and the Expiration Time no criminal offense or material administrative offense (*Ordnungswidrigkeit*) relating to applicable corruption, anti-bribery, money-laundering or cartel Laws (**Linde Material Compliance Violation**) by a member of a governing body or officer of Linde or a Subsidiary of Linde, while any such person was operating in their official capacity at or on behalf of Linde or its Subsidiaries, shall be known to have occurred, if any such Linde Material Compliance Violation constitutes or would constitute insider information for Linde pursuant to Article 7 of the Market Abuse Regulation or has constituted insider information prior to its publication. This condition shall be waived by New Holdco following approval by Praxair if and to the extent that such waiver is permitted by the German Takeover Act.

(c) **Conditions Waivable by Linde**

(i) **No Material Adverse Effect on Praxair**. After the date of this Agreement and prior to the Expiration Time, there shall not have occurred any change, event, circumstance or development that has resulted in, or would reasonably be expected to result in, individually or in the aggregate, a recurring (for at least two (2) consecutive financial years) negative effect on annual EBITDA in financial years 2017 and 2018 or 2018 and 2019 in excess of \$350 million or a one-time negative effect on annual EBITDA in financial year 2017, 2018 or 2019 in excess of \$700 million (a **Praxair Material Adverse Effect**). This condition shall be waived by New Holdco following approval by Linde if and to the extent that such waiver is permitted by the German Takeover Act.

(ii) **No Material Compliance Violation by Praxair**. Between the Commencement of the Offer and the Expiration Time no criminal offense or material administrative offense (*Ordnungswidrigkeit*) relating to applicable corruption, anti-bribery, money-laundering or cartel Laws (**Praxair Material Compliance Violation**) by a member of a governing body or officer of Praxair or a Subsidiary of Praxair, while any such person was operating in their official capacity at or on behalf of Praxair or its Subsidiaries, shall be known to have occurred, if any such Praxair Material Compliance Violation constitutes or would constitute insider information for Praxair pursuant to Article 7 of the Market Abuse Regulation or has constituted insider information prior to its publication, determined as if the Market Abuse Regulation applies to Praxair. This condition shall be waived by New Holdco following approval by Linde if and to the extent that such waiver is permitted by the German Takeover Act.

(d) Independent Expert. A Linde Material Adverse Effect or a Praxair Material Adverse Effect and/or a Linde Material Compliance Violation or a Praxair Material Compliance Violation shall only be deemed to have

A-38

Table of Contents

occurred if, on or before the day before the publication of the results of the Offer pursuant to Section 23 para. 1 sentence 1 no. 2 of the German Takeover Act, an independent expert from Deloitte or another independent expert mutually selected by Linde and Praxair (the **Independent Expert**), using the due and careful consideration of a diligent professional, has delivered an opinion that a Linde Material Adverse Effect, a Praxair Material Adverse Effect, a Linde Material Compliance Violation or a Praxair Material Compliance Violation has occurred. Either Linde or Praxair may request that the Independent Expert undertake an evaluation of whether a Linde Material Adverse Effect, a Praxair Material Adverse Effect, a Linde Material Compliance Violation or a Praxair Material Compliance Violation has occurred with respect to the other party. The Independent Expert shall further render its opinion without undue delay. New Holdco shall publish the result of the opinion of the Independent Expert without undue delay in the electronic German Federal Gazette (*elektronischer Bundesanzeiger*), *Frankfurter Allgemeine Zeitung* and *The Wall Street Journal* with reference to the Offer. The opinion of the Independent Expert shall be binding and non-appealable.

7.2 **Condition to the Completion of the Merger.** The obligation of Praxair to consummate the Merger is subject to the prior occurrence of the Offer Closing Time.

ARTICLE VIII

TERMINATION

8.1 **Term of the Agreement.** Except as otherwise expressly set forth in this Agreement, this Agreement shall have a fixed term, ending two (2) years from the date of the Offer Announcement (such end date, the **Agreement End Date**).

8.2 **Full Termination of the Agreement by Mutual Consent.** This Agreement may be terminated in full by mutual written consent of Linde and Praxair at any time prior to the Offer Closing Time.

8.3 **Termination by Either Linde or Praxair.**

(a) This Agreement may be terminated in full by either Linde or Praxair at any time prior to the Offer Closing Time:

(i) if, at the Expiration Time, any Offer Condition (other than the Offer Conditions set forth in Sections 7.1(a)(i) and 7.1(a)(iv)) that has to be satisfied or waived by the Expiration Time has not been satisfied or waived;

(ii) if the Offer Closing Time shall not have occurred by the Longstop Date as a result of the non-satisfaction of the Regulatory Condition; **provided, however,** that, except following the termination of the Specified Covenants pursuant to Section 8.3(b), the right to terminate this Agreement pursuant to this Section 8.3(a)(ii) may not be exercised by any party whose failure or whose Subsidiary's failure to perform any material covenant or obligation under this Agreement has been the cause of, or resulted in, the non-satisfaction of the Regulatory Condition;

(iii) if, prior to the Expiration Time, the Praxair Requisite Vote shall not have been obtained after a vote of the Praxair stockholders has been taken and completed at the Praxair Stockholders Meeting or at any adjournment or postponement thereof;

(iv) if, at the Expiration Time, the Minimum Acceptance Condition shall have been neither satisfied nor waived; or

(v) if any Governmental Entity that must grant a regulatory approval required under Section 7.1(a)(ii)(A) or 7.1(a)(ii)(B) has denied such grant in writing and such denial has become final, binding and non-appealable; **provided, however,** that, except following the termination of the Specified Covenants pursuant to

A-39

Table of Contents

Section 8.3(b), the right to terminate this Agreement pursuant to this Section 8.3(a)(v) may not be exercised by any party whose failure or whose Subsidiary's failure to perform any material covenant or obligation under this Agreement has been the cause of, or resulted in, the denial of such grant.

(b) The Specified Covenants may be terminated:

(i) by mutual written consent of Linde and Praxair at any time prior to the Offer Closing Time;

(ii) by either Linde or Praxair at any time prior to the Offer Closing Time, if any permanent injunction or other order issued by any Governmental Entity in Ireland, the United Kingdom, Germany or the United States of America that shall prohibit or make illegal the consummation of the Offer or the Merger or the acquisition or ownership of the Linde Shares or the Praxair Shares by New Holdco shall become final and non-appealable; provided, however, that the right to terminate the Specified Covenants pursuant to this Section 8.3(b)(ii) may not be exercised by any party whose failure or whose Subsidiary's failure to perform any material covenant or obligation under this Agreement has been the cause of, or resulted in, the entry of such injunction or other order;

(iii) by either Linde or Praxair at any time prior to the Offer Closing Time, if an Adverse Tax Event shall have occurred; provided, however, that the right to terminate the Specified Covenants pursuant to this Section 8.3(b)(iii) may not be exercised by any party that has failed to perform in any material respect the covenants set forth in Section 6.20 required to be performed by it and such failure remains uncured;

(iv) by Praxair at any time after the Expiration Time and prior to the Offer Closing Time, if, after the Expiration Time, there shall have been any change, event, occurrence or effect that, individually or in the aggregate, has had or is reasonably expected to have a Material Adverse Change on Linde;

(v) by Linde at any time after the Expiration Time and prior to the Offer Closing Time, if, after the Expiration Time, there shall have been any change, event, occurrence or effect that, individually or in the aggregate, has had or is reasonably expected to have a Material Adverse Change on Praxair;

(vi) by Praxair at any time prior to the Offer Closing Time, if Linde shall have failed to perform in any material respect the covenants set forth in Section 6.4 (*Cooperation; Efforts to Consummate*) required to be performed by Linde, and such breach (x) is not curable or (y) if curable, is not cured prior to the earlier of (A) the business day prior to the Longstop Date or (B) the date that is thirty (30) days after the date that written notice thereof is delivered to Linde by Praxair; provided, however, that the right to terminate the Specified Covenants pursuant to this Section 8.3(b)(vi) may not be exercised by Praxair if it has failed to perform in any material respect the covenants set forth in Section 6.4 (*Cooperation; Efforts to Consummate*) required to be performed by it and such failure remains uncured; or

(vii) by Linde at any time prior to the Offer Closing Time, if Praxair shall have failed to perform in any material respect the covenants set forth in Section 6.4 (*Cooperation; Efforts to Consummate*) required to be performed by Praxair, and such breach (x) is not curable or (y) if curable, is not cured prior to the earlier of (A) the business day prior to the Longstop Date or (B) the date that is thirty (30) days after the date that written notice thereof is delivered to Praxair by Linde; provided, however, that the right to terminate the Specified Covenants pursuant to this Section 8.3(b)(vii) may not be exercised by Linde if it has failed to perform in any material respect the covenants set forth in Section 6.4 (*Cooperation; Efforts to Consummate*) required to be performed by it and such failure remains uncured.

8.4 Full Termination of the Agreement by Praxair. This Agreement may be terminated in full by Praxair:

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

(a) at any time prior to the satisfaction or waiver of the Minimum Acceptance Condition if either of the Linde Boards does not issue its Linde Reasoned Statement within twenty (20) business days of the Commencement of the Offer; or

(b) at any time prior to the satisfaction or waiver of the Minimum Acceptance Condition if (i) the Linde Executive Board shall have effected a Change in Linde Executive Board Recommendation or (ii) the Linde

A-40

Table of Contents

Supervisory Board shall have effected a Change in Linde Supervisory Board Recommendation by issuing a negative recommendation.

8.5 Full Termination of the Agreement by Linde. This Agreement may be terminated in full by Linde:

(a) at any time prior to receipt of the Praxair Requisite Vote at the Praxair Stockholders Meeting if the Praxair Board shall have effected a Change in Praxair Recommendation; or

(b) at any time prior to the Expiration Time if New Holdco's decision to launch the Offer has not been published without undue delay (*unverzüglich*) (pursuant to Section 10 para. 1 sentence 1 of the German Takeover Act) upon execution of this Agreement; provided, however, that the right to terminate this Agreement pursuant to this Section 8.5(b) will not be available to Linde if it has caused such undue delay.

8.6 Effect of Termination and Abandonment: Termination Fees.

(a) Effect of Termination and Abandonment.

(i) In the event of termination in full of this Agreement pursuant to this Article VIII, this Agreement (other than as set forth in this Section 8.6 and Section 9.1) shall become void and of no effect with no liability on the part of any party hereto (or of any of its directors, officers, employees, agents, legal and financial advisors or other Representatives); provided, however, that, except as otherwise provided herein, no such termination shall relieve any party hereto of any liability or damages to any other party hereto resulting from any fraud or willful and material breach of this Agreement; provided, further, that the parties shall cooperate with each other in connection with the withdrawal of any applications to or termination of proceedings before any Governmental Entity in connection with the transactions contemplated by this Agreement. For purposes of this Agreement, willful and material breach shall mean a material breach that is a consequence of an act undertaken, or the failure to take an action, by the breaching party with the knowledge that the taking of such act, or failure to take such act, would, or would reasonably be expected to, cause a breach of this Agreement.

(ii) In the event of termination of the Specified Covenants pursuant to Section 8.3(b), the Specified Covenants shall become void and of no effect with no liability for any failure to comply therewith on the part of any party hereto (or of any of its directors, officers, employees, agents, legal and financial advisors or other Representatives); provided, however, that, except as otherwise provided herein, no such termination shall relieve any party hereto of any liability or damages to any other party hereto resulting from any fraud or willful and material breach of the Specified Covenants prior to the date of such termination.

(iii) To the extent the Offer is terminated as a result of an Offer Condition not being satisfied or waived, New Holdco shall, promptly following such termination, take all necessary actions and make all required filings with the SEC to withdraw the Registration Statement.

(b) Termination Fee Payable by Praxair.

(i) In the event that this Agreement is terminated by Linde pursuant to Section 8.5(a) or is terminated by either Linde or Praxair pursuant to Section 8.3(a)(iii) (and, at the time of such termination pursuant to Section 8.3(a)(iii), Linde had a right to terminate this Agreement pursuant to Section 8.5(a)), then Praxair shall, within two business days following such termination, pay or cause to be paid to Linde an amount equal to \$250,000,000 (the Praxair Termination Payment) by wire transfer of same day funds.

(ii) In the event that (A) after the date of this Agreement, an Acquisition Proposal for Praxair shall have been publicly announced or otherwise publicly communicated or made publicly known (or any third party shall have publicly announced, communicated or made known a bona fide intention, whether or not conditional, to make a proposal with respect to an Acquisition Proposal) and such Acquisition Proposal or publicly announced intention shall not have been publicly withdrawn on a bona fide basis without

A-41

Table of Contents

qualification prior to the Praxair Stockholders Meeting, (B) thereafter, this Agreement is terminated by Linde or Praxair pursuant to Section 8.3(a)(iii) or 8.5(b) and (C) within twelve (12) months of such termination pursuant to Section 8.3(a)(iii) or 8.5(b), Praxair or any of its Subsidiaries executes any Alternative Acquisition Agreement with respect to, or consummates, or approves or recommends to the Praxair stockholders to accept, any Acquisition Proposal for Praxair (it being understood that, for purposes of this clause (C), the term Acquisition Proposal shall have the meaning assigned to such term in Annex I except that each reference to 15% or more in the definition of Acquisition Proposal and Major Subsidiary shall be deemed to be a reference to 50% or more), then Praxair shall, concurrently with the completion of such acquisition or transaction (or, if earlier, the entry into such Contract) pay or cause to be paid to Linde, by wire transfer of same day funds, an amount equal to the Praxair Termination Payment.

(c) Termination Fee Payable by Linde.

(i) In the event that this Agreement is terminated by Praxair pursuant to Section 8.4(a) or Section 8.4(b) or is terminated by either Linde or Praxair pursuant to Section 8.3(a)(iv) (and, at the time of such termination pursuant to Section 8.3(a)(iv), Praxair had a right to terminate this Agreement pursuant to Section 8.4(a) or Section 8.4(b) or, prior to the Expiration Time, the Linde Supervisory Board shall have effected a Change in Linde Supervisory Board Recommendation by issuing a neutral recommendation), then Linde shall, within two business days following such termination, pay or cause to be paid to Praxair an amount equal to 250,000,000 (the Linde Termination Payment) by wire transfer of same day funds.

(ii) In the event that (A) after the date of this Agreement, an Acquisition Proposal for Linde shall have been publicly announced or otherwise publicly communicated or made publicly known (or any third party shall have publicly announced, communicated or made known a bona fide intention, whether or not conditional, to make a proposal with respect to an Acquisition Proposal) and such Acquisition Proposal or publicly announced intention shall not have been publicly withdrawn on a bona fide basis without qualification prior to the Expiration Time, (B) thereafter, this Agreement is terminated by Linde or Praxair pursuant to Section 8.3(a)(iv) and (C) within twelve (12) months of such termination pursuant to Section 8.3(a)(iv), Linde or any of its Subsidiaries executes any Alternative Acquisition Agreement with respect to, or consummates, or approves or recommends to the Linde shareholders to accept, any Acquisition Proposal for Linde (it being understood that, for purposes of this clause (C), the term Acquisition Proposal shall have the meaning assigned to such term in Annex I except that each reference to 15% or more in the definition of Acquisition Proposal and Major Subsidiary shall be deemed to be a reference to 50% or more), then Linde shall, concurrently with the completion of such acquisition or transaction (or, if earlier, the entry into such Contract), pay or cause to be paid to Praxair, by wire transfer of same day funds, an amount equal to the Linde Termination Payment.

(d) Costs and Interest. If either party fails to promptly pay or cause to be paid the amount due pursuant to this Section 8.6, and, in order to obtain such payment, the other party commences a suit that results in a judgment against such party for the payment set forth in this Section 8.6 or any portion of such payment, such party shall pay the other party its costs and expenses (including attorneys' fees) in connection with such suit, together with interest on the amount of the payment at the prime rate of HSBC Bank, London, in effect on the date such payment was required to be paid, from the date on which such payment was required through the date of actual payment. In no event shall Linde or Praxair be obligated pursuant to this Section 8.6 to pay more than one Linde Termination Payment or Praxair Termination Payment, respectively.

8.7 Exclusive Means of Termination. Except in accordance with this Article VIII, no party may bring any claim seeking to terminate or rescind this Agreement or the transactions contemplated by this Agreement, or terminate the Specified Covenants, on any basis (including in contract or tort, under securities Laws or otherwise).

Table of Contents

ARTICLE IX

MISCELLANEOUS AND GENERAL

9.1 Survival. This Article IX and the agreements of Linde and Praxair contained in Sections 1.12 (*Effect of the Offer on Linde Equity Awards and Linde Shares Held by Board Members and Employees*), 2.8 (*Effect of the Merger on Praxair Stock Options and Awards*), 3.1 (*Post-Closing Reorganization of Linde*), 4.1 (*Governance and Additional Matters*), 6.6(c) (*Listing; Indices Inclusion of New Holdco Shares in Indices*), 6.10 (*Indemnification; Directors and Officers Insurance*), 6.14 (*Employee Matters*), 6.15 (*Linde Engineering Setup*), 6.18 (*Pension and Deferred Compensation Matters*) and 6.23 (*Preservation of Heritage*) shall survive the consummation of the Offer and the Merger. No other representations, warranties, covenants or agreements in this Agreement shall survive the consummation of the Offer and the Merger, and no party may bring any claim for any breach of such other representations, warranties, covenants or agreements on any basis (including in contract or tort, under securities Laws or otherwise) following the consummation of the Offer and the Merger. This Article IX, the agreements of Linde and Praxair contained in Section 6.8 (*Expenses*) and Section 8.6 (*Effect of Termination and Abandonment; Termination Fees*), the Confidentiality Agreement, the Clean Team Confidentiality Agreement and the Common Interest Agreement shall survive the termination of this Agreement. No other representations, warranties, covenants or agreements in this Agreement shall survive the termination of this Agreement and, except as set forth in Section 8.6(a)(i), no party may bring any claim for any breach of such other representations, warranties, covenants or agreements on any basis (including in contract or tort, under securities Laws or otherwise) following the termination of this Agreement.

9.2 Modification or Amendment. Subject to the provisions of applicable Law, and except as otherwise provided in this Agreement (including Section 1.14), this Agreement may be amended, modified or supplemented only by a written instrument executed and delivered by all of the parties hereto, whether before or after the Expiration Time or the receipt of the Praxair Requisite Vote; provided that, no amendment shall be made (i) following the Expiration Time, for which applicable Law or the rules of any relevant stock exchange would require the Offer to remain open or (ii) following the receipt of the Praxair Requisite Vote, for which applicable Law or the rules of any relevant stock exchange requires further approval by the Praxair stockholders, without such further approval.

9.3 Waiver of Conditions. Subject to Section 1.14, the conditions to each of the parties' obligations to consummate the Offer and the Merger are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable Law.

9.4 Counterparts. This Agreement may be executed in any number of separate counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

9.5 Governing Law, Venue and Jurisdiction; Waiver of Trial by Jury.

(a) EXCEPT FOR (i) THE FIDUCIARY DUTIES OF THE LINDE BOARDS AND THE VALIDITY OF ANY CORPORATE ACTION ON THE PART OF LINDE, WHICH SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAWS OF THE FEDERAL REPUBLIC OF GERMANY WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF, (ii) THE FIDUCIARY DUTIES OF THE PRAXAIR BOARD AND THE VALIDITY OF ANY CORPORATE ACTION ON THE PART OF PRAXAIR, WHICH SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF AND (iii) THE PROVISIONS RELATING TO THE DUTIES OF NEW HOLDCO UNDER THE GERMAN TAKEOVER ACT AND THE OFFER CONDITIONS DESCRIBED IN SECTION 7.1

HERETO, WHICH SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAWS OF THE FEDERAL

A-43

Table of Contents

REPUBLIC OF GERMANY WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF, THIS AGREEMENT SHALL IN ALL RESPECTS BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAWS OF IRELAND WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF.

(b) Except with respect to (i) matters subject to the Tax Resolution Procedures, and (ii) determining whether a Linde Material Adverse Effect, a Praxair Material Adverse Effect, a Linde Material Compliance Violation or a Praxair Material Compliance Violation has occurred, which determination shall be made by the Independent Expert pursuant to Section 7.1(d), each of the parties hereby irrevocably agrees that the courts of Ireland, Delaware and Germany are to have exclusive jurisdiction to settle any dispute arising out of or in connection with the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement and in respect of the transactions contemplated hereby (including non-contractual disputes or claims); provided, however, that only Linde may initiate a proceeding, suit or action in the courts of Delaware and only Praxair may initiate a proceeding, suit or action in the courts of Germany. For the purposes of the foregoing, each of the parties hereby irrevocably submits to the exclusive jurisdiction of such courts and agrees that any proceeding, suit or action arising in respect of such matters shall therefore be brought in such courts in accordance with the immediately preceding sentence, and the parties hereby waive, and agree not to assert, as a defense in any proceeding, suit or action for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such proceeding, suit or action may not be brought or is not maintainable in such courts or that the venue thereof may not be appropriate or on the grounds of forum non conveniens or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims relating to such proceeding, suit or action or transactions shall be heard and determined in such a court. The parties hereby consent to and grant any such court jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such proceeding, suit or action in the manner provided in Section 9.6 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING UNDER OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 9.5(c).

Table of Contents

9.6 Notices. All notices, requests, instructions or other communications or documents to be given or made hereunder by any party to the other parties to this Agreement shall be in writing and (a) served by personal delivery upon the party for whom it is intended, (b) served by an internationally recognized overnight courier service upon the party for whom it is intended, (c) delivered by registered or certified mail, return receipt requested, or (d) sent by facsimile or email, provided that the transmission of the facsimile or email is promptly confirmed:

(a) If to Praxair, to:

Praxair, Inc.

10 Riverview Dr.

Danbury, CT 06810

United States of America

Attention: Guillermo Bichara

Vice President, General Counsel and Corporate Secretary

Richard L. Steinseifer

Vice President, Mergers & Acquisitions

Tel: +1 (203) 837-2635

Fax: +1 (203) 837-2515

Email: guillermo_bichara@praxair.com / rick_steinseifer@praxair.com

with a copy (which shall not constitute notice) to:

Sullivan & Cromwell LLP

125 Broad Street

New York, New York

10004 United States of

America

Attention: Keith Pagnani

Carsten Berrar

Krishna Veeraraghavan

Tel: +1 (212) 558-4397 / +49 69 4272 5506 / +1 (212) 558-7931

Fax: +1 (212) 558-3588 / +49 69 4272 5210

Email: pagnanik@sullcrom.com / berrarc@sullcrom.com /

veeraraghavank@sullcrom.com

(b) If to Linde, to:

Linde AG

Klosterhofstraße 1

80331 Munich

Germany

Attention:

Matthias von Plotho

Programme Manager

Dr. Christoph Hammerl

Head of Group Legal & Compliance

Tel: +49 89 35757-01

Fax: + 49 89 35757-1075

Email: matthias.plotho@linde.com / christoph.hammerl@linde.com

A-45

Table of Contents

with a copy (which shall not constitute notice) to:

Cravath, Swaine & Moore LLP
Worldwide Plaza

825 Eighth Avenue
New York, New York 10019-7475
United States of America

Attention: Richard Hall

Aaron Gruber

Tel: +1 (212) 474-1293 / +1 (212) 474-1456

Fax: +1 (212) 474-3700

Email: rhall@cravath.com / agruber@cravath.com

and

Hengeler Mueller Partnerschaft von Rechtsanwälten mbB
Leopoldstraße 8 10

D-80802 München

Attention: Jochen Vetter

Emanuel P. Strehle

Tel: +49 89 383388 236 / +49 89 383388 247

Email: jochen.vetter@hengeler.com / emanuel.strehle@hengeler.com

(c) If to New Holdco, US Intermediate Holding Sub or Merger Sub, to:

Zamalight PLC

The Priestley Centre

10 Priestley Rd.

Surrey Research Park

Guildford

Surrey

GU2 7XY

United Kingdom

Attention: Guillermo Bichara

Director

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

Andrew Brackfield

Director

Tel (New Holdco): +44 1483 244311

Tel (US Intermediate Holding Sub or Merger Sub): +1 (203) 837-2635

Fax (New Holdco): +44 1483 242300

Fax (US Intermediate Holding Sub or Merger Sub): +1 (203) 837-2515

Email: guillermo_bichara@praxair.com / andrew.brackfield@boc.com

with a copy (which shall not constitute notice) to:

Sullivan & Cromwell LLP

125 Broad Street

New York, New York 10004

United States of America

Attention: Keith Pagnani

Carsten Berrar

Krishna Veeraraghavan

Tel: +1 (212) 558-4397 / +49 69 4272 5506 / +1 (212) 558-7931

Fax: +1 (212) 558-3588 / +49 69 4272 5210

Email: pagnanik@sullcrom.com / berrarc@sullcrom.com /

veeraraghavank@sullcrom.com

A-46

Table of Contents

and

Cravath, Swaine & Moore LLP
Worldwide Plaza

825 Eighth Avenue
New York, New York 10019-7475
United States of America

Attention: Richard Hall

Aaron Gruber

Tel: +1 (212) 474-1293 / +1 (212) 474-1456

Fax: +1 (212) 474-3700

Email: rhall@cravath.com / agruber@cravath.com

and

Hengeler Mueller Partnerschaft von Rechtsanwälten mbB
Leopoldstraße 8 10
D-80802 München

Attention: Jochen Vetter

Emanuel P. Strehle

Tel: +49 89 383388 236 / +49 89 383388 247

Email: jochen.vetter@hengeler.com / emanuel.strehle@hengeler.com

or to such other Person or addressees as have been designated in writing by the party to receive such notice provided above. Any notice, request, instruction or other communications or document given as provided above shall be deemed given to the receiving party (a) upon actual receipt, if delivered personally, (b) on the next business day after deposit with an overnight courier, if sent by an overnight courier, (c) three (3) business days after deposit in the mail, if sent by registered or certified mail, or (d) upon confirmation of successful transmission if sent by facsimile or email. Copies to outside counsel are for convenience only and failure to provide a copy to outside counsel does not alter the effectiveness of any notice, request, instruction or other communication otherwise given in accordance with this Section 9.6.

9.7 Entire Agreement.

(a) This Agreement (including any exhibits hereto), the Praxair Disclosure Letter, the Linde Disclosure Letter, the Confidentiality Agreement, the Clean Team Confidentiality Agreement and the Common Interest Agreement constitute the entire agreement among the parties to this Agreement with respect to the subject matter of this Agreement and supersede all prior agreements, understandings and representations and warranties, whether oral or written, with respect to such matters.

(b) Each party acknowledges and agrees that (i) except for the representations and warranties contained in Article V, none of the other parties nor any other Person makes any representation or warranty, express or implied, with respect to such other parties or with respect to any information furnished, disclosed or otherwise made available in the course of the due diligence investigation of such other parties, the negotiation of this Agreement or otherwise and (ii) it is not relying on any such representation or warranty not contained in Article V. Except pursuant to the terms and conditions of this Agreement, no party or any other Person shall be subject to any liability or responsibility whatsoever to any

other party or any of its or their respective affiliates or any of its stockholders, controlling Persons or Representatives on any basis (including in contract or tort, under securities Laws or otherwise) resulting from or based upon another party s or any of their respective affiliates or Representatives furnishing, disclosing or otherwise making available any information, documents or material in any form, including in any data room or management presentations (formal or informal) and including any financial statements and any projections, forecasts, budgets, estimates or other forward-looking information, or the use of any such information.

A-47

Table of Contents

9.8 **No Third-Party Beneficiaries.** Except as provided in Section 6.10 (*Indemnification; Directors and Officers Insurance*), this Agreement is not intended to, and does not, confer upon any Person other than the parties who are signatories hereto any rights or remedies hereunder. The parties hereto agree that the rights of third-party beneficiaries under Section 6.10 shall not arise unless and until the Effective Time occurs, except in the case of Section 6.10(c), where such rights arise as of the date of this Agreement. The representations and warranties in this Agreement are the product of negotiations among the parties to this Agreement. Any inaccuracies in such representations and warranties are subject to waiver by the parties to this Agreement in accordance with Section 9.3 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the parties to this Agreement of risks associated with particular matters regardless of the knowledge of any of the parties to this Agreement. Consequently, Persons other than the parties to this Agreement may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

9.9 **Fulfillment of Obligations.** Whenever this Agreement requires a Subsidiary of New Holdco, Linde or Praxair to take any action, such requirement shall be deemed to include an undertaking on the part of New Holdco, Linde or Praxair, as appropriate and permissible under the applicable Laws, to cause such Subsidiary to take such action.

9.10 **Transfer Taxes.** Without prejudice to Section 6.9(c), all transfer, documentary, sales, use, stamp, recording, value added, registration and other similar such Taxes and all conveyance fees, recording fees and other similar charges (including all penalties, interest and other charges with respect thereto) incurred in connection with the Offer or the Merger shall be paid by the party upon which such Taxes are imposed; provided that any transfer taxes with respect to interests in real property owned, directly or indirectly, by Linde, Praxair or any of their respective Subsidiaries or Listed Subsidiaries shall be borne by New Holdco or any Subsidiary or Listed Subsidiary of New Holdco, as the case may be, and expressly shall not be a liability of the shareholders of Linde or stockholders of Praxair.

9.11 **Severability.** The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application of such provision to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application of such provision, in any other jurisdiction.

9.12 **Interpretation; Construction.**

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof. All article, section, subsection, schedule, annex and exhibit references used in this Agreement are to articles, sections, subsections, schedules, annexes and exhibits to this Agreement unless otherwise specified. The exhibits, schedules and annexes attached to this Agreement constitute a part of this Agreement and are incorporated herein for all purposes.

(b) If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa. The words includes or including shall mean including without limitation, the words hereof, hereby, herein, hereunder and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular

A-48

Table of Contents

section or article in which such words appear, any reference to a Law shall include any rules and regulations promulgated thereunder, and the words or , any and either are not exclusive. The term reasonable best efforts means reasonable best endeavors; provided, however, that such term, when referring to a party's obligation to cause a Listed Subsidiary to take or refrain from an action, means using reasonable best endeavors to exercise such party's rights as a shareholder of such Listed Subsidiary and excludes any obligation of such party to (i) cause the directors of such Listed Subsidiary to take or refrain from an action or (ii) take or refrain from an action that such party believes is not in the best interests of such Listed Subsidiary. The term Knowledge, when referring to Linde, means the actual knowledge of the individuals serving on the Linde Executive Board, Linde's Chief Compliance Officer, or equivalent officer, and Linde's general counsel, in each case as of the date hereof. The term Knowledge, when referring to Praxair, means the actual knowledge of the individuals comprising Praxair's named executive officers (as such term is defined in Item 402 of Regulation S-K of the Securities Act), Praxair's Chief Compliance Officer, or equivalent officer, and Praxair's general counsel, in each case as of the date hereof.

(c) For purposes of the representations and warranties set forth in Article V, the covenants set forth in Section 6.1 and any Offer Condition, all references to Euros () shall be deemed to include U.S. dollars (\$) on the basis of an exchange rate of 1.107 Euros () to 1.00 U.S. dollar (\$), and vice versa.

(d) The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

9.13 Defined Terms. Capitalized terms used and not otherwise defined herein shall have the meanings specified or referred to in Annex I.

9.14 Disclosure Letters. Any disclosure contained in the Praxair Disclosure Letter or the Linde Disclosure Letter shall apply to any other Section or sub-Section of the Praxair Disclosure Letter or Linde Disclosure Letter, respectively, where the applicability of such disclosure is reasonably apparent. The Praxair Disclosure Letter or Linde Disclosure Letter may include items and information the disclosure of which is not required either in response to an express disclosure requirement contained in a provision of this Agreement or as an exception to one or more representations or warranties contained in Article V or to one or more covenants contained in Article VI. Inclusion of any items or information in the Praxair Disclosure Letter or Linde Disclosure Letter shall not be deemed to be an acknowledgement or agreement that any such item or information (or any non-disclosed item or information of comparable or greater significance) is material or that, individually or in the aggregate, has had or is reasonably expected to have a Material Adverse Change on Linde or Praxair, as applicable, to affect the interpretation of such term for purposes of this Agreement, or trigger any other materiality qualification.

9.15 Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of Law or otherwise, by any of the parties hereto without the prior written consent of the other parties. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors, legal representatives and permitted assigns.

9.16 Specific Performance. Each of the parties to this Agreement acknowledges and agrees that the rights of each party to consummate the Merger, the Offer and other transactions contemplated by this Agreement are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be

caused for which money damages would not be an adequate remedy. Accordingly, each party agrees that, in addition to any other available remedies a party may have in equity or at Law, each party shall be entitled to enforce specifically the terms and provisions of this Agreement and to obtain an

A-49

Table of Contents

injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement without necessity of posting a bond or other form of security and, if applicable, sufficiently in advance of the Longstop Date, taking into account that the parties may be prohibited by applicable Law from amending or extending the Longstop Date even if the breach by a party of this Agreement will result in the non-satisfaction of the Regulatory Condition. In the event that any action or proceeding should be brought in equity to enforce the provisions of this Agreement, no party shall allege, and each party hereby waives the defense, that there is an adequate remedy at Law. If, prior to the Agreement End Date, any party brings any action to enforce specifically the performance of the terms and provisions of this Agreement by any other party, the Agreement End Date shall automatically be extended by the amount of time during which such action is pending, plus twenty (20) business days or such other time period established by the arbitrator(s) in accordance with Section 9.5(b).

Table of Contents

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first written above.

PRAXAIR, INC.

By: /s/ Stephen F. Angel
Name: Stephen F. Angel
Title: Chairman, President, and Chief
Executive Officer

LINDE AG

By: /s/ Aldo Belloni
Name: Professor Dr. Aldo Belloni
Title: Chairman of the Executive Board

By: /s/ Sven Schneider
Name: Dr. Sven Schneider
Title: Chief Financial Officer

ZAMALIGHT PLC

By: /s/ Guillermo Bichara
Name: Guillermo Bichara
Title: Director

By: /s/ Christopher Cossins
Name: Christopher Cossins
Title: Director

ZAMALIGHT HOLDCO LLC

By: /s/ Richard L. Steinseifer
Name: Richard L. Steinseifer
Title: Authorized Signatory

ZAMALIGHT SUBCO, INC.

By: /s/ Guillermo Bichara
Name: Guillermo Bichara
Title: Authorized Signatory

[Signature Page to Business Combination Agreement]

Table of Contents**Annex I:****Defined Terms**

Acquisition Proposal means (A) any proposal, offer, inquiry or indication of interest relating to a merger, joint venture, partnership, consolidation, dissolution, liquidation, tender offer, recapitalization, reorganization, spin-off, share exchange, business combination or similar transaction involving Linde or Praxair, as the case may be, or (B) any acquisition by any Person or group resulting in, or any proposal, offer, inquiry or indication of interest that if consummated would result in, any Person or group becoming the beneficial owner of, directly or indirectly, in one or a series of related transactions, 15% or more of the total voting power or of any class of equity securities of Linde or Praxair, as the case may be, or a majority of the voting power or of any class of equity securities of any of their respective Major Subsidiaries, as applicable, or 15% or more of the consolidated net revenues, net income or total assets (it being understood that assets include equity securities of Subsidiaries) of Linde or Praxair, as the case may be, in each case other than the transactions contemplated by this Agreement.

Action means any decision, claim, action, suit, audit, assessment, arbitration, inquiry, proceeding or investigation, in each case, by or before any Governmental Entity.

Adverse Tax Event means, subject to the Tax Resolution Procedures:

(a) as of any date of determination no earlier than the date on which the results of the Offer as of the expiration of the Additional Acceptance Period are finally determined, if the Closing were to occur, the transactions contemplated by this Agreement would fail to qualify for the Intended Tax Treatment because the ownership fraction determined under Section 1.7874-12T(a)(17) of the Treasury Regulations (as such Treasury Regulations exist as of the date hereof) would be at least 60% by reason of the denominator of such fraction not including a sufficient number of shares of New Holdco, it being agreed that the Specified Assumptions, as defined in Section 8.3(b) of the Linde Disclosure Letter and Section 8.3(b) of the Praxair Disclosure Letter, shall apply; or

(b) any Tax Law Change has occurred that, if finalized and made effective, should cause the transactions contemplated by this Agreement to fail to qualify for the Intended Tax Treatment (provided, for the avoidance of doubt, that this clause (b) shall not include any Tax Law Change that would not apply to the Business Combination, even if finalized and made effective, by reason of the effective time(s) specified in the terms of such Tax Law Change).

Beneficiary Matching Share Termination Value means, in respect of each Linde Matching Share Right that is outstanding as of immediately prior to the Offer Closing Time, an amount (determined on a gross basis without regard to any applicable Taxes payable by the holder in respect of such Linde Matching Share Right) as determined in good faith (*nach billigem Ermessen*) by Linde in accordance with Sections 5(4) and 5(5) of the Linde LTIP as at the Offer Closing Time (i.e., *inter alia* on a *pro rata temporis* basis).

Beneficiary Option Termination Value means, in respect of each Linde Stock Option that is outstanding as of immediately prior to the Offer Closing Time, an amount (determined on a gross basis without regard to any applicable Taxes payable by the holder in respect of such Linde Stock Option) as determined in good faith (*nach billigem Ermessen*) by Linde in accordance with Section 5(4) of the Linde LTIP as at the Offer Closing Time (i.e., *inter alia* on a *pro rata temporis* basis).

Benefit Plans means all benefit and compensation plans, Contracts, policies or arrangements covering current or former employees of such party and its Subsidiaries and current or former directors of such party and its Subsidiaries,

including deferred compensation, severance, retention, bonus, incentive, change in control, health, dental, vision, other welfare, retirement benefits, Pension Commitments, equity option, equity purchase and equity appreciation rights plans, programs, policies, agreements or arrangements, in each case which are material to a party and its Subsidiaries, taken as a whole.

A-52

Table of Contents

Business Combination means the transactions contemplated by this Agreement, including the Merger and the Offer, to combine the businesses of the Praxair Group and the Linde Group on the terms of this Agreement.

business day means any day other than a Saturday or Sunday or other day on which banks are required or authorized to close in the City of New York or the City of Munich.

CBI means the Central Bank of Ireland acting in its capacity as competent authority under European Parliament and Council Directive 2003/71/EC of 4 November 2003 (as amended).

CFIUS means the Committee on Foreign Investment in the United States.

CFIUS Approval means (a) a written notice issued by CFIUS stating that the Business Combination does not constitute a covered transaction pursuant to Section 721 of the DPA or that following its review or investigation of the Business Combination, CFIUS has determined that there are no unresolved national security concerns and concluded all action under the DPA or (b) if CFIUS has sent a report to the President of the United States requesting the President's decision, then (x) the President has announced a decision not to take any action to suspend or prohibit the Business Combination or (y) the President has not taken any action after fifteen (15) days from the date the President received such report from CFIUS.

Change in Linde Recommendation means a Change in Linde Executive Board Recommendation or a Change in Linde Supervisory Board Recommendation.

Clean Team Confidentiality Agreement means the Clean Team Confidentiality Agreement, dated February 21, 2017, between Linde and Praxair, as amended.

Common Interest Agreement means the Common Interest Agreement, dated June 27, 2016, between Linde and Praxair.

Confidentiality Agreement means the Confidentiality Agreement, dated June 20, 2016, between Linde and Praxair.

Companies Act 2014 means the Companies Act 2014 of Ireland.

Contract means, with respect to any Person, any agreement, indenture, loan agreement, undertaking, note or other debt instrument, contract, lease, mortgage, deed of trust, permit, license, understanding, arrangement, commitment or other obligation to which such Person or any of its Subsidiaries is a party or by which any of them may be bound or to which any of their properties may be subject.

