

## PROSPECTUS FOR FUNCOM N.V.



(A Dutch public limited liability company incorporated and organized under the laws of the Netherlands, registered with the Commercial Register of the Chamber of Commerce (*Handelsregister van de Kamer van Koophandel*) under registration number 28073705)

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**Listing of 6,800,000 New VPS Shares, each with a par value of EUR 0.20, issued in a Private Placement announced on 18 December 2017**  
**Listing of 4,460,000 Consideration VPS Shares, each with a par value of EUR 0.20, issued as transaction consideration in the Cabinet Transaction**

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The information in this Prospectus relates to the listing (the "**Listing**") on the Oslo Stock Exchange ("**Oslo Børs**") of 6,800,000 Depositary Receipts (the "**New VPS Shares**"), each with a par value of EUR 0.20, issued in a private placement announced on 18 December 2017 (the "**Private Placement**") and of 4,460,000 Depositary Receipts (the "**Consideration VPS Shares**"), each with a par value of EUR 0.20, issued as transaction consideration for a transaction agreed between the Company, Tranicos, LLC and Cabinet Group LLC ("**Cabinet**") on 18 December 2017 (the "**Cabinet Transaction**").

Pending the approval of the Prospectus, the New VPS Shares and the Consideration VPS Shares were issued on a separate ISIN (NL 0012756274) (the "**Separate ISIN**"). Upon publishing of this Prospectus, the Separate ISIN will be merged with the Company's ordinary ISIN (ISIN NL0012756266) and trading in the New VPS Shares will simultaneously start on the Oslo Børs under the ticker code "FUNCOM".

In order to facilitate registration of the Company Shares to be issued in connection with the Private Placement and the Cabinet Transaction with the VPS, and hence trading of the New VPS Shares and the Consideration VPS Shares on Oslo Børs, such Company Shares will be registered in the name of the VPS Registrar in the Company's shareholders' register in the Netherlands. On this basis, the VPS Registrar will register in respect of the Company Shares to be issued in connection with the Private Placement and the Cabinet Transaction, depositary interest, in book-entry form, in those Company Shares with the VPS. Therefore, it will not be the underlying Company Shares as such, but depositary book-entry form interests in those shares, that will be registered with the VPS and which will be tradable on Oslo Børs. The majority of the Company's existing Company Shares is registered in the VPS and are tradable on Oslo Børs under the same arrangement as described above. References in this Prospectus to "VPS Shares" in the Company being listed or traded on Oslo Børs shall, where the context so requires or permits, mean the depositary book-entry form interests in those shares and references in this Prospectus to "Company Shares" means the underlying shares registered in the Company's shareholders' register in the Netherlands.

**THIS PROSPECTUS DOES NOT CONSTITUTE AN OFFER OR SOLICITATION TO BUY, SUBSCRIBE OR SELL THE SECURITIES DESCRIBED HEREIN, AND NO SECURITIES ARE BEING OFFERED OR SOLD PURSUANT TO THIS PROSPECTUS IN ANY JURISDICTION.**

Investing in the Company involves materials risks and uncertainties. For further information, please refer to Section 2 "Risk Factors" and Section 4.3 "Forward Looking Statements".

The date of this Prospectus is 22 February 2018

## IMPORTANT INFORMATION

For the definition of certain capitalized terms used throughout this Prospectus, please refer to Section 16 "Definitions and glossary of terms" which also applies to the front page.

This Prospectus has been prepared solely in the English language. The Prospectus has been reviewed and approved by and filed with the Netherlands Authority for the Financial Market (*Stichting Autoriteit Financiële Markten* ("**AFM**")) pursuant to section 5.9 of the Dutch Act on financial supervision (*Wet op het financieel toezicht*) (the "**Dutch Financial Supervision Act**" or "**DFSA**"). The AFM has neither undertaken any form of control nor approval of matters pursuant to company law described in or otherwise covered by this Prospectus.

As the Company qualifies as a "Small or Medium Size Enterprise", or an SME, the level of disclosure in this Prospectus is proportionate to this type of issuer, cf. EC Commission Regulation EC/486/2012.

This Prospectus has been passported into Norway in accordance with section 5:10 DFSA and section 7-9 of the Norwegian Securities Trading Act in order to complete the Listing of the New VPS Shares and the Consideration VPS Shares on Oslo Børs.