DPA means Section 721 of the Defense Production Act of 1950, as amended (codified at 50 U.S.C. App § 2170).

EBITDA means, for a given financial period, (a) with respect to Linde, the adjusted Group Operating Profit financial metric for such financial period as defined in the annual report of Linde for financial year 2016, with the components thereof determined in accordance with IFRS, as in effect on the date of this Agreement, and (b) with respect to Praxair, the adjusted EBITDA financial metric for such financial period as defined in the annual report of Praxair for financial year 2016, with the components thereof determined in accordance with GAAP, as in effect on the date of this Agreement, in each case, it being understood that, when determining whether a change, event, circumstance or development has resulted in, or would reasonably be expected to result in, a Linde Material Adverse Effect or a Praxair Material Adverse Effect, as the case may be, the financial impact of such change, event, circumstance or development shall not be considered an extraordinary item or other special item to be added back as an adjustment to

the applicable financial metric of such party.

A-53

Table of Contents

Export Control Laws means all Laws and regulations related to the regulation of imports, exports, re-exports, transfers, releases, shipments, transmissions or any other provision or receipt of goods, technology, software or services including: (a) the United States International Traffic in Arms Regulations administered by the United States State Department's Directorate of Defense Trade Controls; (b) the Export Administration Regulations administered by the United States Commerce Department (including the antiboycott regulations administered by the Office of Antiboycott Compliance); (c) nuclear export regulations administered by the United States Nuclear Regulatory Commission and the United States Department of Energy; (d) United States customs regulations administered by the United States Customs and Border Protection; (e) the EU Dual-Use Regulation, Council Regulation (EC) No 428/2009 (and associated amendments); and (f) all other applicable import and export controls in the countries in which Praxair or Linde, as the case may be, conducts business.

Further Linde Shares means the number of Linde Shares that Linde may issue after the time of publication of the German Exchange Offer Document in accordance with Section 14 para. 2 of the German Takeover Act until the Expiration Time pursuant to obligations in effect as of the date of such publication, such as outstanding options.

GAAP means United States generally accepted accounting principles.

Good Leaver Termination means, with respect to any holder of a New Holdco Stock Option or a New Holdco RSU granted in accordance with Section 1.12(d) or (e), a termination of his or her employment or service under the circumstances described in Section 9(2)(a), 9(3) or 9(4) of the Linde LTIP.

Governmental Order means any decision, order, judgment, injunction, decree, writ, stipulation, determination or award, in each case, entered by or with any Governmental Entity.

High Court means the High Court of Ireland.

Intended Tax Treatment means that New Holdco will not be treated as a domestic corporation for U.S. Federal income Tax purposes as a result of the transactions contemplated by this Agreement.

Intervening Event, with respect to Linde or Praxair, means an event, fact, occurrence, development or circumstance that (a) was not known to the Linde Boards or the Praxair Board, as applicable, on the date of this Agreement or (b) occurs after the date of this Agreement and, in the case of each of clauses (a) and (b), which event, fact, occurrence, development or circumstance becomes known to the Linde Boards or Praxair Board, as applicable, prior to the Expiration Time, in the case of Linde, and receipt of the Praxair Requisite Vote, in the case of Praxair; provided, however, that in no event shall any Acquisition Proposal, or any inquiry, offer or proposal that constitutes or would reasonably be expected to lead to an Acquisition Proposal, constitute an Intervening Event.

Investment Shares means any Self-financed Investment Shares (*Eigeninvestmentaktien*) (as defined in the Linde LTIP).

Law means any international, national, federal, state, provincial or local law, statute, ordinance, rule, regulation, judgment, order, injunction, decree, arbitration award, agency requirement, writ, franchise, variance, exemption, approval, license or permit.

Linde Equity Award means a Linde Stock Option or Linde Matching Share Right that is outstanding as of immediately prior to the Offer Closing Time.

Linde Reasoned Statement means, collectively, the Linde Executive Board Reasoned Statement and the Linde Supervisory Board Reasoned Statement.

A-54

Table of Contents

Linde Recommendation means, collectively, the Linde Executive Board Recommendation and the Linde Supervisory Board Recommendation.

Linde Group means Linde and its Subsidiaries (and, solely when the term Linde Group is used in Section 1.12 and the definitions of Business Combination, Major Subsidiary and LTIP Termination Time, its Listed Subsidiaries), taken as a whole.

Linde LTIP means the Linde Long Term Incentive Plan (2012) authorized at the annual general meeting on May 4, 2012 as implemented from time to time.

Linde Matching Share Right means a right to matching Linde Shares granted under the Linde LTIP.

Linde Stock Option means any option to purchase Linde Shares.

Listed Subsidiary means any subsidiary of Linde or Praxair, the shares of which are traded on any stock exchange.

LTIP Termination Time means the relevant date (if any) of termination of the Linde LTIP (as such termination relates to employees of the Linde Group or to members of the Linde Executive Board) in accordance with Section 1.12(a).

Major Subsidiary means any Subsidiary that constitutes 15% of more of the consolidated net revenue, net income or total assets of the Linde Group or Praxair Group, as applicable.

Material Adverse Change on Linde or Praxair, as applicable, means any change, event, occurrence or effect that, individually or in the aggregate, (x) is, or is reasonably expected to be, materially adverse to the financial condition, business or results of operations of the Praxair Group or the Linde Group (including, in the case of each of the Praxair Group and the Linde Group and solely for purposes of Section 5.1(h) and Section 5.1(k), any of their respective Listed Subsidiaries), respectively, or (y) prevents or is reasonably expected to prevent, materially delay or materially impair the ability of Linde or Praxair, respectively, to consummate the Offer, the Merger or any of the other transactions contemplated by this Agreement; provided, however, that, in the case of clause (x), none of the following, alone or in combination, shall be deemed to constitute or be considered in determining whether a Material Adverse Change has occurred or is reasonably expected to occur:

- (A) changes in the economy, credit, capital, securities or financial markets or political, regulatory or business conditions in the United States, Germany or elsewhere in the world where the applicable party and its Subsidiaries operate or where any of its products or services are sold, except to the extent that such change affects the applicable party and its Subsidiaries in a disproportionate manner relative to other businesses operating in the industries in which such party and its Subsidiaries operate;
- (B) changes that are the result of factors generally affecting the industries, markets or geographical areas in which the applicable party and its Subsidiaries operate;
- (C) any changes in the relationship of the applicable party and its Subsidiaries, contractual or otherwise, with customers, employees, unions, suppliers, distributors, financing sources, partners or similar relationship or

any resulting change, event, occurrence or effect caused by the entry into, announcement, pendency or performance of the transactions contemplated by this Agreement, including any lawsuit, action or other proceeding with respect to the Offer, the Merger or any other transaction contemplated by this Agreement;

- (D) changes in GAAP, IFRS or in any Law of general applicability or in the interpretation or enforcement thereof, after the date of this Agreement;

A-55

Table of Contents

- (E) any failure by the applicable party and its Subsidiaries to meet any internal or public projections or forecasts or estimates of revenues or earnings for any period; provided that the exception in this clause (E) shall not prevent or otherwise affect a determination that any change, event, occurrence or effect underlying such failure has resulted in, or contributed to, a Material Adverse Change;
- (F) any change, event, occurrence or effect resulting from acts of war (whether or not declared), civil disobedience, hostilities, sabotage, terrorism, military actions, expropriation, nationalization or the escalation of any of the foregoing, any hurricane, flood, tornado, earthquake or other weather or natural disaster, or any outbreak of illness or other public health event or any other force majeure event, whether or not caused by any Person, or any national or international calamity or crisis;
- (G) any litigation arising from allegations of any breach of fiduciary duty or allegations of violation of Law, in each case, relating to the Offer, the Merger or any of the transactions contemplated by this Agreement;
- (H) any actions taken or omitted to be taken by the applicable party or any of its Subsidiaries that are required to be taken by this Agreement or any actions taken or omitted to be taken with the other party's written consent or at the other party's written request;
- (I) any change or announcement of a potential change in the credit rating or other rating of financial strength of the applicable party or any of its Subsidiaries or any of their respective securities; provided that the exception in this clause (I) shall not prevent or otherwise affect a determination that any change, event, occurrence or effect underlying such change or potential change has resulted in, or contributed to, a Material Adverse Change; or
- (J) a decline in the market price, or change in trading volume, of the Praxair Shares on the NYSE or Linde Shares on the Frankfurt Stock Exchange, respectively, or any other capital stock or debt securities of Linde or Praxair, respectively; provided that the exception in this clause (J) shall not prevent or otherwise affect a determination that any change, event, occurrence or effect underlying such decline has resulted in, or contributed to, a Material Adverse Change.

negative recommendation means a recommendation by the Linde Supervisory Board that the Linde shareholders reject the Offer and not tender their Linde Shares in the Offer.

neutral recommendation means a neutral statement in which the Linde Supervisory Board neither recommends that the Linde shareholders reject the Offer nor recommends that the Linde shareholders accept the Offer.

New Grant Date means, (i) with respect to any holder of Linde Equity Awards who is not a member of the Linde Executive Board as of the date immediately following the Offer Closing Time, the date on which the Offer Closing Time occurs, and (ii) with respect to any such holder who is a member of the Linde Executive Board as of the date immediately following the Offer Closing Time, the date of effectiveness of a Post-Closing Reorganization of Linde; provided that, in all cases, in the event that it is impracticable to grant any New Holdco Stock Options or New Holdco RSUs on the date described in the preceding clause (i) or (ii), the New Grant Date shall be delayed until the earliest practicable date thereafter; provided further that the New Grant Date shall also be delayed to the extent necessary to comply with applicable Law (including insider trading restrictions under the Regulation (EU) No 596/2014 of the

European Parliament and of the Council on market abuse).

New Holdco Group means New Holdco and its Subsidiaries, taken as a whole.

New Holdco RSU means a restricted stock unit denominated in New Holdco Shares.

New Holdco Stock-Based Awards means New Holdco Stock Options and New Holdco RSUs.

New Holdco Stock Option means any option to purchase New Holdco Shares.

Table of Contents

Organizational Documents means, with respect to any Person, the certificate of incorporation, articles of association, constitution, limited liability company agreement, bylaws or similar organizational documents of such Person.

Pension Commitments means any plan, program, arrangement, agreement or other commitment of individual or collective nature, including commitments based on works custom (*betriebliche Übung*), to the extent known to such party, or collective grant (*Gesamtzusage*) regarding pensions (*betriebliche Altersversorgung*) under which a Person or its Subsidiaries has any obligations.

Praxair Group means Praxair and its Subsidiaries, taken as a whole.

Praxair Stock Plans means the Restated 2002 Praxair Long Term Incentive Plan (as amended), Amended and Restated 1995 Stock Option Plan for Non-Employee Directors (as amended), 2005 Equity Compensation Plan for Non-Employee Directors (as amended and restated) and Amended and Restated 2009 Praxair Long-Term Incentive Plan.

Proration Fraction means, with respect to any Linde Equity Award for which the Waiting Period is not yet complete as of the Offer Closing Time, a fraction, the numerator of which is the number of days that have elapsed during the Waiting Period in respect of such Linde Equity Award up to and including the date on which the Offer Closing Time occurs and the denominator of which is 1,461.

Regulatory Authority means the SEC, BaFin, CBI and any and all other relevant regulatory authorities of the United States, Germany, Ireland, any member state in the European Economic Area and other foreign regulatory agencies or authorities (as mutually determined by the parties), in each case only to the extent that it has authority and jurisdiction in the particular context.

Specified Covenants means all of the covenants set forth in Article VI, other than Sections 6.8, 6.10(c) and 6.16.

Subsidiary means, with respect to any Person, any other Person of which at least a majority of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other persons performing similar functions is directly or indirectly owned or controlled by such Person and/or by one or more of its Subsidiaries; provided that any Listed Subsidiary is excluded from this definition of Subsidiary.

Superior Proposal means an unsolicited, bona fide written Acquisition Proposal made after the date of this Agreement that would result in a Person or group becoming the beneficial owner of, directly or indirectly, 80% or more of the total voting power of the equity securities of Linde or Praxair, as the case may be, or 80% or more of the consolidated net revenues, net income or total assets (including equity securities of its Subsidiaries), of Linde or Praxair, as the case may be, that each Linde Board or the Praxair Board, as applicable, has determined in good faith, after consultation with outside legal counsel and its financial advisor, taking into account all legal, financial, financing and regulatory aspects of the proposal, the identity of the Person(s) making the proposal and the likelihood of the proposal being consummated in accordance with its terms, that, if consummated, would result in a transaction (A) more favorable to the shareholders of Linde or stockholders of Praxair, as the case may be, from a financial point of view than the transactions contemplated by this Agreement, (B) that is reasonably likely to be completed, taking into account any regulatory, financing or approval requirements and any other aspects considered relevant by the Linde Boards or Praxair Board, as applicable, and (C) for which financing, if a cash transaction (in whole or in part) is fully committed or reasonably determined to be available by the Linde Boards or Praxair Board, as applicable (after taking into account any revisions to the terms of this Agreement proposed by Linde or Praxair, as applicable).

Target Achievement Fraction means, in respect of each Linde Active Option, a fraction, (x) the numerator of which is the number (ranging from zero to 100) representing the level at which Linde determines in

A-57

Table of Contents

good faith (*nach billigem Ermessen*), at the Offer Closing Time, the criteria set forth in Section 5(4) of the Linde LTIP (other than the elapsed time of the Waiting Period) have been met or are expected to be met as of immediately prior to the Offer Closing Time and (y) the denominator of which is 100.

Tax means (including the plural form **Taxes**) all U.S. Federal, state, local and German and all other non-U.S. income, gain, profits, windfall profits, franchise, gross receipts, environmental, customs duty, capital stock, severances, stamp, payroll, social security, sales, employment, unemployment, disability, use, property, withholding, excise, production, value added, occupancy and all other forms of taxation, and all rates, duties, charges, withholdings, levies or assessments, in each case in the nature of a tax, together with all interest, penalties and additions imposed with respect to such amounts and any interest in respect of such penalties and additions.

Tax Law Change means, after the date of this Agreement:

(i) any change in U.S. Federal tax Law, whether or not such change in Law is yet effective, including with respect to matters covered by U.S. Code Section 7874 and the Treasury Regulations thereunder;

(ii) the passage of a bill that would implement such a change in U.S. Federal tax Law by either the U.S. House of Representatives or the U.S. Senate; **provided, however**, that such a change shall not constitute a Tax Law Change if, prior to April 15, 2018, the bill is defeated by the other house of Congress, the President of the United States has vetoed the bill (unless the time period for overriding such veto has not yet elapsed and the bill has passed each house of Congress by at least a three-fifths majority) or the time period for the President of the United States to sign or veto the bill has elapsed without the bill being enacted;

(iii) any new official interpretation, or change in official interpretation, of U.S. Federal tax Law whether or not such official interpretation or change in official interpretation is yet effective, as set forth in published guidance by the U.S. Department of Treasury or U.S. Internal Revenue Service, including with respect to matters covered by U.S. Code Section 7874 and the Treasury Regulations thereunder; or

(iv) any proposed change in, new official interpretation of, or change in official interpretation of, U.S. Federal tax Law, whether or not such proposed change is yet approved or effective, that has been publicly announced (through whatever media) by the U.S. Internal Revenue Service, U.S. Department of Treasury, President of the United States or other agency, arm or instrumentality of the executive branch of the U.S. Federal government, or any of their agents or designees.

Tax Resolution Procedures means the procedures set forth in Section 6.20 of the Linde Disclosure Letter and Section 6.20 of the Praxair Disclosure Letter.

Treasury Regulations means U.S. Department of Treasury regulations promulgated under the Code.

Trade Sanctions means economic or trade sanctions administered by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, or Her Majesty's Treasury.

Waiting Period means, with respect to any Linde Equity Award, the Waiting Period (*Wartezeit*) with respect to such Linde Equity Award as provided in the Linde LTIP.

Working Day means, pursuant to the German Takeover Act, any day which is not a Sunday or a federal public holiday in Germany.

Table of Contents**Other Defined Term References**

Defined Term	Section
Acceptance Period	1.7
Additional Acceptance Period	1.11
Admission Prospectus	1.2(c)
ADRs	6.21
Affected Employees	6.14(a)
Agreement	Preamble
Agreement End Date	8.1
Alternative Acquisition Agreement	6.2(a)
Alternative Admission Document	1.2(c)
Anti-Corruption Laws	5.1(k)(ii)
Antitrust Laws	6.4(c)(i)
BaFin	1.1
Bankruptcy and Equity Exception	5.1(c)(i)
Benefit Continuation Period	6.14(a)
Board	6.2(c)
Bribery Act	5.1(k)(ii)
Certificate of Merger	2.6
Change in Linde Executive Board Recommendation	6.3(b)
Change in Linde Supervisory Board Recommendation	6.3(c)
Change in Praxair Recommendation	6.3(a)
Closing	2.5
Closing Date	2.5
Code	2.9(f)
Commencement of the Offer	1.3
D&O Insurance	6.10(a)
Delayed Termination MSR	1.12(g)
Delayed Termination Option	1.12(f)
Deposit Agreement	6.21
Depository	6.21
DGCL	2.3
DTC	2.9(b)
Effective Time	2.6
Excess Offer Shares	1.6
Exchange Act	Recitals
Exchange Agent	2.1
Exchange Fund	2.9(a)
Expenses	6.8
Expiration Time	1.7
FCPA	5.1(k)(ii)
GAAP	5.1(f)(i)
German Exchange Offer Document	1.2(d)
German Intermediate Holding Sub	1.10
German Intermediate Sub	1.10

German Stock Corporation Act	1.15(a)
German Takeover Act	Recitals
German Transformation Act	3.1
Governmental Antitrust Entity	6.4(c)(i)
Governmental Entity	5.1(e)
IFRS	5.1(f)(ii)

Table of Contents

Independent Expert	7.1(d)
Knowledge	9.12(b)
Linde	Preamble
Linde Active Matching Share Rights	1.12(e)
Linde Active Options	1.12(d)
Linde Boards	Recitals
Linde Change in Recommendation Notice	6.2(d)
Linde Disclosure Letter	5.1
Linde Engineering	6.15
Linde Engineering Co	6.15
Linde Exchange Ratio	Recitals
Linde Excluded Shares	1.4
Linde Executive Board	Recitals
Linde Executive Board Reasoned Statement	1.15(a)
Linde Executive Board Recommendation	Recitals
Linde Financial Statements	5.1(f)(ii)
Linde Material Adverse Effect	7.1(b)(i)
Linde Material Compliance Violation	7.1(b)(ii)
Linde Reports	5.1
Linde Shares	Recitals
Linde Supervisory Board	Recitals
Linde Supervisory Board Reasoned Statement	1.15(b)
Linde Supervisory Board Recommendation	Recitals
Linde Termination Payment	8.6(c)(i)
Linde Treasury Shares	5.1(b)(ii)
Longstop Date	7.1(a)(ii)(A)
Market Abuse Regulation	1.1
Merger	Recitals
Merger Consideration	2.7(a)
Merger Letter of Transmittal	2.9(b)
Merger Sub	Preamble
Minimum Acceptance Condition	7.1(a)(i)
New Holdco	Preamble
New Holdco Board	Recitals
New Holdco Capital Increase	6.12
New Holdco Distributable Reserves Creation	6.17(a)
New Holdco Shares	Recitals
New Plans	6.14(b)
Non-Required Remedy	6.4(d)
NYSE	1.2(f)
OFAC	5.1(k)(iv)
Offer	Recitals
Offer Announcement	1.1
Offer Closing Time	1.10
Offer Conditions	1.8(a)
Offer Consideration	1.4
Offer Documents	1.2(d)
Permits	5.1(h)

Person
Post-Closing Reorganization
Praxair
Praxair Board

2.9(c)(iii)
3.1
Preamble
Recitals

A-60

Table of Contents

Praxair Book-Entry Share	2.7(b)
Praxair Certificate	2.7(b)
Praxair Change in Recommendation Notice	6.2(d)
Praxair Disclosure Letter	5.1
Praxair Distributable Reserves Resolution	6.17(a)
Praxair Eligible Shares	2.7(a)
Praxair Excluded Shares	2.7(a)
Praxair Financial Statements	5.1(f)(i)
Praxair Material Adverse Effect	7.1(c)(i)
Praxair Material Compliance Violation	7.1(c)(ii)
Praxair Meeting Date	6.3(a)
Praxair Preferred Shares	5.1(b)(i)
Praxair PSU	2.8(c)
Praxair Recommendation	Recitals
Praxair Reports	5.1
Praxair Requisite Vote	5.1(c)(i)
Praxair RSU	2.8(b)
Praxair Shares	Recitals
Praxair Stock Option	2.8(a)
Praxair Stock-Based Awards	2.8(d)
Praxair Stockholders Meeting	6.3(a)
Praxair Termination Payment	8.6(b)(i)
Proxy Statement/Prospectus	1.2(a)
Registration Statement	1.2(a)
Regulatory Condition	1.11
Representatives	6.5
Required Amendment	1.14
Revenue	6.9(a)(i)
S-4 Prospectuses	1.2(a)
SEC	1.2(a)
Securities Act	1.3
Settlement Action	6.4(d)
Surviving Corporation	2.3
Tail Period	6.10(a)
U.S. Exchange Offer Prospectus	1.2(a)
US Intermediate Holding Sub	Preamble
willful and material breach	8.6(a)(i)

Table of Contents

Annex II:

Form of Certificate of Incorporation of the Surviving Corporation

See attached.

A-62

Table of Contents

ANNEX II

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF PRAXAIR, INC.

FIRST. The name of the corporation is Praxair, Inc.

SECOND. The address of the corporation's registered office in the State of Delaware is 2711 Centerville Road, Suite 400, in the City of Wilmington, County of New Castle, 19808. The name of the registered agent at such address is Corporation Service Company.

THIRD. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware and to engage in any and all activities necessary or incidental to the foregoing.

FOURTH. The total number of shares which the corporation shall have authority to issue is 1 share of Common Stock, and the par value of such share is \$0.01.

FIFTH. The name and mailing address of the incorporator is Guillermo Bichara, 10 Riverview Drive, Danbury, CT 06810-6268.

SIXTH. Elections of directors need not be by written ballot except and to the extent provided in the by-laws of the corporation.

SEVENTH. The number of directors of the corporation shall be fixed from time to time in the manner provided in the by-laws of the corporation. Each director shall be elected and shall hold office until the annual meeting next succeeding his or her election and until his or her successor shall be elected and qualified, subject, however, to prior death, resignation, retirement, disqualification or removal from office. Any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares at the time entitled to vote at an election of directors.

EIGHTH. A director of the corporation shall not be liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the Delaware General Corporation Law as currently in effect or as the same may hereafter be amended. No amendment, modification or repeal of this Article EIGHTH shall adversely affect any right or protection of a director that exists at the time of such amendment, modification or repeal.

Table of Contents

**Annex III:
Governance Matters**

See attached.

A-64

Table of Contents**ANNEX III****GOVERNANCE MATTERS**

Subject to applicable Law and any required approval of any Regulatory Authority, at or prior to the Effective Time, the following matters shall be effected by the adoption of, or appropriate amendments to, the Organizational Documents of New Holdco, the charters of the committees of the New Holdco Board, the New Holdco Board's governance guidelines or other corporate policies of New Holdco. From the Effective Time until the third anniversary of the Effective Time (the Integration Phase), any document, charter, guideline or other policy that effects any of the matters set forth in Sections 1 (*Name*), 2 (*Domicile and Tax Residency*), 3(a) (*Composition, Policies and Decisions of the New Holdco Board Initial Composition*), 3(b) (*Composition, Policies and Decisions of the New Holdco Board Composition during the Integration Phase*), 3(h) (*Composition, Policies and Decisions of the New Holdco Board Decisions*), 4(a) (*Chairman of the New Holdco Board Initial Chairman*), 4(b) (*Chairman of the New Holdco Board Nomination and Appointment*), 4(c) (*Chairman of the New Holdco Board Removal of the Chairman from the Office of Chairman*), 5 (*New Holdco Board's Role and Responsibilities*), 7 (*Committees of the New Holdco Board*), 8(a) (*Chief Executive Officer Initial Chief Executive Officer*), 8(b) (*Chief Executive Officer Nomination, Appointment and Removal*), 9(a) (*Management Committee Composition during the Integration Phase*), 9(d) (*Management Committee Initial Direct Reports*), 9(e) (*Management Committee Key Executives during the Integration Phase*), 10 (*Integration Planning and Execution*) or 12 (*Business Unit Structure*) shall, except as may be determined by shareholders by special resolution duly passed at a general meeting of New Holdco shareholders, provide that the relevant provision may not be amended, nor may any provision inconsistent therewith be adopted or any action or delegation inconsistent therewith be taken or made, without the affirmative vote of three-quarters (3/4) of the entire New Holdco Board. Except as otherwise agreed between Linde and Praxair, the matters set forth in the sections identified in the immediately preceding sentence shall be incorporated into the Organizational Documents of New Holdco as in effect at the Effective Time.

Capitalized terms used herein but not defined have the meaning assigned to such terms in the Business Combination Agreement to which this Annex III is attached (the Agreement).

1. Name. No later than the Commencement of the Offer, the name of New Holdco shall be Linde plc. The New Holdco Group shall bear the Linde name and retain Linde's branding globally, subject to retention of certain existing local brands of both Linde and Praxair that have significant value in their respective jurisdictions.
2. Domicile and Tax Residency. New Holdco, being incorporated in Ireland, shall, following the consummation of the Offer and the Merger, serve as a holding company for the combined businesses of the Linde Group and the Praxair Group. As of the date of this Agreement, New Holdco is, and it is the intention of New Holdco, Linde and Praxair that, following the consummation of the transactions contemplated by the Agreement, New Holdco will continue to be, and will take all actions necessary to remain, tax resident solely in the United Kingdom.
3. Composition, Policies and Decisions of the New Holdco Board.
 - a. Initial Composition. The New Holdco Board shall consist, at the Effective Time, of twelve (12) directors, six (6) of whom shall be designated prior to the Effective Time by Linde from the then Linde Supervisory Board

members (each, a Linde Designee) and six (6) of whom shall be designated prior to the Effective Time by Praxair from the then Praxair Board members (each, a Praxair Designee). At the Effective Time, eleven (11) members of the New Holdco Board shall be non-executive directors and the twelfth member shall be the Chief Executive Officer. The New Holdco Board shall nominate each of the Linde Designees and Praxair Designees (or his or her replacement made in accordance with Section 3(b)) for re-election to the New Holdco Board at each of New Holdco's annual shareholders' meetings as required to ensure that the Linde Designees and Praxair Designees (or his or her replacement made in accordance with Section 3(b)) serve on the New Holdco

A-65

Table of Contents

Board for the duration of the Integration Phase. Each of Linde and Praxair shall deliver to the other party, at least five (5) weeks prior to the expected Commencement of the Offer, a written notice listing the names of all of the Linde Designees and the Praxair Designees, respectively, and shall provide any relevant information about such designees as the other party may reasonably request. If any of the Linde Designees or Praxair Designees shall be unable or unwilling to serve at the Effective Time, Linde or Praxair, as applicable, shall promptly nominate a replacement Linde Designee or Praxair Designee, as applicable, and provide any relevant information about such nominee as the other party may reasonably request. In accordance with Rule 438 of the Securities Act, each Linde Designee and Praxair Designee shall, prior to the first filing of the Registration Statement in which he or she is named, or any subsequent amendment thereto, provide New Holdco an executed consent to being named therein as a person anticipated to become a director of New Holdco and to the filing of such consent as an exhibit to such Registration Statement. If and to the extent reasonably requested by a Linde Designee or Praxair Designee, Linde, Praxair and New Holdco shall assist such designee in establishing a due diligence defense, as contemplated by Section 11(b)(3) of the Securities Act, for claims made under Section 11 of the Securities Act with respect to the Registration Statement.

- b. Composition during the Integration Phase. During the Integration Phase, the New Holdco Board shall be comprised of twelve (12) directors, six (6) of whom shall be Linde Class Directors and six (6) of whom shall be Praxair Class Directors. Subject to the proviso in the last sentence of Section 3(b)(i), a Linde Class Director is an individual who was a Linde Designee at the Effective Time or nominated and appointed or elected to fill a vacancy created by the resignation, removal, death or disability of a Linde Class Director. Subject to the proviso in the last sentence of Section 3(b)(i), a Praxair Class Director is an individual who was a Praxair Designee at the Effective Time or nominated and appointed or elected to fill a vacancy created by the resignation, removal, death or disability of a Praxair Class Director. During the Integration Phase, other than the Chief Executive Officer, the members of the New Holdco Board shall be non-executive directors.
- i. Vacancies. During the Integration Phase, in the event of a director's resignation, removal, death or disability prior to the end of his or her term, the vacancy on the New Holdco Board shall be filled by a unanimous vote of the remaining members of the New Holdco Board; provided that (i) if such vacancy relates to a Linde Class Director, if the New Holdco Board fails to fill such vacancy within three (3) months, such vacancy may be filled by an individual nominated and appointed by a majority of the remaining Linde Class Directors and (ii) if such vacancy relates to a Praxair Class Director, if the New Holdco Board fails to fill such vacancy within three (3) months, such vacancy shall be filled by an individual nominated and appointed by a majority of the remaining Praxair Class Directors. If any director is removed by vote of the shareholders of New Holdco and replaced by a director nominated by a shareholder or shareholders of New Holdco, such replacement director shall for the remaining duration of the Integration Phase be deemed to be: (I) a Linde Class Director if the director whose removal caused the vacancy he or she fills had been a Linde Class Director; or (II) a Praxair Class Director if the director whose removal caused the vacancy he or she fills had been a Praxair Class Director; provided that, such replacement director shall not be deemed to be a Linde Class Director or Praxair Class Director, as applicable, and shall instead have undesignated status for purposes of Section 7 unless such replacement director is approved by a majority of the remaining Linde Class Directors or Praxair Class Directors, respectively.

- ii. Removal. During the Integration Phase, and except for any resolution duly passed by shareholders of New Holdco pursuant to Section 146 of the Companies Act, a director may be removed from office by a unanimous vote of all other members of the New Holdco Board.

- c. Composition Following the Integration Phase. The Articles of Association or charters of the committees, as applicable, shall, subject to changes duly approved by the shareholders after the Effective Time, provide that the New Holdco Board, upon recommendations of the Nomination and Governance Committee, will propose nominees for election to the New Holdco Board at each of New

Table of Contents

Holdco's annual shareholders' meetings. Following the Integration Phase, the New Holdco Board shall propose nominees for election to the New Holdco Board without having regard to the specific ratio of members who are Linde Class Directors or Praxair Class Directors.

- d. **Director Independence.** From and after the Effective Time, the New Holdco Board shall be comprised of at least a majority of independent directors. References in this Annex III to an independent director shall mean a director that the New Holdco Board has determined to be independent in accordance with the listing standards of the NYSE.
 - e. **Director Age and Attributes.** An individual shall not be eligible to be nominated for election as a director on the New Holdco Board if the individual reaches the mandatory New Holdco Board retirement age of seventy-two (72) years old prior to the applicable New Holdco annual shareholders' meeting; provided that waivers of such mandatory retirement age may be granted by a majority of the New Holdco Board (excluding the vote of the director subject to the waiver decision) during the Integration Phase in order to maintain the balance of Linde Class Directors and Praxair Class Directors specified in Sections 3(a) and 3(b); provided further that, during the Integration Phase and to the extent required to give effect to the provision in the third sentence of Section 3(a), the mandatory retirement age shall not apply to Linde Designees and Praxair Designees. Only natural persons can be directors.
 - f. **Term of Service.** Each director who is appointed to the New Holdco Board shall be appointed for a term that shall expire at the end of the next New Holdco annual shareholders' meeting.
 - g. **Board Policies.** The New Holdco Board shall adopt policies governing, among other things, (i) potential conflicts of interest of directors, (ii) the ownership of and transactions in securities other than securities issued by New Holdco, (iii) a code of ethics and (iv) confidential treatment of information received in connection with being a director.
 - h. **Decisions:** During the Integration Phase, decisions of the New Holdco Board shall be made by majority vote of the entire New Holdco Board (i.e., at least 7 of 12 directors), unless a higher majority is stated in this Annex III or required under applicable Law.
4. **Chairman of the New Holdco Board.**
- a. **Initial Chairman.** At the Effective Time, Professor Dr. Wolfgang Reitzle (or in the event that he is unable or unwilling to hold the position of Chairman of the New Holdco Board at the Effective Time, a replacement designated prior to the Effective Time by Linde) shall serve as initial Chairman of the New Holdco Board and shall constitute one of the six (1 of 6) Linde Designees.
 - b. **Nomination and Appointment.**

- i. *Vacancy Created by the initial Chairman.* During the Integration Phase, in the event of the initial Chairman's resignation, removal, death or disability, the vacancy of Chairman of the New Holdco Board shall be filled as follows:
 1. if Mr. Stephen F. Angel or any other former executive officer of Praxair or one of its Subsidiaries is then serving (or is simultaneously appointed) as Chief Executive Officer, then the Linde Class Directors shall propose a candidate from amongst themselves to be Chairman, and such candidate will be subject to approval by the New Holdco Board (unanimously, and if not possible, by at least a two-thirds (2/3) majority). If the Chairman is not approved by the New Holdco Board by at least a two-thirds (2/3) majority, then a majority of the Linde Class Directors will select the Chairman;
 2. if a former executive officer of Linde or one of its Subsidiaries is then serving (or is simultaneously appointed) as Chief Executive Officer, then the Praxair Class Directors shall propose a candidate from amongst themselves (including Mr. Stephen F. Angel if he is then a director) to be Chairman, and such candidate will be subject to approval by the New Holdco Board (unanimously, and if not possible, by at least a two-thirds (2/3) majority). If the

Table of Contents

Chairman is not approved by the New Holdco Board by at least a two-thirds (2/3) majority, then a majority of the Praxair Class Directors will select the Chairman; and

3. if a person who was not an employee or a director of Linde or Praxair or any of their respective Subsidiaries prior to the Effective Time is then serving (or is simultaneously appointed) as Chief Executive Officer, then the vacancy shall be filled by an individual appointed by the vote of at least two-thirds (2/3) of the New Holdco Board.
- ii. *Vacancy Created by any other Chairman of the Board.* After the replacement of the initial Chairman as Chairman of the New Holdco Board pursuant to Section 4(b)(i), in the event of the resignation, removal, death or disability of the Chairman of the Board of New Holdco, the vacancy shall be filled by an individual nominated by the Nomination and Governance Committee and appointed by the vote of at least two-thirds (2/3) of the New Holdco Board.
- c. Removal of the Chairman from the Office of Chairman. The Chairman may be removed from the office of Chairman of the Board of New Holdco by the vote of at least two-thirds (2/3) of the New Holdco Board (excluding the Chairman in calculating the required vote).
- d. Chairman's Role and Responsibilities. The role and responsibilities of the Chairman of the New Holdco Board shall be set forth in the Articles of Association and the Corporate Governance Guidelines of the New Holdco Board and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
 - i. Chairing the New Holdco Board meetings;
 - ii. Chairing New Holdco's shareholders' meetings;
 - iii. Representing New Holdco at investor and other external meetings, in coordination with the Chief Executive Officer as appropriate, it being understood that the Chief Executive Officer and Chief Financial Officer have primary responsibility for representing New Holdco at investor and other external meetings;
 - iv. Facilitating effective communication between the New Holdco Board and its shareholders and other stakeholders and, in particular, ensuring that the New Holdco Board is aware of the views of major shareholders;
 - v. Setting the agenda for New Holdco Board deliberations, with the assistance of the Chief Executive Officer and the New Holdco Secretary, and ensuring that there is sufficient time for consultation, consideration and decision-making by the New Holdco Board;

- vi. Ensuring that the New Holdco Board and its Audit Committee have access to all the information it deems necessary or desirable to identify and assess the nature and extent of the significant risks faced by New Holdco, including risks related to the implementation of its strategy;
- vii. Promoting a culture of openness and debate by facilitating the contribution of non-executive directors;
- viii. Ensuring that appropriate risk management and other key processes and policies are properly developed and adopted by New Holdco, with the counsel of the Audit Committee; and
- ix. Timely providing all members of the New Holdco Board with all information on facts and developments concerning New Holdco and the New Holdco Group which the New Holdco Board may need to function as required and to properly carry out its duties under applicable Law, the Articles of Association, the Corporate Governance Guidelines and the corporate governance matters set forth in this Annex III, including regarding the New Holdco Group's long-term plans, the main features of the strategic policy, the general and financial risks, the management and control systems of the New Holdco Group and material compliance with all applicable Laws and regulations.

Table of Contents

None of the responsibilities of the Chairman shall limit any responsibility of any of the committees of the New Holdco Board.

5. New Holdco Board's Role and Responsibilities. The New Holdco Board is responsible for the overall conduct of the New Holdco Group and has the powers, authorities and duties vested in it by and pursuant to the applicable Laws of Ireland and the Articles of Association. In all its dealings, and subject to their duties and responsibilities as determined by Irish Law, the New Holdco Board shall be guided by the interests of the New Holdco Group as a whole, including but not limited to its shareholders. The New Holdco Board has the final responsibility for the management, direction and performance of New Holdco and the New Holdco Group. Any delegation by the New Holdco Board shall be given in relation to specific matters and specifically authorized by a resolution of the New Holdco Board. In addition to any specific statutory roles and responsibilities as determined by Irish Law, the specific role and responsibilities of the New Holdco Board shall be set forth in the Articles of Association and the Corporate Governance Guidelines of the New Holdco Board and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
- a. Approving significant changes in the nature and scope of the New Holdco Group's business;
 - b. Setting the agenda and proposing resolutions for New Holdco's shareholders' meetings including proposals for appointments and removals of New Holdco Board members;
 - c. Monitoring New Holdco's global strategy and evaluating and approving the strategic plan, operational business plan, Integration Plan, performance targets and annual budget for the New Holdco Group and, in each case, any significant changes thereto, in each case presented by management, and monitoring New Holdco's performance and achievements thereunder;
 - d. Nominating and appointing an individual to serve as the Chairman of the New Holdco Board, evaluating the performance of such individual in his or her role as Chairman of the New Holdco Board and suspending or removing such individual from his or her role as Chairman of Board, in each case in a manner consistent with Section 4;
 - e. During the Integration Phase, approving the appointment and removal of members of the Management Committee subject to the prior approval of such appointment or removal by the Executive Committee, and, after the Integration Phase, advising the Chief Executive Officer regarding the appointment and removal of members of the Management Committee;
 - f. Agreeing on a Limits of Authority policy setting forth procedures for approving capital expenditure projects, investments, acquisitions, partnerships, divestments, engineering projects, and financing and capital market transactions (including any capital increases, share repurchases and debt issuances) to be made by New Holdco or any of its Subsidiaries of specified value thresholds.