Any new material information and any material inaccuracy that might have an effect on the assessment of the VPS Shares arising after the date of publication of this Prospectus and prior to the completion of the Listing will be published and announced as a supplement to this Prospectus in accordance with section 5.23 DFSA. Without limiting the manner in which the Company may choose to make public announcements, and subject to the Company's obligations under applicable law, announcements in relation to the matters described in this Prospectus will be considered to have been made once they have been received by Oslo Børs and distributed through its information system, published on the Company's website and filed with the AFM.

All inquiries relating to this Prospectus must be directed to the Company. No other person is authorized to give information or to make any representation in connection with the Listing. If any such information is given or made, it must not be relied upon as having been authorized by the Company or by any of the employees, affiliates or advisers or any of the foregoing.

The distribution of this Prospectus may be restricted by law in certain jurisdictions. The Company requires persons in possession of this Prospectus to inform themselves about and to observe any such restrictions. This Prospectus does not constitute an offer of, or a solicitation of an offer to purchase, any securities in any jurisdiction or in any circumstances in which such offer or solicitation would be unlawful.

Neither the New VPS Shares, the Consideration VPS Shares nor the underlying Company Shares have been and will not be registered under the U.S. Securities Act of 1933 as amended (the "**US Securities Act**"), or with any securities authority of any state of the United States. The New VPS Shares, the Consideration VPS Shares and the underlying Company Shares may not be offered, sold, resold, transferred or delivered, directly or indirectly, in or into the United States.

The content of this Prospectus is not to be construed as legal, business, financial or tax advice. Each prospective investor should consult its own legal advisor, business advisor, financial advisor or tax advisor as to legal, business, financial and tax advice.

An investment in the Company involves inherent risk, and several factors could cause the actual results, financial performance and results of the Company to be materially different from any future results, performance or achievements that may be expressed or implied by statements and information in this Prospectus, including, among others, risks or uncertainties associated with the Company's business, segments, development, growth management, financing, market

acceptance and relations with customers, and, more generally, general economic and business conditions, changes in domestic and foreign laws and regulations, taxes, changes in competition and pricing environments, fluctuations in market development, as well as other company specific risk factors. Please refer to Section 2 "Risk Factors" for a description of material risk factors related to the Company, the Shares, the Cabinet Transaction and the Private Placement. These and other risks could lead to actual results or achievements varying materially from those described in this Prospectus. Potential investors should not base their decision to invest on the Prospectus solely but should independently study and consider relevant information. The value of the Shares may be reduced as a result of these or other risk factors and investors may lose part or all of their investments. An investment in the Company should only be made by investors able to sustain a total loss of their investment.

This Prospectus contains certain forward-looking statements relating to the business, financial performance and results of the Company, the industry in which it operates and/or the market in general. Forward Looking Statements include all statements that are not historical facts, and may be identified by words such as (what follows are examples without excluding words having the same meaning): "anticipate", "believe", "estimate", "expect", "seek to", "may", "plan", "project", "should", "will" or "may" or the negatives of these terms or similar expressions. The forward-looking statements contained in this Prospectus, including assumptions, opinions and views of the Company or cited from third party sources are solely opinions and forecasts which are subject to risks, uncertainties and other factors that may cause actual events to differ materially from any anticipated development. None of the Company or their advisors or representatives or any of their parent or subsidiary undertakings or any such person's officers or employees provides any assurance that the assumptions underlying such forward-looking statements are free from errors nor does any of the accept any responsibility for the future accuracy of the opinions expressed in this Prospectus or the actual occurrence of the forecasted developments.

Any dispute regarding the Prospectus shall be governed by Norwegian law and Norwegian courts alone shall have jurisdiction in matters relevant hereto. The terms and conditions of the Private Placement shall be governed by and construed in accordance with Swedish law. The Cabinet Transaction shall be governed by and construed in accordance with Norwegian law. The issuance of the new Company Shares in relation to the Private Placement and the Cabinet Transaction shall be governed by Dutch law and be subject to the jurisdiction of the Dutch courts. The issuance of the New VPS Shares and the Consideration VPS Shares shall be governed by and construed in accordance with Norwegian law.

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Appendix 1 – Registrar Agreement

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## 1 SUMMARY

Summaries are made up of disclosure requirements known as "Elements". These Elements are numbered in Sections A – E (A.1 – E.7).