- g. Approving New Holdco's individual and consolidated financial statements and accounts, upon recommendation by the Audit Committee;
 - h. At least once a year, discussing (i) the functioning of the New Holdco Board, the Chairman of the New Holdco Board, the Chief Executive Officer and the other individual directors, and the conclusions to be drawn on the basis thereof and (ii) the risks of the business and the evaluation by the New Holdco Board of the structure and operation of the internal risk management and control systems and any significant changes thereto; and
 - i. Approving any other transaction of any company in the New Holdco Group which the New Holdco Board has subjected to its prior approval.
6. Meetings of the New Holdco Board.
- a. Frequency and Attendance. The New Holdco Board shall meet at least five (5) times per year and as often as it deems necessary or appropriate or at the request of the Chairman or Chief Executive Officer. No more than one (1) New Holdco Board meeting per year shall be held physically outside the United

Table of Contents

Kingdom, absent exigent circumstances; provided that if one (1) New Holdco Board meeting per year is held physically outside the United Kingdom, it shall be held in a suitable jurisdiction consistent with the requirements of Section 2 and no New Holdco Board meeting shall take place in Ireland or Germany. If the Chairman of the New Holdco Board is not able to attend any New Holdco Board meeting in person, then the New Holdco Board shall designate another non-executive director who is able to attend such New Holdco Board meeting in person to chair such New Holdco Board meeting. The Chief Executive Officer shall attend New Holdco Board meetings in person, absent exigent circumstances, and may attend meetings of any committee of the Board, at the invitation of the committee. The foregoing shall be applied equally to meetings of the committees of the New Holdco Board. The New Holdco Board may establish attendance and procedural guidelines consistent with good corporate governance and the requirements of Section 2 for the New Holdco Board and its committees which shall be binding on the directors.

- b. Minutes. The minutes of the New Holdco Board meetings shall generally be adopted at the next meeting. If all members of the New Holdco Board agree on the contents of the minutes, they may be adopted earlier. The minutes may be signed for adoption by the Chairman of the New Holdco Board or such other director as may be designated to chair the meeting in the absence of the Chairman of the New Holdco Board, and shall be made available to all members of the New Holdco Board promptly.
 - c. Resolutions. A quorum shall be required for the valid adoption of resolutions by the New Holdco Board, which shall be satisfied in a meeting at which at least the majority of its members are present or represented. Except to the extent expressly provided otherwise and subject to Section 3(h), resolutions of the New Holdco Board shall be adopted by simple majority and each member shall have one vote. A resolution in writing signed by all the directors, or by all the directors being members of a committee, and who are for the time being entitled to receive notice of a meeting or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting or such a committee duly convened and held. In the event of a tie vote with respect to any resolution, the Chairman of the New Holdco Board shall not have a casting or deciding vote.
7. Committees of the New Holdco Board. The New Holdco Board shall have the following committees, which shall have the following roles and responsibilities:
- a. Executive Committee. The New Holdco Board shall have an Executive Committee, which shall, during the Integration Phase, be comprised of two (2) Linde Class Directors (one of whom will be the Chairman of the New Holdco Board, so long as the Chairman is a Linde Class Director) and two (2) Praxair Class Directors (one of whom will be the Chief Executive Officer, so long as the Chief Executive Officer is a Praxair Class Director). During the Integration Phase, the Executive Committee shall be chaired by the Chairman of the New Holdco Board. The role and responsibilities of the Executive Committee shall be established by the New Holdco Board, set forth in a written charter, and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
 - i. Evaluating and approving any investments, acquisitions, partnerships or divestments requiring New Holdco Board approval, that in each case arises between regularly scheduled New Holdco Board meetings and are within value thresholds specified by the New Holdco Board;

- ii. Evaluating and approving any financing or other capital markets transactions requiring New Holdco Board approval, that in each case arises between regularly scheduled New Holdco Board meetings and are within value thresholds specified by the New Holdco Board;

- iii. During the interval between regularly scheduled New Holdco Board meetings, acting upon any other such matters within the competencies of the New Holdco Board that are within value thresholds specified by the New Holdco Board and, in the opinion of the Chairman of the New Holdco Board, should not be postponed until the next regularly scheduled New Holdco Board meeting;

Table of Contents

- iv. During the Integration Phase, evaluating and approving any material lay-offs, unless such action is consistent with the Integration Plan or otherwise requires full New Holdco Board approval;
 - v. During the Integration Phase, evaluating and approving any divestitures of (A) all or substantially all of the New Holdco Group's business in any country, (B) all or substantially all of any business line of the New Holdco Group, or (C) any business that is otherwise material to the New Holdco Group, in each case, unless such action is consistent with the Integration Plan or otherwise requires full New Holdco Board approval; and
 - vi. During the Integration Phase, evaluating and approving (i) any nomination, removal or appointment of any member of the Management Committee or any Key Executive (as defined below), (ii) any change in the responsibilities delegated or assigned to any member of the Management Committee, or (iii) any change of the line of reporting for any member of the Management Committee.
- b. **Audit Committee.** The New Holdco Board shall have an Audit Committee, which shall, during the Integration Phase, be comprised of three (3) Linde Class Directors appointed by a majority of the Linde Class Directors and three (3) Praxair Class Directors appointed by a majority of the Praxair Class Directors. During the Integration Phase, the Audit Committee shall be chaired by a Linde Class Director appointed by a majority of the Linde Class Directors. All members of the Audit Committee shall be independent directors, as defined under applicable rules of the NYSE and Section 10 of the Exchange Act, and the Audit Committee shall have at least one member who satisfies the definition of "audit committee financial expert" as defined in Item 407(d)(5)(ii) of Regulation S-K under the Securities Act. The role and responsibilities of the Audit Committee shall be established by the New Holdco Board, set forth in a written charter, and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
- i. Assisting the New Holdco Board in its oversight of (w) the integrity of New Holdco's financial statements, (x) New Holdco's compliance with legal and regulatory requirements, (y) the independent auditor's qualifications and independence and (z) the performance of New Holdco's internal audit functions and independent auditors;
 - ii. Recommending to the shareholders of New Holdco the approval of New Holdco's independent auditor; and
 - iii. Preparing the report of the Audit Committee for inclusion in New Holdco's proxy statement.
- c. **Nomination and Governance Committee.** The New Holdco Board shall have a Nomination and Governance Committee, which shall, during the Integration Phase, be comprised of three (3) Linde Class Directors appointed by a majority of the Linde Class Directors and three (3) Praxair Class Directors appointed by a majority of the Praxair Class Directors. During the Integration Phase, the Nomination and Governance Committee shall be chaired by a Praxair Class Director appointed by a majority of the Praxair Class

Directors. All members of the Nomination and Governance Committee shall be independent directors, as defined under applicable rules of the NYSE and Section 10 of the Exchange Act. The role and responsibilities of the Nomination and Governance Committee shall be established by the New Holdco Board, set forth in a written charter, and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:

- i. Identifying individuals qualified to become New Holdco Board members;
- ii. Selecting, or recommending that the New Holdco Board select, the director nominees for New Holdco's next annual shareholders' meeting, in each case in a manner consistent with Sections 3 and 4;
- iii. Developing and recommending to the New Holdco Board a set of corporate governance guidelines; and
- iv. Overseeing the evaluation of the performance of the New Holdco Board.

Table of Contents

- d. Compensation Committee. The New Holdco Board shall have a Compensation Committee, which shall, during the Integration Phase, be comprised of three (3) Linde Class Directors appointed by a majority of the Linde Class Directors and three (3) Praxair Class Directors appointed by a majority of the Praxair Class Directors. During the Integration Phase, the Compensation Committee shall be chaired by a Praxair Class Director appointed by a majority of the Praxair Class Directors. All members of the Compensation Committee shall be independent directors, as defined under applicable rules of the NYSE and Section 10 of the Exchange Act. The role and responsibilities of the Compensation Committee shall be established by the New Holdco Board, set forth in a written charter, and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
- i. Reviewing and approving corporate goals and objectives relevant to the Chief Executive Officer's compensation, evaluating the Chief Executive Officer's performance in light of those goals and objectives and, either as a committee or together with the other independent directors, determining and approving the Chief Executive Officer's compensation;
 - ii. Reviewing and approving the compensation of the members of the Management Committee, and making recommendations to the New Holdco Board with respect to other executive compensation and any incentive or equity based compensation plans, in each case that are subject to New Holdco Board approval;
 - iii. Preparing the report of the Compensation Committee for inclusion in New Holdco's proxy statement;
 - iv. Evaluating the performance of the Chief Executive Officer and members of the Management Committee; and
 - v. Developing succession plans for the Chief Executive Officer and the members of the Management Committee, with the counsel of the Chairman of the New Holdco Board.
- e. Exclusion from Committee Membership. Neither Professor Dr. Wolfgang Reitzle nor Mr. Stephen F. Angel shall be a member on any statutorily required committee of the New Holdco Board, including the Audit Committee, the Nomination and Governance Committee and the Compensation Committee.
- f. Vacancies. During the Integration Phase, in the event of any vacancy on any committee, such vacancy shall be filled by a unanimous vote of the remaining members of the New Holdco Board; provided that (i) if such vacancy relates to a Linde Class Director, if the New Holdco Board fails to fill such vacancy within five (5) weeks, such vacancy may be filled by an individual appointed by a majority of the remaining Linde Class Directors, and (ii) if such vacancy relates to a Praxair Class Director, if the New Holdco Board fails to fill such vacancy within five (5) weeks, such vacancy shall be filled by an individual appointed by a majority of the remaining Praxair Class Directors.

- g. Removal. During the Integration Phase, a director may be removed from a committee by a unanimous vote of all other members of the New Holdco Board.
 - h. Decisions: During the Integration Phase, decisions of a committee of the New Holdco Board shall be made by majority vote of the entire committee (i.e., at least 3 of 4 directors or at least 4 of 6 directors, as the case may be), unless a higher majority is stated in this Annex III or required under applicable Law.
8. Chief Executive Officer.
- a. Initial Chief Executive Officer. At the Effective Time, Mr. Stephen F. Angel (or in the event that he is unable or unwilling to hold the position of Chief Executive Officer at the Effective Time, a replacement designated prior to the Effective Time by Praxair) shall serve as the Chief Executive Officer and a member of the New Holdco Board and shall constitute one of the six (1 of 6) Praxair Designees.

Table of Contents

- b. Nomination, Appointment and Removal. In the event of the resignation, removal, death or disability of the initial Chief Executive Officer, the vacancy shall be filled by an individual nominated by the Nomination and Governance Committee and appointed by the vote of at least two-thirds (2/3) of the New Holdco Board. The Chief Executive Officer may be removed from the office of the Chief Executive Officer by the vote of at least two-thirds (2/3) of the New Holdco Board (excluding the then-serving Chief Executive Officer if he or she is then serving as a director of the New Holdco Board).
- c. Chief Executive Officer's Role and Responsibilities. The roles and responsibilities of the Chief Executive Officer shall be established by the New Holdco Board and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
- i. Managing and directing the Management Committee;
 - ii. After the Integration Phase, appointing and removing members of the Management Committee with the counsel of the New Holdco Board;
 - iii. Managing the business of the New Holdco Group together and with the counsel of the members of the Management Committee;
 - iv. Preparing a global strategy, a strategic plan, operational business plan and performance targets, together and with the counsel of the Management Committee;
 - v. Presenting to the New Holdco Board the integration plan (the Integration Plan) for the Integration Efforts and any significant changes thereto;
 - vi. Reporting to the New Holdco Board on the progress of the integration of the business of Linde and its Subsidiaries and Praxair and its Subsidiaries (the Integration Efforts);
 - vii. Directing the implementation and execution of the strategic plans approved by the New Holdco Board, together and with the counsel of the Management Committee; and
 - viii. Working closely together with the Chairman of the New Holdco Board and keeping the Chairman of the New Holdco Board and the remainder of the New Holdco Board reasonably informed regarding the activities of the New Holdco Group.
9. Management Committee. From and after the Effective Time, the New Holdco Group shall have a Management Committee comprised of executive officers of the New Holdco Group that report to the Chief Executive Officer, each of whom shall have an employment agreement with a Subsidiary of New Holdco to the extent required by

applicable Law or the requirements of Section 2. The Management Committee shall constitute the senior leadership team of the New Holdco Group. For the avoidance of doubt, the Management Committee shall not be a corporate body or organ of New Holdco and is not a committee or organ of the New Holdco Board. The Management Committee members shall be titled Executive Officers of the New Holdco Group and, apart from the Chief Financial Officer, none of them shall hold an office or employment in New Holdco.

- a. Composition during the Integration Phase. The Management Committee shall initially be comprised of the following six (6) Executive Officers and, to the extent specified, individuals:
- i. the Chief Financial Officer, who shall initially be Mr. Matthew J. White (or in the event that he is unable or unwilling to hold the position of Chief Financial Officer at the Effective Time, a replacement designated prior to the Effective Time by Praxair);
 - ii. the Head of Global Functions, who shall initially be an individual designated prior to the Effective Time by Praxair;
 - iii. the Head of Americas Gases, who shall initially be an individual designated prior to the Effective Time by Praxair;
 - iv. the Head of Linde Engineering, who shall initially be Dr. Christian Bruch (or in the event that he is unable or unwilling to hold the position of Head of Linde Engineering at the Effective Time, a replacement designated prior to the Effective Time by Linde);

Table of Contents

- v. the Head of APAC Gases, who shall initially be Mr. Sanjiv Lamba (or in the event that he is unable or unwilling to hold the position of Head of APAC Gases at the Effective Time, a replacement designated prior to the Effective Time by Linde); and
- vi. the Head of EMEA Gases, who shall initially be Mr. Bernd Eulitz (or in the event that he is unable or unwilling to hold the position of Head of EMEA Gases at the Effective Time, a replacement designated prior to the Effective Time by Linde).

During the Integration Phase, in the event of the resignation, removal, death or disability of a member of the Management Committee, the replacement thereof shall be nominated by the Chief Executive Officer and approved (A) first by the Executive Committee, (B) if required by a committee charter, then by the applicable committee of the New Holdco Board and (C) then by the New Holdco Board.

During the Integration Phase, any member of the Management Committee may be removed from office upon the request of the Chief Executive Officer with the approval (A) first of the Executive Committee, (B) if required by a committee charter, then of the applicable committee of the New Holdco Board and (C) then of the New Holdco Board.

- b. Composition Following the Integration Phase. Following the Integration Phase, the Management Committee shall be comprised of at least six (6) Executive Officers who shall be appointed by, and may be removed by, the Chief Executive Officer with the counsel of the New Holdco Board.
- c. Management Committee's Role and Responsibilities. The role and responsibilities of the Management Committee shall be established by the Chief Executive Officer and shall be reviewed from time to time by the New Holdco Board for appropriateness but, as an initial matter, shall include:
 - i. Delivering operating results against the strategic plans, operational business plans, performance targets, annual budgets and safety and compliance standards for the New Holdco Group approved by the New Holdco Board;
 - ii. Managing the business of the Subsidiaries of New Holdco under the direction of the Chief Executive Officer;
 - iii. Directing the implementation and execution of the strategic decisions made by the New Holdco Board, within the mandate provided by the New Holdco Board under the direction of the Chief Executive Officer; and
 - iv. Ensuring internal alignment for cohesive and consistent communication both internally and externally to stakeholders.

d.

Initial Direct Reports. The Chief Executive Officer of Linde and the Chief Executive Officer of Praxair, acting jointly, shall appoint the individuals to serve as Key Executives (as defined below) at the Effective Time.

e. Key Executives during the Integration Phase.

- i. During the Integration Phase, the Chief Executive Officer shall, with the approval of the Executive Committee, have the exclusive right to nominate, appoint and remove his or her direct reports in the following functions: Legal; Lincare; M&A; Strategy & Project Development; Communications; Human Resources; and Integration Managers (such direct reports, the CEO Direct Reports). The compensation of the CEO Direct Reports shall be determined by the Chief Executive Officer in accordance with policies approved by the Compensation Committee; provided that all such compensation information shall be provided to the Compensation Committee. During the Integration Phase, each Management Committee member shall, with the approval of the Chief Executive Officer and the Executive Committee, have the exclusive right to nominate, appoint and remove his or her direct reports (such direct reports, together with the CEO Direct Reports, the Key Executives). Notwithstanding the foregoing, the nomination, appointment or removal of a Key Executive shall also require the approval of (i) the applicable

Table of Contents

committee of the New Holdco Board if so provided in its charter, and (ii) the New Holdco Board to the extent necessary to comply with any legal or regulatory requirements. The compensation of each Key Executive who reports to a Management Committee member shall be determined by the Chief Executive Officer, in consultation with the Management Committee member to whom the applicable Key Executive directly reports and in accordance with policies approved by the Compensation Committee; provided that all such compensation information shall be provided to the Compensation Committee.

ii. Other Executives: During the Integration Phase, each Key Executive shall have the right to nominate, appoint and remove his or her direct reports in accordance with the grandfathering principles agreed between the parties as part of the Integration Plan.

iii. The following principles shall be used in appointing the initial Key Executives:

1. Best qualified candidate gets the position;
2. Key Executives to be selected and appointed before the Effective Time;
3. Selection to be based upon a list of potential candidates, which will be compiled by the Human Resources departments of Linde and Praxair; and
4. Aim for Praxair employees transferring to Munich, and Linde employees transferring to Danbury.

f. Key Executives Following the Integration Phase. Following the Integration Phase, the Chief Executive Officer shall, with the counsel of the New Holdco Board and if required by a committee charter, the approval of the applicable committee of the New Holdco Board, have the exclusive right to nominate and appoint the CEO Direct Reports. Following the Integration Phase, each Management Committee member shall, with the approval of the Chief Executive Officer and if required by a committee charter, the approval of the applicable committee of the New Holdco Board, have the right to nominate and appoint the respective Key Executives that are his or her direct reports.

10. Integration Planning and Execution. From the date of the Agreement through the end of the Integration Phase and subject to compliance with applicable antitrust Laws, a committee to coordinate the Integration Efforts shall be established and maintained. From the date of the Agreement through the Effective Time (the Integration Planning Phase), Praxair and Linde shall jointly establish and maintain such committee, which will be referred to as the Integration Committee during such phase. From the Effective Time through the end of the Integration Phase (the Integration Execution Phase), the New Holdco Group shall establish and maintain such committee, which will be referred to as the Steering Committee during such phase.

- a. Integration Committee. During the Integration Planning Phase, the Integration Committee, comprised of four (4) individuals, who shall be the two (2) individuals then serving as Chief Executive Officer and Chief Financial Officer of Linde and the two (2) individuals then serving as Chief Executive Officer and Chief Financial Officer of Praxair, shall coordinate the Integration Efforts. Decisions of the Integration Committee shall be made by majority vote of the entire committee (i.e., at least 3 of 4 members), provided that, in the event of a tie vote between the Linde representatives and the Praxair representatives with respect to the approval of an economic sanctions plan specified in Section 10(c)(i)(5), the Chief Executive Officer of Praxair shall have the casting vote, and, to the extent a vote of the Integration Committee with respect to such plan has not occurred prior to March 15, 2018, the Chief Executive Officer of Praxair shall be entitled to adopt such plan on behalf on the Integration Committee in a form satisfactory to the Chief Executive Officer of Praxair.

- b. Steering Committee. During the Integration Execution Phase, the Steering Committee, comprised of the Chief Executive Officer, the members of the Management Committee, the General Counsel of the New Holdco Group and the Chief Human Resources Officer of the New Holdco Group, shall coordinate the Integration Efforts. The Steering Committee shall make decisions by consensus, with the Chief Executive Officer having final decision-making authority.

Table of Contents

c. Integration Committee s/Steering Committee s Role and Responsibilities.

i. The role and responsibilities of the Integration Committee during the Integration Planning Phase include:

1. As part of the Integration Plan, establishing basic guidance for, and supervising, the Integration Efforts in accordance with the term sheet, including determining the locations of central functions in accordance with the term sheet and the rebranding strategy of the New Holdco Group;
2. As part of the Integration Plan, determining the operating model (organizational set-up including locations, reporting lines, responsibilities for countries, business units, cluster, etc.) in accordance with the term sheet;
3. Evaluating potential divestitures in connection with obtaining requisite regulatory approval to satisfy the Regulatory Condition;
4. Developing and revising, as appropriate, the Integration Plan;
5. Developing and adopting an economic sanctions compliance plan for the New Holdco Group to become effective upon the Effective Time, which plan shall comply with applicable Laws; and
6. Overseeing and directing the Integration Management Office.

ii. The role and responsibilities of the Steering Committee during the Integration Execution Phase include:

1. Coordinating the Integration Efforts; and
2. Overseeing and directing the Integration Management Office.

d. Integration Management Office. The Integration Committee during the Integration Planning Phase and the Steering Committee during the Integration Execution Phase shall establish and maintain an Integration Management Office, which shall be comprised of two (2) Integration Managers. During the Integration Planning Phase, one (1) Integration Manager shall be appointed by the Linde Executive Board and one (1) Integration Manager shall be appointed by the Chief Executive Officer of Praxair. The role and responsibilities of the Integration Management Office shall be established by the Integration Committee during the Integration Planning Phase and the

Steering Committee during the Integration Execution Phase.

11. Co-determination. After the Effective Time, New Holdco will respect the statutory co-determination rights of employees at Linde or any other direct or indirect German Subsidiary of New Holdco in accordance with the Laws of Germany, subject to any rights under any applicable domination, profit and loss transfer agreement.

12. Business Unit Structure.
 - a. Operations. From and after the Effective Time, the initial Chief Executive Officer shall be based in Danbury, Connecticut, the initial Chief Financial Officer shall split his time between Danbury, Connecticut and Munich, Germany as appropriate, and operations of the business conducted by the Subsidiaries of New Holdco shall be appropriately divided between Danbury, Connecticut and Munich, Germany, in each case, in line with the term sheet, to help achieve efficiencies for the New Holdco Group while preserving the expertise of employees and access to qualified personnel at both locations.

 - b. United Kingdom office. From and after the date of the Agreement, the New Holdco Board shall continue to maintain an office in the United Kingdom, which office may be sublet from Linde or Praxair or one their respective Subsidiaries. The New Holdco Board shall determine from time to time the relevant scope of the activities of the U.K. office of the New Holdco Board, including personnel

Table of Contents

and responsibilities of such office, in each case consistent with good corporate governance and the requirements of Section 2. The Chief Executive Officer and the Chief Financial Officer shall each have a dedicated office in the United Kingdom with appropriate staff.

- c. Linde AG: At least until a squeeze-out, the CEO of Linde AG will be a German national or a German speaking individual who is familiar with German governance and co-determination.

A-77

Table of Contents

AMENDMENT
TO
BUSINESS COMBINATION AGREEMENT

This AMENDMENT (this **Amendment**), dated as of August 10, 2017, to the Business Combination Agreement, dated as of June 1, 2017 (the **Business Combination Agreement**), by and among Linde Aktiengesellschaft, a stock corporation (*Aktiengesellschaft*) organized under the Laws of the Federal Republic of Germany, Praxair, Inc., a Delaware corporation (**Praxair**), Zamalight PLC, now renamed Linde PLC, a public limited company incorporated under the Laws of Ireland (**New Holdco**), Zamalight Holdco LLC, a Delaware limited liability company and wholly-owned Subsidiary of New Holdco (**US Intermediate Holding Sub**), and Zamalight Subco, Inc., a Delaware corporation and wholly-owned Subsidiary of US Intermediate Holding Sub.

WHEREAS, the parties hereto desire to amend certain provisions of the Business Combination Agreement as described herein in order to, among other things, clarify the treatment of fractional Praxair Shares in connection with the Merger.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in the Business Combination Agreement and this Amendment, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Business Combination Agreement.

2. Amendments.

(a) Section 2.7(b) of the Business Combination Agreement is hereby amended and restated in its entirety as follows:

Conversion of Praxair Eligible Shares. As a result of the Merger and without any action on the part of any holder of any capital stock of Praxair, all of the Praxair Eligible Shares converted into the right to receive the Merger Consideration pursuant to this Article II shall cease to be outstanding, shall be cancelled and shall cease to exist as of the Effective Time, and each certificate formerly representing any of the Praxair Eligible Shares (each, a **Praxair Certificate**) and each book-entry interest formerly representing any non-certificated Praxair Eligible Shares (each, a **Praxair Book-Entry Share**) shall thereafter represent only the right to receive the Merger Consideration, the right, if any, to receive pursuant to Section 2.9(i) cash in lieu of fractional shares into which such Praxair Eligible Shares have been converted pursuant to this Section 2.7(b) and the right, if any, to receive any dividends or other distributions pursuant to Section 2.9(d).

(b) Section 2.9(b) of the Business Combination Agreement is hereby amended and restated in its entirety as follows:

Merger Letter of Transmittal. As promptly as practicable after the Effective Time, the Surviving Corporation and New Holdco shall cause the Exchange Agent to mail to each holder of record of Praxair Eligible Shares that are (i) Praxair Certificates or (ii) Praxair Book-Entry Shares not held through the Depository Trust Company (**DTC**) notice advising such holder of the effectiveness of the Merger, including (A) appropriate transmittal materials specifying that delivery shall be effected, and risk of loss and title to the Praxair Certificates or Praxair Book-Entry Shares shall pass only

upon delivery of the Praxair Certificates (or affidavits of loss in lieu of the Praxair Certificates as provided in Section 2.9(h)) or transfer of the Praxair Book-Entry Shares to the Exchange Agent (including customary provisions with respect to delivery of an agent's message with respect to Praxair Book-Entry Shares), such materials to be in such form and have such other provisions as Praxair and Linde, or after the Effective Time, New Holdco, desire (the **Merger Letter of Transmittal**), and (B) instructions for surrendering the Praxair Certificates (or affidavits of loss in lieu of the Praxair

A-78

Table of Contents

Certificates) or transferring the Praxair Book-Entry Shares to the Exchange Agent in exchange for the Merger Consideration, any cash in lieu of fractional shares which the holder has the right to receive pursuant to Section 2.9(i) and any dividends or distributions, in each case, to which the holder has the right to receive pursuant to Section 2.9(d). With respect to Praxair Book-Entry Shares held through DTC, Praxair and New Holdco shall cooperate to establish procedures with the Exchange Agent and DTC to ensure that the Exchange Agent will transmit to DTC or its nominees as soon as reasonably practicable on or after the Closing Date, upon surrender of Praxair Eligible Shares held of record by DTC or its nominees in accordance with DTC's customary surrender procedures, the Merger Consideration and any dividends or distributions, in each case, to which the beneficial owners thereof are entitled pursuant to the terms of this Agreement.

(c) Section 2.9(c)(i) of the Business Combination Agreement is hereby amended and restated in its entirety as follows:

After the Effective Time, and (x) upon surrender to the Exchange Agent of Praxair Eligible Shares that are Praxair Certificates, by physical surrender of such Praxair Certificate (or affidavit of loss in lieu of a Praxair Certificate, as provided in Section 2.9(h)) in accordance with the terms of the Merger Letter of Transmittal and accompanying instructions, (y) upon the transfer of Praxair Eligible Shares that are Praxair Book-Entry Shares not held through DTC, in accordance with the terms of the Merger Letter of Transmittal and accompanying instructions or (z) upon the transfer of Praxair Eligible Shares that are Praxair Book-Entry Shares held through DTC, including by delivery of an agent's message, in accordance with DTC's customary procedures and such other procedures as agreed by Praxair, Linde, New Holdco, the Exchange Agent and DTC, the holder of such Praxair Eligible Shares shall be entitled to receive in exchange therefor, and the Exchange Agent shall be required to deliver to each such holder (subject to Section 2.9(g)), (A) the number of New Holdco Shares (in certificates or evidence of shares in book-entry form, as applicable) in respect of the aggregate Merger Consideration that such holder is entitled to receive pursuant to Section 2.7 (after taking into account all Praxair Eligible Shares then held by such holder), (B) any cash in respect of any dividends or other distributions which the holder has the right to receive pursuant to Section 2.9(d) and (C) except in case of clause (z), any cash in lieu of fractional shares which the holder has the right to receive pursuant to Section 2.9(i).

(d) Section 2.9(g) of the Business Combination Agreement is hereby amended and restated in its entirety as follows:

Termination of Exchange Fund and Fractional Interest Trust. Any portion of the Exchange Fund and Fractional Interest Trust (as defined below) that remains unclaimed by the former Praxair stockholders for 180 days after the Effective Time shall be delivered to New Holdco. Any former Praxair stockholders who have not theretofore complied with this Article II shall thereafter look only to New Holdco for delivery of any New Holdco Shares or distributions from the Fractional Interest Trust of such stockholders and payment of any dividends and other distributions in respect of New Holdco Shares of such stockholders payable and/or issuable pursuant to Sections 2.7(a), 2.9(d) and 2.9(i), in each case, without any interest thereon. Notwithstanding the foregoing, none of New Holdco, the Surviving Corporation, Linde, Merger Sub, the Exchange Agent or any other Person shall be liable to any former Praxair stockholder for any amount properly delivered to a public official pursuant to applicable abandoned property, escheat or similar Laws.

(e) Article II of the Business Combination Agreement is hereby amended by inserting the following additional language as Section 2.9(i) of the Business Combination Agreement:

Fractional Shares. No fractional New Holdco Shares will be issued in the Merger to any holder of Praxair Shares. Notwithstanding any other provision of this Agreement, each holder of Praxair Shares converted pursuant to Section 2.7(a) who would otherwise have been entitled to receive a fraction of a share of New Holdco Shares shall receive from the Exchange Agent, in lieu thereof, cash (without

A-79

Table of Contents

interest) in an amount representing such holder's proportionate interest in the net proceeds from the sale by the Exchange Agent on behalf of all such holders of New Holdco Shares which would otherwise be delivered to them (the **Excess Merger Shares**). The sale of the Excess Merger Shares by the Exchange Agent shall be executed on the NYSE or the Frankfurt Stock Exchange, through one or more member firms of the NYSE or the Frankfurt Stock Exchange, as the case may be, and shall be executed in round lots to the extent practicable. Until the net proceeds of such sale or sales have been distributed to such holders of Praxair Shares, the Exchange Agent shall hold such proceeds in trust for such holders (the **Fractional Interests Trust**). New Holdco shall pay all commissions, transfer taxes and other out-of-pocket transaction costs incurred in connection with such sale of the Excess Merger Shares. The Exchange Agent shall determine the portion of the Fractional Interests Trust to which each holder of Praxair Shares shall be entitled, if any, by multiplying the amount of the aggregate net proceeds comprising the Fractional Interests Trust by a fraction, the numerator of which is the amount of fractional interests to which such holder of Praxair Shares is entitled and the denominator of which is the aggregate amount of fractional interests to which all holders of Praxair Shares are entitled. As soon as practicable after the determination of the amount of cash, if any, to be paid to holders of Praxair Shares in lieu of fractional interests, the Exchange Agent shall make available such amounts to such holders of Praxair Shares. Any such sale shall be made within ten (10) business days or such shorter period as may be required by applicable Law after the Effective Time.

(f) The first sentence of Section 6.3(a) of the Business Combination Agreement is hereby amended and restated in its entirety as follows:

Praxair will take, in accordance with applicable Law and the Praxair Organizational Documents, all action necessary to convene a meeting of its stockholders (the **Praxair Stockholders Meeting**) on any business day prior to the date of the initial scheduled Expiration Time (the **Praxair Meeting Date**), which date shall be after the Registration Statement is declared effective (it being agreed that, in the event that the scheduled Expiration Time shall be postponed as a result of an extension of the Offer, Praxair may adjourn or postpone the Praxair Stockholders Meeting, or call a new Praxair Stockholders Meeting in the event that the record date for such Praxair Stockholders Meeting becomes stale, so that the Praxair Meeting Date is no later than the business day prior to such newly scheduled Expiration Time).

3. **Effect of Amendment**. This Amendment shall not constitute an amendment or waiver of any provision of the Business Combination Agreement not expressly amended or waived herein and shall not be construed as an amendment, waiver or consent to any action that would require an amendment, waiver or consent except as expressly stated herein. The Business Combination Agreement, as amended by this Amendment, is and shall continue to be in full force and effect and is in all respects ratified and confirmed hereby.

4. **References to the Business Combination Agreement**. After giving effect to this Amendment, unless the context otherwise requires, each reference in the Business Combination Agreement to this Agreement, hereof, hereunder, herein, or words of like import referring to the Business Combination Agreement shall refer to the Business Combination Agreement as amended by this Amendment, provided that references in the Business Combination Agreement to as of the date hereof or as of the date of this Agreement or words of like import shall continue to refer to June 1, 2017.

5. **Miscellaneous Terms**. The provisions of Article IX (*Miscellaneous and General*) of the Business Combination Agreement shall apply *mutatis mutandis* to this Amendment, and to the Business Combination Agreement as modified by this Amendment, taken together as a single agreement, reflecting the terms therein as modified by this Amendment.

Table of Contents

IN WITNESS WHEREOF, this Amendment has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first written above.

PRAXAIR, INC.

By: /s/ Guillermo Bichara
Name: Guillermo Bichara
Title: VP, General Counsel & Corporate
Secretary

LINDE AG

By: /s/ Sanjiv Lamba
Name: Sanjiv Lamba
Title: Member of the Executive Board

By: /s/ Sven Schneider
Name: Dr. Sven Schneider
Title: Member of the Executive Board

LINDE PLC

By: /s/ Andrew Brackfield
Name: Andrew Brackfield
Title: Director

ZAMALIGHT HOLDCO LLC

By: /s/ Guillermo Bichara
Name: Guillermo Bichara
Title: Director

ZAMALIGHT SUBCO, INC.

By: /s/ Guillermo Bichara
Name: Guillermo Bichara
Title: Director

Table of Contents

ANNEX B OPINION OF PERELLA WEINBERG PARTNERS UK LLP

Perella Weinberg Partners UK LLP

20 Grafton Street

London W1S 4DZ

T +44 (0) 20 7268 2800

F +44 (0) 20 7268 2900

pwpartners.com

Linde Aktiengesellschaft

Members of the Executive Board (Vorstand)

Klosterhofstr. 1

80331 München

Germany

1 June 2017

Potential Merger between Linde and Praxair

Dear Members of the Executive Board,

We understand that Linde Aktiengesellschaft (*Linde* or the *Company*) is considering a merger between Linde and Praxair, Inc. (*Praxair*) (the *Potential Merger*). According to the terms of the draft Business Combination Agreement (the *BCA*), the Potential Merger would be structured as an all-share merger under which a new holding company (*NewHoldCo* , together with Linde and Praxair, the *Merger Parties* , or each individually, a *Merger Party*) would acquire all of the shares in Praxair by way of a merger of a wholly owned indirect subsidiary of NewHoldCo with and into Praxair and make a public exchange offer to all shareholders of Linde (the *Takeover Offer*) to acquire all of the issued and outstanding shares of Linde (except for Excluded Linde Shares (as defined in the BCA)). Praxair shareholders would receive one NewHoldCo share for one Praxair share and Linde shareholders would receive 1.54 NewHoldCo share for one Linde share (the *Exchange Ratio*). Upon completion of the Potential Merger and assuming a 100% acceptance of the Takeover Offer, Linde shareholders would hold approximately 50.0 per cent, and Praxair shareholders would hold approximately 50.0 per cent of the total share capital of NewHoldCo.

Linde has mandated Perella Weinberg Partners UK LLP (*Perella Weinberg Partners*) as financial advisor in connection with the Potential Merger pursuant to an engagement letter executed between Linde and Perella Weinberg Partners (the *Engagement Letter*). Linde has asked Perella Weinberg Partners to issue an opinion to the Executive Board of the Company (the *Opinion*) regarding the fairness from a financial point of view, of the Exchange Ratio to the Linde shareholders. This Opinion shall be subject to the terms of the Engagement Letter.

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

This Opinion is solely rendered for purposes of enabling the Executive Board of the Company to form an opinion about the fairness, as of the date hereof, from a financial point of view, of the Exchange Ratio to the Company's shareholders. This Opinion, however, is not rendered for purposes of the reasoned statement, which is to be published by the Executive Board and the Supervisory Board in the course of the Takeover Offer in accordance with § 27 Para. 1 and Para. 3 of the German Securities Acquisition and Takeover Act (WpÜG), and may not be attached to such reasoned opinion.

Partners have limited liability status

Perella Weinberg Partners UK Limited Liability Partnership

Registered Office: 20 Grafton Street, London W1S 4DZ

Registered Number: OC319198

B-1

Table of Contents

In the context of preparing this Opinion we have:

- i. reviewed certain publicly available financial statements and other business and financial information with respect to Linde and Praxair, including research analyst reports;
- ii. reviewed certain internal financial statements, analyses, forecasts, and other financial and operating data relating to the business of Linde, in each case, prepared by management of Linde (the Linde Management Forecasts);
- iii. reviewed certain internal financial statements, analyses, forecasts, and other financial and operating data relating to the business of Praxair, in each case, prepared by management of Praxair (the Praxair Management Forecasts);
- iv. reviewed certain publicly available forecasts relating to Linde (the Linde Public Forecasts);
- v. reviewed certain publicly available forecasts relating to Praxair (the Praxair Public Forecasts);
- vi. discussed the past and current business, operations, financial condition and prospects of Linde and Praxair and reviewed estimates of synergies anticipated from the Potential Merger, prepared by management of Linde (collectively, the Anticipated Synergies), with senior executives of Linde;
- vii. discussed the past and current business, operations, financial condition and prospects of Praxair with senior executives of Praxair;
- viii. compared the financial performance of Linde and Praxair with that of certain publicly-traded companies which we believe to be generally relevant;
- ix. compared the financial terms of the Potential Merger with the publicly available financial terms of certain transactions which we believe to be generally relevant;
- x. reviewed historical premiums paid for securities of certain publicly-traded companies in certain transactions which we believe to be generally relevant;
- xi. reviewed the historical trading prices of the shares of Linde and Praxair;

xii. reviewed the draft of the BCA dated June 1, 2017; and

xiii. conducted such other financial studies, analyses and investigations, and considered such other factors, as we have deemed appropriate.

In arriving at our Opinion, we have assumed and relied thereupon, without independent verification, the accuracy and completeness of the financial and other information supplied or otherwise made available to us (including information that is available from generally recognized public sources) for purposes of this Opinion and have further relied upon the assurances of the management of the Company that, to its knowledge, the information furnished by management for purposes of our analysis does not contain any material omissions or misstatements of material fact. We have assumed, with your consent, that there are no material undisclosed liabilities of Linde or Praxair for which adequate reserves or other provisions have not been made.

With respect to the Linde Management Forecasts, we have been advised by the management of Linde, and have assumed, with your consent, that they have been reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of the management of Linde as to the future financial performance of Linde and the other matters covered thereby and we express no view as to the assumptions on which they are based. With respect to the Praxair Management Forecasts, we have been advised by the management of Praxair, and have assumed, with your consent, that they have been reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of the management of Praxair as to the future financial performance of Praxair and we express no view as to the assumptions on which they are based. With respect to Linde Public Forecasts and Praxair Public Forecasts, we have assumed, with your consent, that such forecasts are a reasonable basis upon which to evaluate the future financial performance of the Merger Parties and we express

Table of Contents

no view as to the assumptions on which they are based. We have assumed, with your consent, that the Anticipated Synergies and operational benefits (including the amount, timing and achievability thereof) anticipated by the management of Linde to result from the Potential Merger will be realized in the amounts and at the times projected by the management of Linde, and we express no view as to the assumptions on which they are based nor do we assume any responsibility for the accuracy and completeness of such information. We have relied without independent verification upon the assessment by the management of the Company of the timing and risks associated with the integration of Linde and Praxair.