This Summary contains all the Elements required to be included in a Summary for this type of securities and issuer. Because some Elements are not required to be addressed, there may be gaps in the numbering sequence of the Elements.

Even though an Element may be required to be inserted in the Summary because of the type of securities and issuer, it is possible that no relevant information can be given regarding the Element. In this case a short description of the Element is included in the Summary with the mention of "not applicable".

### 1.1 Section A – Introduction and warnings

Element	Disclosure requirement	Disclosure
A.1	Warnings	<p>This summary should be read as an introduction to the Prospectus. Any decision to invest in Funcom should be based on a consideration of the Prospectus as a whole by the investor.</p> <p>Where a claim relating to the information contained in the Prospectus is brought before a court, the plaintiff investor might under the applicable national legislation of a Member State, have to bear the costs of translating the Prospectus before the legal proceedings are initiated.</p> <p>Civil liability attaches only to those persons who have tabled the Summary including any translation thereof, and applied for its notification, but only if the Summary is misleading, inaccurate or inconsistent when read together with the other parts of the Prospectus or it does not provide, when read together with the other parts of the Prospectus, key information in order to aid investors when considering whether to invest in such securities.</p> <p>For the definitions of terms used throughout this Prospectus, see Section 16 "Definitions and glossary of terms".</p>
A.2	Consent to use prospectus by financial intermediaries	Not applicable.

## 1.2 Section B – Issuer

Element	Disclosure requirement	Disclosure
B.1	Legal and Commercial Name	The Company's legal name is Funcom N.V. and it is also sometimes referred to commercially as Funcom.
B.2	Domicile/ Legal Form/ Legislation/ Country of Incorporation	<p>The Company is a Dutch public limited liability company (<i>naamloze vennootschap</i>) registered with the Commercial Register of the Chamber of Commerce (<i>Handelsregister van de Kamer van Koophandel</i>) under registration number 28073705. The Company has its corporate seat (<i>statutaire zetel</i>) in Katwijk, the Netherlands.</p> <p>The Company's business address is Prins Mauritslaan 37-39, Badhoevedorp, 1171 LP, the Netherlands. The telephone number is +47 22 92 59 00 to Funcom's Oslo office, and +31 202409106 to Funcom's Badhoevedorp office. The Company's website is <a href="http://www.funcom.com">www.funcom.com</a><sup>1</sup>.</p>
B.3	Key factors relating to operations/ Activities/ Products sold/ Services performed/ Principal markets	<p>Funcom is a developer and publisher of video games, which specializes in the making of on-line multiplayer games. However, Funcom has also developed and published single-player games. Funcom's games are published on the PC and Console platforms, which implies a wide potential reach for its games.</p> <p>The most important factors in the business of Funcom are the intellectual properties (either developed by Funcom or licensed) utilized in Funcom's games and the key knowledge and experience in developing engaging online titles, both from a technological and game design viewpoint.</p> <p>The Group holds (either owned or licensed) intellectual property rights to and have developed and published game titles under the following intellectual properties:</p> <ul style="list-style-type: none"> <li>- <i>The Longest Journey</i><sup>2</sup>®;</li> <li>- <i>Anarchy Online</i>®;</li> <li>- <i>Conan</i>® <i>the Barbarian</i>; and</li> <li>- <i>The Secret World</i>®; and</li> </ul> <p>In addition to the above, the Group have gained access to the IP portfolio of Heroic Signatures™ DA following completion of the Cabinet Transaction, which includes inter alia the following intellectual properties:</p> <ul style="list-style-type: none"> <li>- <i>Conan the Cimmerian</i>;</li> </ul>

<sup>1</sup> The information included on [www.funcom.com](http://www.funcom.com) is not part of the Prospectus.

<sup>2</sup> The game *Dreamfall Chapters* pertaining to *The Longest Journey* intellectual property is being developed and published by Red Thread Games under license from Funcom.

		<ul style="list-style-type: none"> <li>- <i>Solomon Kane;</i></li> <li>- <i>Kull;</i></li> <li>- <i>Mutant Chronicles;</i></li> <li>- <i>Mutant: Year Zero;</i></li> <li>- <i>Kult; and</i></li> <li>- <i>El Borak (Francis X Gordon)</i></li> </ul> <p>The Company's games are available online, and thus the Company markets its products to the global video games market.</p>
B.4a	Significant recent trends affecting the issuer and the industries in which it operates	<p>The games market is expected to deliver consistent revenue growth the next three years, adapting to new consumer trends and digital devices. According to a global games market report by a third-party market research firm, NewZoo; the games market is estimated to grow from with 7.8% YoY to 108.9Bn in 2017.</p> <p>The games market may be divided into three different types of platforms that enable players to engage in gaming content: (i) Mobile (the fastest growing market); (ii) PC; and (iii) Console.</p> <p>The PC segment can be divided into two sub-segments, Browser PC games and Boxed/Downloaded PC games with a total expected revenue of USD 29,4bn in 2017. The Mobile segment is expected to grow further and reach revenue of 46.1bn USD in 2017. Consoles are estimated to generate USD 33.5bn in 2017.</p> <p>Different factors contribute to the growth in each individual segment, but some factors apply for all. Some key drivers of growth in the global games market as a whole include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• rapidly increasing broadband penetration in developing markets;</li> <li>• technological innovations;</li> <li>• console technology moving towards PC technology;</li> <li>• ageing/expanding demographics – continuing increase in the average age of computer gamers;</li> <li>• more mass market games;</li> <li>• time spent online is still increasing;</li> <li>• continued improvement in hardware performance;</li> <li>• connectivity of the console market; and</li> <li>• increased consumer willingness to use online payments.</li> </ul> <p>All of the factors listed above are expected to affect Funcom. However, the Company deems that the rapidly increased broadband penetration in developing markets and the increase in time spent</p>

		online will be especially important as Funcom expects these factors to increase the market for the type of games produced by Funcom. Funcom also expects that the console technology moving towards PC technology will be beneficial to Funcom as Funcom has significant experience and competence in developing PC games.																				
B.5	Group	<p>The Company is a holding company, and the ultimate parent company to the following 5 (directly and indirectly) wholly owned subsidiaries:</p> <ol style="list-style-type: none"> <li>1) Funcom Inc.</li> <li>2) Funcom Oslo AS</li> <li>3) Funcom Games Beijing Ltd.</li> <li>4) Nephilim LLC</li> <li>5) Funcom Oslo Licensing AS (Owned 100% by Funcom Oslo AS)</li> </ol>																				
B.6	Persons having an interest in the Issuer's capital or voting rights	<p>All Shares in the Company have equal voting rights, with each Share carrying the right to one vote at the General Meeting of the shareholders.</p> <p>As of the date of this Prospectus and to the extent known by the Company, the following registered shareholders have holdings in excess of the statutory thresholds for disclosure requirements:</p> <ul style="list-style-type: none"> <li>- Mr. Hans Peter Jebsen and companies controlled by him (including KGJI and KGJ Capital AS) hold a total of 16,381,570 VPS Shares, corresponding to 23.68 % of the total outstanding Shares;</li> <li>- Funds managed by Swedbank Robur Fonder AB hold 6,800,000 VPS Shares, corresponding to 9.83% of the total outstanding VPS Shares after the distribution of the New VPS Shares and the Consideration VPS Shares; and</li> <li>- Cabinet hold 4,460,000 VPS Shares, corresponding to 6.45% of the total outstanding VPS Shares after the distribution of the New VPS Shares and the Consideration VPS Shares.</li> </ul>																				
B.7	Selected historical key financial information	<p>The selected financial information presented below should be read in conjunction with the Financial Statements incorporated by reference to the Prospectus.</p> <p><b>Selected consolidated statement of comprehensive income</b></p> <table border="1"> <thead> <tr> <th style="text-align: left;">USD 1,000</th> <th style="text-align: center;">Q3 2017 (nine months ended) (unaudited)</th> <th style="text-align: center;">Q3 2016 (nine months ended) (unaudited)</th> <th style="text-align: center;">2016 (audited)</th> <th style="text-align: center;">2015 (audited)</th> </tr> </thead> <tbody> <tr> <td><b>Continuing operations</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Revenue</td> <td style="text-align: right;">20,020</td> <td style="text-align: right;">5,494</td> <td style="text-align: right;">7,322</td> <td style="text-align: right;">10,238</td> </tr> <tr> <td>Operating expenses</td> <td style="text-align: right;">-10,582</td> <td style="text-align: right;">-5,546</td> <td style="text-align: right;">-7,091</td> <td style="text-align: right;">-9,845</td> </tr> </tbody> </table>	USD 1,000	Q3 2017 (nine months ended) (unaudited)	Q3 2016 (nine months ended) (unaudited)	2016 (audited)	2015 (audited)	<b>Continuing operations</b>					Revenue	20,020	5,494	7,322	10,238	Operating expenses	-10,582	-5,546	-7,091	-9,845
USD 1,000	Q3 2017 (nine months ended) (unaudited)	Q3 2016 (nine months ended) (unaudited)	2016 (audited)	2015 (audited)																		
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Revenue	20,020	5,494	7,322	10,238																		
Operating expenses	-10,582	-5,546	-7,091	-9,845																		