In arriving at our Opinion, we have not made any independent valuation or appraisal of the assets or liabilities (including any contingent, derivative or off-balance-sheet assets and liabilities) of Linde or Praxair, nor have we been furnished with any such valuations or appraisals, nor have we assumed any obligation to conduct, nor have we conducted, any physical inspection of the properties or facilities of Linde or Praxair. In addition, we have not evaluated the solvency of any party to the Potential Merger, including under any laws relating to bankruptcy, insolvency or similar matters. We have assumed that the final BCA will not differ in any material respect relevant to our opinion from the form of BCA reviewed by us and that the Potential Merger will be consummated in accordance with the terms set forth in the BCA, without material modification, waiver or delay. In addition, we have assumed that in connection with the receipt of all the necessary approvals of the Potential Merger (including anti-trust, competition or other regulatory approvals), no delays, limitations, conditions or restrictions will be imposed that could have an adverse effect on any Merger Party or the contemplated benefits expected to be derived in the Potential Merger. We have also assumed that in direct or indirect connection with the Potential Merger no consequences or effects arise that have an adverse effect on any Merger Party or their respective businesses. We have relied as to all legal matters relevant to rendering our Opinion upon the advice of counsel.

This Opinion addresses only the fairness from a financial point of view, as of the date hereof, of the Exchange Ratio to the Company's shareholders. We have not been asked to, nor do we offer any opinion as to any other term of the Takeover Offer or the form or structure of the Potential Merger or the likely timeframe in which such merger will be consummated. In addition, we express no opinion as to the fairness of the amount or nature of compensation to be received, if any, by any officers, directors or employees of any parties to the Potential Merger, or any class of such persons. We do not express any opinion as to any tax or other consequences that may result from the transactions contemplated by the BCA or any other related document, nor does our Opinion address any legal, tax, regulatory or accounting matters, as to which we understand the Company has received such advice as it deems necessary from qualified professionals. Our Opinion does not address the underlying business decision of the Company to enter into the Potential Merger or the relative merits of the Potential Merger as compared with any other strategic alternative which may be available to the Company.

We have acted as financial advisor to the Company in connection with the Potential Merger and will receive a fee for our services, a portion of which is payable upon the rendering of this Opinion and a significant portion of which is contingent upon the consummation of the Potential Merger. In addition, the Company has agreed to reimburse us for certain expenses that may arise, and indemnify us for certain liabilities that may arise, out of our engagement. During the two year period prior to the date hereof, Perella Weinberg Partners and its affiliates have not provided investment banking services to Praxair or its affiliates for which Perella Weinberg Partners or its affiliates has received compensation. Other than this engagement, Perella Weinberg Partners and/or its affiliates have not advised Linde on any other matters for which we have received compensation during the two year period prior to the date hereof. Perella Weinberg Partners and its affiliates may in the future provide investment banking and other financial services to Linde, Praxair and their respective affiliates and in the future may receive compensation for the rendering of such services. In the ordinary course of our business activities, Perella Weinberg Partners or its affiliates may at any time hold long or short positions, and may trade or otherwise effect transactions, for our own account or the accounts of customers or clients, in debt or equity or other securities (or related derivative securities) or financial instruments

(including bank loans or other obligations) of NewHoldCo, Linde or Praxair or any of their respective affiliates. The issuance of this Opinion was approved by a fairness opinion committee of Perella Weinberg Partners.

B-3

Table of Contents

This Opinion by Perella Weinberg Partners is not based on a valuation as is typically carried out by auditors in accordance with German corporate and commercial law and should therefore not be deemed as such. In particular, Perella Weinberg Partners has not prepared a valuation on the basis of the Principles for the Performance of Business Valuations (*Grundsätze zur Durchführung von Unternehmensbewertungen - IDW S 1*) published by the Institute of Auditors in Germany (*Institut der Wirtschaftsprüfer e.V. - IDW*) and this Opinion also does not take into account the Principles for the Preparation of Fairness Opinions (*Grundsätze für die Erstellung von Fairness Opinions - IDW S 8*) published by the Institute of Auditors in Germany (*Institut der Wirtschaftsprüfer e.V. - IDW*). An assessment regarding the fairness, from a financial point of view, differs in several important aspects from assessments by auditors and from financial assessments in general.

This Opinion is for the information and assistance of the Executive Board of the Company in connection with, and for the purposes of its evaluation of, the Potential Merger. This Opinion is not intended to be and does not constitute a recommendation to any Company shareholder or any shareholder of another Merger Party as to how such holder should tender, make any election or otherwise act with respect to the proposed Potential Merger or any other matter and does not in any manner address the prices at which shares of the stock of any Merger Party will trade at any time. In addition, we express no opinion as to the fairness of the Potential Merger to, or any consideration received in connection with the Potential Merger by the holders of any other class of securities, creditors or other constituencies of the Company or any other Merger Party. Our Opinion is necessarily solely based on the information and data received up to the date of this letter and on the financial, macroeconomic, market and other conditions as they currently exist and can be considered at this moment in time. Subsequent circumstances, developments and events which occur, or information and data which we receive, after the date of this letter may have an effect on our Opinion and the underlying assumptions. We do not, however, assume any obligation to update, edit or confirm our Opinion on the basis of new circumstances, developments or events, or otherwise which arise, or information and data which we receive, after the delivery of this Opinion.

This Opinion may not, without our prior written consent, be disclosed to any person or as a whole or in part be quoted from or made reference to and it may not be used for any purpose other than the one stipulated herein, except that a copy of this opinion may be included in its entirety in any filing Praxair or NewHoldCo is required to make with the Securities and Exchange Commission in connection with this transaction.

Based upon and subject to the foregoing, including the various assumptions, qualifications and limitations set forth herein, we are of the opinion that, as of the date hereof, the Exchange Ratio is fair, from a financial point of view, to the holders of the Linde shares.

Yours sincerely,

/s/ PERELLA WEINBERG PARTNERS UK
LLP

PERELLA WEINBERG PARTNERS UK LLP

Table of Contents

ANNEX C OPINION OF MORGAN STANLEY BANK AG

Executive Board

Linde AG

Klosterhofstrasse 1

80331 Munich

Germany

June 1, 2017

Members of the Executive Board:

We understand that Linde AG, a stock corporation (*Aktiengesellschaft*) organized under the laws of the Federal Republic of Germany (*Linde*), Praxair, Inc., a Delaware corporation (*Praxair*), Zamalight plc, a public limited company incorporated under the laws of Ireland (*HoldCo*), Zamalight Holdco LLC, a Delaware limited liability company and newly formed wholly-owned subsidiary of Holdco (*US Intermediate Holding Sub*) and Zamalight Subco, Inc., a Delaware Corporation and a newly formed, wholly-owned subsidiary of US Intermediate Holding Sub (*Merger Sub*), propose to enter into a business combination agreement, substantially in the form of the draft dated June 1, 2017 (the *Business Combination Agreement*). The Business Combination Agreement provides for, among other things:

HoldCo to make a public exchange offer (the *Public Exchange Offer*) to Linde shareholders by means of an offer document under applicable German law to acquire all of the issued and outstanding ordinary bearer shares of Linde AG, with nil par value (the *Linde Common Stock*), and to exchange these shares into new ordinary shares of HoldCo, nominal value of 0.001 per share (the *HoldCo Common Stock*); and

A merger of Merger Sub with and into Praxair (the *Merger* , together with the Public Exchange Offer the *Combination*), with Praxair surviving the Merger as a wholly owned subsidiary of HoldCo. Linde shareholders tendering into the Public Exchange Offer will receive, in exchange for each share of Linde Common Stock that is tendered and not withdrawn, 1.54 shares of HoldCo Common Stock (the *Linde Exchange Ratio*). Pursuant to the Merger, each share of Praxair common stock, par value \$0.01 per share (the *Praxair Common Stock*), other than shares held by Praxair or owned by HoldCo or any direct or indirect wholly-owned subsidiary of Holdco or Praxair (other than such shares held on behalf of third parties), will be converted into the right to receive 1.00 share of HoldCo Common Stock.

The terms and conditions of the Public Exchange Offer and the Merger are more fully set forth in the Business Combination Agreement.

You have asked for our opinion as to whether the Linde Exchange Ratio pursuant to the Business Combination Agreement is fair from a financial point of view to the holders of Linde Common Stock.

For purposes of the opinion set forth herein, we have:

- 1) reviewed certain publicly available financial statements and other business and financial information of Linde and Praxair, respectively;
- 2) reviewed certain internal financial statements and other financial and operating data concerning Linde and Praxair, respectively;
- 3) reviewed certain financial projections prepared by the managements of Linde and Praxair, respectively, and compared those to certain publicly available research analysts estimates;
- 4) reviewed information relating to certain strategic, financial and operational benefits anticipated from the Combination and related implementation costs, prepared by the managements of Linde and Praxair, respectively;

C-1

Table of Contents

- 5) discussed the past and current operations and financial condition and the prospects of Linde, including information relating to certain strategic, financial and operational benefits anticipated from the Combination, with senior executives of Linde;
- 6) discussed the past and current operations and financial condition and the prospects of Praxair, including information relating to certain strategic, financial and operational benefits anticipated from the Combination, with senior executives of Praxair;
- 7) reviewed the reported prices and trading activity for Linde Common Stock and Praxair Common Stock;
- 8) compared the financial performance of Linde and Praxair and the prices and trading activity of Linde Common Stock and Praxair Common Stock with that of certain other publicly-traded companies comparable with Linde and Praxair, respectively, and their outstanding stock;
- 9) reviewed the financial terms, to the extent publicly available, of certain comparable business combination transactions;
- 10) conducted illustrative intrinsic valuation analyses based on, among other things, the estimated discounted cash flows of Linde and Praxair, respectively;
- 11) participated in certain discussions and negotiations among representatives of Linde and Praxair and their respective financial and legal advisors;
- 12) reviewed the Business Combination Agreement and certain related documents; and
- 13) performed such other analyses and reviewed such other information and considered such other factors as we have deemed appropriate.

We have assumed and relied upon, without independent verification, the accuracy and completeness of the information that was publicly available or supplied or otherwise made available to us by Linde and Praxair, respectively, and formed a substantial basis for this opinion. With respect to the financial projections, including information relating to certain strategic, financial and operational benefits anticipated from the Combination, we have assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the respective managements of Linde and Praxair of the future financial performance of Linde and Praxair, respectively. For purposes of our opinion, we have relied, at your direction, on (i) the financial projections concerning Linde prepared by the management of Linde; (ii) the financial projections concerning Praxair prepared by the management of Praxair and (iii) information relating to certain strategic, financial and operational benefits anticipated from the Combination prepared by the management of Linde and Praxair. At your direction, our financial analysis does not consider, and our opinion does not address, the nature, timing or potential financial impact on HoldCo of (i) any disposals that may be required to obtain governmental, regulatory or other approvals and consents required for the proposed Combination and (ii) any post-closing corporate measures, including, but not limited to, the

conclusion of a domination and profit/loss transfer agreement or the completion of a squeeze-out. In addition, we have assumed that the Combination will be consummated in accordance with the terms set forth in the Business Combination Agreement without any waiver, amendment or delay of any terms or conditions, including, among other things, that the definitive Business Combination Agreement will not differ in any material respect from the draft thereof furnished to us. We have further assumed that the acceptance level of the Public Exchange Offer reaches at least 75% of the outstanding Linde Common Stock. Morgan Stanley has assumed that in connection with the receipt of all the necessary governmental, regulatory or other approvals and consents required for the proposed Combination, no delays, limitations, conditions or restrictions will be imposed that would have a material adverse effect on the contemplated benefits expected to be derived in the proposed Combination. In addition, we have relied upon, without independent verification, the assessment by the management of Linde as to: (i) the strategic, financial and operational benefits anticipated from the Combination and related implementation costs and (ii) the timing and risks associated with the integration of Linde and Praxair. We are not legal, tax, accounting or regulatory advisors. For the avoidance of doubt, we are not auditors and this opinion is not an IDW S8 letter issued by an auditor. We are financial advisors only and have relied upon, without independent verification, the assessment of Praxair and Linde and

C-2

Table of Contents

their respective legal, tax, accounting or regulatory advisors with respect to legal, tax, accounting or regulatory matters. We express no opinion with respect to the fairness of the amount or nature of the compensation to any of Linde's officers, directors or employees, or any class of such persons, relative to the consideration to be received by the holders of shares of Linde Common Stock in the transaction. We have not made any independent valuation or appraisal of the assets or liabilities of Linde or Praxair, nor have we been furnished with any such valuations or appraisals. Our opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to us as of, the date hereof. Events occurring after the date hereof may affect this opinion and the assumptions used in preparing it, and we do not assume any obligation to update, revise or reaffirm this opinion. This opinion does not address the relative merits of the transactions contemplated by the Business Combination Agreement as compared to other business or financial strategies that might be available to Linde, nor does it address the underlying business decision of Linde to enter into the Business Combination or proceed with any other transaction contemplated by the Business Combination Agreement.

We have acted as financial advisor to Linde in connection with this transaction and will receive a fee for our services, a significant portion of which is contingent upon the closing of the Combination. In the two years prior to the date hereof, we have provided certain financial advisory and financing services for Linde and have received fees in connection with such services. Morgan Stanley may also seek to provide financial advisory and financing services to HoldCo and their respective affiliates in the future and would expect to receive fees for the rendering of these services.

Please note that Morgan Stanley is a global financial services firm engaged in the securities, investment management and individual wealth management businesses. Our securities business is engaged in securities underwriting, trading and brokerage activities, foreign exchange, commodities and derivatives trading, prime brokerage, as well as providing investment banking, financing and financial advisory services. Morgan Stanley, its affiliates, directors and officers may at any time invest on a principal basis or manage funds that invest, hold long or short positions, finance positions, and may trade or otherwise structure and effect transactions, for their own account or the accounts of its customers, in debt or equity securities or loans of Praxair, Linde, or any other company, or any currency or commodity, that may be involved in this transaction, or any related derivative instrument.

This opinion has been approved by a committee of Morgan Stanley investment banking and other professionals in accordance with our customary practice. This opinion is for the information of the Executive Board of Linde and may not be used for any other purpose or disclosed without our prior written consent, except that a copy of this opinion may be included in its entirety in any filing Praxair or HoldCo is required to make with the Securities and Exchange Commission in connection with this transaction and by the Executive Board of Linde in the Statement of the Executive Board pursuant to Section 27 of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz*, WpÜG) on the Public Exchange Offer by HoldCo. In addition, this opinion does not in any manner address the prices at which the HoldCo Common Stock or Linde Common Stock will trade following consummation of the Combination or at any time and Morgan Stanley expresses no opinion or recommendation as to whether the shareholders of Linde should tender their shares into the Public Exchange Offer or as to how the shareholders of Praxair should vote at the Praxair shareholders' meeting to be held in connection with the Combination.

Table of Contents

Based on and subject to the foregoing, we are of the opinion on the date hereof that the Linde Exchange Ratio pursuant to the Business Combination Agreement is fair from a financial point of view to the holders of Linde Common Stock.

Very truly yours,

MORGAN STANLEY BANK AG

By: /s/ Jens Maurer

Jens Maurer

Managing Director

/s/ Moritz Zschoche

Moritz Zschoche

Executive Director

C-4

Table of Contents

ANNEX D OPINION OF GOLDMAN SACHS AG

June 1, 2017

To the Supervisory Board (*Aufsichtsrat*)

Linde AG

Klosterhofstr. 1

80331 München

Ladies and Gentlemen:

You have requested our opinion as to the fairness from a financial point of view to the holders (other than Praxair Inc. (Praxair)) of the outstanding non-par value bearer shares (each representing a pro rata amount of the registered share capital of 2.56 per share) (the Shares) of Linde AG (the Company) of the exchange ratio of 1.540 shares of common stock, nominal value 0.001 per share (the New Holdco Common Stock) of Zamalight PLC (New Holdco) for each Share tendered in the exchange offer (the Exchange Ratio) pursuant to the Business Combination Agreement, dated as of June 1, 2017 (the Agreement), by and between Praxair, the Company, New Holdco, Zamalight Holdco LLC, a wholly-owned subsidiary of New Holdco (the US Intermediate Holding Sub) and Zamalight Subco, Inc., a wholly-owned subsidiary of US Intermediate Holding Sub (the Merger Sub).

The Agreement provides, among other things, for (i) New Holdco to make a public exchange offer (the Offer) to acquire all of the Shares (other than the shares that are held in the treasury of the Company or owned by any direct or indirect wholly-owned subsidiary of the Company (other than those held on behalf of third parties)) for which tendering shareholders of the Company will receive in exchange for each Share tendered, the Exchange Ratio, and (ii) the merger of Merger Sub with and into Praxair (the Merger), as a result of which Praxair will become a wholly-owned indirect subsidiary of New Holdco and each share of Praxair common stock, par value \$0.01 per share, other than shares held in treasury by Praxair or held by New Holdco or any direct or indirect wholly-owned subsidiary of New Holdco or Praxair (other than such shares which are held on behalf of third parties), will be converted into the right to receive 1.00 share of New Holdco Common Stock. Subsequently, New Holdco, the German Intermediate Holding Sub (as defined in the Agreement), the German Intermediate Sub (as defined in the Agreement) or the Company intend to enter into Post-Closing Reorganization (as defined in the Agreement), as to which we express no opinion.

Goldman Sachs AG and its affiliates (collectively, Goldman Sachs) are engaged in advisory, underwriting and financing, principal investing, sales and trading, research, investment management and other financial and non-financial activities and services for various persons and entities. Goldman Sachs and its employees, and funds or other entities they manage or in which they invest or have other economic interests or with which they co-invest, may at any time purchase, sell, hold or vote long or short positions and investments in securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments of the Company, Praxair, New Holdco, any of their respective affiliates and third parties or any currency or commodity that may be involved in the transaction contemplated by the Agreement (the Transaction). We have acted as financial advisor to the Company in connection with the Transaction. We expect to receive fees for our services in connection with the Transaction, all of which are contingent upon consummation of the Transaction, and the Company has agreed to reimburse certain of our expenses arising, and indemnify us against certain liabilities that may arise, out of our engagement. We have provided certain financial advisory and/or underwriting services to the Company. We have provided certain financial advisory

and/or underwriting services to Praxair and/or its affiliates from time to time for which our Investment Banking Division has received, and may receive, compensation, including having acted as co-manager with respect to the public offering of Praxair's 1.200% Notes due February 2024 (aggregate principal amount \$550,000,000) in February 2016 and as dealer on Praxair's commercial paper program since 2010. We may also in the future provide financial advisory and/or underwriting services to the Company, Praxair, New Holdco and their respective affiliates for which our Investment Banking Division may receive compensation.

D-1

Table of Contents

To the Supervisory Board (Aufsichtsrat)

Linde AG

June 1, 2017

In connection with this opinion, we have reviewed, among other things, the Agreement; annual reports to shareholders and Annual Reports on Form 10-K of the Company and Praxair, respectively, for the five fiscal years ended December 31, 2016; certain interim reports to shareholders and Quarterly Reports on Form 10-Q of the Company and Praxair, respectively; certain other communications from the Company and Praxair to their respective shareholders; certain publicly available research analyst reports for the Company and Praxair; and certain internal financial analyses and forecasts for the Company prepared by its management and for Praxair prepared by its management and certain financial analyses and forecasts for New Holdco prepared by the management of the Company, in each case, as approved for our use by the Company (the *Forecasts*), including certain cost savings and operating synergies projected by the managements of the Company and Praxair to result from the Transaction, as approved for our use by the Company (the *Synergies*). We have also held discussions with members of the senior managements of the Company and Praxair regarding their assessment of the strategic rationale for, and the potential benefits of, the Transaction and the past and current business operations, financial condition and future prospects of the Company and Praxair; reviewed the reported price and trading activity for the Shares and shares of Praxair Common Stock; compared certain financial and stock market information for the Company and Praxair with similar information for certain other companies the securities of which are publicly traded; reviewed the financial terms of certain recent business combinations in the industrial gases industry and in other industries; and performed such other studies and analyses, and considered such other factors, as we deemed appropriate.

For purposes of rendering this opinion, we have, with your consent, relied upon and assumed the accuracy and completeness of all of the financial, legal, regulatory, tax, accounting and other information provided to, discussed with or reviewed by us, without assuming any responsibility for independent verification thereof. In that regard, we have assumed with your consent that the Forecasts, including the Synergies, have been reasonably prepared on a basis reflecting the best currently available estimates and judgments of the management of the Company. We have not made an independent evaluation or appraisal of the assets and liabilities (including any contingent, derivative or other off-balance-sheet assets and liabilities) of New Holdco, the Company or Praxair or any of their respective subsidiaries, and we have not been furnished with any such evaluation or appraisal. We have also assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the Transaction will be obtained without any adverse effect on New Holdco, the Company or Praxair or on the expected benefits of the Transaction in any way meaningful to our analysis. We have further assumed that the acceptance level of the Offer reaches at least 75 % of the Shares as such is required under the Agreement and that as part of a Post-Closing Reorganization a domination agreement and/or squeeze-out is consummated. We have assumed that the Transaction will be consummated on the terms set forth in the Agreement, without the waiver or modification of any term or condition the effect of which would be in any way meaningful to our analysis.

Our opinion does not address the underlying business decision of the Company to engage in the Transaction, or the relative merits of the Transaction as compared to any strategic alternatives that may be available to the Company; nor does it address any legal, regulatory, tax or accounting matters. This opinion addresses only the fairness from a financial point of view to the holders of Shares, as of the date hereof, of the Exchange Ratio pursuant to the Agreement. We do not express any view on, and our opinion does not address, any other term or aspect of the Agreement or Transaction or any term or aspect of any other agreement or instrument contemplated by the Agreement

or entered into or amended in connection with the Transaction, including any Post-Closing Reorganization, the fairness of the Transaction to, or any consideration received in connection therewith by, the holders of any other class of securities, creditors, or other constituencies of the Company; nor as to the fairness of the amount or nature of any compensation to be paid or payable to any of the officers, directors or employees of the Company or Praxair, or class of such persons, in connection with the Transaction, whether relative the Exchange Ratio pursuant to the Agreement or otherwise. We are not expressing any opinion as to the prices at

D-2

Table of Contents

To the Supervisory Board (Aufsichtsrat)

Linde AG

June 1, 2017

which the New Holdco Common Stock or the Shares will trade at any time or as to the impact of the Transaction on the solvency or viability of the Company, Praxair or New Holdco or the ability of the Company, Praxair or New Holdco to pay their respective obligations when they come due. Our opinion is necessarily based on economic, monetary, market and other conditions as in effect on, and the information made available to us as of, the date hereof and we assume no responsibility for updating, revising or reaffirming this opinion based on circumstances, developments or events occurring after the date hereof. Our advisory services and the opinion expressed herein are provided for the information and assistance of the Supervisory Board of the Company in connection with its consideration of the Transaction and such opinion does not constitute a recommendation as to whether or not any holder of Shares should tender such Shares in connection with the Offer or any other matter. This opinion has been approved by a fairness committee of Goldman Sachs.

This opinion is not, and should not be construed to be, a valuation opinion (*Wertgutachten*) of the type rendered by qualified auditors under the requirements of the corporate laws of Germany. An opinion of fairness from a financial point of view differs in a number of important respects from such a valuation opinion performed by qualified auditors and from accounting valuations generally. Finally, this opinion has not been prepared according to the guidelines for the rendering of fairness opinions (IDW S8) of the institute of public auditors in Germany (Institut der Wirtschaftsprüfer in Deutschland e.V. IDW).

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Exchange Ratio pursuant to the Agreement is fair from a financial point of view to the holders of Shares.

Very truly yours,

GOLDMAN SACHS AG

/s/ Thomas Schweppe

/s/ Axel Hoefler

D-3

Table of Contents

**ANNEX E OPINION OF BANK OF AMERICA MERRILL LYNCH INTERNATIONAL
LIMITED ZWEIGNIEDERLASSUNG FRANKFURT AM MAIN**

1 June 2017

Supervisory Board

Linde AG

Klosterhofstrasse 1

80311 Munich

Germany

Members of the Supervisory Board:

We understand that Linde AG (*Linde*) proposes to enter into a Business Combination Agreement, dated as of 1 June 2017 (the *Business Combination Agreement*), among Linde, a stock corporation (Aktiengesellschaft) organized under the laws of the Federal Republic of Germany, Praxair, Inc., a Delaware corporation (*Praxair*), Zamalight PLC, a public limited company organised under the laws of Ireland (*New Holdco*), Zamalight Holdco LLC, a Delaware limited liability company and newly formed wholly owned subsidiary of New Holdco (*US Intermediate Holding Sub*), and Zamalight Subco, Inc., a Delaware corporation and newly formed, wholly owned subsidiary of US Intermediate Holding Sub (*MergerSub*), which will provide, among other things, (i) for New Holdco to make a public exchange offer (the *Exchange Offer*) to acquire all of the issued and outstanding, no-par value bearer shares of Linde (*Linde Shares*), subject to the conditions set forth in the Exchange Offer document, and (ii) upon closing of the Exchange Offer, for the merger of MergerSub with and into Praxair (the *Merger* and, together with the Exchange Offer, the *Combination*), with Praxair continuing as the surviving corporation and a wholly owned indirect subsidiary of New Holdco. As set forth more fully in the Business Combination Agreement, (i) pursuant to the terms and conditions of the Exchange Offer, tendering Linde shareholders will receive, in exchange for each outstanding Linde Share tendered, 1.540 (the *Exchange Ratio*) ordinary shares of New Holdco (each such share a *New Holdco Share*), and (ii) pursuant to the terms and conditions of the Merger, each share of Praxair common stock, par value \$0.01 per share (the *Praxair Shares*) will be converted into a right to receive one New Holdco Share. The terms and conditions of the Combination are more fully set forth in the Business Combination Agreement.

You have requested our opinion as to the fairness, from a financial point of view, to the holders of Linde

Shares of the Exchange Ratio provided for in the Combination. In connection with this opinion, we have, among other things:

- (a) reviewed certain publicly available business and financial information relating to Linde and Praxair;
- (b) reviewed certain internal financial and operating information with respect to the business, operations and prospects of Linde furnished to or discussed with us by the management of Linde, including certain financial

forecasts relating to Linde prepared by the management of Linde (such forecasts, Linde Forecasts);

- (c) reviewed certain internal financial and operating information with respect to the business, operations and prospects of Praxair furnished to or discussed with us by the management of Praxair, including certain financial forecasts relating to Praxair prepared by the management of Praxair (such forecasts, Praxair Forecasts);
- (d) reviewed certain estimates as to the amount and timing of cost savings (the Synergies) anticipated by the managements of Linde and Praxair to result from the Combination as well as additional transaction-related costs;

E-1

Table of Contents

- (e) discussed the past and current business, operations, financial condition and prospects of Linde with members of senior management of Linde and discussed the past and current business, operations, financial condition and prospects of Praxair with members of senior management of Praxair;
- (f) reviewed the potential pro forma financial impact of the Combination on the future financial performance of New Holdco, including the potential effect on New Holdco's estimated earnings per share;
- (g) reviewed the trading histories for Linde Shares and Praxair Shares and a comparison of such trading histories with each other and with the trading histories of other companies we deemed relevant;
- (h) compared certain financial and stock market information of Linde and Praxair with similar information of other companies we deemed relevant;
- (i) compared certain financial terms of the Combination to financial terms, to the extent publicly available, of other transactions we deemed relevant;
- (j) reviewed the relative financial contributions of Linde and Praxair to the future financial performance of New Holdco on a pro forma basis;
- (k) reviewed a draft, dated 30 May 2017 of the Business Combination Agreement (the Draft Business Combination Agreement); and
- (l) performed such other analyses and studies and considered such other information and factors as we deemed appropriate.

In arriving at our opinion, we have assumed and relied upon, without independent verification, the accuracy and completeness of the financial and other information and data publicly available or provided to or otherwise reviewed by or discussed with us and have relied upon the assurances of the managements of Linde and Praxair that they are not aware of any facts or circumstances that would make such information or data inaccurate or misleading in any material respect. With respect to the Linde Forecasts, we have been advised by Linde, and have assumed, that they have been reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of the management of Linde as to the future financial performance of Linde. With respect to the Praxair Forecasts, we have been advised by Praxair, and have assumed, with the consent of Linde, that they have been reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of the management of Praxair as to the future financial performance of Praxair and other matters covered thereby. We have relied, at the direction of Linde, on the assessments of the managements of Linde and Praxair as to Praxair's ability to achieve the Synergies and have been advised by Linde, and have assumed, that the Synergies will be realized in the amounts and at the times projected. We have not made or been provided with any evaluation or appraisal of the assets or liabilities (contingent or otherwise) of Linde or Praxair, nor have we made any physical inspection of the properties or assets of Linde or Praxair. We have not evaluated the solvency or fair value of Linde or Praxair under any laws relating to bankruptcy, insolvency or similar matters. We have assumed, at the direction of Linde, that the Combination will be consummated in accordance with its terms, without waiver, modification or amendment of any material term, condition or agreement

and that, in the course of obtaining the necessary governmental, regulatory and other approvals, consents, releases and waivers for the Combination, no delay, limitation, restriction or condition, including any divestiture requirements or amendments or modifications, will be imposed that would have an adverse effect on Linde, Praxair or the contemplated benefits of the Combination. We have also assumed, at the direction of Linde, that the final executed Business Combination Agreement will not differ in any material respect from the Draft Business Combination Agreement reviewed by us.

We express no view or opinion as to any terms or other aspects of the Combination (other than the Exchange Ratio, to the extent expressly specified herein), including, without limitation, the form or structure of the Combination. We were not requested to, and we did not, participate in the negotiation of the terms of the Combination, nor were we requested to, and we did not, provide any advice or services in connection with the Combination other than the delivery of this opinion. Our opinion does not address any legal, tax, regulatory or

Table of Contents

accounting matters, as to which we understand Linde has received such advice as it deems necessary from qualified professionals. We express no view or opinion as to any such matters. As you are aware, we were not requested to, and we did not, solicit indications of interest or proposals from third parties regarding a possible acquisition of all or any part of Linde or any alternative transaction. Our opinion is limited to the fairness, from a financial point of view, of the Exchange Ratio to holders of Linde Shares, and no opinion or view is expressed with respect to any consideration received in connection with the Combination by the holders of any class of securities, creditors or other constituencies of any party. In addition, no opinion or view is expressed with respect to the fairness (financial or otherwise) of the amount, nature or any other aspect of any compensation to any of the officers, directors or employees of any party to the Combination, or class of such persons, relative to the Exchange Ratio. Furthermore, no opinion or view is expressed as to the relative merits of the Combination in comparison to other strategies or transactions that might be available to Linde or in which Linde might engage or as to the underlying business decision of Linde to proceed with or effect the Combination. We are not expressing any opinion as to what the value of New Holdco Shares actually will be when issued or the prices at which New Holdco Shares, Linde Shares, Praxair Shares or other Linde or Praxair securities will trade at any time, including following announcement or consummation of the Combination. In addition, we express no opinion or recommendation as to how any shareholder should vote or act in connection with the Combination or any related matter.

Our Fairness Opinion does not constitute and is not intended to be, nor shall it be interpreted or considered as, a valuation report (*Wertgutachten*) as typically prepared by qualified auditors pursuant to German corporate law requirements (e.g. a company valuation pursuant to the Principles for the Performance of Business Valuations (IDW S1) published by the Institute of German Auditors (IDW), including, but not limited to, a company valuation for purposes of the conclusion of a domination and profit and loss transfer agreement), and an expression of fairness from a financial point of view differs in a number of material aspects from such valuation performed by an auditor and from accounting valuations generally. Also, our Fairness Opinion has not been prepared in accordance with the Principles for the Preparation of Fairness Opinions (IDW S8) published by the IDW.

We have acted as financial advisor to the Supervisory Board of Linde in connection with the Combination solely to render this opinion and will receive a fee for our services, which is payable in connection with the rendering of this opinion. In addition, Linde has agreed to reimburse our expenses and indemnify us against certain liabilities arising out of our engagement.

We and our affiliates comprise a full service securities firm and commercial bank engaged in securities, commodities and derivatives trading, foreign exchange and other brokerage activities, and principal investing as well as providing investment, corporate and private banking, asset and investment management, financing and financial advisory services and other commercial services and products to a wide range of companies, governments and individuals. In the ordinary course of our businesses, we and our affiliates may invest on a principal basis or on behalf of customers or manage funds that invest, make or hold long or short positions, finance positions or trade or otherwise effect transactions in equity, debt or other securities or financial instruments (including derivatives, bank loans or other obligations) of Linde, Praxair and certain of their respective affiliates.

We and our affiliates in the past have provided, currently are providing, and in the future may provide, investment banking, commercial banking and other financial services to Linde and certain of its affiliates and have received or in the future may receive compensation for the rendering of these services, including having acted or acting as arranger, bookrunner and lender under certain term loans, letters of credit and leasing for Linde and having provided or providing certain treasury and management services and products to Linde.

We and our affiliates in the past have provided, currently are providing, and in the future may provide, investment banking, commercial banking and other financial services to Praxair and certain of its affiliates and have received or

in the future may receive compensation for the rendering of these services, including having

E-3

Table of Contents

acted or acting as administrative agent, arranger, bookrunner and lender under certain term loans, letters of credit and leasing for Praxair, having provided or providing certain treasury and management services and products to Praxair and having acted as bookrunner for a senior notes offering for Praxair.

For purposes of rendering our opinion, we have not considered any information that may have been provided to us in connection with any such capacity for Linde or Praxair.

It is understood that this letter is for the benefit and use of the Supervisory Board of Linde (in its capacity as such) in connection with and for purposes of its evaluation of the Combination and is not rendered to or for the benefit of, and shall not confer rights or remedies upon, any person other than the Supervisory Board of Linde.

Our opinion is necessarily based on financial, economic, monetary, market and other conditions and circumstances as in effect on, and the information made available to us as of, the date hereof. It should be understood that subsequent developments may affect this opinion, and we do not have any obligation to update, revise, or reaffirm this opinion. The issuance of this opinion was approved by our EMEA Fairness Opinion Review Committee.

This letter may be reproduced in full in any registration statement or proxy or information statement related to the Combination or other shareholder recommendation statement required under applicable U.S. law in connection with the Combination and as an attachment to the reasoned opinion (*begündete Stellungnahme*) of the Supervisory Board of Linde to be issued pursuant to section 27 of the German Securities Takeover Act (*WpÜG*). With the exception of the aforementioned permitted disclosure, this letter may not, without our prior written consent, be disclosed to any person or as a whole or in part be quoted from or made reference to and it may not be used or relied upon for any purpose other than the one stipulated herein. In the event that we grant our prior written consent to any such disclosure, quotation or reference or in the event this letter is otherwise disclosed to any other person, we will not assume any liability towards such other person. For the avoidance of doubt, no contractual relationship shall exist or arise under any circumstances between such person and us in relation to this letter or the opinion contained in this letter. Furthermore, we have agreed with Linde that no third party is included in the scope of protection of this letter or the opinion contained therein, even if this letter or the opinion contained therein were to be disclosed to such third party with our prior written consent.

Based upon and subject to the foregoing, including the various assumptions and limitations set forth herein, we are of the opinion on the date hereof that the Exchange Ratio provided for in the Combination is fair, from a financial point of view, to the holders of Linde Shares.

Yours faithfully,

/s/ BANK OF AMERICA MERRILL LYNCH INTERNATIONAL LIMITED

ZWEIGNIEDERLASSUNG FRANKFURT AM MAIN

Table of Contents

ANNEX F OPINION OF CREDIT SUISSE SECURITIES (USA) LLC

[LETTERHEAD OF CREDIT SUISSE SECURITIES (USA) LLC]

May 31, 2017

Praxair, Inc.

10 Riverview Drive

Danbury, CT 06810

Attention: Board of Directors

Members of the Board:

You have asked us to advise you in your capacity as the Board of Directors (the **Board**) of Praxair, Inc. (the **Company**) with respect to the fairness, from a financial point of view, to the holders of common stock, par value \$0.01 per share (**Company Common Stock**), of the Company, of the Praxair Exchange Ratio (as defined below) in the Transaction (as defined below) pursuant to the Business Combination Agreement (the **Agreement**) to be entered into by and among Linde Aktiengesellschaft (**Linde**), the Company, Zamalight PLC (**New Holdco**), Zamalight Holdco LLC, a newly formed, wholly owned subsidiary of New Holdco (**US Intermediate Holding Sub**), and Zamalight Subco, Inc., a newly formed, wholly owned subsidiary of US Intermediate Holding Sub (**Merger Sub**). You have advised us that, among other things, pursuant to the Agreement (i) New Holdco will make a public exchange offer (the **Offer**) to acquire all of the issued and outstanding, no-par value bearer shares of Linde (each, a **Linde Share**), pursuant to which each Linde Share acquired pursuant to the Offer will be exchanged for 1.540 (the **Linde Exchange Ratio**) ordinary shares (**New Holdco Shares**) of New Holdco, and (ii) immediately following the completion of the exchange of Linde Shares for New Holdco Shares pursuant to the Offer, Merger Sub will merge with the Company (the **Merger** and, after giving effect to the exchange of Linde Shares for New Holdco Shares pursuant to the Offer, the **Transaction**), each issued and outstanding share of Company Common Stock will be converted into the right to receive one (the **Praxair Exchange Ratio**) New Holdco Share, and the Company will become a wholly owned subsidiary of New Holdco.

For purposes of our analyses and opinion we have, with your agreement, assumed that (i) all of the issued and outstanding Linde Shares will be exchanged for New Holdco Shares at the Linde Exchange Ratio pursuant to the Offer, (ii) except as would not be material to our analyses or opinion, immediately following the consummation of the Merger and the Offer the only assets and liabilities of New Holdco will be the consolidated assets and liabilities of the Company and Linde immediately prior to the consummation of the Merger and the Offer, and (iii) immediately following the consummation of the Merger and the Offer, the issued capital of New Holdco will solely consist of the New Holdco Shares issued in the Merger or upon completion of the exchange of Linde Shares for New Holdco Shares pursuant to the Offer.

In arriving at our opinion, we have reviewed a draft, dated May 25, 2017, of the Agreement and certain publicly available business and financial information relating to the Company and Linde. We have also reviewed certain other information relating to the Company, including financial forecasts relating to the Company prepared and provided to us by the management of the Company (the **Company Projections**). We have also reviewed certain other information relating to Linde, including financial forecasts relating to Linde prepared and provided to us by the management of Linde (the **Linde Projections**) and an extension thereof prepared and provided to us by the management of the Company (the **Company Projections for Linde**). In addition, as discussed with the management of the Company, for

purposes of our analyses and opinion, the Linde Projections and the Company Projections for Linde were converted from Euros to United States dollars based on, among other things, publicly available forward exchange rates for the major currencies in which Linde derives its revenues. We have also reviewed certain estimates jointly prepared and provided to us by the managements of the Company and Linde with respect to the cost savings and synergies anticipated by the managements of the Company and Linde to result from the Merger and the Offer (the Synergies). We have also spoken with the managements of the

F-1

Table of Contents

Praxair, Inc.

10 Riverview Drive

Danbury, CT 06810

May 31, 2017

Page 2

Company and Linde regarding the Merger and the Offer and the business and prospects of the Company, Linde and the pro forma combined entity resulting from the Merger and the Offer. We have also considered certain financial and stock market data of the Company and Linde, and we have compared that data with similar data for other companies with publicly traded equity securities in businesses we deemed similar to those of the Company and Linde, respectively. We also considered such other information, financial studies, analyses and investigations and financial, economic and market criteria which we deemed relevant.

In connection with our review, we have not independently verified any of the foregoing information and, at your direction and with your consent, we have assumed and relied upon such information being complete and accurate in all respects. With respect to the Company Projections, management of the Company has advised us and we have assumed that the Company Projections have been reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the management of the Company as to the future financial performance of the Company for the fiscal years contemplated therein. With respect to the Linde Projections, management of Linde has advised us and we have assumed that the Linde Projections have been reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the management of Linde as to the future financial performance of Linde for the fiscal years contemplated therein. With respect to the Company Projections for Linde, management of the Company has advised us and we have assumed that the Company Projections for Linde have been reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the management of the Company as to the future financial performance of Linde for the fiscal years contemplated therein. With respect to the Synergies anticipated by managements of the Company and Linde to result from the Merger and the Offer, the managements of the Company and Linde have advised us and we have assumed that such forecasts have been reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the managements of the Company and Linde as to such cost savings and synergies. We express no view or opinion with respect to the Company Projections, the Linde Projections, the Company Projections for Linde, the Synergies or the assumptions and methodologies upon which they are based and, at the direction of management of the Company, we have assumed that the Synergies will be realized in the amounts and the times indicated thereby. At the direction of management of the Company, we have further assumed that the Company Projections, the Linde Projections, the Company Projections for Linde and the Synergies are a reasonable basis on which to evaluate the Company, Linde and the Transaction and we have used and relied upon such estimates and judgments for purposes of our analyses and opinion.

In addition, we have relied upon, without independent verification the assessments of the management of the Company with respect to the ability of the pro forma combined entity to integrate the businesses of the Company and Linde. With your consent, we also have assumed that, except as would not be material to our analyses or opinion, in the course of obtaining any regulatory or third party consents, approvals or agreements in connection with the Merger and the Offer, no modification, delay, limitation, restriction or condition will be imposed that would have an adverse effect on the Company, Linde or the contemplated benefits of the Merger and the Offer. With your agreement, for purposes of our opinion, we did not evaluate or consider the impact of any potential divestitures of businesses or assets that may be required or any limitations, restrictions or conditions that may be imposed by any governmental or regulatory authority in connection with or as a condition or result of the Merger and the Offer. With your consent we have also assumed that the Merger and the Offer will be consummated in accordance with all applicable foreign, federal, state and local laws and in accordance with the terms of the Agreement, including the Offer, without waiver, modification or amendment of any term, condition or agreement thereof that is material to our analyses or opinion. In addition, we have not been requested to make, and have not

Table of Contents

Praxair, Inc.

10 Riverview Drive

Danbury, CT 06810

May 31, 2017

Page 3

made, an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of the Company or Linde, nor have we been furnished with any such evaluations or appraisals. We have also assumed that the final form of the Agreement, when executed by the parties thereto, will conform to the draft reviewed by us in all respects material to our analyses and opinion.

Our opinion addresses only the fairness, from a financial point of view, to the holders of Company Common Stock of the Praxair Exchange Ratio in the Transaction pursuant to the Agreement in the manner set forth herein and does not address any other aspect or implication of the Merger, the Offer, the Agreement or any other agreement, arrangement or understanding entered into in connection therewith or otherwise, including without limitation any potential post-closing reorganization or sale, divestiture, spin-off, split-off or other disposition of any businesses or assets of the Company, Linde or the pro forma combined entity resulting from the Offer and the Merger. In addition, other than assuming that the exchange pursuant to the Offer will be consummated immediately prior to the Merger, our opinion does not address or otherwise take into account any terms, aspects or implications of the exchange pursuant to the Offer or the structure of the Merger or the Offer or any fees or expenses incurred as a result thereof. Furthermore, our opinion does not address (i) the fairness of the Linde Exchange Ratio to any participant in the Merger and the Offer or any of their respective security holders, (ii) the fairness of the Linde Exchange Ratio relative to the Praxair Exchange Ratio or (iii) the fairness of the amount or nature of, or any other aspect relating to, any compensation or consideration to be received or otherwise payable to any officers, directors, employees, security holders or affiliates of any party to the Merger and the Offer, or class of such persons, relative to the Praxair Exchange Ratio, the Linde Exchange Ratio or otherwise. Furthermore, we are not expressing any advice or opinion regarding matters that require legal, regulatory, accounting, insurance, intellectual property, tax, environmental, executive compensation or other similar professional advice. We have assumed that the Company has or will obtain such advice or opinions from the appropriate professional sources. The issuance of this opinion was approved by our authorized internal committee.

We have not investigated or otherwise evaluated, and our opinion does not address, the potential effects of the Merger and the Offer or any related actions or transactions on the credit ratings of the Company, Linde or New Holdco, the foreign, federal, state or other taxes or tax rates payable by the Company, Linde or New Holdco or any regulatory or other fees and expenses payable by the Company, Linde or New Holdco and, with your consent, have assumed that, except as would not be material to our analyses or opinion, such credit ratings, taxes and tax rates and such regulatory and other fees and expenses will not be adversely affected by or after giving effect to the Merger and the Offer or any related actions or transactions. Our opinion is necessarily based on information made available to us as of the date hereof and upon financial, economic, market and other conditions as they exist and can be evaluated on the date

hereof. We have not undertaken, and are under no obligation, to update, revise, reaffirm or withdraw this opinion, or otherwise comment on or consider events occurring or coming to our attention after the date hereof. We are not expressing any opinion as to what the value of the New Holdco Shares actually will be when issued to the holders of Company Common Stock in the Merger or the prices or ranges of prices at which shares of Company Common Stock, Linde Shares or New Holdco Shares may be purchased or sold at any time. We have assumed that the New Holdco Shares to be issued in the Merger and the Offer will be approved for listing on the regulated market of the Frankfurt Stock Exchange and the New York Stock Exchange prior to the consummation of the Merger and the Offer. Our opinion does not address the relative merits of the Merger and the Offer as compared to alternative transactions or strategies that might be available to the Company, nor does it address the underlying business decision of the Board or the Company to proceed with or effect the Merger and the Offer.

Table of Contents

Praxair, Inc.

10 Riverview Drive

Danbury, CT 06810

May 31, 2017

Page 4

We have acted as financial advisor to the Company in connection with the Merger and the Offer and will receive a fee for our services, a substantial portion of which is contingent upon the consummation of the Merger and the Offer. We also became entitled to receive a fee upon the rendering of our opinion. In addition, the Company has agreed to reimburse us for certain of our expenses and to indemnify us and certain related parties for certain liabilities and other items arising out of or related to our engagement. We and our affiliates have in the past provided and/or are currently providing investment banking and other financial advice and services to the Company, Linde and their respective affiliates for which we and our affiliates have received, and would expect to receive, compensation including, among other things, during the past two years, with respect to the Company and its affiliates, having acted as joint book-running manager of offerings of debt securities by the Company in January, 2015 and February, 2016. We are also a lender under the Company's revolving credit facility. We and our affiliates may in the future provide investment banking and other financial advice and services to the Company, Linde, New Holdco and their affiliates for which advice and services we and our affiliates would expect to receive compensation. If requested by the Company, we may participate in financings, refinancings and related transactions for the Company, Linde and/or the pro forma combined entity resulting from the Offer and the Merger. We are a full service securities firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial advice and services. In the ordinary course of business, we and our affiliates may acquire, hold or sell, for our and our affiliates' own accounts and the accounts of customers, any currency or commodity that may be involved in the Merger and the Offer and equity, debt and other securities and financial instruments (including bank loans and other obligations) of the Company, Linde and any other company that may be involved in the Merger and the Offer, as well as provide investment banking and other financial advice and services to such companies and their affiliates.

It is understood that this letter is for the information of the Board (in its capacity as such) in connection with its consideration of the Merger and the Offer and does not constitute a recommendation to the Board with respect to the Merger or the Offer or advice or a recommendation to any holder of Company Common Stock as to how such holder should vote or act on any matter relating to the proposed Merger or the proposed Offer.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Praxair Exchange Ratio in the Transaction pursuant to the Agreement is fair, from a financial point of view, to the holders of Company Common Stock.

Very truly yours,

CREDIT SUISSE SECURITIES (USA) LLC

/s/ Credit Suisse Securities (USA) LLC

F-4

Table of Contents

ANNEX G
Companies Act 2014
PUBLIC LIMITED COMPANY
CONSTITUTION
OF
LINDE PUBLIC LIMITED COMPANY
MEMORANDUM OF ASSOCIATION

1. The name of the Company is LINDE PUBLIC LIMITED COMPANY.
2. The Company is a public limited company, registered under Part 17 of the Companies Act 2014.
3. The objects for which the Company is established are:
 - 3.1 To carry on the business of a holding company and to co-ordinate the administration, finances and activities of any subsidiary companies or associated companies, to do all lawful acts and things whatever that are necessary or convenient in carrying on the business of such a holding company and in particular to carry on in all its branches the business of a management services company, to act as managers and to direct or coordinate the management of other companies or of the business, property and estates of any company or person and to undertake and carry out all such services in connection therewith as may be deemed expedient by the Company's board of directors and to exercise its powers as a shareholder of other companies.
 - 3.2 To carry on the businesses of manufacturer, distributor, wholesaler, retailer, service provider, investor, designer, trader and any other business (except the issuing of policies of insurance) which may seem to the Company's board of directors capable of being conveniently carried on in connection with these objects or calculated directly or indirectly to enhance the value of or render more profitable any of the Company's property.
 - 3.3 To carry on all or any of the businesses as aforesaid either as a separate business or as the principal business of the Company.
 - 3.4 To invest and deal with the property of the Company in such manner as may from time to time be determined by the Company's board of directors and to dispose of or vary such investments and dealings.

- 3.5 To borrow or raise money or capital in any manner and on such terms and subject to such conditions and for such purposes as the Company's board of directors shall think fit or expedient, whether alone or jointly and/or severally with any other person or company, including, without prejudice to the generality of the foregoing, whether by the issue of debentures or debenture stock (perpetual or otherwise) or otherwise, and to secure, with or without consideration, the payment or repayment of any money borrowed, raised or owing or any debt, obligation or liability of the Company or of any other person or company whatsoever in such manner and on such terms and conditions as the Company's board of directors shall think fit or expedient and, in particular by mortgage, charge, lien, pledge or debenture or any other security of whatsoever nature or howsoever described, perpetual or otherwise, charged upon all or any of the Company's property, both present and future, and to purchase, redeem or pay off any such securities or borrowings and also to accept capital contributions from any person or company in any manner and on such terms and conditions and for such purposes as the Company's board of directors shall think fit or expedient.

G-1

Table of Contents

- 3.6 To lend and advance money or other property or give credit or financial accommodation to any company or person in any manner either with or without security and whether with or without the payment of interest and upon such terms and conditions as the Company's board of directors shall think fit or expedient.
- 3.7 To guarantee, indemnify, grant indemnities in respect of, enter into any suretyship or joint obligation, or otherwise support or secure, whether by personal covenant, indemnity or undertaking or by mortgaging, charging, pledging or granting a lien or other security over all or any part of the Company's property (both present and future) or by any one or more of such methods or any other method and whether in support of such guarantee or indemnity or suretyship or joint obligation or otherwise, on such terms and conditions as the Company's board of directors shall think fit, the payment of any debts or the performance or discharge of any contract, obligation or liability of any person or company (including, without prejudice to the generality of the foregoing, the payment of any capital, principal, dividends or interest on any stocks, shares, debentures, debenture stock, notes, bonds or other securities of any person, authority or company) including, without prejudice to the generality of the foregoing, any company which is for the time being the Company's holding company or another subsidiary (as defined by the Act) of the Company's holding company or a subsidiary of the Company or otherwise associated with the Company (including any arrangements of the Company or any of its subsidiaries described in paragraph 3.19), in each case notwithstanding the fact that the Company may not receive any consideration, advantage or benefit, direct or indirect, from entering into any such guarantee or indemnity or suretyship or joint obligation or other arrangement or transaction contemplated herein.
- 3.8 To grant, convey, assign, transfer, exchange or otherwise alienate or dispose of any property of the Company of whatever nature or tenure for such price, consideration, sum or other return whether equal to or less than the market value thereof or for shares, debentures or securities and whether by way of gift or otherwise as the Company's board of directors shall deem fit or expedient and where the property consists of real property to grant any fee farm grant or lease or to enter into any agreement for letting or hire of any such property for a rent or return equal to or less than the market or rack rent therefor or at no rent and subject to or free from covenants and restrictions as the Company's board of directors shall deem appropriate.
- 3.9 To purchase, take on, lease, exchange, rent, hire or otherwise acquire any property and to acquire and undertake the whole or any part of the business and property of any company or person.
- 3.10 To develop and turn to account any land acquired by the Company or in which it is interested and in particular by laying out and preparing the same for building purposes, constructing, altering, pulling down, decorating, maintaining, fitting out and improving buildings and conveniences and by planting, paving, draining, farming, cultivating, letting and by entering into building leases or building agreements and by advancing money to and entering into contracts and arrangements of all kinds with builders, contractors, architects, surveyors, purchasers, vendors, tenants and any other person.
- 3.11 To construct, improve, maintain, develop, work, manage, carry out or control any property which may seem calculated directly or indirectly to advance the Company's interest and to contribute to, subsidise or

otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof.

- 3.12 To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.

- 3.13 To engage in currency exchange, interest rate and commodity transactions including, but not limited to, dealings in foreign currency, spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and any other foreign exchange, interest rate or commodity hedging arrangements and such other instruments as are similar to, or derived from, any

Table of Contents

of the foregoing whether for the purpose of making a profit or avoiding a loss or managing a currency, interest rate or commodity exposure or any other exposure or for any other purpose.

- 3.14 As a pursuit in itself or otherwise and whether for the purpose of making a profit or avoiding a loss or managing a currency, interest rate or commodity exposure or any other exposure or for any other purpose whatsoever, to engage in any currency exchange transactions, interest rate transactions and commodity transactions, derivative and/or treasury transactions and any other financial or other transactions, including (without prejudice to the generality of the foregoing) securitisation, treasury and/or structured finance transactions, of whatever nature in any manner and on any terms and for any purposes whatsoever, including, without prejudice to the generality of the foregoing, any transaction entered into in connection with or for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimising, hedging against or otherwise managing the risk of any loss, cost, expense, or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or from any other risk or factor affecting the Company's business, including but not limited to dealings whether involving purchases, sales or otherwise in foreign currency, spot and/or forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and/or any such other currency or interest rate or commodity or other hedging, treasury or structured finance arrangements and such other instruments as are similar to, or derived from any of the foregoing.
- 3.15 To apply for, establish, create, purchase or otherwise acquire, sell or otherwise dispose of and hold any patents, trade marks, copyrights, brevets d'invention, registered designs, licences, concessions and the like conferring any exclusive or non-exclusive or limited rights to use or any secret or other information and any invention and to use, exercise, develop or grant licences in respect of or otherwise turn to account or exploit the property, rights or information so held.
- 3.16 To enter into any arrangements with any governments or authorities, national, local or otherwise and to obtain from any such government or authority any rights, privileges and concessions and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.
- 3.17 To establish, form, register, incorporate or promote any company or companies or person, whether inside or outside of Ireland.
- 3.18 To procure that the Company be registered or recognised whether as a branch or otherwise in any country or place.
- 3.19 To enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint venture, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction and to engage in any transaction in connection with the foregoing.

- 3.20 To acquire or amalgamate with any other company or person.
- 3.21 To acquire and undertake the whole or any part of the business, good-will and assets of any person, firm or company carrying on or proposing to carry on any of the businesses which this Company is authorised to carry on, and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company and to give or accept by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain or sell, mortgage or deal with any shares, debentures, debenture stock or securities so received.
- 3.22 To promote freedom of contract, and to resist, insure against, counteract and discourage interference therewith, to join any lawful federation, union or association, or do any other lawful act or thing with

Table of Contents

a view to preventing or resisting directly or indirectly any interruption of or interference with the Company's or any other trade or business or providing or safeguarding against the same, or resisting or opposing any strike, movement or organisation which may be thought detrimental to the interests of the Company or its employees and to subscribe to any association or fund for any such purposes.

- 3.23 To make gifts to any person or company including, without prejudice to the generality of the foregoing, capital contributions and to grant bonuses to the directors or any other persons or companies who are or have been in the employment of the Company including substitute directors and any other officer or employee.
- 3.24 To establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit directors, ex-directors, employees or ex-employees of the Company or any subsidiary of the Company or the dependants or connections of such persons, and to grant pensions and allowances upon such terms and in such manner as the Company's board of directors think fit, and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object, or any other object whatsoever which the Company's board of directors may think advisable.
- 3.25 To establish and contribute to any scheme for the purchase of shares or subscription for shares in the Company, its holding company or any of its or their respective subsidiaries, to be held for the benefit of the employees or former employees of the Company or any subsidiary of the Company including any person who is or was a director holding a salaried employment or office in the Company or any subsidiary of the Company and to lend or otherwise provide money to the trustees of such schemes or the employees or former employees of the Company or any subsidiary of the Company to enable them to purchase shares of the Company, its holding company or any of its or their respective subsidiaries and to formulate and carry into effect any scheme for sharing the profits of the Company, its holding company or any of its or their respective subsidiaries with its employees and/or the employees of any of its subsidiaries.
- 3.26 To remunerate any person or company for services rendered or to be rendered in placing or assisting to place or guaranteeing the placing of any of the shares of the Company's capital or any debentures, debenture stock or other securities of the Company or in or about the formation or promotion of the Company or the conduct of its business.
- 3.27 To obtain any Act of the Oireachtas or provisional order for enabling the Company to carry any of its objects into effect or for effecting any modification of the Company's constitution or for any other purpose which may seem expedient and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.
- 3.28 To adopt such means of making known the products of the Company as may seem expedient and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations.

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

- 3.29 To undertake and execute the office of trustee and nominee for the purpose of holding and dealing with any property of any kind for or on behalf of any person or company; to act as trustee, nominee, agent, executor, administrator, registrar, secretary, committee or attorney generally for any purpose and either solely or with others for any person or company; to vest any property in any person or company with or without any declared trust in favour of the Company.
- 3.30 To pay all costs, charges, fees and expenses incurred or sustained in or about the promotion, establishment, formation and registration of the Company.
- 3.31 To do all or any of the above things in any part of the world, and as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with any person or company.
- 3.32 To distribute the property of the Company in specie among the members or, if there is only one, to the sole member of the Company.

G-4

Table of Contents

3.33 To do all such other things as the Company's board of directors may think incidental or conducive to the attainment of the above objects or any of them.

NOTE: it is hereby declared that in this memorandum of association:

- a) the word "company", except where used in reference to this Company, shall be deemed to include a body corporate, whether a company (wherever formed, registered or incorporated), a corporation aggregate, a corporation sole and a national or local government or other legal entity; and
- b) the word "person", shall be deemed to include any individual, firm, body corporate, association or partnership, government or state or agency of a state, local authority or government body or any joint venture association or partnership (whether or not having a separate legal personality) and that person's personal representatives, successors or permitted assigns; and
- c) the word "property", shall be deemed to include, where the context permits, real property, personal property including choses or things in action and all other intangible property and money and all estates, rights, titles and interests therein and includes the Company's uncalled capital and future calls and all and every other undertaking and asset; and
- d) a word or expression used in this memorandum of association which is not otherwise defined and which is also used in the Companies Act 2014 shall have the same meaning here, as it has in the Companies Act 2014; and
- e) any phrase introduced by the terms "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms, whether or not followed by the phrases "but not limited to", without prejudice to the generality of the foregoing or any similar expression; and
- f) words denoting the singular number only shall include the plural number and vice versa and references to one gender includes all genders; and
- g) it is intended that the objects specified in each paragraph in this clause shall, except where otherwise expressed in such paragraph, be separate and distinct objects of the Company and shall not be in any way limited or restricted by reference to or inference from the terms of any other paragraph or the order in which the paragraphs of this clause occur or the name of the Company.

4. The liability of the members is limited.

5.

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

The authorised share capital of the Company is 1,800,000 divided into 1,750,000,000 ordinary shares of 0.001 each, 25,000 deferred shares of 1.00 each and 25,000,000 preferred shares of 0.001 each.

6. The shares forming the capital, may be increased or reduced and be divided into such classes and issued with any special rights, privileges and conditions or with such qualifications as regards preference, dividend, capital, voting or other special incidents, and be held upon such terms as may be attached thereto or as may from time to time be provided by the original or any substituted or amended articles of association and regulations of the Company for the time being, but so that where shares are issued with any preferential or special rights attached thereto such rights shall not be alterable otherwise than pursuant to the provisions of the Company's articles of association for the time being.

G-5

Table of Contents

LINDE PUBLIC LIMITED COMPANY

ARTICLES OF ASSOCIATION

Interpretation and general

1. Sections 83, 84 and, for the avoidance of doubt, 117(9) of the Act shall apply to the Company but, subject to that, the provisions set out in these Articles shall constitute the whole of the regulations applicable to the Company and no other optional provisions as defined by section 1007(2) of the Act shall apply to the Company.

2. In these Articles:
 - 2.1 **1990 Regulations** , means the Companies Act 1990 (Uncertificated Securities) Regulations 1996 (SI No. 68 of 1996) as may be amended from time to time.

 - 2.2 **Act** , means the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force;

 - 2.3 **Adoption Date** , means the effective date of adoption of these Articles;

 - 2.4 **Approved Nominee** , means a person appointed under contractual arrangements with the Company to hold shares or rights or interests in shares of the Company on a nominee basis;

 - 2.5 **Article** , means an article of these Articles;

 - 2.6 **Articles** , means these articles of association as from time to time and for the time being in force;

 - 2.7 **Auditors** , means the auditors for the time being of the Company;

 - 2.8 **Board** , means the board of Directors of the Company;

 - 2.9 **Chairman** , means the person occupying the position of Chairman of the Board from time to time;

 - 2.10 **Chief Executive Officer** , shall include any equivalent office;

- 2.11 **Clear Days** , means, in relation to a period of notice, that period excluding the day when the notice is given or deemed to be given and excluding the day for which notice is being given or on which an action or event for which notice is being given is to occur or take effect;
- 2.12 **Company** , means the company whose name appears in the heading to these Articles;
- 2.13 **Company Secretary** , means the person or persons appointed as company secretary or joint company secretary of the Company from time to time and shall include any assistant or deputy secretary;
- 2.14 **Deferred Shares** , means the deferred shares of 1.00 each in the capital of the Company;
- 2.15 **Directors** , means the directors for the time being of the Company or any of them acting as the Board;
- 2.16 **electronic communication** , has the meaning given to that word in the Electronic Commerce Act 2000 and in addition includes in the case of notices or documents issued on behalf of the Company, such documents being made available or displayed on a website of the Company (or a website designated by the Board);
- 2.17 **Exchange** , means any securities exchange or other system on which the shares of the Company may be listed or otherwise authorised for trading from time to time in circumstances where the Company has approved such listing or trading;
- 2.18 **Exchange Act** , means the Securities Exchange Act of 1934 of the United States, as amended;

Table of Contents

- 2.19 **Governance Rules** , means the Governance Rules adopted by the Board with effect from the Adoption Date extracts of which, that are relevant to the provisions of these Articles, are appended to these Articles. Any such extracts which are appended to these Articles shall be deemed to form part of these Articles and as such may only be amended by special resolution;
- 2.20 **Group** , means the Company and its subsidiaries from time to time and for the time being;
- 2.21 **Integration Phase** , means the period of time commencing with effect from the Adoption Date and ending on the date that is the third anniversary thereof;
- 2.22 **member** , means in relation to any share, the member whose name is entered in the Register as the holder of the share or, where the context permits, the members whose names are entered in the Register as the joint holders of shares and shall include a member's personal representatives in consequence of his or her death or bankruptcy;
- 2.23 **Memorandum** , means the memorandum of association of the Company;
- 2.24 **Office** , means the registered office for the time being of the Company;
- 2.25 **Ordinary Shares** , means the ordinary shares of 0.001 each in the capital of the Company;
- 2.26 **Preferred Shares** , means the preferred shares of 0.001 each in the capital of the Company;
- 2.27 **Redeemable Shares** , means redeemable shares as defined by section 64 of the Act;
- 2.28 **Register** , means the register of members of the Company to be kept as required by the Act;
- 2.29 **SEC** , means the U.S. Securities and Exchange Commission.

NOTE: it is hereby declared that in these Articles:

- a) the word **company** , except where used in reference to this Company, shall be deemed to include a body corporate, whether a company (wherever formed, registered or incorporated), a corporation aggregate, a corporation sole and a national or local government or other legal entity; and
- b)

the word "person", shall be deemed to include any individual, firm, body corporate, association or partnership, government or state or agency of a state, local authority or government body or any joint venture association or partnership (whether or not having a separate legal personality) and that person's personal representatives, successors or permitted assigns; and

- c) the word "property", shall be deemed to include, where the context permits, real property, personal property including choses or things in action and all other intangible property and money and all estates, rights, titles and interests therein and includes the Company's uncalled capital and future calls and all and every other undertaking and asset; and
- d) a word or expression used in the Articles which is not otherwise defined and which is also used in the Act shall have the same meaning here, as it has in the Act; and
- e) any phrase introduced by the terms "including", "include" and "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms, whether or not followed by the phrases "but not limited to", "without prejudice to the generality of the foregoing" or any similar expression; and
- f) words denoting the singular number only shall include the plural number and vice versa and references to one gender includes all genders.

Authorised share capital

- 3. The authorised share capital of the Company is 1,800,000 divided into 1,750,000,000 ordinary shares of 0.001 each, 25,000 deferred shares of 1.00 each and 25,000,000 preferred shares of 0.001 each.

Table of Contents

Rights attaching to Ordinary Shares

4. The Ordinary Shares shall entitle the holders thereof to the following rights:
 - 4.1 subject to the right of the Company to set record dates for the purposes of determining the identity of members entitled to notice of and/or to vote at a general meeting and the authority of the Board and chairperson of the meeting to maintain order and security, the right to attend any general meeting of the Company and to exercise one vote per Ordinary Share held at any general meeting of the Company;
 - 4.2 the right to participate pro rata in all dividends declared by the Company; and
 - 4.3 the right, in the event of the Company's winding up, to participate pro rata in the total assets of the Company.
5. The rights attaching to the Ordinary Shares may be subject to the terms of issue of any series or class of Preferred Shares allotted by the Directors from time to time in accordance with Article 6.

Rights attaching to Preferred Shares

6. The Board is empowered to cause the Preferred Shares to be issued from time to time as shares of one or more series of Preferred Shares, and in the resolution or resolutions providing for the issue of Preferred Shares of each particular series, before issuance, the Board is expressly authorised to fix:
 - 6.1 the distinctive designation of such series and the number of shares which shall constitute such series, which number may be increased (except as otherwise provided by the Board in creating such series) or decreased (but not below the number of shares thereof then in issue) from time to time by resolution of the Board;
 - 6.2 the rate of dividends payable on shares of such series, if any, whether or not and upon what conditions dividends on shares of such series shall be cumulative and, if cumulative, the date or dates from which dividends shall accumulate and the preference or relation which such dividends shall bear to the dividends payable on any other class or classes or on any other series of share capital;
 - 6.3 the terms, if any, on which shares of such series may be redeemed, including without limitation, the redemption price or prices for such series, which may consist of a redemption price or scale of redemption prices applicable only to redemption in connection with a sinking fund (which term as used herein shall include any fund or requirement for the periodic purchase or redemption of shares), and the same or a different redemption price or scale of redemption prices applicable to any other redemption;

- 6.4 the terms and amount of any sinking fund provided for the purchase or redemption of shares of such series;
- 6.5 the amount or amounts which shall be paid to the holders of shares of such series in case of liquidation, dissolution or winding up of the Company, whether voluntary or involuntary;
- 6.6 the terms, if any, upon which the holders of shares of such series may convert shares thereof into shares of any other class or classes or of any one or more series of the same class or of another class or classes;
- 6.7 the voting rights, full or limited, if any, of the shares of such series; and whether or not and under what conditions the shares of such series (alone or together with the shares of one or more other series having similar provisions) shall be entitled to vote separately as a single class, for the election of one or more additional Directors in case of dividend arrears or other specified events, or upon other matters;

G-8

Table of Contents

- 6.8 whether or not the holders of shares of such series, as such, shall have any pre-emptive or preferential rights to subscribe for or purchase shares of any class or series of shares of the Company, now or hereafter authorised, or any securities convertible into, or warrants or other evidences of optional rights to purchase or subscribe for, shares of any class or series of the Company, now or hereafter authorised;
- 6.9 the limitations and restrictions, if any, to be effective while any shares of such series are outstanding upon the payment of dividends, or the making of other distributions on, and upon the purchase, redemption or other acquisition by the Company of, any other class or classes of shares ranking junior to the shares of such series either as to dividends or upon liquidation, dissolution or winding up;
- 6.10 the conditions or restrictions, if any, upon the creation of indebtedness of the Company or upon the issuance of any additional shares (including additional shares of such series or of any other class) ranking on a parity with or prior to the shares of such series as to dividends or distribution of assets upon liquidation; and
- 6.11 such other rights, preferences and limitations as may be permitted to be fixed by the Board of the Company under the laws of Ireland as in effect at the time of the creation of such series.
7. The Board is authorised to change the designations, rights, preferences and limitations of any series of Preferred Shares theretofore established, no shares of which have been issued.
8. The rights conferred upon the member of any pre-existing shares in the share capital of the Company shall be deemed not to be varied by the creation, issue and allotment of Preferred Shares in accordance with these Articles.
9. Unless the Board determines otherwise, any share in the capital of the Company shall be deemed to be a Redeemable Share on, and from the time of, the existence or creation of an agreement, transaction or trade between the Company and any person (who may or may not be a member) pursuant to which the Company acquires or will acquire a share in the capital of the Company, or an interest in shares in the capital of the Company, from the relevant person, save for an acquisition for nil consideration pursuant to section 102(1)(a) of the Act. In these circumstances, the acquisition of such shares by the Company, save where acquired for nil consideration in accordance with the Act, shall constitute the redemption of a Redeemable Share in accordance with Chapter 6 of Part 3 of the Act. No resolution, whether special or otherwise, shall be required to be passed to deem any share in the capital of the Company a Redeemable Share.

Rights attaching to Deferred Shares

10. The Deferred Shares shall have the rights and privileges and be subject to the restrictions set out in this Article 10:

10.1 the Deferred Shares are non-voting shares and do not convey upon the holder the right to be paid a dividend or to receive notice of or to attend, vote or speak at a general meeting;

10.2 the Deferred Shares confer the right on a return of capital, on a winding-up or otherwise, only to the repayment of the nominal value paid up on the Deferred Shares after repayment of the nominal value of the Ordinary Shares; and

any Director (the **Agent**) is appointed, the attorney of the holder of a Deferred Share, with an irrevocable instruction to the Agent to execute all or any forms of transfer and/or renunciation and/or other documents in the Agent's discretion in relation to the Deferred Shares in favour of the Company or as it may direct and to deliver such forms of transfer and/or renunciation and/or other documents together with any certificate(s) and/or other documents for registration and to do all such other acts and things as may in the reasonable opinion of the Agent be necessary or expedient for the purpose of, or in connection with, the purchase by the Company of the Deferred Shares for nil consideration or such other consideration as the Board may determine and to vest the said Deferred Shares in the Company.

Table of Contents

11. Without prejudice to any special rights conferred on the members of any existing shares or class of shares and subject to the provisions of the Act, any share may be issued with such rights or restrictions as the Company may by ordinary resolution determine.

Allotment and acquisition of shares

12. The following provisions shall apply:
- 12.1 Subject to the provisions of these Articles relating to new shares, the shares shall be at the disposal of the Directors, and they may (subject to the provisions of the Act) allot, grant options over or otherwise dispose of them to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the Company and its members, but so that no share shall be issued at a discount and so that, in the case of shares offered to the public for subscription, the amount payable on application on each share shall not be less than one-quarter of the nominal amount of the share and the whole of any premium thereon.
- 12.2 Without prejudice to the generality of the powers conferred on the Directors by other paragraphs of these Articles, and subject to any requirement to obtain the approval of the members under any laws, regulations or the rules of any Exchange, the Directors may grant from time to time options to subscribe for the unallotted shares in the capital of the Company to Directors and other persons in the service or employment of the Company or any subsidiary or associate company of the Company on such terms and subject to such conditions as may be approved from time to time by the Directors or by any committee thereof appointed by the Directors for the purpose of such approval and on the terms and conditions required to obtain the approval of any statutory authority in any jurisdiction.
- 12.3 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot relevant securities within the meaning of section 1021 of the Act. The maximum amount of relevant securities which may be allotted under the authority hereby conferred shall be the amount of the authorised but unissued share capital of the Company at the Adoption Date. The authority hereby conferred shall expire on the date which is five (5) years after the Adoption Date unless and to the extent that such authority is renewed, revoked or extended prior to such date. The Company may before such expiry make an offer or agreement which would or might require relevant securities to be allotted after such expiry and the Directors may allot relevant securities in pursuance of such offer or agreement, notwithstanding that the authority hereby conferred has expired.
- 12.4 The Company may issue permissible letters of allotment (as defined by section 1019 of the Act) to the extent permitted by the Act.
- 12.5 The Directors are hereby empowered pursuant to sections 1022 and 1023(1) of the Act to allot equity securities within the meaning of the said section 1022 for cash pursuant to the authority conferred by Article 12.3 as if section 1022(1) of the Act did not apply to any such allotment. The Company may before the expiry of such authority make an offer or agreement which would or might require equity

securities to be allotted after such expiry and the Directors may allot equity securities in pursuance of such an offer or agreement as if the power conferred by this Article 12.5 had not expired.

- 12.6 Unless otherwise determined by the Directors or the rights attaching to or by the terms of issue of any particular shares, or to the extent required by the Act, any Exchange, depository or any operator of any clearance or settlement system, no person whose name is entered as a member in the Register shall be entitled to receive a share certificate for any shares of any class held by him or her in the capital of the Company (nor on transferring part of a holding, to a certificate for the balance).
- 12.7 Any share certificate, if issued, shall specify the number of shares in respect of which it is issued and the amount paid thereon or the fact that they are fully paid, as the case may be, and may otherwise be in such form as shall be determined by the Directors. Such certificates may be under seal. All certificates for shares in the capital of the Company shall be consecutively numbered or otherwise

G-10

Table of Contents

identified and shall specify the shares in the capital of the Company to which they relate. The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered in the Register. All certificates surrendered to the Company for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of shares in the capital of the Company shall have been surrendered and cancelled. The Directors may authorise certificates to be issued with the seal and authorised signature(s) affixed by some method or system of mechanical process. In respect of a share or shares in the capital of the Company held jointly by several persons, the Company shall not be bound to issue a certificate or certificates to each such person, and the issue and delivery of a certificate or certificates to one of several joint holders shall be sufficient delivery to all such holders. If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by the Company in investigating such evidence, as the Directors may prescribe, and, in the case of defacement or wearing out, upon delivery of the old certificate.

13. The Company:

- 13.1 may give financial assistance for the purpose of an acquisition of its shares or, where the Company is a subsidiary, its holding company where permitted by sections 82 and 1043 of the Act, and
- 13.2 is authorised, for the purposes of section 105(4)(a) of the Act, but subject to section 1073 of the Act, to acquire its own shares.

14. The Directors (and any committee established under Article 193 and so authorised by the Directors and any person so authorised by the Directors or such committee) may without prejudice to Article 175:

- 14.1 allot, issue, grant options over and otherwise dispose of shares in the Company; and
- 14.2 exercise the Company's powers under Article 12, on such terms and subject to such conditions as they think fit, subject only to the provisions of the Act and these Articles.

Variation of Class Rights

- 15. Without prejudice to the authority conferred on the Directors pursuant to Article 6 to issue Preferred Shares in the capital of the Company, where the shares in the Company are divided into different classes, the rights attaching to a class of shares may only be varied or abrogated if (a) the holders of 75% in nominal value of the issued shares of that class consent in writing to the variation, or (b) a special resolution, passed at a separate general meeting of the holders of that class, sanctions the variation. The quorum at any such separate general meeting, other than an adjourned meeting, shall be two persons holding or representing by proxy at least one-third in nominal value of the issued shares of the class in question and the quorum at an adjourned meeting shall be one person holding or

representing by proxy shares of the class in question or that person's proxy. The rights conferred upon the holders of any class of shares issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by a purchase or redemption by the Company of its own shares or by the creation or issue of further shares ranking pari passu therewith or subordinate thereto.

16. The redemption or purchase of Preferred Shares or any class or series of Preferred Shares shall not constitute a variation of rights of the holders of Preferred Shares.
17. The issue, redemption or purchase of any of the Preferred Shares shall not constitute a variation of the rights of the holders of Ordinary Shares.
18. The issue of Preferred Shares or any class or series of Preferred Shares which rank pari passu with, or junior to, any existing Preferred Shares or class of Preferred Shares shall not constitute a variation of the existing Preferred Shares or class of Preferred Shares.

Table of Contents

19. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.

Trusts not recognised

20. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these Articles or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the member. This shall not preclude (i) the Company from requiring the members or a transferee of shares to furnish the Company with information as to the beneficial ownership of any share when such information is reasonably required by the Company, or (ii) the Directors, where they consider it appropriate, providing the information given to the members of shares to the holders of depositary instruments in such shares.

Disclosure of interests

21. If at any time the Directors are satisfied that any member, or any other person appearing to be interested in shares held by such member, has been duly served with a notice under section 1062 of the Act (a **Section 1062 Notice**) and is in default for the prescribed period (as defined in Article 26.2) in supplying to the Company the information thereby required, or, in purported compliance with such a notice, has made a statement which is false or inadequate in a material particular, then the Directors may, in their absolute discretion at any time thereafter by notice (a **Direction Notice**) to such member direct that:

21.1 in respect of the shares in relation to which the default occurred (the **Default Shares**) the member shall not be entitled to attend or to vote at a general meeting either personally or by proxy or to exercise any other right conferred by membership in relation to meetings of the Company;

21.2 where the nominal value of the Default Shares represents at least 0.25 per cent of the nominal value of the issued shares of the class concerned, then the Direction Notice may additionally direct that:

(a) except in a liquidation of the Company, no payment shall be made of any sums due from the Company on the Default Shares, whether in respect of capital or dividend or otherwise, and the Company shall not have any liability to pay interest on any such payment when it is finally paid to the member (but the provisions of this sub-paragraph (a) shall apply only to the extent permitted from time to time by the Listing Rules);

(b) no other distribution shall be made on the Default Shares;

(c) no transfer of any of the Default Shares held by such member shall be registered unless:

- (i) the member is not himself or herself in default as regards supplying the information requested and the transfer when presented for registration is accompanied by a certificate by the member in such form as the Directors may in their absolute discretion require to the effect that after due and careful enquiry the member is satisfied that no person in default as regards supplying such information is interested in any of the shares the subject of the transfer; or

- (ii) the transfer is an approved transfer (as defined in Article 26.3).

The Company shall send to each other person appearing to be interested in the shares the subject of any Direction Notice a copy of the notice, but the failure or omission by the Company to do so shall not invalidate such notice.

- 22. Where any person appearing to be interested in the Default Shares has been duly served with a Direction Notice and the Default Shares which are the subject of such Direction Notice are held by an Approved

G-12

Table of Contents

Nominee, the provisions of this Article shall be treated as applying only to such Default Shares held by the Approved Nominee and not (insofar as such person's apparent interest is concerned) to any other shares held by the Approved Nominee.

23. Where the member on which a Section 1062 Notice is served is an Approved Nominee acting in its capacity as such, the obligations of the Approved Nominee as a member of the Company shall be limited to disclosing to the Company such information relating to any person appearing to be interested in the shares held by it as has been recorded by it pursuant to the arrangements entered into by the Company or approved by the Directors pursuant to which it was appointed as an Approved Nominee.

24. Any Direction Notice shall cease to have effect:

24.1 in relation to any shares which are transferred by such member by means of an approved transfer; or

24.2 when the Directors are satisfied that such member and any other person appearing to be interested in shares held by such member, has given to the Company the information required by the relevant Section 1062 Notice.