		Depreciation, amortization and impairment charges	-2,345	-1,373	-1,811	-6,571
		<b>Operating result</b>	<b>7,093</b>	<b>-1,425</b>	<b>-1,580</b>	<b>-6,179</b>
		Share of result from equity-accounted entities	0	0	0	-173
		Net financial result	279	-463	-1,181	-478
		Result before income tax	7,372	-1,888	-2,761	-6,829
		Income tax (expense)/ income	4	0	1,066	40
		<b>Selected consolidated statement of financial position</b>				
		<b>USD 1,000</b>	<b>Q3 2017 (nine months ended) (unaudited)</b>	<b>Q3 2016 (nine months ended) (unaudited)</b>	<b>2016 (audited)</b>	<b>2015 (audited)</b>
		<b>Assets</b>				
		<b>Non-current assets</b>				
		Deferred tax assets	1,156	-	1,069	-
		Intangible assets	8,619	5,998	6,617	4,394
		Equipment	2	45	4	100
		Long term receivables	380	65	19	65
		Total non-current assets	10,157	6,108	7,709	4,559
		<b>Current assets</b>				
		Trade receivables	3,218	606	628	1,443
		Prepayments and other receivables	518	242	466	506
		Income tax receivable	-	-	-	-
		Cash and cash equivalents	8,481	5,208	3,709	616

		Total current assets	12,217	6,057	4,803	2,565
		<b>Total assets</b>	<b>22,374</b>	<b>12,165</b>	<b>12,512</b>	<b>7,124</b>
		<b>Equity and liabilities</b>				
		<b>Equity</b>				
		Share capital	13,525	11,734	11,808	4,802
		Reserves	167,561	164,901	165,128	157,105
		Retained earnings (Accumulated deficit)	-164,898	-173,356	-173,163	-171,468
		Total equity	16,189	3,279	3,773	-9,561
		<b>Non-current liabilities</b>				
		Loans and borrowings	3,355	7,054	7,019	3,434
		Deferred tax liabilities	19	1	1	25
		Total non-current liabilities	3,374	7,055	7,020	3,459
		<b>Current liabilities</b>				
		Deferred income	641	706	605	1,037
		Loans and borrowings	169	244	48	10,150
		Other short-term liabilities	2,002	880	1,065	2,040
		Total current liabilities	2,812	1,831	1,719	13,226
		Total liabilities	6,185	8,886	8,739	16,685
		<b>Total equity and liabilities</b>	<b>22,374</b>	<b>12,165</b>	<b>12,512</b>	<b>7,124</b>
		<b>Selected consolidated statement of cash flow</b>				
		<b>USD 1,000</b>	<b>Q3 2017</b>	<b>Q3 2016</b>	<b>2016</b>	<b>2015</b>
			<b>(nine months ended)</b>	<b>(nine months ended)</b>	<b>(audited)</b>	<b>(audited)</b>
			<b>(unaudited)</b>	<b>(unaudited)</b>		
		<b>Cash flows from operating activities</b>				
		Profit (loss) before income tax	7,389	-1,888	-2,761	-6,829

		Adjustments for:				
		- Depreciation, amortization and impairment losses	2,345	1,373	1,811	6,571
		- Share-based payments	479	255	146	814
		- Share of result from equity-accounted entities	-	-	-	173
		- Income tax paid	4	-	-	-
		- Effect of exchange rate fluctuations	-	-152	-	-
		- Changes in working capital	-1,918	959	2,125	466
		Net cash from operating activities	8,299	518	251	1,195 <sup>3</sup>
		<b>Cash flows from investing activities</b>				
		Purchase of equipment and investment in intangible assets	-3,748	-2,909	-4,304	-3,401
		Investment in /loan to (from) equity-accounted entities	-	-	-	11
		Net cash used in investing activities	-3,748	-2,909 <sup>4</sup>	-4,304	-3,401
		<b>Cash flows from financing activities</b>				
		Net proceeds from issue of share capital	470	7,122	7,122	411

<sup>3</sup> In the 2016 annual accounts, the item "Effect of exchange rate fluctuations" was moved from "Net cash from operating activities" to a separate line item further below in the presentation.