25. The Directors may at any time give notice cancelling a Direction Notice.

26. For the purposes of this Article:

26.1 a person shall be treated as appearing to be interested in any shares if the member holding such shares has given to the Company a notification under the said section 1062 which either (i) names such person as being so interested or (ii) fails to establish the identities of all those interested in the shares and (after taking into account the said notification and any other relevant section 1062 notification) the Company knows or has reasonable cause to believe that the person in question is or may be interested in the shares;

26.2 the prescribed period is 28 days from the date of service of the said Section 1062 Notice unless the nominal value of the Default Shares represents at least 0.25 per cent of the nominal value of the issued shares of that class, when the prescribed period is 14 days from that date;

26.3 a transfer of shares is an approved transfer if but only if:

(a) it is a transfer of shares to an offeror by way or in pursuance of acceptance of an offer made to all the members (or all the members other than the person making the offer and his nominees) of the shares in the Company to acquire those shares or a specified proportion of them; or

- (b) the Directors are satisfied that the transfer is made pursuant to a sale of the whole of the beneficial ownership of the shares the subject of the transfer to a party unconnected with the member and with other persons appearing to be interested in such shares; or
- (c) the transfer results from a sale made through an Exchange on which the Company's shares are normally traded.

27. Nothing contained in this Article shall limit the power of the Company under section 1066 of the Act or otherwise under Irish law.

28. For the purpose of establishing whether or not the terms of any notice served under this Article shall have been complied with the decision of the Directors in this regard shall be final and conclusive and shall bind all persons interested.

Calls on shares

29. The Directors may from time to time make calls upon the members in respect of any consideration unpaid on their shares in the Company (whether on account of the nominal value of the shares or by way of premium), provided that in the case where the conditions of allotment or issuance of shares provide for the payment of consideration in respect of such shares at fixed times, the Directors shall only make calls in accordance with such conditions.

Table of Contents

30. Each member shall (subject to receiving at least thirty days notice specifying the time or times and place of payment, or such lesser or greater period of notice provided in the conditions of allotment or issuance of the shares) pay to the Company, at the time or times and place so specified, the amount called on the shares.
31. A call may be revoked or postponed, as the Directors may determine.
32. Subject to the conditions of allotment or issuance of the shares, a call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and may be required to be paid by instalments if specified in the call.
33. The joint holders of a share shall be jointly and severally liable to pay all calls in respect of it.
34. If the consideration called in respect of a share or in respect of a particular instalment is not paid in full before or on the day appointed for payment of it, the person from whom the sum is due shall pay interest in cash on the unpaid value from the day appointed for payment of it to the time of actual payment of such rate, not exceeding five per cent per annum or such other rate as may be specified by an order under section 2(7) of the Act, as the Directors may determine, but the Directors may waive payment of such interest wholly or in part.
35. Any consideration which, by the terms of issue of a share, becomes payable on allotment or issuance or at any fixed date (whether on account of the nominal value of the share or by way of premium) shall, for the purposes of these Articles, be deemed to be a call duly made and payable on the date on which, by the terms of issue, that consideration becomes payable, and in the case of non-payment of such a consideration, all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture or otherwise, shall apply as if such consideration had become payable by virtue of a call duly made and notified.
36. The Directors may, on the issue of shares, differentiate between the holders of different classes as to the amount of calls to be paid and the times of payment.
37. The Directors may, if they think fit:
 - (a) receive from any member willing to advance such consideration, all or any part of the consideration uncalled and unpaid upon any shares held by him or her; and/or
 - (b) pay, upon all or any of the consideration so advanced (until the amount concerned would, but for such advance, become payable) interest at such rate (not exceeding, unless the Company in a general meeting otherwise directs, five per cent per annum or such other rate as may be specified by an order under section 2(7) of the Act) as may be agreed upon between the Directors and the member paying such consideration in advance.

38. The Company may:

- (a) acting by its Directors, make arrangements on the issue of shares for a difference between the members in the amounts and times of payment of calls on their shares;
- (b) acting by its Directors, accept from any member the whole or a part of the amount remaining unpaid on any shares held by him or her, although no part of that amount has been called up;
- (c) acting by its Directors and subject to the Act, pay a dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others; and
- (d) by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up except in the event and for the purposes of the Company being wound up; upon the Company doing so, that portion of its share capital shall not be capable of being called up except in that event and for those purposes.

Lien

39. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all consideration (whether immediately payable or not) called, or payable at a fixed time, in respect of that share.

Table of Contents

40. The Directors may at any time declare any share in the Company to be wholly or in part exempt from Article 39.
41. The Company's lien on a share shall extend to all dividends payable on it.
42. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless (i) a sum in respect of which the lien exists is immediately payable; and (ii) the following conditions are satisfied:
- 42.1 a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is immediately payable, has been given to the registered holder of the share for the time being, or the person entitled thereto by reason of his or her death or bankruptcy; and
- 42.2 a period of 14 days after the date of giving of that notice has expired.
43. The following provisions apply in relation to a sale referred to in Article 42:
- 43.1 to give effect to any such sale, the Directors may authorise some person to transfer the shares sold to the purchaser of them;
- 43.2 the purchaser shall be registered as the holder of the shares comprised in any such transfer;
- 43.3 the purchaser shall not be bound to see to the application of the purchase consideration, nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale; and
- 43.4 the proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is immediately payable, and the residue, if any, shall (subject to a like lien for sums not immediately payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

Forfeiture

44. If a member of the Company fails to pay any call or instalment of a call on the day appointed for payment of it, the Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

45. The notice referred to in Article 44 shall:
- 45.1 specify a further day (not earlier than the expiration of 14 days after the date of service of the notice) on or before which the payment required by the notice is to be made; and
 - 45.2 state that, if the amount concerned is not paid by the day so specified, the shares in respect of which the call was made will be liable to be forfeited.
46. If the requirements of the notice referred to in Article 45 are not complied with, any share in respect of which the notice has been served may at any time after the day so specified (but before, should it occur, the payment required by the notice has been made) be forfeited by a resolution of the Directors to that effect.
47. On the trial or hearing of any action for the recovery of any money due for any call, it shall be sufficient to prove that the name of the member sued is entered in the Register as the holder, or one of the holders, of the shares in the capital of the Company in respect of which such debt accrued, that the resolution making the call is duly recorded in the minute book and that notice of such call was duly given to the member sued, in pursuance of these Articles, and it shall not be necessary to prove the appointment of the Directors who made such call nor any other matters whatsoever, but the proof of the matters aforesaid shall be conclusive evidence of the debt.
48. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.

Table of Contents

49. A person whose shares have been forfeited shall cease to be a member of the Company in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all consideration which, at the date of forfeiture, were payable by him or her to the Company in respect of the shares, but his or her liability shall cease if and when the Company shall have received payment in full of all such consideration in respect of the shares.
50. A statement in writing that the maker of the statement is a Director or the Company Secretary, and that a share in the Company has been duly forfeited on a date stated in the statement, shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share.
51. The following provisions apply in relation to a sale or other disposition of a share referred to in Article 48:
- 51.1 the Company may receive the consideration, if any, given for the share on the sale or other disposition of it and may execute a transfer of the share in favour of the person to whom the share is sold or otherwise disposed of (the **disponee**);
- 51.2 upon such execution, the disponee shall be registered as the holder of the share; and
- 51.3 the disponee shall not be bound to see to the application of the purchase consideration, if any, nor shall his or her title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
52. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share in the capital of the Company, becomes payable at a fixed time, whether on account of the nominal value of the share in the capital of the Company or by way of premium, as if the same had been payable by virtue of a call duly made and notified.
53. The Directors may accept the surrender of any share in the capital of the Company which the Directors have resolved to have been forfeited upon such terms and conditions as may be agreed and, subject to any such terms and conditions, a surrendered share in the capital of the Company shall be treated as if it has been forfeited.

Variation of company capital

54. The Company may, by ordinary resolution and in accordance with section 83 of the Act, do any one or more of the following, from time to time:
- 54.1 consolidate and divide all or any of its shares into shares of a larger nominal value than its existing shares;
- 54.2

subdivide its shares, or any of them, into shares of a smaller nominal value, so however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;

- 54.3 increase the nominal value of any of its shares by the addition to them of any undenominated capital;
- 54.4 reduce the nominal value of any of its shares by the deduction from them of any part of that value, subject to the crediting of the amount of the deduction to undenominated capital, other than the share premium account;
- 54.5 without prejudice or limitation to Articles 94 to 99 and the powers conferred on the Directors thereby, convert any undenominated capital into shares for allotment as bonus shares to holders of existing shares;
- 54.6 increase its share capital by new shares of such amount as it thinks expedient; or
- 54.7 cancel shares of its share capital which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

Table of Contents

55. The Company may:

55.1 by special resolution, and subject to the provisions of the Act governing the variation of rights attached to classes of shares and the amendment of these Articles, convert any of its shares into redeemable shares; or

55.2 by special resolution, and subject to the provisions of the Act (or as otherwise required or permitted by applicable law) alter or add to the Memorandum with respect to any objects, powers or other matters specified therein or alter or add to these Articles.

Reduction of company capital

56. The Company may, in accordance with the provisions of sections 84 to 87 of the Act, reduce its company capital in any way it thinks expedient and, without prejudice to the generality of the foregoing, may thereby:

56.1 extinguish or reduce the liability on any of its shares in respect of share capital not paid up;

56.2 either with or without extinguishing or reducing liability on any of its shares, cancel any paid up company capital which is lost or unrepresented by available assets; or

56.3 either with or without extinguishing or reducing liability on any of its shares, pay off any paid up company capital which is in excess of the wants of the Company.

Unless the special resolution provides otherwise, a reserve arising from the reduction of company capital is to be treated for all purposes as a realised profit in accordance with section 117(9) of the Act. Nothing in this Article 56 shall, however, prejudice or limit the Company's ability to perform or engage in any of the actions described in section 83(1) of the Act by way of ordinary resolution only.

Transfer of shares

57. Subject to the Act and to such of the restrictions contained in these Articles (including, without limitation, Article 10) as may be applicable, any member may transfer all or any of his shares (of any class) by an instrument of transfer in the usual common form or in any other form which the Board may from time to time approve. The instrument of transfer may be endorsed on the certificate.

58. The instrument of transfer of a share shall be signed by or on behalf of the transferor and, if the share is not fully paid, by or on behalf of the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect of it. All instruments of transfer may be retained by the Company.

59. The instrument of transfer of any share may be executed for and on behalf of the transferor by the Company Secretary or any other party designated by the Board for such purpose, and the Company Secretary or any other party designated by the Board for such purpose shall be deemed to have been irrevocably appointed agent for the transferor of such share or shares with full power to execute, complete and deliver in the name of and on behalf of the transferor of such share or shares all such transfers of shares held by the members in the share capital of the Company. Any document which records the name of the transferor, the name of the transferee, the class and number of shares agreed to be transferred, the date of the agreement to transfer shares and the price per share, shall, once executed by the transferor or the Company Secretary or any other party designated by the Board for such purpose as agent for the transferor, be deemed to be a proper instrument of transfer for the purposes of the Act. The transferor shall be deemed to remain the member holding the share until the name of the transferee is entered on the Register in respect thereof, and neither the title of the transferee nor the title of the transferor shall be affected by any irregularity or invalidity in the proceedings in reference to the sale should the Directors so determine.
60. The Company, at its absolute discretion, may, or may procure that a subsidiary of the Company shall, pay Irish stamp duty arising on a transfer of shares on behalf of the transferee of such shares of the Company. If

G-17

Table of Contents

stamp duty resulting from the transfer of shares in the Company which would otherwise be payable by the transferee is paid by the Company or any subsidiary of the Company on behalf of the transferee, then in those circumstances, the Company shall, on its behalf or on behalf of its subsidiary (as the case may be), be entitled to (i) reimbursement of the stamp duty from the transferee, (ii) set-off the stamp duty against any dividends payable to the transferee of those shares and (iii) to the extent permitted by section 1042 of the Act, claim a first and permanent lien on the shares on which stamp duty has been paid by the Company or its subsidiary for the amount of stamp duty paid. The Company's lien shall extend to all dividends paid on those shares.

61. Notwithstanding the provisions of these Articles and subject to the 1990 Regulations, or any regulations made under section 1086 of the Act, title to any shares in the Company may also be evidenced and transferred without a written instrument in accordance with section 239 of the Companies Act 1990 or section 1086 of the Act or any regulations made thereunder. The Directors shall have power to permit any class of shares to be held in uncertificated form and to implement any arrangements they think fit for such evidencing and transfer which accord with such regulations and in particular shall, where appropriate, be entitled to disapply or modify all or part of the provisions in these Articles with respect to the requirement for written instruments of transfer and share certificates (if any), in order to give effect to such regulations.

62. The Board may, in its absolute discretion and without assigning any reason for its decision, decline to register any transfer of any share which is not a fully-paid share. The Board may also decline to register any transfer if:
 - 62.1 the instrument of transfer is not duly stamped, if required, and lodged at the Office or any other place as the Board may from time to time specify for the purpose, accompanied by the certificate (if any) for the shares to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer;

 - 62.2 the instrument of transfer is in respect of more than one class of share;

 - 62.3 the instrument of transfer is in favour of more than four persons jointly;

 - 62.4 it is not satisfied that all applicable consents, authorisations, permissions or approvals of any governmental body or agency in Ireland or any other applicable jurisdiction required to be obtained under relevant law prior to such transfer have been obtained; or

 - 62.5 it is not satisfied that the transfer would not violate the terms of any agreement to which the Company (or any of its subsidiaries) and the transferor are party or subject.

63. Subject to any directions of the Board from time to time in force, the Company Secretary or any other party designated by the Board for such purpose may exercise the powers and discretions of the Board under Article 62, Article 86, Article 93 and Article 95.

64. If the Board declines to register a transfer it shall, within one month after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.
65. No fee shall be charged by the Company for registering any transfer or for making any entry in the Register concerning any other document relating to or affecting the title to any share (except that the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed on it in connection with such transfer or entry).

Transmission of shares

66. In the case of the death of a member, the survivor or survivors, where the deceased was a joint holder, and the personal representatives of the deceased where he or she was a sole holder, shall be the only persons recognised by the Company as having any title to his or her interest in the shares.
67. Nothing in Article 66 shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him or her with other persons.

Table of Contents

68. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as may from time to time properly be required by the Directors and subject to Article 69, elect either: (a) to be registered himself or herself as holder of the share; or (b) to have some person nominated by him or her (being a person who consents to being so registered) registered as the transferee thereof.
69. The Directors shall, in either of those cases, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that member before his or her death or bankruptcy, as the case may be.
70. If the person becoming entitled as mentioned in Article 68: (a) elects to be registered himself or herself, the person shall furnish to the Company a notice in writing signed by him or her stating that he or she so elects; or (b) elects to have another person registered, the person shall testify his or her election by executing to that other person a transfer of the share.
71. All the limitations, restrictions and provisions of Articles 66 to 70 shall be applicable to a notice or transfer referred to in Article 70 as if the death or bankruptcy of the member concerned had not occurred and the notice or transfer were a transfer signed by that member.
72. Subject to Article 73 and Article 74, a person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he or she would be entitled if he or she were the registered holder of the share.
73. A person referred to in Article 72 shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.
74. The Directors may at any time serve a notice on any such person requiring the person to make the election provided for by Article 68 and, if the person does not make that election (and proceed to do, consequent on that election, whichever of the things mentioned in Article 70 is appropriate) within ninety days after the date of service of the notice, the Directors may thereupon withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.
75. The Company may charge a fee not exceeding 10.00 on the registration of every probate, letters of administration, certificate of death, power of attorney, notice as to stock or other instrument or order.
76. The Directors may determine such procedures as they shall think fit regarding the transmission of shares in the Company held by a body corporate that are transmitted by operation of law in consequence of a merger or division.

Closing Register or Fixing Record Date

77. For the purpose of determining members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or members entitled to receive payment of any dividend, or in order to make a determination of members for any other proper purpose, the Board may provide, subject to the requirements of section 174 of the Act, that the Register shall be closed for transfers at such times and for such periods, not exceeding in the whole thirty days in each year. If the Register shall be so closed for the purpose of determining members entitled to notice of, or to vote at, a meeting of members, such Register shall, subject to applicable law and Exchange rules, be so closed for at least five days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register.
78. In lieu of, or apart from, closing the Register, the Board may fix in advance a date as the record date (a) for any such determination of members entitled to notice of or to vote at a meeting of the members, which record date shall not, subject to applicable law and Exchange rules, be more than thirty days before the date of such meeting, and (b) for the purpose of determining the members entitled to receive payment of any dividend or other distribution, or in order to make a determination of members for any other proper purpose,

Table of Contents

which record date shall not, subject to applicable law and Exchange rules, be more than sixty days prior to the date of payment of such dividend or other distribution or the taking of any action to which such determination of members is relevant.

79. If the Register is not so closed and no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of members, the date immediately preceding the date on which notice of the meeting is deemed given under these Articles shall be the record date for such determination of members. Where a determination of members entitled to vote at any meeting of members has been made as provided in these Articles, such determination shall apply to any adjournment thereof; provided, however, that the Directors may fix a new record date of the adjourned meeting, if they think fit.

Dividends

80. The Company in a general meeting may declare dividends, but no dividends shall exceed the amount recommended by the Directors. Any general meeting declaring a dividend and any resolution of the Directors declaring an interim dividend may direct payment of such dividend or interim dividend wholly or partly by the distribution of specific assets including paid up shares, debentures or debenture stocks of any other company or in any one or more of such ways, and the Directors shall give effect to such resolution.

81. The Directors may from time to time:

81.1 pay to the members such dividends (whether as either interim dividends or final dividends) as appear to the Directors to be justified by the profits of the Company, subject to section 117 and Chapter 6 of Part 17 of the Act;

81.2 before declaring any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion either be employed in the business of the Company or be held as cash or cash equivalents or invested in such investments as the Directors may lawfully determine; and

81.3 without placing the profits of the Company to reserve, carry forward any profits which they may think prudent not to distribute.

82. Unless otherwise specified by the Directors at the time of declaring a dividend, the dividend shall be a final dividend.

83. Where the Directors specify that a dividend is an interim dividend at the time it is declared, such interim dividend shall not constitute a debt recoverable against the Company and the declaration may be revoked by the Directors at any time prior to its payment provided that the holders of the same class of share are treated equally on any

revocation.

84. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend (and to the rights of the Company under Articles 39 to 43 and Article 86) all dividends shall be declared and paid such that shares of the same class shall rank equally irrespective of the premium credited as paid up on such shares.
85. If any share is issued on terms providing that it shall rank for a dividend as from a particular date, such share shall rank for dividend accordingly.
86. The Directors may deduct from any dividend payable to any member, all sums of money (if any) immediately payable by him or her to the Company on account of calls or otherwise in relation to the shares of the Company.
87. The Directors when declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and, in particular, paid up shares, debentures or debenture stock of any other company or in any one or more of such ways.

G-20

Table of Contents

88. Where any difficulty arises in regard to a distribution, the Directors may settle the matter as they think expedient and, in particular, may:
- 88.1 issue fractional certificates (subject always to the restriction on the issue of fractional shares) and fix the value for distribution of such specific assets or any part of them;
 - 88.2 determine that cash payments shall be made to any members upon the footing of the value so fixed, in order to adjust the rights of all the parties; and
 - 88.3 vest any such specific assets in trustees as may seem expedient to the Directors.
89. Any dividend, interest or other moneys payable in cash in respect of any shares may be paid:
- 89.1 by cheque or negotiable instrument sent by post directed to or otherwise delivered to the registered address of the holder, or where there are joint holders, to the registered address of that one of the joint holders who is first named on the register or to such person and to such address as the holder or the joint holders may in writing direct; or
 - 89.2 by transfer to a bank account nominated by the payee or where such an account has not been so nominated, to the account of a trustee nominated by the Company to hold such moneys, provided that the debiting of the Company's account in respect of the relevant amount shall be evidence of good discharge of the Company's obligations in respect of any payment made by any such methods.
90. Any such cheque or negotiable instrument referred to in Article 89 shall be made payable to the order of the person to whom it is sent.
91. Any one of two or more joint holders may give valid receipts for any dividends, bonuses or other moneys payable in respect of the shares held by them as joint holders, whether paid by cheque or negotiable instrument or direct transfer.
92. No dividend shall bear interest against the Company.
93. If the Directors so resolve, any dividend or distribution which has remained unclaimed for twelve years from the date of its declaration shall be forfeited and cease to remain owing by the Company. The payment by the Directors of any unclaimed dividend, distribution or other moneys payable in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof.

Bonus issue of shares

94. Any capitalisation provided for in Articles 95 to 99 inclusive will not require approval or ratification by the members.
95. The Directors may resolve to capitalise any part of a relevant sum (within the meaning of Article 96) by applying such sum in paying up in full unissued shares of a nominal value or nominal value and premium, equal to the sum capitalised, to be allotted and issued as fully paid bonus shares, to those members of the Company who would have been entitled to that sum if it were distributed by way of dividend (and in the same proportions).
96. For the purposes of Article 95, relevant sum means: (a) any sum for the time being standing to the credit of the Company's undenominated capital; (b) any of the Company's profits available for distribution; or (c) any sum representing unrealised revaluation reserves.
97. The Directors may in giving effect to any resolution under Article 95 make: (a) all appropriations and applications of the undivided profits resolved to be capitalised by the resolution; and (b) all allotments and issues of fully paid shares, if any, and generally shall do all acts and things required to give effect to the resolution.
98. Without limiting Article 97, the Directors may:
- 98.1 make such provision as they think fit for the case of shares becoming distributable in fractions (and, again, without limiting the foregoing, may sell the shares represented by such fractions and distribute

Table of Contents

the net proceeds of such sale amongst the members otherwise entitled to such fractions in due proportions);

98.2 authorise any person to enter, on behalf of all the members concerned, into an agreement with the Company providing for the allotment to them, respectively credited as fully paid up, of any further shares to which they may become entitled on the capitalisation concerned or, as the case may require, for the payment by the application thereto of their respective proportions of the profits resolved to be capitalised of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all the members concerned.

99. Where the Directors have resolved to approve a bona fide revaluation of all the fixed assets of the Company, the net capital surplus in excess of the previous book value of the assets arising from such revaluation may be: (a) credited by the Directors to undenominated capital, other than the share premium account; or (b) used in paying up unissued shares of the Company to be issued to members as fully paid bonus shares.

General Meetings General

100. Subject to Article 101, the Company shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the Company and that of the next.

101. The Company will hold its first annual general meeting within eighteen months of its incorporation.

102. The annual general meeting shall be held in such place and at such time as the Directors shall determine.

103. All general meetings of the Company other than annual general meetings shall be called extraordinary general meetings.

104. The Directors may, whenever they think fit, convene an extraordinary general meeting. An extraordinary general meeting shall also be convened by the Directors on the requisition of members, or if the Directors fail to so convene an extraordinary general meeting, such extraordinary general meeting may be convened by the requisitioning members, in each case in accordance with section 178(3) to (7) of the Act.

105. If at any time the number of Directors is less than four, any Director or, subject to section 1104 of the Act, any member that satisfies the criteria thereunder, may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.

106. An annual general meeting or extraordinary general meeting of the Company may be held outside of Ireland. The Company shall make, at its expense, all necessary arrangements to ensure that members can by technological means participate in any such meeting without leaving Ireland.

107. A general meeting of the Company may be held in two or more venues (whether inside or outside of Ireland) at the same time using any technology that provides members, as a whole, with a reasonable opportunity to participate, and such participation shall be deemed to constitute presence in person at the meeting.

Notice of general meetings

108. The only persons entitled to notice of general meetings of the Company are:

108.1 the members;

108.2 the personal representatives of a deceased member, which member would but for his death be entitled to vote;

Table of Contents

- 108.3 the assignee in bankruptcy of a bankrupt member of the Company (being a bankrupt member who is entitled to vote at the meeting);
- 108.4 the Directors and Company Secretary; and
- 108.5 unless the Company is entitled to and has availed itself of the audit exemption under the Act, the Auditors (who shall also be entitled to receive other communications relating to any general meeting which a member is entitled to receive).
109. Subject to the provisions of the Act allowing a general meeting to be called by shorter notice, an annual general meeting and an extraordinary general meeting called for the passing of a special resolution shall be called by at least twenty-one days' notice. Any other extraordinary general meeting shall also be called by at least twenty-one days' notice, except that it may be called by fourteen days' notice where:
- 109.1 all members, who hold shares that carry rights to vote at the meeting, are permitted to vote by electronic means at the meeting; and
- 109.2 a special resolution reducing the period of notice to fourteen days has been passed at the immediately preceding annual general meeting, or at a general meeting held since that meeting.
110. Any notice convening a general meeting shall specify the time and place of the meeting and, in the case of special business, the general nature of that business and, in reasonable prominence, that a member entitled to attend, speak, ask questions and vote is entitled to appoint a proxy to attend, speak, ask questions and vote in his place and that a proxy need not be a member of the Company. Every notice shall specify such other details as are required by applicable law or the relevant code, rules and regulations applicable to the listing of the shares on any Exchange. Subject to any restrictions imposed on any shares, the notice shall be given to all the members and to the Directors and Auditors.
111. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at the meeting.
112. In cases where instruments of proxy are sent out with notices, the accidental omission to send such instrument of proxy to, or the non-receipt of such instrument of proxy by, any person entitled to receive such notice shall not invalidate any resolution passed or any proceeding at any such meeting. A member present, either in person or by proxy, at any general meeting of the Company or of the holders of any class of shares in the Company will be deemed, subject to Article 115, to have received notice of that meeting and, where required, of the purpose for which it was called.
- 113.

Where, by any provision contained in the Act, extended notice is required of a resolution, the resolution shall not be effective (except where the Directors have resolved to submit it) unless notice of the intention to move it has been given to the Company not less than twenty-eight days (or such shorter period as the Act permits) before the meeting at which it is moved, and the Company shall give to the members notice of any such resolution as required by and in accordance with the provisions of the Act.

114. In determining the correct period of notice for a general meeting, only Clear Days shall be counted.

115. Whenever any notice is required to be given by law or by these Articles to any person or persons, a waiver thereof in writing, signed by the person or persons entitled to the notice whether before or after the time stated therein, shall be deemed equivalent thereto. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

Written decision of sole member

116. At any time that the Company is a single-member company, its sole member may pass any resolution as a written decision in accordance with section 196 of the Act.

Table of Contents

Quorum for general meetings

117. Two members present in person or by proxy and having the right to attend and vote at the meeting and together holding shares representing more than 50% of the votes that may be cast by all members at the relevant time shall be a quorum at a general meeting; for the avoidance of doubt, at any time when the Company is a single-member company, one member of the Company present in person or by proxy at a general meeting of it shall be a quorum.
118. If within 15 minutes (or such greater time determined by the chairperson) after the time appointed for a general meeting a quorum is not present, then:
- 118.1 the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine; and
 - 118.2 if at the adjourned meeting a quorum is not present within half an hour (or such greater time determined by the chairperson) after the time appointed for the meeting, the members present shall be a quorum.

Proxies

119. Every member entitled to attend, speak, ask questions and vote at a general meeting may appoint a proxy or proxies to attend, speak, ask questions relating to items on the agenda subject to section 1107 of the Act and vote on his behalf and may appoint more than one proxy to attend, speak, ask questions and vote at the same general meeting provided that, where a member appoints more than one proxy in relation to a general meeting, each proxy must be appointed to exercise the rights attached to different shares held by that member.
120. The appointment of a proxy shall be in writing in any usual form or in any other form which the Directors may approve and shall be signed by or on behalf of the appointor. The signature on such appointment need not be witnessed. A body corporate may sign a form of proxy under its common seal or under the hand of a duly authorised officer thereof or in such other manner as the Directors may approve. A proxy need not be a member of the Company. A member shall be entitled to appoint a proxy by electronic means, to an address specified by the Company. The proxy form must make provision for three-way voting (i.e., to allow votes to be cast for or against a resolution or to be withheld) on all resolutions intended to be proposed, other than resolutions which are merely procedural. An instrument or other form of communication appointing or evidencing the appointment of a proxy or a corporate representative (other than a standing proxy or representative) together with such evidence as to its due execution as the Board may from time to time require, may be returned to the address or addresses stated in the notice of meeting or adjourned meeting or any other information or communication by such time or times as may be specified in the notice of meeting or adjourned meeting or in any other such information or communication (which times may differ when more than one place is so specified) or, if no such time is specified, at any time prior to the holding of the relevant meeting or adjourned meeting at which the appointee proposes to vote, and, subject to the Act, if not so delivered the appointment shall not be treated as valid.

121. Without limiting the foregoing, in relation to any shares which are held in uncertificated form, the Directors may from time to time permit appointments of a proxy to be made by means of an electronic communication in the form of an Uncertificated Proxy Instruction, (that is, a properly authenticated dematerialised instruction, and/or other instruction or notification, which is sent by means of the relevant system concerned and received by such participant in that system acting on behalf of the Company as the Directors may prescribe, in such form and subject to such terms and conditions as may from time to time be prescribed by the Directors (subject always to the facilities and requirements of the relevant system concerned)); and may in a similar manner permit supplements to, or amendments or revocations of, any such Uncertificated Proxy Instruction to be made by like means. The Directors may in addition prescribe the method of determining the time at which any such properly authenticated dematerialised instruction (and/or other instruction or notification) is to be treated as received by the Company or such participant. The Directors may treat any

G-24

Table of Contents

such Uncertificated Proxy Instruction which purports to be or is expressed to be sent on behalf of a member of a share as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that member.

Bodies corporate acting by representatives at meetings

122. Any body corporate which is a member, or a proxy for a member, of the Company may by resolution of its directors or other governing body authorise such person or persons as it thinks fit to act as its representative or representatives at any meeting of the Company or of any class of members of the Company and, subject to evidence being furnished to the Company of such authority as the Directors may reasonably require, any person(s) so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual member of the Company or, where more than one such representative is so authorized, all or any of the rights attached to the shares in respect of which he is so authorised. Where a body corporate appoints more than one representative in relation to a general meeting, each representative must be appointed to exercise the rights attached to different shares held by that body corporate.

Receipt of proxy appointments

123. Where the appointment of a proxy and any authority under which it is signed or a copy certified notarially or in some other way approved by the Directors is to be received by the Company:

123.1 in physical form, it shall be deposited at the Office or (at the option of the member) at such other place or places (if any) as may be specified for that purpose in or by way of note to the notice convening the meeting;

123.2 in electronic form, it may be so received where an address has been specified by the Company for the purpose of receiving electronic communications:

(a) in the notice convening the meeting; or

(b) in any appointment of proxy sent out by the Company in relation to the meeting; or

(c) in any invitation contained in an electronic communication to appoint a proxy issued by the Company in relation to the meeting;

provided that it is so received by the Company no later than 3 hours, or such other time as may be communicated to the members, before the time for holding the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used, at which the person named in the proxy proposes to vote and in default shall not be treated as valid or, in the case of a meeting which is adjourned to, or a poll which is to be taken on, a date not later than the record date applicable to the meeting which was adjourned or the poll, it shall be sufficient if the appointment of a proxy and any such authority

and certification thereof as aforesaid is so received by the Company at the commencement of the adjourned meeting or the taking of the poll. An appointment of a proxy relating to more than one meeting (including any adjournment thereof) having once been so received for the purposes of any meeting shall not be required to be delivered, deposited or received again for the purposes of any subsequent meeting to which it relates.

Effect of proxy appointments

124. Effect of proxy appointments:

124.1 Receipt by the Company of an appointment of a proxy in respect of a meeting shall not preclude a member from attending and voting at the meeting or at any adjournment thereof. However, if that member votes at the meeting or at any adjournment thereof, then as regards to the resolution(s) any

G-25

Table of Contents

proxy notice delivered to the Company by or on behalf of that same member shall on a poll, be invalid to the extent that such member votes in respect of the shares to which the proxy notice relates.

124.2 An appointment of a proxy shall be valid, unless the contrary is stated therein, as well for any adjournment of the meeting as for the meeting to which it relates and shall be deemed to confer authority to speak at a general meeting and to demand or join in demanding a poll.

125. A proxy shall have the right to exercise all or any of the rights of his appointor, or (where more than one proxy is appointed) all or any of the rights attached to the shares in respect of which he is appointed as the proxy to attend, and to speak and vote, at a general meeting of the Company. Unless his appointment provides otherwise, a proxy may vote or abstain at his discretion on any resolution put to the vote.

Effect of revocation of proxy or of authorisation

126. A vote given or poll demanded in accordance with the terms of an appointment of a proxy or a resolution authorising a representative to act on behalf of a body corporate shall be valid notwithstanding the previous death, insanity or winding up of the principal, or the revocation of the appointment of a proxy or of the authority under which the proxy was appointed or of the resolution authorising the representative to act or the transfer of the share in respect of which the proxy was appointed or the authorisation of the representative to act was given, provided that no notice in writing (whether in electronic form or otherwise) of such death, insanity, winding up, revocation or transfer is received by the Company at the Office before the commencement of the meeting.

127. The Directors may send to the members, at the expense of the Company, by post, electronic mail or otherwise, forms for the appointment of a proxy (with or without reply paid envelopes for their return) for use at any general meeting or at any class meeting, either in blank or nominating any one or more of the Directors or any other persons in the alternative. If, for the purpose of any meeting, invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the Company, such invitations shall be issued to all (and not to some only) of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, but the accidental omission to issue such invitations to, or the non-receipt of such invitations by, any member shall not invalidate the proceedings at any such meeting.

The business of general meetings

128. All business shall be deemed to be special business that is transacted at an extraordinary general meeting or that is transacted at an annual general meeting other than, in the case of an annual general meeting, the business specified in Article 132 which shall be ordinary business.

129. At any meeting of the members, only such business shall be conducted as shall have been properly brought before such meeting. To be properly brought before an annual general meeting, business must be:

129.1 specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board;

129.2 otherwise properly brought before the meeting by or at the direction of the Board; or

129.3 otherwise properly brought before the meeting by a member.

130. Without prejudice to any procedure which may be permitted under the Act, for business to be properly brought before an annual general meeting by a member, the member must have given timely notice thereof in writing to the Company Secretary. To be timely, a member's notice must be received not less than sixty days nor more than ninety days prior to the first anniversary of the preceding year's annual general meeting; provided, however, that in the event that the date of the annual general meeting is advanced by more than thirty days or delayed by more than sixty days from such anniversary, notice by the member to be timely

G-26

Table of Contents

must be so received not earlier than the ninetieth day prior to such annual general meeting and not later than the close of business on the later of (i) the sixtieth day prior to such annual general meeting or (ii) the tenth day following the date on which notice of the date of the annual general meeting was mailed or public disclosure thereof was made by the Company, whichever event in this clause (ii) first occurs. For the avoidance of doubt, in no event shall the adjournment or postponement of any general meeting, or the public announcement of such an adjournment or postponement, commence a new time period (or extend any time period) for the giving of a member's notice to the Company Secretary pursuant to this Article 130. Each such notice shall set forth as to each matter the member proposes to bring before the annual general meeting (other than a nomination for election as a director, which shall be governed by Article 171):

130.1 a brief description of the business desired to be brought before the annual general meeting and the reasons for conducting such business at the meeting;

130.2 the name and address, as they appear on the Register, of the member proposing such business;

130.3 the class, series and number of shares of the Company which are beneficially owned by the member;

130.4 whether and the extent to which any hedging, derivative or other transaction is in place or has been entered into within the prior six months preceding the date of delivery of the notice by or for the benefit of the member with respect to the Company or its subsidiaries or any of their respective securities, debt instruments or credit ratings, the effect or intent of which transaction is to give rise to gain or loss as a result of changes in the trading price of such securities or debt instruments or changes in the credit ratings for the Company, its subsidiaries or any of their respective securities or debt instruments (or, more generally, changes in the perceived creditworthiness of the Company or its subsidiaries), or to increase or decrease the voting power of the member, and if so, a summary of the material terms thereof; and

130.5 any material interest of the member in such business.

To be properly brought before an extraordinary general meeting, other than pursuant to Article 129, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board or by the Company Secretary pursuant to the applicable provisions of these Articles or (ii) otherwise properly brought before the meeting by or at the direction of the Board.

131. The chairperson of the meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the provisions of these Articles, and if he or she should so determine, any such business not properly brought before the meeting shall not be transacted. Nothing herein shall be deemed to affect any rights of members to request inclusion of proposals in the Company's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

132. The business of the annual general meeting shall include:

132.1 the consideration of the Company's statutory financial statements and the report of the Directors and the report of the Auditors on those statements and that report;

132.2 the review by the members of the Company's affairs;

132.3 the authorisation of the Directors to approve the remuneration of the Auditors (if any); and

132.4 the appointment or re-appointment of Auditors.

Proceedings at general meetings

133. The Chairman, if any, shall preside as chairperson at every general meeting of the Company, or if there is no such Chairman, or if he or she is not present at the time appointed for the holding of the meeting or is unwilling to act, the Directors present shall elect one of their number to be chairperson of the meeting.

134. If at any meeting no Director is willing to act as chairperson or if no Director is present at the time appointed for holding the meeting, the members present shall choose one of their number to be chairperson of the meeting.

Table of Contents

135. At each meeting of members, the chairperson of the meeting shall fix and announce the date and time of the opening and the closing of the polls for each matter upon which the members will vote at the meeting and shall determine the order of business and all other matters of procedure.

136. The Directors may adopt such rules, regulations and procedures for the conduct of any meeting of the members as they deem appropriate. Except to the extent inconsistent with any applicable rules, regulations and procedures adopted by the Board, the chairperson of any meeting may adopt such rules, regulations and procedures for the meeting, which need not be in writing, and take such actions with respect to the conduct of the meeting, as the chairperson of the meeting deems appropriate, to maintain order and safety and for the conduct of the meeting. Without limiting the foregoing, he or she may:

136.1 limit attendance at or participation in the meeting to members of record of the Company, their duly authorised proxies or such other persons as the chairperson of the meeting shall determine;

136.2 restrict dissemination of materials and use of audio or visual recording devices at the meeting;

136.3 take steps to maintain order and safety at the meeting;

136.4 establish seating arrangements;

136.5 restrict entry to the meeting after the time fixed for its commencement;

136.6 establish an agenda or order of business;

136.7 adjourn the meeting without a vote of the members, whether or not there is a quorum present;

136.8 limit the time allotted to member questions or comments; and

136.9 make rules governing speeches and debate including time limits and access to microphones.

The chairperson of the meeting acts in his or her absolute discretion and his or her rulings are not subject to appeal.

137. The chairperson of the meeting may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.

138.

No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

139. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting but, subject to that, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

140. Each Director and the Auditors shall be entitled to attend and speak at any general meeting of the Company.

141.

141.1 No amendment may be made to a resolution, at or before the time when it is put to a vote, unless the chairperson of the meeting decides that the amendment or the amended resolution may properly be put to a vote at that meeting.

141.2 If the chairperson of the meeting rules a resolution or an amendment to a resolution admissible or out of order (as the case may be), the proceedings of the meeting or on the resolution in question shall not be invalidated by any error in his or her ruling. Any ruling by the chairperson of the meeting in relation to a resolution or an amendment to a resolution shall be final and conclusive.

142.

142.1 For business to be properly requested by a member to be brought before a general meeting, the member must comply with the requirements of the Act or:

(a) be a member at the time of the giving of the notice for such general meeting;

Table of Contents

(b) be entitled to vote at such meeting; and

(c) have given timely and proper notice in writing to the Company Secretary in accordance with Article 130.

143. Except where a greater majority is required by the Act or these Articles, any question proposed for a decision of the members at any general meeting of the Company or a decision of any class of members at a separate meeting of any class of shares shall be decided by an ordinary resolution.

Voting

144. At any general meeting, a resolution put to the vote of the meeting shall be decided on a poll.

145. Save as provided in Article 146 of these Articles, a poll shall be taken in such manner as the chairperson of the meeting directs and he or she may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

146. A poll demanded on the election of a chairperson of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairperson of the meeting may direct. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded.

147. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven Clear Days notice shall be given specifying the time and place at which the poll is to be taken.

148. If authorised by the Directors, any vote taken by written ballot may be satisfied by a ballot submitted by electronic and/or telephonic transmission, provided that any such electronic or telephonic submission must either set forth or be submitted with information from which it can be determined that the electronic or telephonic submission has been authorised by the member or proxy.

Votes of Members

149. Subject to the provisions of these Articles and any rights or restrictions for the time being attached to any class or classes of shares in the capital of the Company, every member of record present in person or by proxy shall have one vote for each share registered in his or her name in the Register.

150.

Where there are joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holder or holders; and for this purpose, seniority shall be determined by the order in which the names of the joint holders stand in the Register.

151. A member who has made an enduring power of attorney, or a member in respect of whom an order has been made by any court having jurisdiction in cases of unsound mind, may vote by his or her committee, donee of an enduring power of attorney, receiver, guardian or other person appointed by the foregoing court, and any such committee, donee of an enduring power of attorney, receiver, guardian or other persons appointed by the foregoing court may speak or vote by proxy.
152. No objection shall be raised to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at such general meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the general meeting whose decision shall be final and conclusive.
153. A person shall be entered on the Register by the record date specified in respect of a general meeting in order to exercise the right of a member to participate and vote at the general meeting and any change to an entry on the Register after the record date shall be disregarded in determining the right of any person to attend and vote at the meeting.

Table of Contents

154. Votes may be given either personally (including by a duly authorised representative of a corporate member) or by proxy. On a poll taken at a meeting of the members of the Company or a meeting of any class of members of the Company, a member, whether present in person or by proxy, entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
155. Subject to such requirements and restrictions as the Directors may specify, the Company may permit members to vote by correspondence in advance of a general meeting in respect of one or more of the resolutions proposed at a meeting. Where the Company permits members to vote by correspondence, it shall only count votes cast in advance by correspondence, where such votes are received at the address and before the date and time specified by the Company, provided the date and time is no more than 24 hours before the time at which the vote is to be concluded.
156. Subject to such requirements and restrictions as the Directors may specify, the Company may permit members who are not physically present at a meeting to vote by electronic means at the general meeting in respect of one or more of the resolutions proposed at a meeting.
157. Where a member requests a full account of a vote before or on the declaration of the result of a vote at a general meeting, then with respect to each resolution proposed at a general meeting the Company shall establish:
- 157.1 the number of shares for which votes have been validly cast;
 - 157.2 the proportion of the Company's issued share capital at close of business on the record date before the meeting represented by those votes;
 - 157.3 the total number of votes validly cast, and
 - 157.4 the number of votes cast in favour of and against each resolution and, if counted, the number of abstentions.
158. Where no member requests a full account of the voting before or on the declaration of the result of a vote at a general meeting, it shall be sufficient for the Company to establish the voting results only to the extent necessary to ensure that the required majority is reached for each resolution. The Company shall ensure that a voting result established in accordance with this Article is published on its internet site or the site of the SEC not later than the end of the fifteenth day after the date of the meeting at which the voting result was obtained.
159. Where there is an equality of votes, the chairperson of the meeting shall not have a second or casting vote.
- 160.

No member shall be entitled to vote at any general meeting of the Company unless all calls or other sums immediately payable by him or her in respect of shares in the Company have been paid.

Class meetings

161. The provisions of these Articles relating to general meetings shall, as far as applicable, apply in relation to any meeting of any class of member of the Company.

Appointment of Directors

During the Integration Phase, the following Articles 162 to 171 inclusive are subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

162. The number of Directors shall be fixed from time to time by the Board, provided that in no case shall the number fixed by the Board be less than four nor more than twelve unless this is approved by an ordinary resolution passed in accordance with Article 169.

163. Each Director shall (unless his office is vacated in accordance with these Articles) serve for a one-year term concluding at the annual general meeting after such Director was last appointed or re-appointed. Any Director retiring at an annual general meeting will be eligible for re-appointment at that annual general meeting in accordance with these Articles.

Table of Contents

164. The Board, upon recommendations of the nomination and governance committee (or equivalent committee established by the Board), shall propose nominees for election to the office of Director at each annual general meeting.

165. Without prejudice to Article 216, the Directors may be appointed by the members in general meeting, provided that no person other than a Director retiring at the meeting shall, save where recommended by the Board, be eligible for election to the office of Director at any general meeting unless the requirements of Article 171 as to his or her eligibility for that purpose have been complied with.

166. Each Director shall be elected by an ordinary resolution at such meeting, provided that if, as of, or at any time prior to, fourteen days before the filing of the Company's definitive proxy statement with the SEC relating to such general meeting, the number of Director nominees exceeds the number of Directors to be elected (a **contested election**), each of those nominees shall be voted upon as a separate resolution and the Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at any such meeting and entitled to vote on the election of Directors.

For the purposes of this Article 166, **elected by a plurality** means the election of those director nominees, equalling in number to the number of positions to be filled at the relevant general meeting, that received the highest number of votes.

167. The Directors may from time to time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided that the total number of Directors shall not at any time exceed the number as may be provided for in these Articles.

168. A Director who is appointed pursuant to Article 167 shall be required to retire at the next following annual general meeting.

169. The Company may from time to time, by ordinary resolution, increase or reduce the number of Directors provided that any resolution to appoint a director approved by the members that would result in the maximum number of Directors being exceeded shall be deemed to constitute an ordinary resolution increasing the maximum number of Directors to the number that would be in office following such a resolution of appointment.

170. The Company may, by ordinary resolution, appoint another person in place of a Director removed from office under section 146 of the Act and, without prejudice to the powers of the Directors under Article 167, the Company in a general meeting may appoint any person to be a Director either to fill a casual vacancy or as an additional Director.

171. Without prejudice to Article 216, the following are the requirements mentioned in Article 165 for the eligibility of a person (the **person concerned**) for election as a Director at a general meeting, namely, any member entitled to vote in the election of Directors generally may nominate one or more persons for election as Directors at an annual general meeting only pursuant to the Company's notice of such meeting or if written notice of such

member's intent to make such nomination or nominations has been received by the Company Secretary at the Company's Office not less than sixty nor more than ninety days prior to the first anniversary of the preceding year's annual general meeting; provided, however, that in the event that the date of the annual general meeting is advanced by more than thirty days or delayed by more than sixty days from such anniversary, notice by the member to be timely must be so received not earlier than the ninetieth day prior to such annual general meeting and not later than the close of business on the later of (i) the sixtieth day prior to such annual general meeting and (ii) the tenth day following the day on which notice of the date of the annual general meeting was mailed or public disclosure thereof was made by the Company, whichever event in this clause (ii) first occurs. Each such member's notice shall set forth:

- 171.1 the name and address of the member who intends to make the nomination and of the person or persons to be nominated;
- 171.2 a representation that the member is a holder of record of shares of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice;

G-31

Table of Contents

- 171.3 a description of all arrangements or understandings between the member and each nominee and any other person or persons (naming such person or persons) relating to the nomination or nominations;
- 171.4 the class and number of shares of the Company which are beneficially owned by such member and by any other members known by such member to be supporting such nominees as of the date of such member's notice;
- 171.5 whether and the extent to which any hedging, derivative or other transaction is in place or has been entered into within the prior six months preceding the date of delivery of the notice by or for the benefit of the member with respect to the Company or its subsidiaries or any of their respective securities, debt instruments or credit ratings, the effect or intent of which transaction is to give rise to gain or loss as a result of changes in the trading price of such securities or debt instruments or changes in the credit ratings for the Company, its subsidiaries or any of their respective securities or debt instruments (or, more generally, changes in the perceived creditworthiness of the Company or its subsidiaries), or to increase or decrease the voting power of the member, and if so, a summary of the material terms thereof;
- 171.6 such other information regarding each nominee proposed by such member as would be required to be included in a proxy statement filed pursuant to the proxy rules of the SEC;
- 171.7 the consent of each nominee to serve as a Director if so elected; and
- 171.8 for each nominee who is not an incumbent Director:
- (a) their name, age, business address and residential address;
 - (b) their principal occupation or employment;
 - (c) the class, series and number of securities of the Company that are owned of record or beneficially by such person;
 - (d) the date or dates the securities were acquired and the investment intent of each acquisition;
 - (e) any other information relating to such person that is required to be disclosed in proxies for the election of Directors under any applicable securities legislation; and
 - (f) any information the Company may require any proposed director nominee to furnish such as it may reasonably require to comply with applicable law and to determine the eligibility of such proposed

nominee to serve as a Director and whether such proposed nominee would be considered independent as a Director or as a member of the audit or any other committee of the Board under the various rules and standards applicable to the Company.

Vacation of office by Directors

During the Integration Phase, the following Article 172 is subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

172. In addition to the circumstances described in sections 146, 148(1) and 196(2) of the Act and the provisions of the Governance Rules, the office of Director shall be vacated:

172.1 ipso facto, if that Director:

- (a) resigns his or her office by notice in writing to the Company;
- (b) becomes subject to a declaration of restriction under section 819 of the Act and the Directors, at any time during the currency of the declaration, resolve that his or her office be vacated;
- (c) resigns his office by spoken declaration at any Board meeting and such resignation is accepted by resolution of that meeting, in which case such resignation shall take effect at the conclusion of such meeting unless otherwise resolved;

Table of Contents

- (d) is adjudicated insolvent or bankrupt or makes any arrangement or compromise with his creditors generally (in any jurisdiction);
- (e) is removed from office by notice in writing to the Company: where there is a sole member, by the sole member or where there is more than one member, by any member or members having the right to attend and vote at a general meeting of the Company on a resolution to remove a Director and holding for the time being not less than 90% in nominal value of the shares giving that right; and

172.2 by resolution of the Board where that Director:

- (a) can no longer be reasonably regarded as possessing an adequate decision making capacity by reason of his or her health;
- (b) is sentenced to a term of imprisonment (whether or not the term is suspended) following conviction of a criminal offence in any jurisdiction;
- (c) is for more than six months absent, without the permission of the Directors, from meetings of the Directors held during that period;
- (d) is in employment of the Company, the Company's holding company or a subsidiary of the Company's holding company, upon the termination of such employment;

172.3 and a Director so removed shall have no right to prior notice or to raise any objection to his or her removal from office but any removal (other than one initiated by the Director) shall be without prejudice to any claim for compensation or damages payable as a result of the removal also terminating any contract of service.

Directors remuneration and expenses

173. The remuneration of the Directors shall be such as is determined, from time to time, by the Board and such remuneration shall be deemed to accrue from day to day. The Board may from time to time determine that, subject to the requirements of the Act, all or part of any fees or other remuneration payable to any Director shall be provided in the form of shares or other securities of the Company or any subsidiary of the Company, or options or rights to acquire such shares or other securities, on such terms as the Board may decide.

174. The Directors may also be paid all travelling, hotel and other expenses properly incurred by them: (a) in attending and returning from: (i) meetings of the Directors or any committee; or (ii) general meetings of the Company, or (b) otherwise in connection with the business of the Company.

General power of management and delegation

The following Articles 175 to 181 inclusive are subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

175. The business of the Company shall be managed by its Directors who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Act or by the Memorandum of these Articles, required to be exercised by the Company in a general meeting, but subject to:

175.1 any regulations contained in these Articles;

175.2 the provisions of the Act; and

175.3 such directions, not being inconsistent with the foregoing regulations or provisions, as the Company in a general meeting may (by special resolution) give.

G-33

Table of Contents

176. No direction given by the Company in a general meeting under Article 175.3 shall invalidate any prior act of the Directors which would have been valid if that direction had not been given.

177. Without prejudice to the generality of Article 175, Article 175 operates to enable, subject to a limitation (if any) arising under any of paragraphs 175.1 to 175.3 of it, the Directors exercise all powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof.

178. Without prejudice to section 40 of the Act, the Directors may delegate any of their powers (including any power referred to in these Articles) to such person or persons as they think fit, including committees; any such person or committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.

179. Any reference to a power of the Company required to be exercised by the Company in a general meeting includes a reference to a power of the Company that, but for the power of the members to pass a written resolution to effect the first-mentioned power's exercise, would be required to be exercised by the Company in a general meeting.

180. The acts of the Board or of any committee established by the Board or any delegee of the Board or any such committee shall be valid notwithstanding any defect which may afterwards be discovered in the appointment or qualification of any Director, committee member or delegee.

181. The Directors may appoint a sole or joint company secretary, an assistant company secretary and a deputy company secretary for such term, at such remuneration and upon such conditions as they may think fit; and any such person so appointed may be removed by them.

Officers and executives

During the Integration Phase, the following Articles 182 to 186 inclusive are subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

182. The Directors may from time to time appoint one or more of themselves to the office of Chief Executive Officer (by whatever name called including managing director) or such other office or position with the Company and for such period and on such terms as to remuneration, if any (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment.

183. Without prejudice to any claim the person so appointed under Article 182 may have for damages for breach of any contract of service between the person and the Company, the person's appointment shall cease upon his or her ceasing, from any cause, to be a Director.

184. The Board may appoint any person whether or not he or she is a Director, to hold such executive or official position (except that of Auditor) as the Board may from time to time determine. The same person may hold more than one office of executive or official position.
185. The Board shall determine from time to time, the powers and duties of any such office holder or official appointed under Articles 182 and/or Article 184, and subject to the provisions of the Act and these Articles, the Directors may confer upon an office holder or official any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit and in conferring any such powers, the Directors may specify that the conferral is to operate either: (a) so that the powers concerned may be exercised concurrently by them and the relevant office holder; or (b) to the exclusion of their own such powers.
186. The Directors may (a) revoke any conferral of powers under Article 185 or (b) amend any such conferral (whether as to the powers conferred or the terms, conditions or restrictions subject to which the conferral is made). The use or inclusion of the word "officer" (or similar words) in the title of any executive or other position shall not be deemed to imply that the person holding such executive or other position is an "officer" of the Company within the meaning of the Act.

Table of Contents

Meetings of Directors and committees

The following Articles 187 to 191 inclusive are subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

- 187.
- 187.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 187.2 The Directors may establish attendance and procedural guidelines from time to time about how their meetings are to be conducted consistent with good corporate governance and applicable tax requirements.
- 187.3 Such meetings shall take place at such time and place as the Directors may determine.
- 187.4 Questions arising at any such meeting shall be decided by a majority of votes and where there is an equality of votes, the chairperson of the meeting shall not have a second or casting vote.
- 187.5 A Director may, and the Company Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
188. All Directors shall be entitled to reasonable notice of any meeting of the Directors.
189. Nothing in Article 188 or any other provision of the Act enables a person, other than a Director, to object to the notice given for any meeting of the Directors.
190. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be seven.
191. The continuing Directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed in accordance with these Articles as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company but for no other purpose.

Chairman

During the Integration Phase, the following Article 192 is subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

192. The Directors may elect a Chairman and determine the period for which he or she is to hold office, but if no such Chairman is elected, or, if at any meeting the Chairman is not present after the time appointed for holding it, the Directors present may choose one of their members to be chairperson of a Board meeting. The Chairman shall vacate office if he or she vacates his or her office as a Director (otherwise than by the expiration of his or her term of office at a general meeting of the Company at which he or she is re-appointed).

Committees

The following Articles 193 to 196 inclusive are subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

193. The Directors may establish one or more committees consisting in whole or in part of members of the Board. The composition, function, power and obligations of any such committee will be determined by the Board from time to time.

194. A committee established under Article 193 (a **committee**) may elect a chairperson of its meetings; if no such chairperson is elected, or if at any meeting the chairperson is not present after the time appointed for holding it, the members of the committee present may choose one of their number to be chairperson of the meeting.

Table of Contents

195. A committee may meet and adjourn as it thinks proper. Committee meetings shall take place at such time and place as the relevant committee may determine. Questions arising at any meeting of a committee shall be determined (subject to Article 193) by a majority of votes of the members of the committee present, and where there is an equality of votes, the chairperson of the committee shall not have a second or casting vote.

196. Where any committee is established by the Directors :

196.1 the meetings and proceedings of such committee shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed upon such committee by the Directors; and

196.2 the Directors may authorise, or may authorise such committee to authorise, any person who is not a Director to attend all or any meetings of any such committee on such terms as the Directors or the committee think fit, provided that any such person shall not be entitled to vote at meetings of the committee.

Written resolutions and telephonic meetings of the Directors

During the Integration Phase, the following Articles 197 to 202 inclusive are subject to anything contained in the Governance Rules (if and to the extent applicable) and shall be construed accordingly:

197. The following provision shall apply:

197.1 A resolution in writing signed by all the Directors, or by all the Directors being members of a committee referred to in Article 193, and who are for the time being entitled to receive notice of a meeting of the Directors or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting of the Directors or such a committee duly convened and held.

197.2 A resolution in writing shall be deemed to have been signed by a Director where the Chairman, Company Secretary or other person designated by the Board has received an email from that Director's Certified Email Address (as defined by Article 197.3) which identifies the resolution and states, unconditionally, "I hereby sign the resolution".

197.3 A Director's Certified Email Address is such email address as the Director has, from time to time, notified to such person and in such manner as may from time to time be prescribed by the Board.

197.4 The Company shall cause a copy of every email referred to in Article 197.2 to be entered in the books kept pursuant to section 166 of the Act.

198. Subject to Article 199, where one or more of the Directors (other than a majority of them) would not, by reason of:

198.1 the Act or any other enactment;

198.2 these Articles; or

198.3 an applicable rule of law or an Exchange,
be permitted to vote on a resolution such as is referred to in Article 197, if it were sought to pass the resolution at a meeting of the Directors duly convened and held, then such a resolution, notwithstanding anything in Article 197.1, shall be valid for the purposes of that subsection if the resolution is signed by those of the Directors who would have been permitted to vote on it had it been sought to pass it at such a meeting.

199. In a case falling within Article 198, the resolution shall state the name of each Director who did not sign it and the basis on which he or she did not sign it.

200. For the avoidance of doubt, nothing in Articles 197 to 199 dealing with a resolution that is signed by other than all of the Directors shall be read as making available, in the case of an equality of votes, a second or casting vote to the one of their number who would, or might have been, if a meeting had been held to transact the business concerned, chairperson of that meeting.

Table of Contents

201. The resolution referred to in Article 197 may consist of several documents in like form each signed by one or more Directors and for all purposes shall take effect from the time that it is signed by the last Director.

202. A meeting of the Directors or of a committee referred to in Article 193 may consist of a conference between some or all of the Directors or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and:

202.1 a Director or as the case may be a member of the committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote (subject to Article 198) and be counted in a quorum accordingly; and

202.2 such a meeting shall be deemed to take place:

(a) where the largest group of those Directors participating in the conference is assembled;

(b) if there is no such group, where the chairperson of the meeting then is; or

(c) if neither subparagraph (a) or (b) applies, in such location as the meeting itself decides.

Directors duties, conflicts of interest, etc.

203. A Director may have regard to the interests of any other companies in a group of which the Company is a member to the full extent permitted by the Act.

204. A Director is expressly permitted (for the purposes of section 228(1)(d) of the Act) to use vehicles, telephones, computers, aircraft, accommodation and any other Company property where such use is approved by the Board or by a person so authorised by the Board or where such use is in accordance with a Director's terms of employment, letter of appointment or other contract or in the course of the discharge of the Director's duties or responsibilities or in the course of the discharge of a Director's employment.

205. Nothing in section 228(1)(e) of the Act shall restrict a Director from entering into any commitment which has been approved by the Board or has been approved pursuant to such authority as may be delegated by the Board in accordance with these Articles. It shall be the duty of each Director to obtain the prior approval of the Board, before entering into any commitment permitted by sections 228(1)(e)(ii) and 228(2) of the Act.

206. It shall be the duty of a Director who is in any way, whether directly or indirectly, interested (within the meaning of section 231 of the Act) in a contract or proposed contract with the Company, to declare the nature of his or her

interest at a meeting of the Directors.

207. Subject to any applicable law or the relevant code, rules and regulations applicable to the listing of the shares on any Exchange, a Director may vote in respect of any contract, appointment or arrangement in which he or she is interested and shall be counted in the quorum present at the meeting and is hereby released from his or her duty set out in section 228(1)(f) of the Act and a Director may vote on his or her own appointment or arrangement and the terms of it.
208. The Directors may exercise the voting powers conferred by the shares of any other company held or owned by the Company in such manner in all respects as they think fit and, in particular, they may exercise the voting powers in favour of any resolution: (a) appointing the Directors or any of them as directors or officers of such other company; or (b) providing for the payment of remuneration or pensions to the directors or officers of such other company.
209. Any Director may vote in favour of the exercise of such voting rights notwithstanding that he or she may be or may be about to become a Director or officer of the other company referred to in Article 208 and as such or in any other way is or may be interested in the exercise of such voting rights in the foregoing manner.
210. A Director may hold any other office or place of profit under the Company (other than Auditor) in conjunction with his or her office of Director for such period and on such terms as to remuneration and otherwise as the Directors may determine.

Table of Contents

211. Without prejudice to the provisions of section 228 of the Act, a Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as member or otherwise.

212. A Director may act by himself or herself, or his or her firm, in a professional capacity for the Company; and any Director, in such a case, or his or her firm, shall be entitled to remuneration for professional services as if he or she were not a Director, but nothing in this Article authorises a Director, or his or her firm, to act as Auditor.

213. No Director or nominee for Director shall be disqualified by his or her office from contracting with the Company either with regard to his or her tenure of any such other office or place of profit or as vendor, purchaser or otherwise.

214. In particular, neither shall:

214.1 any contract with respect to any of the matters referred to in Article 207 nor any contract or arrangement entered into by or on behalf of the Company in which a Director is in any way interested, be liable to be avoided; nor

214.2 a Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement,
by reason of such Director holding that office or of the fiduciary relation thereby established.

215. A Director, notwithstanding his or her interest, may be counted in the quorum present at any meeting at which:

215.1 that Director or any other Director is appointed to hold any such office or place of profit under the Company as is mentioned in Article 210; or

215.2 the terms of any such appointment are arranged,
and he or she may vote on any such appointment or arrangement, subject to any applicable law or the relevant code, rules and regulations applicable to the listing of the shares on any Exchange.

Member Nominations included in the Company's Proxy Materials

216. Subject to Articles 216 to 226 and to the extent applicable, if expressly requested in the relevant Nomination Notice (as defined below), the Company shall include in its proxy statement for any annual general meeting:

- 216.1 the names of any person or persons nominated for election as a Director, which shall also be included on the Company's form of proxy and ballot, by any Eligible Holder (as defined below) or group of up to twenty (20) Eligible Holders that has (individually and collectively, in the case of a group) satisfied, as determined by the Board, all applicable conditions and complied with all applicable procedures set forth in Articles 216 to 226 (such Eligible Holder or group of Eligible Holders being a **Nominating Member** and each person so nominated, a **Nominee**);
- 216.2 disclosure about each Nominee and the Nominating Member required under the rules of the SEC or other applicable law to be included in the proxy statement;
- 216.3 any statement in support of the Nominee's (or Nominees', as applicable) election to the Board included by the Nominating Member in the Nomination Notice for inclusion in the proxy statement (subject, without limitation, to Article 226), provided that such statement does not exceed five hundred (500) words and fully complies with Section 14 of the Exchange Act and the rules and regulations thereunder, including Rule 14a-9 (the **Statement**); and
- 216.4 any other information that the Company or the Board determines, in their discretion, to include in the proxy statement relating to the nomination of the Nominee(s), including, without limitation, any statement in opposition to the nomination, any of the information provided pursuant to Articles 216 to 226 and any solicitation materials or related information with respect to the Nominee(s).

Table of Contents

For purposes of Articles 216 to 226, any determination to be made by the Board may be made by the Board, a committee of the Board or any officer of the Company designated by the Board or a committee of the Board, and any such determination shall be final and binding on the Company, any Eligible Holder, any Nominating Member, any Nominee and any other person so long as made in good faith (without any further requirements). The chairperson of any annual general meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether a Nominee has been nominated in accordance with the requirements of Articles 216 to 226 and, if not so nominated, shall direct and declare at the meeting that such Nominee shall not be considered.

217. The Company shall not be required to include in the proxy statement for an annual general meeting more Nominees than that number of Directors constituting the greater of (a) two; and (b) 20% of the total number of Directors serving on the Board on the last day on which a Nomination Notice may be submitted pursuant to Articles 216 to 226 (rounded down to the nearest whole number) (the **Maximum Number**). The Maximum Number for a particular annual general meeting shall be reduced by: (i) the number of Nominees that the Board itself decides to nominate for election at such annual general meeting; and (ii) the number of incumbent Directors who had been Nominees with respect to any of the preceding two annual general meetings of members and who have been nominated by the Board at the upcoming annual general meeting. In the event that one or more vacancies for any reason occurs on the Board after the deadline for submitting a Nomination Notice as set forth in Article 224 below but before the date of the applicable annual general meeting, and the Board resolves to reduce the size of the Board in connection therewith, the Maximum Number shall be calculated based on the number of Directors in office as so reduced.

218. If the number of Nominees pursuant to Articles 216 to 226 for any annual general meeting exceeds the Maximum Number then, promptly upon notice from the Company, each Nominating Member will select one Nominee for inclusion in the proxy statement until the Maximum Number is reached, going in order of the amount (largest to smallest) of the share ownership position as disclosed in each Nominating Member's Nomination Notice, with the process repeated if the Maximum Number is not reached after each Nominating Member has selected one Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Article 224, a Nominating Member ceases to satisfy the eligibility requirements in Articles 216 to 226, as determined by the Board, or withdraws its nomination or a Nominee ceases to satisfy the eligibility requirements in Articles 216 to 226, as determined by the Board, or becomes unwilling or unable to serve on the Board, whether before or after the mailing or other distribution of the Company's proxy statement for such annual general meeting, then the nomination shall be disregarded, and the Company: (a) shall not be required to include in its proxy statement for such annual general meeting or on any ballot or form of proxy for such annual general meeting the disregarded Nominee or any successor or replacement nominee proposed by the applicable Nominating Member or by any other Nominating Member; and (b) may otherwise communicate to its members, including without limitation by amending or supplementing its proxy statement or ballot or form of proxy, that the Nominee will not be included as a Nominee in the proxy statement or on any ballot or form of proxy for such annual general meeting and will not be voted on at such annual general meeting.

219. An **Eligible Holder** is a person who has either (a) been a record holder of the Ordinary Shares used to satisfy the eligibility requirements in Article 219 to 223 continuously for the three-year period specified in Article 220 below or (b) provides to the Company Secretary, within the time period referred to in Article 224, evidence of continuous ownership of such shares for such three-year period from one or more securities intermediaries in a

form that the Board determines would be deemed acceptable for purposes of a member proposal under Rule 14a-8(b)(2) under the Exchange Act (or any successor rule).

220. An Eligible Holder or group of up to twenty Eligible Holders may submit a nomination in accordance with Articles 216 to 226 only if the person or group (in the aggregate) has continuously owned at least the Minimum Number (as defined below) of shares of the Ordinary Shares throughout the three-year period commencing on or after the Adoption Date and preceding and including the date of submission of the Nomination Notice, and continues to own at least the Minimum Number of such shares through the date of

G-39

Table of Contents

the Company's applicable annual general meeting. Two or more funds that are (a) under common management and investment control, (b) under common management and funded primarily by the same employer (or by a group of related employers that are under common control) or (c) a group of investment companies, as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940 of the United States, as amended, shall be treated as one Eligible Holder if such Eligible Holder shall provide together with the Nomination Notice documentation reasonably satisfactory to the Board that demonstrates the satisfaction of any of the foregoing criteria. For the avoidance of doubt, in the event of a nomination by a group of Eligible Holders, any and all requirements and obligations for an individual Eligible Holder that are set forth in Articles 216 to 226, including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the ownership of the group in the aggregate. Should any member cease to satisfy the eligibility requirements in Articles 216 to 226, as determined by the Board, or withdraw from a group of Eligible Holders at any time prior to the applicable annual general meeting, the group of Eligible Members shall only be deemed to own the shares held by the remaining members of the group. As used in Articles 216 to 226, any reference to a group or group of Eligible Holders refers to any Nominating Member that consists of more than one Eligible Holder and to all the Eligible Holders that make up such Nominating Member.

221. The **Minimum Number** of the Ordinary Shares means 3% of the number of outstanding Ordinary Shares calculated as of the most recent date for which the total number of outstanding Ordinary Shares is given in any filing by the Company with the SEC prior to the submission of the Nomination Notice.
222. For the purposes of Articles 216 to 226, an Eligible Holder owns only those outstanding Ordinary Shares as to which the Eligible Holder possesses both: (a) the full voting and investment rights pertaining to the shares; and (b) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (a) and (b) shall not include any shares: (i) purchased or sold by such Eligible Holder or any of its affiliates in any transaction that has not yet been settled or closed; (ii) borrowed by such Eligible Holder or any of its affiliates for any purpose or purchased by such Eligible Holder or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person; or (iii) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Eligible Holder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding Ordinary Shares, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (x) reducing in any manner, to any extent or at any time in the future, such Eligible Holder's or any of its affiliates' full right to vote or direct the voting of any such shares; and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such Eligible Holder or any of its affiliates.
- An Eligible Holder owns shares held in the name of a nominee or other intermediary so long as the Eligible Holder retains the right to instruct how the shares are voted with respect to the election of Directors and possesses the full economic interest in the shares. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the Eligible Holder. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has loaned such shares, provided that the Eligible Holder has the power to recall such loaned shares on not more than five business days' notice and continues to hold such shares through the date of such annual general meeting. The terms owned, owning and other variations of the word own shall have correlative meanings. Whether outstanding Ordinary Shares are owned for these purposes shall be determined by the Board.

223. No Eligible Holder shall be permitted to be in more than one group constituting a Nominating Member, and if any Eligible Holder appears as a member of more than one group, it shall be deemed to be a member of the group that has the largest net long position as reflected in the Nomination Notice.

224. To nominate a Nominee, the Nominating Member must, no earlier than 150 calendar days and no later than the close of business 120 calendar days before the anniversary of the date that the Company mailed or

G-40

Table of Contents

otherwise distributed its proxy statement for the prior year's annual general meeting, submit to the Company Secretary at the principal executive office of the Company all of the following information and documents (collectively, the **Nomination Notice**); provided, however, that if (and only if) the applicable annual general meeting is not scheduled to be held within a period that commences 30 calendar days before such anniversary date and ends 30 calendar days after such anniversary date (an annual general meeting date outside such period being referred to herein as an **Other Meeting Date**), the Nomination Notice in the manner provided in Article 225 must be received not earlier than 180 calendar days prior to such annual general meeting and not later than the close of business on the later of the 150th calendar day prior to such annual general meeting and the tenth calendar day following the date on which notice of such Other Meeting Date is first publicly announced or disclosed by the Company:

- 224.1 a Schedule 14N of the Exchange Act (**Schedule 14N**) (or any successor form) relating to the Nominee, completed and filed with the SEC by the Nominating Member as applicable, in accordance with SEC rules;

- 224.2 a written notice, in a form deemed satisfactory by the Board, of the nomination of such Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Member (including, in the case of a group, each Eligible Holder included in the group):
 - (a) the information required with respect to the nomination of Directors pursuant to Article 216;

 - (b) the details of any relationship that existed within the past three years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if the relationship existed on the date of submission of the Schedule 14N;

 - (c) a representation and warranty that the Nominating Member acquired the securities of the Company in the ordinary course of business and investing and did not acquire, and is not holding, securities of the Company for the purpose or with the effect of influencing or changing control of the Company;

 - (d) a representation and warranty that the Nominee's candidacy or, if elected, membership of the Board would not violate applicable state or federal law or the rules of the New York Stock Exchange, Frankfurt Stock Exchange and any other Exchange on which the Ordinary Shares are traded;

 - (e) a representation and warranty that the Nominee: (i) does not have any direct or indirect relationship with the Company that will cause the Nominee to be considered not independent pursuant to the Governance Rules or independence standards as most recently published on the Company's website and otherwise qualifies as independent under the rules of the New York Stock Exchange, Frankfurt Stock Exchange and any other Exchange on which the Ordinary Shares are traded; (ii) meets the audit committee independence requirements under the rules of the New York Stock Exchange, Frankfurt Stock Exchange and any other Exchange on which the Ordinary Shares are traded; (iii) is a non-employee director for the purposes of Rule 16b-3 under the Exchange Act (or any successor

rule); (iv) is an outside director for the purposes of Section 162(m) of the Internal Revenue Code of 1986 of the United States, as amended (or any successor provision); and (v) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933, as amended, or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act without reference to whether the event is material to an evaluation of the ability or integrity of the Nominee;

- (f) a representation and warranty that the Nominating Member satisfies the eligibility requirements set forth in Articles 219 to 223 and has provided evidence of ownership to the extent required by Article 219;

- (g) a representation and warranty that the Nominating Member intends to continue to satisfy the eligibility requirements described in Articles 219 to Article 223 through the date of the applicable annual general meeting;

G-41

Table of Contents

- (h) a statement as to the Nominating Member's intentions with respect to maintaining qualifying ownership of the Minimum Number of shares for at least one year following the applicable annual general meeting;
- (i) details of any position of the Nominee as an officer or director of any competitor (that is, any entity that produces products or provides services that compete with or are alternatives to the principal products produced or services provided by the Company or its affiliates) of the Company, within the three years preceding the submission of the Nomination Notice;
- (j) details of any shares of the Company owned by the Nominee that are (i) pledged by the Nominee or otherwise subject to a lien, charge or other encumbrance or (ii) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Nominee, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding Ordinary Shares, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (x) reducing in any manner, to any extent or at any time in the future, such Nominee's full right to vote or direct the voting of any such shares, and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such Nominee;
- (k) a representation and warranty that the Nominating Member will not engage in a solicitation within the meaning of Rule 14a-1(l) (without reference to the exception in Section 14a-1(l)(2)(iv)) (or any successor rules) under the Exchange Act in support of the election of any individual as a Director at the applicable annual general meeting, other than its Nominee(s) or any nominee of the Board;
- (l) a representation and warranty that the Nominating Member will not use any proxy card or other form of proxy other than the Company's proxy card or other form of proxy in soliciting members in connection with the election of a Director at the applicable annual general meeting;
- (m) confirmation that the requirements of Article 171 as to the Nominating Member's eligibility for the election as a Director have been complied with;
- (n) details of all information required pursuant to Articles 171.1 to 171.5;
- (o) if desired, a Statement; and
- (p) in the case of a nomination by a group, the designation by all Eligible Holders included in the group of one such Eligible Holder that is authorized to act on behalf of all Eligible Holders included in the group with respect to matters relating to the nomination, including withdrawal of the nomination;

224.3 an executed agreement, in a form deemed satisfactory by the Board, pursuant to which the Nominating Member (in the case of a group, including, and binding upon, each Eligible Holder included in the group) agrees:

- (a) to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation and election of a Nominee;
- (b) to file with the SEC any written solicitation or other communication with the Company's members relating to one or more of the Directors or Director nominees or any Nominee, regardless of whether any such filing is required under any rule or regulation or whether any exemption from filing is available for such materials under any rule or regulation;
- (c) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Nominating Member or any of its Nominees with the Company, its members or any other person in connection with the nomination or election of one or more of the Directors, including, without limitation, the Nomination Notice;

G-42

Table of Contents

- (d) to indemnify and hold harmless the Company and each of its Directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Company or any of its Directors, officers or employees arising out of or relating to a failure or alleged failure of the Nominating Member or any of its Nominees to comply with, or any breach or alleged breach of, its respective obligations, agreements or representations under Articles 216 to 226; and
- (e) in the event that (i) any information included in the Nomination Notice or in any other communication by the Nominating Member (including with respect to any Eligible Holder included in a group, any of its Nominees or any of their respective agents or representatives) with the Company, its members or any other person in connection with the nomination or election of a Nominee ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading); or (ii) the Nominating Member (including any Eligible Holder included in a group) has failed to continue to satisfy the eligibility requirements described in Articles 219 to 223, to promptly (and in any event within 48 hours of discovering such misstatement, omission or failure) notify the Company and, in the case of clause (i), any other recipient of such communication (together with the information required to correct the misstatement or omission); and

224.4 an executed agreement, in a form deemed satisfactory by the Board, by the Nominee:

- (a) to provide to the Company such other information, including completion of the Company's director questionnaire, as it may reasonably request;
- (b) that the Nominee has read and agrees, if elected, to adhere to the Governance Rules and the Company's code of ethics and any other Company policies and guidelines applicable to Directors; and
- (c) that the Nominee is not and will not become a party to (i) any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity other than the Company in connection with service or action as a Director that has not been disclosed to the Company; (ii) any agreement, arrangement or understanding with any person or entity as to how the Nominee would vote or act on any issue or question as a director (a **Voting Commitment**) that has not been disclosed to the Company; or (iii) any Voting Commitment that could reasonably be expected to limit or interfere with the Nominee's ability to comply, if elected as a Director, with its fiduciary duties under applicable law.

The information and documents required by Articles 216 to 226 to be provided by the Nominating Member shall be: (x) provided with respect to and executed by each Eligible Holder, in the case of information applicable to group members; and (y) provided with respect to the persons specified in Instruction 1 to Item 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Nominating Member or Eligible Holder included in a group that is an entity. The Nomination Notice shall be deemed submitted on the date on which all of the information and documents referred to in Articles 216 to 226 (other than such information and documents contemplated to be provided after the date the

Nomination Notice is provided) have been delivered to or, if sent by mail, received by the Company Secretary.

225. Notwithstanding anything to the contrary contained in Articles 216 to 226, the Company may omit from its proxy statement any Nominee and any information concerning such Nominee (including a Nominating Member's Statement) and no vote on such Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Company), and the Nominating Member may not, after the last day on which a Nomination Notice would be timely, cure in any way any defect preventing the nomination of the Nominee, if:

225.1 the Company receives a notice, whether or not subsequently withdrawn, pursuant to Article 171 that a member intends to nominate a candidate for Director at the applicable annual general meeting;

G-43

Table of Contents

- 225.2 the Nominating Member or the Eligible Holder that is designated to act on behalf of a group of Eligible Holders, as applicable, or any qualified representative thereof, does not appear at the applicable annual general meeting to present the nomination submitted pursuant to Articles 216 to 226, the Nominating Member withdraws its nomination or the presiding officer of the meeting declares that such nomination was not made in accordance with the procedures prescribed by Articles 216 to 226 and shall therefore be disregarded;
- 225.3 the Board determines that such Nominee's nomination or election to the Board would result in the Company violating or failing to be in compliance with the Memorandum and Articles or any applicable law, rule or regulation to which the Company is subject, including any rules or regulations of the New York Stock Exchange, Frankfurt Stock Exchange and any other Exchange on which the Company's Ordinary Shares are traded;
- 225.4 the Nominee has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914 of the United States, as amended; or
- 225.5 the Company is notified, or the Board determines, that the Nominating Member or such Nominee has failed to continue to satisfy the eligibility requirements described in Articles 216 to 226, any of the representations and warranties made in the Nomination Notice ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), the Nominee becomes unwilling or unable to serve on the Board or any material violation or breach occurs of the obligations, agreements, representations or warranties of the Nominating Member or the Nominee under Articles 216 to 226.
226. Notwithstanding anything to the contrary contained in Articles 216 to 226, the Company may omit from its proxy statement, or may supplement or correct, any information, including all or any portion of the statement in support of the Nominee(s) included in the Nomination Notice, if the Board determines that:
- 226.1 such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading;
- 226.2 such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person; or
- 226.3 the inclusion of such information in the proxy statement would otherwise violate the SEC proxy rules or any other applicable law, rule or regulation.
- The Company may solicit against, and include in the proxy statement its own statement relating to, any Nominee.