<sup>4</sup> In the Q4 2016 Interim Financial Statements, an adjustment was recorded on the year-to-date figures as of 30 September 2016 by decreasing the Depreciation, amortization and impairment charges with an amount of USD 1,581 thousand, and by increasing the Foreign exchange translation difference with the same amount. This adjustment has no impact on the Total comprehensive income for the period or on the statement of financial position.

		<p>Proceeds /repayments from (of) borrowings and leases - - - -23</p> <p>Net cash from financing activities 470 7,122 7,122 388</p> <p>Net increase in cash and cash equivalents 5,022 4,731<sup>5</sup> 4,138 -1,817</p> <p>Effect of exchange rate fluctuations -251 -139<sup>6</sup> -1,045 -1,272<sup>7</sup></p> <p>Cash and cash equivalents at beginning of period 3,709 616 616 3,705</p> <p><b>Cash and cash equivalents at end of period 8,481 5,208 3,710 616</b></p>
B.9	Profit forecast or estimate	Not applicable.
B.10	Qualifications in audit report	<p>There were qualifications in the auditor's report for the financial year 2015:</p> <p>In the 2015 auditor's report, the following qualification was given:</p> <p><b><i>Material uncertainty related to going concern</i></b>  <i>We draw attention to the going concern paragraph in the notes on page 36<sup>8</sup> of the financial statements which indicates that the performance of the Company is largely affected by its ability to generate sufficient cash inflows from both sales and new financing. The Company is depending on the positive outcome of these factors. These conditions indicate that a material uncertainty exists which may cast significant doubt on the Company's ability to continue as a going concern. Our opinion is not modified in respect of this matter.</i></p> <p>The audit report for 2016 is not qualified in any respect.</p>
B.11	Working capital	The Company is of the opinion that the current working capital is sufficient for the Group's present requirements for at least the next twelve months.
B.31	Information about the issuer of the	See B.1, B.2, B.3, B.4, B.5, B.6, B.7, B.9, B.10 and D.4

<sup>5</sup> In the 2016 annual accounts, the item "Effect of exchange rate fluctuations" was moved from "Net cash from operating activities" to a separate line item further below in the presentation.

<sup>6</sup> In the 2016 annual accounts, the item "Effect of exchange rate fluctuations" was moved from "Net cash from operating activities" to this line in the presentation.

<sup>7</sup> In the 2016 annual accounts, the item "Effect of exchange rate fluctuations" was moved from "Net cash from operating activities" to this line in the presentation.

<sup>8</sup> Reference should in fact be made to page 37 of the annual report for 2015.

	underlying shares	
B.32	Information about the issuer of the depositary receipts	Upon receipt of the same number of Company Shares being issued by the Company to DnB Bank ASA, the VPS Shares are issued by DNB Bank ASA acting in its capacity as the Company's VPS Registrar. DNB Bank ASA has its registered address at Dronning Eufemias Gate 30, 0191 Oslo, Norway. DNB Bank ASA was incorporated in Norway on 10 September 2002 with registered number 984 851 006 as a public limited liability company under the Norwegian Public Limited Liability Companies Act and is domiciled in Norway.

### 1.3 Section C – Securities

Element	Disclosure requirement	Disclosure
C.1	Type of class of securities being offered	<p>On 18 December 2017, it was announced that the Company has entered into the Cabinet SPA regarding the Cabinet Transaction and that it had completed a conditional Private Placement raising gross proceeds of approximately NOK 88.4 million.</p> <p>In connection with the Cabinet Transaction, the Company issued on 8 February 2018 4,460,000 Consideration VPS Shares, each with a par value of EUR 0.20<sup>9</sup>, at a subscription price of NOK 13.00<sup>10</sup> per Consideration VPS Share. In connection with the Private Placement, the Company issued on 1 February 2018 6,800,000 New VPS Shares, each with a par value of EUR 0.20<sup>11</sup>, at a subscription price of NOK 13.00<sup>12</sup> per New VPS Share.</p> <p>Both the Consideration VPS Shares and the New VPS Shares have been issued to the Separate ISIN (ISIN NL 0012756274) pending approval of this Prospectus. The Consideration VPS Shares and the New VPS Shares will be converted to the ordinary ISIN (ISIN NL 0012756266) (the "<b>Ordinary ISIN</b>") of the Company's other VPS Shares as soon as practically possible after the publication date of this Prospectus in accordance with applicable law.</p>