The common seal, official seal and securities seal

227. Any seal of the Company shall be used only by the authority of the Directors, a committee authorised by the Directors to exercise such authority or by any one or more persons severally or jointly so authorised by the Directors or such a committee, and the use of the seal shall be deemed to be authorised for these purposes where the matter or transaction pursuant to which the seal is to be used has been so authorised.

228. Any instrument to which a Company's seal shall be affixed shall be signed by:

228.1 two Directors;

228.2 one Director and the Company Secretary; or

228.3 any two other persons authorised to sign by (i) the Directors or (ii) a committee.

229. The Company may have one or more duplicate common seals or official seals for use in different locations including for use abroad.

G-44

Table of Contents

Service of notices on members

230. A notice required or authorised to be served on or given to a member of the Company pursuant to a provision of the Act or these Articles shall, save where the means of serving or giving it specified in Article 230.4 is used, be in writing and may be served on or given to the member in one of the following ways:

230.1 by delivering it to the member;

230.2 by leaving it at the registered address of the member;

230.3 by sending it by post in a prepaid letter to the registered address of the member; or

230.4 by electronic mail or other means of electronic communication approved by the Directors to the contact details notified to the Company by any such member for such purpose (or if not so notified, then to the contact details of the member last known to the Company). A notice or document may be sent by electronic means to the fullest extent permitted by the Act.

231. Without prejudice or limitation to the foregoing provisions of Article 230.1 to 230.4, for the purposes of these Articles and the Act, a document shall be deemed to have been sent to a member if a notice is given, served, sent or delivered to the member and the notice specifies the website or hotlink or other electronic link at or through which the member may obtain a copy of the relevant document.

232. Any notice served or given in accordance with Article 230 shall be deemed, in the absence of any agreement to the contrary between the Company (or, as the case may be, the officer of it) and the member, to have been served or given:

232.1 in the case of its being delivered, at the time of delivery (or, if delivery is refused, when tendered);

232.2 in the case of its being left, at the time that it is left;

232.3 in the case of its being posted on any day other than a Friday, Saturday or Sunday, 24 hours after despatch and in the case of its being posted:

(a) on a Friday 72 hours after despatch; or

(b) on a Saturday or Sunday 48 hours after despatch;

232.4 in the case of electronic means being used in relation to it, twelve hours after despatch. but this Article is without prejudice to section 181(3) of the Act.

233. Every legal personal representative, committee, receiver, curator bonis or other legal curator, assignee in bankruptcy, examiner or liquidator of a member shall be bound by a notice given as aforesaid if sent to the last registered address of such member, or, in the event of notice given or delivered pursuant to Article 230.4, if sent to the address notified to the Company by the member for such purpose notwithstanding that the Company may have notice of the death, his or her being of unsound mind, bankruptcy, liquidation or disability of such member.

234. Notwithstanding anything contained in these Articles to the contrary, the Company shall not be obliged to take account of or make any investigations as to the existence of any suspension or curtailment of postal services within or in relation to all or any part of any jurisdiction.

235. Any requirement in these Articles for the consent of a member in regard to the receipt by such member of electronic mail or other means of electronic communications approved by the Directors, including the receipt of the Company's annual report, statutory financial statements and the Directors' and Auditor's reports thereon, shall be deemed to have been satisfied where the Company has written to the member informing him or her of its intention to use electronic communications for such purposes and the member has not, within four weeks of the issue of such notice, served an objection in writing on the Company to such member. Where a member has given, or is deemed to have given, his/her consent to the receipt by such member of electronic mail or other means of electronic communications approved by the Directors, she/he

Table of Contents

may revoke such consent at any time by requesting the Company to communicate with him or her in documented form; provided, however, that such revocation shall not take effect until five days after written notice of the revocation is received by the Company. Notwithstanding anything to the contrary in this Article 235, no such consent shall be necessary, and to the extent it is necessary, such consent shall be deemed to have been given, if electronic communications are permitted to be used under the rules and regulations of any Exchange on which the shares in the capital of the Company or other securities of the Company are listed or under the rules of the SEC.

236. If at any time by reason of the suspension or curtailment of postal services in any territory, the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a public announcement (as defined below) and such notice shall be deemed to have been duly served on all members entitled thereto at noon (Ireland time) on the day on which the said public announcement is made. In any such case the Company shall put a full copy of the notice of the general meeting on its website.

237. Notice may be given by the Company to the joint holders of a share in the capital of the Company by giving the notice to the joint holder whose name stands first in the Register in respect of the share and notice so given shall be sufficient notice to all the joint holders.

238.

238.1 Every person who becomes entitled to a share in the capital of the Company shall, before his or her name is entered in the Register in respect of the share, be bound by any notice in respect of that share which has been duly given to a person from whom he or she derives his or her title.

238.2 A notice may be given by the Company to the persons entitled to a share in the capital of the Company in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a member, addressed to them at the address, if any, supplied by them for that purpose. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

239. The signature (whether electronic signature, an advanced electronic signature or otherwise) to any notice to be given by the Company may be written (in electronic form or otherwise) or printed.

Service of notices on the Company

240. In addition to the means of service of documents set out in section 51 of the Act, a notice or other document may be served on the Company by an officer of the Company by email provided, however, that the Directors have designated an email address for that purpose and notified that email address to its officers for the express purpose of serving notices on the Company.

Sending statutory financial statements to members

241. Each of the members hereby agree and consent that copies of the documents referred to in section 338(2) of the Act, are to be treated, for the purposes of section 338 of the Act, as sent to a person where:

241.1 the Company and that person have agreed to his or her having access to the documents on a website (instead of their being sent to him or her), provided such agreement shall be deemed to have been given, if electronic communications are permitted to be used under the rules and regulations of any Exchange on which the shares in the capital of the Company or other securities of the Company are listed or under the rules of the SEC;

241.2 the documents are documents to which that agreement applies; and

241.3 that person is notified, in a manner for the time being agreed for the purpose between him or her and the Company, of:

(a) the publication of the documents on a website;

G-46

Table of Contents

- (b) the address of that website; and
- (c) the place on that website where the documents may be accessed, and how they may be accessed. Documents treated in accordance with Article 241 as sent to any person are to be treated as sent to him or her not less than 21 days before the date of a meeting if, and only if:

241.4 the documents are published on the website throughout a period beginning at least 21 days before the date of the meeting and ending with the conclusion of the meeting; and

241.5 the notification given for the purposes of Article 241.3 is given not less than 21 days before the date of the meeting.

242. Any obligation by virtue of section 339(1) or (2) of the Act to furnish a person with a document may, unless these Articles provide otherwise, be complied with by using electronic communications for sending that document to such address as may for the time being be notified to the Company by that person for that purpose.

Accounting Records

243. The Directors shall, in accordance with Chapter 2 of Part 6 of the Act, cause to be kept adequate accounting records, whether in the form of documents, electronic form or otherwise, that:

243.1 correctly record and explain the transactions of the Company;

243.2 will at any time enable the assets, liabilities, financial position and profit or loss of the Company to be determined with reasonable accuracy;

243.3 will enable the Directors to ensure that any financial statements of the Company, required to be prepared under sections 290 or 293 of the Act, comply with the requirements of the Act; and

243.4 will enable those financial statements of the Company to be readily and properly audited.

244. The accounting records shall be kept on a continuous and consistent basis and entries therein shall be made in a timely manner and be consistent from year to year. Adequate accounting records shall be deemed to have been maintained if they comply with the provisions of Chapter 2 of Part 6 of the Act and explain the Company's transactions and facilitate the preparation of financial statements that give a true and fair view of the assets, liabilities, financial position and profit or loss of the Company and, if relevant, the Group and include any information and returns referred to in section 283(2) of the Act.

245. The accounting records shall be kept at the Office or, subject to the provisions of the Act, at such other place as the Directors think fit and shall be open at all reasonable times to the inspection of the Directors.
246. The Directors shall determine from time to time whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Company shall be open to the inspection of members, not being Directors. No member (not being a Director) shall have any right of inspecting any financial statement or accounting record of the Company except as conferred by the Act or authorised by the Directors or by the Company in a general meeting.
247. In accordance with the provisions of the Act, the Directors shall cause to be prepared and to be laid before the annual general meeting of the Company from time to time such statutory financial statements of the Company and reports as are required by the Act to be prepared and laid before such meeting.
248. A copy of every statutory financial statement of the Company (including every document required by law to be annexed thereto) which is to be laid before the annual general meeting of the Company together with a copy of the Directors' report and Auditors' report, or summary financial statements prepared in accordance with section 1119 of the Act, shall be sent, by post, electronic mail or any other means of electronic communications, not less than twenty-one Clear Days before the date of the annual general meeting, to every person entitled under the provisions of the Act to receive them; provided that where the Directors

Table of Contents

elect to send summary financial statements to the members, any member may request that he be sent a copy of the statutory financial statements of the Company. The Company may, in addition to sending one or more copies of its statutory financial statements, summary financial statements or other communications to its members, send one or more copies to any Approved Nominee. For the purposes of this Article, sending by electronic communications includes the making available or displaying on the Company's website (or a website designated by the Board) or the website of the SEC, and each member is deemed to have irrevocably consented to receipt of every statutory financial statement of the Company (including every document required by law to be annexed thereto) and every copy of the Directors' report and the Auditors' report and every copy of any summary financial statements prepared in accordance with section 1119 of the Act, by any such document being made so available or displayed.

249. Auditors shall be appointed and their duties regulated in accordance with the Act.

Winding up

250. Subject to the provisions of the Act as to preferential payments, the property of the Company on its winding up shall be distributed among the members according to their rights and interests in the Company.

251. Unless the conditions of issue of the shares in question provide otherwise, dividends declared by the Company more than six years preceding the commencement date of a winding up of the Company, being dividends which have not been claimed within that period of six years, shall not be a claim admissible to proof against the Company for the purposes of the winding up.

252. If the Company shall be wound up and the assets available for distribution among the members as such shall be insufficient to repay the whole of the paid up or credited as paid up share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the members in proportion to the capital paid up or credited as paid up at the commencement of the winding up on the shares in the capital of the Company held by them respectively. If in a winding up the assets available for distribution among the members shall be more than sufficient to repay the whole of the share capital paid up or credited as paid up at the commencement of the winding up, the excess shall be distributed among the members in proportion to the capital at the commencement of the winding up paid up or credited as paid up on the said shares held by them respectively; provided that this Article shall be subject to any specific rights attaching to any class of share capital.

252.1 In case of a sale by the liquidator under section 601 of the Act, the liquidator may by the contract of sale agree so as to bind all the members, for the allotment to the members directly, of the proceeds of sale in proportion to their respective interests in the Company and may further, by the contract, limit a time at the expiration of which obligations or shares in the capital of the Company not accepted or required to be sold shall be deemed to have been irrevocably refused and be at the disposal of the Company, but so that nothing herein contained shall be taken to diminish, prejudice or affect the rights of dissenting members conferred by the said section.

252.2

The power of sale of the liquidator shall include a power to sell wholly or partially for debentures, debenture stock, or other obligations of another company, either then already constituted or about to be constituted for the purpose of carrying out the sale.

253. If the Company is wound up, the liquidator, with the sanction of a special resolution and any other sanction required by the Act, may divide amongst the members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not), and, for such purpose, may value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator, with the like sanction, may vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as, with the like sanction, he or she determines, but so that no member shall be compelled to accept any assets upon which there is a liability.

G-48

Table of Contents

Business Transactions

254. In addition to any affirmative vote required by law or these Articles, and except as otherwise expressly provided in Article 255, a Business Transaction (as defined in Article 256.3) with, or proposed by or on behalf of, any Interested Person (as defined in Article 256.6) or any Affiliate (as defined in Article 256.1) of any Interested Person or any person who thereafter would be an Affiliate of such Interested Person shall require approval by the affirmative vote of members of the Company holding not less than two-thirds (2/3) of the paid up ordinary share capital of the Company, excluding the voting rights attached to any shares beneficially owned by such Interested Person. Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified, by law or in any agreement with any Exchange or otherwise.

255. The provisions of Article 254 shall not be applicable to any particular Business Transaction, and such Business Transaction shall require only such affirmative vote, if any, as is required by law or by any other provision of these Articles, or any agreement with any Exchange, if either (i) the Business Transaction shall have been approved by a majority of the Board prior to such Interested Person first becoming an Interested Person or (ii) prior to such Interested Person first becoming an Interested Person, a majority of the Board shall have approved such Interested Person becoming an Interested Person and, subsequently, a majority of the Independent Directors (as hereinafter defined) shall have approved the Business Transaction.

256. The following definitions shall apply with respect to Articles 254 to 258:

256.1 The term **Affiliate** shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified person.

256.2 A person shall be a **beneficial owner** of any shares of the Company (a) which such person or any of its Affiliates beneficially owns, directly or indirectly; (b) which such person or any of its Affiliates has, directly or indirectly, (i) the right to acquire (whether such right is exercisable immediately or subject only to the passage of time or the occurrence of one or more events), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (ii) the right to vote pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the beneficial owner of any security if the agreement, arrangement or understanding to vote such security arises solely from a revocable proxy or consent solicitation made pursuant to and in accordance with the Act; or (c) which is beneficially owned, directly or indirectly, by any other person with which such person or any of its Affiliates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of the Company (except to the extent permitted by the proviso of clause (b)(ii) above). For the purposes of determining whether a person is an Interested Person pursuant to Article 256.6, the number of shares of the Company deemed to be outstanding shall include shares deemed beneficially owned by such person through application of this Article 256.2, but shall not include any other shares of the Company that may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

256.3 The term **Business Transaction** shall mean any of the following transactions when entered into by the Company or a subsidiary of the Company with, or upon a proposal by or on behalf of, any Interested Person or any Affiliate of any Interested Person:

- (a) any merger or consolidation of the Company or any subsidiary with (i) any Interested Person, or (ii) any other body corporate which is, or after such merger or consolidation would be, an Affiliate of an Interested Person;

- (b) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a member of the Company, to or with the Interested Person of assets of the Company (other than shares of the Company or of any subsidiary of the Company which assets have an aggregate market value equal to ten percent (10%) or more of the aggregate market value of all the issued share capital of the Company);

Table of Contents

- (c) any transaction that results in the issuance of shares or the transfer of treasury shares by the Company or by any subsidiary of the Company of any shares of the Company or any shares of such subsidiary to the Interested Person, except (i) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of the Company or any such subsidiary which securities were outstanding prior to the time that the Interested Person became such, (ii) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares of the Company or any such subsidiary which security is distributed, pro rata to all holders of a class or series of shares of the Company subsequent to the time the Interested Person became such, (iii) pursuant to an exchange offer by the Company to purchase shares made on the same terms to all holders of said shares, (iv) any issuance of shares or transfer of treasury shares of the Company by the Company, provided, however, that in the case of each of the clauses (ii) through (iv) above there shall be no increase of more than one percent (1%) in the Interested Person's proportionate share in the shares of the Company of any class or series or (v) pursuant to a public offering or private placement by the Company to an Institutional Investor;
- (d) any reclassification of securities, recapitalization or other transaction involving the Company or any subsidiary of the Company which has the effect, directly or indirectly, of (i) increasing the proportionate amount of the shares of any class or series, or securities convertible into the shares of any class or series, of the Company or of any such subsidiary which is owned by the Interested Person, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares not caused, directly or indirectly, by the Interested Person or (ii) increasing the voting power, whether or not then exercisable, of an Interested Person in any class or series of shares of the Company or any subsidiary of the Company;
- (e) the adoption of any plan or proposal by or on behalf of an Interested Person for the liquidation, dissolution or winding-up of the Company; or
- (f) any receipt by the Interested Person of the benefit, directly or indirectly (except proportionately as a member of the Company), of any loans, advances, guarantees, pledges, tax benefits or other financial benefits (other than those expressly permitted in subparagraphs (a) through (e) above) provided by or through the Company or any subsidiary thereof.

256.4 The term "Independent Directors" shall mean the members of the Board who are not Affiliates or representatives of, or associated with, an Interested Person and who were either Directors prior to any person becoming an Interested Person or were recommended for election or elected to succeed such directors by a vote which includes the affirmative vote of a majority of the Independent Directors.

256.5 The term "Institutional Investor" shall mean a person that (a) has acquired, or will acquire, all of its shares in the Company in the ordinary course of its business and not with the purpose nor with the effect of changing or influencing the control of the Company, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to rule 13d-3(b) under the Exchange Act, and (b) is a registered broker dealer; a bank as defined in section 3(a)(6) of the Exchange

Act; an insurance company as defined in, or an investment company registered under, the Investment Company Act of 1940 of the United States; an investment advisor registered under the Investment Advisors Act of 1940 of the United States; an employee benefit plan or pension fund subject to the Employee Retirement Income Security Act of 1974 of the United States or an endowment fund; a parent holding company, provided that the aggregate amount held directly by the parent and directly and indirectly by its subsidiaries which are not persons specified in the foregoing subclauses of this clause (b) does not exceed one percent (1%) of the securities of the subject class; or a group, provided that all the members are persons specified in the foregoing subclauses of this clause (b).

G-50

Table of Contents

256.6 The term Interested Person shall mean any person (other than the Company, any subsidiary, any profit-sharing, employee share ownership or other employee benefit plan of the Company or any subsidiary or any trustee of or fiduciary with respect to any such plan when acting in such capacity) who (a) is the beneficial owner of shares of the Company representing ten percent (10%) or more of the votes entitled to be cast by the holders of all the paid up share capital of the Company; (b) has stated in a filing with any governmental agency or press release or otherwise publicly disclosed a plan or intention to become or consider becoming the beneficial owner of shares of the Company representing ten percent (10%) or more of the votes entitled to be cast by the holders of all paid up share capital of the Company and has not expressly abandoned such plan, intention or consideration more than two years prior to the date in question; or (c) is an Affiliate of the Company and at any time within the two-year period immediately prior to the date in question was the beneficial owner of shares representing ten percent (10%) or more of the votes entitled to be cast by holders of all the paid up share capital of the Company.

256.7 The term person shall mean any individual, body corporate, partnership, unincorporated association, trust or other entity.

256.8 The term subsidiary is as defined in section 7 of the Act.

257. A majority of the Independent Directors shall have the power and duty to determine, on the basis of information known to them after reasonable inquiry, for the purposes of (i) Articles 254 and 255, all questions arising under Articles 254 and 255 including, without limitation (a) whether a person is an Interested Person, (b) the number of shares of the Company or other securities beneficially owned by any person; and (c) whether a person is an Affiliate of another; and (ii) these Articles, the question of whether a person is an Interested Person. Any such determination made in good faith shall be binding and conclusive on all parties.

258. Nothing contained in Articles 254 to 257 shall be construed to relieve any Interested Person from any fiduciary obligation imposed by law.

Shareholder Rights Plan

259. The Board is hereby expressly authorised to adopt any shareholder rights plan, upon such terms and conditions as the Board deems expedient and in the best interests of the Company, subject to applicable law.

Untraced members

260. The Company shall be entitled to sell at the best price reasonably obtainable any share of a member or any share to which a person is entitled by transmission if and provided that:

260.1 for a period of twelve years no cheque or warrant sent by the Company through the post in a pre-paid letter addressed to the member or to the person entitled by transmission to the share at his address on the Register or at the last known address given by the member or the person entitled by transmission to which

cheques and warrants are to be sent has been cashed and no communication has been received by the Company from the member or the person entitled by transmission (provided that during such twelve year period at least three dividends shall have become payable in respect of such share);

- 260.2 at the expiration of the said period of twelve years by advertisement in a national daily newspaper published in Ireland (and a national daily newspaper published in Germany and the United States of America) and in a newspaper circulating in the area in which the address referred to in Article 260.1 is located the Company has given notice of its intention to sell such share;
- 260.3 during the further period of three months after the date of the advertisement and prior to the exercise of the power of sale the Company has not received any communication from the member or person entitled by transmission; and

G-51

Table of Contents

- 260.4 the Company has first given notice in writing to the appropriate sections of the Stock Exchanges of its intention to sell such shares.
261. Where a share, which is to be sold as provided in Article 261, is held in uncertificated form, the Directors may authorise any person to do all that is necessary to change such share into certificated form prior to its sale.
262. To give effect to any such sale the Company may appoint any person to execute as transferor an instrument of transfer of such share and such instrument of transfer shall be as effective as if it had been executed by the member or the person entitled by the transmission to such share. The transferee shall be entered in the Register as the member of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase moneys nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
263. The Company shall account to the member or other person entitled to such share for the net proceeds of such sale by carrying all moneys in respect thereof to a separate account which shall be a permanent debt of the Company and the Company shall be deemed to be a debtor and not a trustee in respect thereof for such member or other person. Moneys carried to such separate account may be either employed in the business of the Company or held as cash or cash equivalents, or invested in such investments as the Directors may think fit, from time to time.

Destruction of records

264. The Company shall be entitled to destroy all instruments of transfer which have been registered at any time after the expiration of six years from the date of registration thereof, all notifications of change of name or change of address however received at any time after the expiration of two years from the date of recording thereof and all share certificates and dividend mandates which have been cancelled or ceased to have effect at any time after the expiration of one year from the date of such cancellation or cessation. It shall be presumed conclusively in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and properly made and every instrument duly and properly registered and every share certificate so destroyed was a valid and effective document duly and properly cancelled and every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company. Provided always that:
- 264.1 the provision aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- 264.2 nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any document earlier than as aforesaid or in any other circumstances which would not attach to the Company in the absence of this Article; and
- 264.3 references herein to the destruction of any document include references to the disposal thereof in any manner.

Indemnification

265.

265.1 Subject to the provisions of and so far as may be permitted by the Act, each person who is or was a Director, officer or employee of the Company, and each person who is or was serving at the request of the Company as a director, officer or employee of another company, or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans maintained or sponsored by the Company (including the heirs, executors, administrators and estate of such person) shall be entitled to be indemnified by the Company against all costs, charges, losses,

G-52

Table of Contents

expenses and liabilities incurred by him or her in the execution and discharge of his or her duties or in relation thereto, including any liability incurred by him or her in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him or her as a director, officer or employee of the Company or such other company, partnership, joint venture, trust or other enterprise, and in which judgment is given in his or her favour (or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his or her part) or in which he or she is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him or her by the court.

265.2 In the case of any threatened, pending or completed action, suit or proceeding by or in the right of the Company, the Company shall indemnify, to the fullest extent permitted by the Act, each person indicated in Article 265.1 against expenses, including attorneys' fees actually and reasonably incurred in connection with the defence or the settlement thereof, except no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for fraud or dishonesty in the performance of his or her duty to the Company unless and only to the extent that the courts of Ireland or the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the Court shall deem proper.

265.3 As far as permissible under the Act, expenses, including attorneys' fees, incurred in defending any action, suit or proceeding referred to in this Article shall be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of a written affirmation by or on behalf of the Director, officer, employee or other indemnitee of a good faith belief that the criteria for indemnification have been satisfied and a written undertaking to repay such amount if it shall ultimately be determined that such Director, officer or employee or other indemnitee is not entitled to be indemnified by the Company as authorised by these Articles.

265.4 It being the policy of the Company that indemnification of the persons specified in this Article shall be made to the fullest extent permitted by law, the indemnification provided by this Article shall not be deemed exclusive of: (a) any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Memorandum, these Articles, any agreement, any insurance purchased by the Company, any vote of members or disinterested Directors, or pursuant to the direction (however embodied) of any court of competent jurisdiction, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, or (b) any amendments or replacements of the Act which permit for greater indemnification of the persons specified in this Article and any such amendment or replacement of the Act shall hereby be incorporated into these Articles. As used in this Article 265.4, references to the Company include all constituent companies in a consolidation or merger in which the Company or any predecessor to the Company by consolidation or merger was involved. The indemnification provided by this Article shall continue as to a person who has ceased to be a Director, officer or employee and shall inure to the benefit of the heirs, executors, and administrators of such Directors, officers, employees or other indemnitees.

265.5 The Directors shall have power to purchase and maintain for any Director, the Company Secretary or other officers or employees of the Company insurance against any such liability as referred to in section

235 of the Act.

265.6 The Company may additionally indemnify any agent of the Company or any director, officer, employee or agent of any of its subsidiaries to the fullest extent provided by law, and purchase and maintain insurance for any such person as appropriate.

G-53

Table of Contents

266. No person shall be personally liable to the Company or its members for monetary damages for breach of fiduciary duty as a Director, provided, however, that the foregoing shall not eliminate or limit the liability of a Director:

266.1 for any breach of the Director's duty of loyalty to the Company or its members;

266.2 for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

266.3 for any transaction from which the Director derived an improper personal benefit.

If any applicable law or the relevant code, rules and regulations applicable to the listing of the Company's shares on any Exchange is amended hereafter to authorise corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director shall be eliminated or limited to the fullest extent permitted by the relevant law, as so amended. Any amendment, repeal or modification of this Article 266 shall not adversely affect any right or protection of a Director existing hereunder with respect to any act or omission occurring prior to such amendment, repeal or modification.

Table of Contents

APPENDIX 1

GOVERNANCE RULES

1. Interpretation and general

1.1 Unless otherwise defined in this Appendix 1, capitalized terms used in this Appendix 1 shall have the meaning given to those terms in the Articles of which this Appendix 1 forms part.

1.2 In this Appendix 1:

Linde , means Linde AG;

Linde Class Director , has the meaning given in paragraph 2.2(a);

Linde Designee , means a Director designated prior to the Adoption Date by Linde from the Linde Supervisory Board members;

Linde Supervisory Board , means the supervisory board of Linde;

paragraph , means a paragraph of this Appendix 1;

Praxair , means Praxair, Inc.;

Praxair Board , means the board of directors of Praxair;

Praxair Class Director , has the meaning given in paragraph 2.2(a); and

Praxair Designee , means a Director designated prior to the Adoption Date by Praxair from the Praxair Board members.

2. Composition and decisions of the Board

2.1 Initial Composition

The Board shall nominate each of the Linde Designees and Praxair Designees (or his or her replacement made in accordance with paragraph 2.2) for re-election to the Board at each of the Company's annual general meetings as required to ensure that the Linde Designees and Praxair Designees (or his or her replacement made in accordance with paragraph 2.2) serve on the Board for the duration of the Integration Phase.

2.2 Composition during the Integration Phase

- (a) Composition. During the Integration Phase, the Board shall be comprised of twelve (12) Directors, six (6) of whom shall be Linde Class Directors and six (6) of whom shall be Praxair Class Directors. Subject to the proviso in the last sentence of paragraph 2.2(b), a Linde Class Director is an individual who was a Linde Designee on the Adoption Date or nominated and appointed or elected to fill a vacancy created by the resignation, removal, death or disability of a Linde Class Director. Subject to the proviso in the last sentence of paragraph 2.2(b), a Praxair Class Director is an individual who was a Praxair Designee on the Adoption Date or nominated and appointed or elected to fill a vacancy created by the resignation, removal, death or disability of a Praxair Class Director. During the Integration Phase, other than the Chief Executive Officer, the members of the Board shall be non-executive directors.
- (b) Vacancies. During the Integration Phase, in the event of a Director's resignation, removal, death or disability prior to the end of his or her term, the vacancy on the Board shall be filled by a unanimous vote of the remaining members of the Board; provided that (i) if such vacancy relates to a Linde Class Director, if the Board fails to fill such vacancy within three (3) months, such vacancy may be filled by an individual nominated and appointed by a majority of the remaining Linde Class Directors and (ii) if such vacancy relates to a Praxair Class Director, if the Board fails

Table of Contents

to fill such vacancy within three (3) months, such vacancy shall be filled by an individual nominated and appointed by a majority of the remaining Praxair Class Directors. If any Director is removed by vote of the members of the Company and replaced by a Director nominated by a member or members of the Company, such replacement Director shall for the remaining duration of the Integration Phase be deemed to be: (I) a Linde Class Director if the Director whose removal caused the vacancy he or she fills had been a Linde Class Director; or (II) a Praxair Class Director if the Director whose removal caused the vacancy he or she fills had been a Praxair Class Director; provided that, such replacement Director shall not be deemed to be a Linde Class Director or Praxair Class Director, as applicable, unless such replacement Director is approved by a majority of the remaining Linde Class Directors or Praxair Class Directors, respectively.

- (c) Removal. During the Integration Phase, and except for any resolution duly passed by members of the Company pursuant to section 146 of the Act, a Director may be removed from office by a unanimous vote of all other members of the Board. During the Integration Phase, a Director may be removed from a committee of the Board by a unanimous vote of all other members of the Board.
- (d) Decisions. During the Integration Phase, decisions of the Board shall be made by majority vote of the entire Board (i.e., at least 7 of 12 Directors), unless a higher majority is stated in this Appendix 1 or required under applicable law. During the Integration Phase, decisions of a committee of the Board shall be made by majority vote (i.e., at least 3 of 4 Directors or at least 4 of 6 Directors, as the case may be), of the entire committee, unless a higher majority is stated in the Articles or this Appendix 1 or is required under applicable law.

2.3 Chairman of the Board

- (a) Initial Chairman. On the Adoption Date, Professor Dr. Wolfgang Reitzle shall serve as initial Chairman of the Board and shall constitute one of the six (1 of 6) Linde Designees.
- (b) Nomination and Appointment.
 - (i) Vacancy Created by the initial Chairman. During the Integration Phase, in the event of the initial Chairman's resignation, removal, death or disability, the vacancy of Chairman of the Board shall be filled as follows:
 - (A) if Mr. Stephen F. Angel or any other former executive officer of Praxair or one of its subsidiaries is then serving (or is simultaneously appointed) as Chief Executive Officer, then the Linde Class Directors shall propose a candidate from amongst themselves to be Chairman, and such candidate will be subject to approval by the Board (unanimously, and if not possible, by at least a two-thirds (2/3) majority). If the Chairman is not approved by the Board by at least a two-thirds (2/3) majority, then a majority of the Linde Class Directors will select the Chairman;

- (B) if a former executive officer of Linde or one of its subsidiaries is then serving (or is simultaneously appointed) as Chief Executive Officer, then the Praxair Class Directors shall propose a candidate from amongst themselves (including Mr. Stephen F. Angel if he is then a Director) to be Chairman, and such candidate will be subject to approval by the Board (unanimously, and if not possible, by at least a two-thirds (2/3) majority). If the Chairman is not approved by the Board by at least a two-thirds (2/3) majority, then a majority of the Praxair Class Directors will select the Chairman; and

- (C) if a person who was not an employee or a director of Linde or Praxair or any of their respective subsidiaries prior to the Adoption Date is then serving (or is simultaneously appointed) as Chief Executive Officer, then the vacancy shall be filled by an individual appointed by the vote of at least two-thirds (2/3) of the Board.

G-56

Table of Contents

- (ii) Vacancy Created by any other Chairman of the Board. After the replacement of the initial Chairman as Chairman of the Board pursuant to paragraph 2.3(b)(i), in the event of the resignation, removal, death or disability of the Chairman of the Board, the vacancy shall be filled by an individual nominated by the nomination and governance committee (or equivalent committee established by the Board) and appointed by the vote of at least two-thirds (2/3) of the Board.

- (c) Removal of the Chairman from the Office of Chairman. The Chairman may be removed from the office of Chairman of the Board of the Company by the vote of at least two-thirds (2/3) of the Board (excluding the Chairman in calculating the required vote).

2.4 Chief Executive Officer

- (a) Initial Chief Executive Officer. On the Adoption Date, Mr. Stephen F. Angel shall serve as the Chief Executive Officer and a member of the Board and shall constitute one of the six (1 of 6) Praxair Designees.

- (b) Nomination, Appointment and Removal. In the event of the resignation, removal, death or disability of the initial Chief Executive Officer, the vacancy shall be filled by an individual nominated by the nomination and governance committee (or equivalent committee established by the Board) and appointed by the vote of at least two-thirds (2/3) of the Board. The Chief Executive Officer may be removed from the office of the Chief Executive Officer by the vote of at least two-thirds (2/3) of the Board (excluding the then-serving Chief Executive Officer if he or she is then serving as a Director of the Board).

Table of Contents

PRAXAIR, INC.

10 RIVERVIEW DRIVE

DANBURY, CT 06810

PLEASE READ THE PROXY VOTING INSTRUCTIONS BELOW

VOTE BY INTERNET - www.proxyvote.com

Use the Internet to transmit your voting instructions and for electronic delivery of information up until 11:59 P.M. Eastern Time on September 26, 2017. Have your proxy card in hand when you access the web site and follow the instructions to obtain your records and to create an electronic voting instruction form.

VOTE BY PHONE - 1-800-690-6903

Use any touch-tone telephone to transmit your voting instructions up until 11:59 P.M. Eastern Time on September 26, 2017. Have your proxy card in hand when you call and then follow the instructions.

VOTE BY MAIL

Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to Vote Processing, c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717.

SPECIAL MEETING ADMISSION SEE REVERSE SIDE FOR DETAILS.

TO VOTE, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS:

E31480-Z70869

KEEP THIS PORTION FOR YOUR RECORDS

DETACH AND RETURN THIS PORTION ONLY

✂ **FOLD AND DETACH HERE IF YOU ARE VOTING BY MAIL** ✂

PRAXAIR, INC.

The Board of Directors recommends you vote FOR Proposals 1, 2, 3 and 4: **For Against Abstain**

Proposal 1: Business Combination Proposal. A proposal to adopt the business combination agreement, dated as of June 1, 2017, as amended, by and among Praxair, Inc., Linde Aktiengesellschaft, Linde plc (f/k/a Zamalight plc), Zamalight Holdco LLC and Zamalight Subco, Inc., as the same may be amended from time to time, and to approve the transactions contemplated thereby.

Proposal 2: Distributable Reserves Creation Proposal. A non-binding advisory proposal to approve the reduction of the share premium account of Linde plc to allow for the creation of distributable reserves of Linde plc.

Proposal 3: Compensation Proposal. A non-binding, advisory proposal to approve the compensation that may become payable to Praxair, Inc.'s named executive officers in connection with the business combination.

Proposal 4: Shareholder Adjournment Proposal. A proposal to adjourn the Praxair special meeting, if necessary or appropriate, to (1) solicit additional proxies in the event, based on the tabulated votes, there are not sufficient votes at the time of the special meeting of shareholders to approve the above-mentioned proposals and/or (2) hold the special meeting on a date that is no later than the day prior to the expiration of the acceptance period as defined in the proxy statement, in the event that such date of expiration is extended.

In their discretion, the Proxies are authorized to vote upon such other business as may properly come before the meeting or any adjournment or postponement thereof.

For address changes and/or comments, please check this box and write them on the back where indicated.

Please be sure to sign and date this proxy card in the box below.

Please sign name exactly as it appears on this proxy card. Joint owners should each sign. Attorneys, trustees, executors, administrators, custodians, guardians or corporate officers should give full title.

Signature [PLEASE SIGN WITHIN BOX] Date Signature (Joint Owners) Date

V.1.1

Table of Contents

SPECIAL MEETING OF SHAREHOLDERS SEPTEMBER 27, 2017 AT 10:00 A.M., EASTERN TIME.

Praxair Headquarters, 10 Riverview Drive, Danbury, Connecticut 06810-6268

IF YOU PLAN TO ATTEND THE MEETING IN PERSON, PLEASE NOTE:

- * **Only shareholders, and the invited guests of Praxair, Inc. will be granted admission to the Special Meeting.**

- * **To assure admittance:**

If you hold shares of Praxair, Inc. common stock through a broker, bank or other nominee, please bring a copy of your broker, bank or nominee statement evidencing your ownership of Praxair common stock as of the August 8, 2017 record date

Please bring this ticket

Please bring a photo ID, if you hold shares of record as of August 8, 2017, including shares in certificate or book form or in the Praxair, Inc. Dividend Reinvestment and Stock Purchase Plan (DRISP)

Please bring your Praxair ID if you are an employee shareholder

- * **The Special Meeting will start promptly at 10:00 a.m., Eastern Time on September 27, 2017.**

DIRECTIONS TO THE SPECIAL MEETING

From the West: Take I-84 East to Exit 7 (left hand exit) onto US-202 E/US-7 N. Take the first exit-Exit 11 and turn right at the light at the end of the exit onto White Turkey Road Extension. At the next light, turn right onto Riverview Drive in Danbury (Berkshire Corporate Park). Take the first Right, and then take first Left into Praxair s headquarters building. Follow signs for the shareholder meeting entrance.

From the East: Take I-84W to Exit 7 onto US-202 E/US-7 N. Take the first exit-Exit 11 and turn right at the light at the end of the exit onto White Turkey Road Extension. At the next light, turn right onto Riverview Drive in Danbury (Berkshire Corporate Park). Take the first Right, and then take first Left into Praxair s headquarters building. Follow signs for the shareholder meeting entrance.

IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE SHAREHOLDER MEETING TO BE HELD ON SEPTEMBER 27, 2017:

THE PROXY STATEMENT IS NOW AVAILABLE FOR VIEWING AND DOWNLOADING AT:

www.praxair.com/proxy

www.proxyvote.com

Your vote is important!

✕ **FOLD AND DETACH HERE** ✕

E31481-Z70869

PROXY/VOTING INSTRUCTION CARD

This proxy is solicited on behalf of the Board of Directors of Praxair, Inc.

for the Special Meeting of Shareholders on September 27, 2017

I (we) hereby authorize Matthew J. White and Guillermo Bichara, or either of them, and each with the power to appoint his substitute, to vote as Proxy for me (us) at the Special Meeting of Shareholders of Praxair, Inc. to be held at Praxair Headquarters, 10 Riverview Drive, Danbury, Connecticut 06810-6268 on September 27, 2017 at 10:00 a.m., Eastern Time, or any adjournment or postponement thereof, the number of shares of common stock of Praxair, Inc. which I (we) would be entitled to vote if personally present. The proxies shall vote such shares as directed on the reverse side of this proxy card and the proxies are authorized to vote in their discretion upon such other business as may properly come before the Special Meeting and any adjournments or postponements thereof. I (we) revoke all proxies heretofore given to vote at the Special Meeting.

If I (we) properly sign and return this proxy card, my (our) shares will be voted as I (we) specify on each Proposal. If I (we) do not specify a choice on one or more Proposals, the proxies will vote my (our) shares as the Board of Directors recommends on each such Proposal.

For Participants in the Praxair Retirement Savings Plan, the Savings Program for Employees of Praxair Puerto Rico, BV and its Participating Subsidiary Companies, or the Dow Chemical Company Employee Savings Plans: As to those shares of Praxair, Inc. common stock, if any, that are held for me in the aforementioned Savings Plans, I instruct the Trustee of the applicable Savings Plan to vote my shares as I have directed on the reverse side of this proxy card. **Where I do not specify a choice, the shares will be voted in the same proportion as the trustee votes the shares for which it receives instructions.**

Address Changes/Comments: _____

(If you noted any Address Changes/Comments above, please mark corresponding box on the reverse side.)

Edgar Filing: SUNCOR ENERGY INC - Form 6-K

THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED.

(Continued, and to be marked, dated and signed, on the reverse side)

V.1.1