<sup>9</sup> Both the amount of the Consideration VPS Shares and the par value as calculated after the completion of a reverse share split in the ratio of 5:1 resolved on 30 January 2018 and implemented on 31 January 2018 (the "**Reverse Share Split**"). The actual amount of Consideration VPS Shares issued was 22,300,000, each with a par value of EUR 0.04, as the Consideration VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>10</sup> Calculated after the completion of the Reverse Share Split. The actual subscription price was NOK 2.60 per Consideration VPS Share, as the Consideration VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>11</sup> Both the amount of the New VPS Shares and the par value as calculated after the completion of the Reverse Share Split in the ratio of 5:1. The actual amount of New VPS Shares issued was 34,000,000, each with a par value of EUR 0.04, as the New VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>12</sup> Calculated after the completion of the Reverse Share Split. The actual subscription price was NOK 2.60 per New VPS Share, as the New VPS Shares were subscribed before completion of the Reverse Share Split.

		<p>The Company has one class of Shares and all Shares are equal in all respects.</p> <p>The New VPS Shares and the Consideration VPS Shares will be beneficial interests in the ordinary shares of Funcom (<i>i.e.</i> Company Shares), in the form of Depositary Receipts registered with the VPS. The underlying Company Shares will be issued to the VPS Registrar and will be registered in the name of the VPS Registrar in the Company's shareholders' register in the Netherlands. This arrangement has been entered into in order to facilitate registration of the Company Shares (including the new Company Shares) with the VPS, and hence trading of the Shares (including the Company Shares issued in the Private Placement and in connection with the Consideration VPS Shares) on Oslo Børs. The Company's VPS Registrar is DNB Bank ASA, Verdipapirservice, Dronning Eufemias gate 30, P.O. Box 1600 Sentrum, 0021 Oslo, Norway.</p> <p>The New VPS Shares and the Consideration VPS Shares will have the same VPS Registrar and the same ISIN as the Company's other VPS Shares (international securities identification code NL 0012756266) after conversion from the Separate ISIN.</p>
C.2	Currency	The New VPS Shares and the Consideration VPS Shares was subscribed in NOK. The par value of the Shares is denominated in EUR.
C.3	Number of shares/Par value	As of the date of this Prospectus, the Company's registered share capital is EUR 13,838,104.40 divided into 69,190,522 Company Shares, each with a par value of EUR 0.20.
C.4	Rights attached	<p>All of the Shares issued and outstanding rank equally and are eligible for any profit or other payment that may be declared on the Shares.</p> <p>Each Share confers the right on the holder to cast one vote at the Company's General Meeting. There are no voting restrictions, other than in accordance with Dutch law.</p> <p>Under Dutch law and the Company's Articles of Association, each holder of a Company Share has a right of pre-emption in proportion to the aggregate nominal value of its shareholding upon the issuance of new Shares (or the granting of rights to subscribe for Shares).</p> <p>Exceptions to this right of pre-emption include the issuance of new Company Shares (or the granting of rights to subscribe for Company Shares): (i) to employees of the Company or another member of the Group pursuant to a stock compensation plan of the Company, (ii) against payment in kind (contribution other than in cash) and (iii) to persons exercising a previously granted right to subscribe for Company Shares.</p>

		<p>The General Meeting may resolve to limit or exclude the rights of pre-emption upon an issuance of Company Shares, which resolution requires approval of at least two-thirds of the votes cast. The General Meeting may also designate the Supervisory Board to resolve to limit or exclude the rights of pre-emption in relation to the issuance of Shares. Pursuant to the Articles of Association, the designation by the General Meeting may be granted to the Supervisory Board for a specified period of no more than the period up to and including the first ordinary General Meeting which is held after three full calendar years have elapsed since that designation was granted and only if the Supervisory Board has also been designated or is simultaneously designated the authority to resolve to issue Company Shares.</p> <p>The rights described above apply for the Company Shares pursuant to Dutch law and the Company's Articles of Association. The VPS Shares have the same rights pursuant to the Registrar Agreement, as further described in Summary Elements B.32, C.14 and Section 2.8.6 "Norwegian Depositary Receipts".</p>
C.5	Restrictions	The Shares are freely transferable according to Dutch law and the Company's Articles of Association.
C.6	Listing and admission to trading	<p>The VPS Shares are listed on Oslo Børs, under ticker symbol "FUNCOM".</p> <p>The Listing on Oslo Børs of the New VPS Shares and the Consideration VPS Shares is subject to the approval of this Prospectus by the AFM under the DFSA. Such approval was granted on 22 February 2018. Further, the Listing is conditional on the approved Prospectus being successfully passported into Norway and publicly announced in accordance with applicable law. The New VPS Shares and the Consideration VPS Shares are expected to be listed and become tradable on Oslo Børs on or about 26 February 2018.</p> <p>Please note that, pursuant to the Registrar Agreement, the VPS Registrar will be registered as the holder of every new Company Share issued in the Private Placement and in connection with the Cabinet Transaction. The VPS Registrar will register the beneficial interests in such Company Shares in book-entry form with the VPS. Therefore, it is not the shares in registered form issued in accordance with the Dutch Civil Code, but the beneficial interests in such shares in book-entry form (<i>i.e.</i> the VPS Shares) under the category of a "share" that are registered with the VPS, listed and traded on Oslo Børs.</p> <p>Neither the Company Shares nor the VPS Shares are listed on any other regulated market and Funcom does not intend to seek such listing.</p>
C.7	Dividend policy	The principal goal of the Company's shareholder policy is to protect shareholder rights and interests by maximizing the return earned by its shareholders over time within acceptable risk parameters through

		<p>effective management of the Company's assets and continued growth of the Company's operations and profitability. However, the Supervisory Board considers that any surplus cash should be retained with the Company and invested in the development of Funcom's games. Future distribution of dividends is not foreseen and will only be possible if the equity and liquidity position allow such distributions and the Bondholders has consented to such distribution (as the Bond Agreement contains restrictions on distribution of dividends).</p> <p>The Company has not paid any dividends for the period covering the historical financial information.</p>
C.13	Information about the underlying shares	See C.1, C.2, C.3, C.4, C.5, C.6 and C.7
C.14	Information about the depositary receipts	<p>As stated above, the VPS Shares are registered with the VPS and traded on Oslo Børs as beneficial interests in the Company Shares, in the form of Depositary Receipts registered with the VPS. Further information about the VPS Shares is given below.</p> <p>Following completion of the Private Placement and the Cabinet Transaction, the VPS Registrar registered the beneficial interests of the New VPS Shares and the Consideration VPS Shares over the underlying Company Shares in the VPS in the form of Depositary Receipts. The VPS Registrar will maintain the register on Funcom's behalf pursuant to the terms of the registrar agreement entered into with the VPS Registrar (the "<b>Registrar Agreement</b>").</p> <p>The VPS Registrar will be regarded as the legal owner of the new Company Shares, and is regarded as the legal owner of the majority of the existing Company Shares<sup>13</sup>, in the Dutch shareholders' register. In accordance with market practice in Norway and system requirements of the VPS, the investors will be registered in the VPS as beneficial owners of the Shares and the instruments traded will be referred to as shares in Funcom.</p> <p>The Depositary Receipts (<i>i.e.</i> the VPS Shares) entail the same right to dividends as the Company Shares. Holders of the VPS Shares are entitled to a share of the surplus (if any) in proportion to the number of VPS Shares owned by the holder in the event of a liquidation of Funcom.</p> <p>The beneficial owners may be entitled to attend and vote at General Meetings on the basis of a proxy from the VPS Registrar.</p>

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<sup>13</sup> A number of 1,615 Company Shares have not been registered with the VPS, as the holders of those Company Shares never have taken the appropriate actions to register their Company Shares with the VPS.

		<p>The VPS Shares will rank pari passu in all respects with each other in relation to the Company Shares, including voting rights, entitlement to dividends, liquidation proceeds in case of our liquidation, subscription or pre-emptive rights in the event of a share issue and pre-emptive rights in the event of the issuance of equity-linked securities. Neither Funcom, nor the VPS Registrar, apply any restrictions or limitations on the transferability of the VPS Shares</p> <p>There are no bank guarantees or other kind of guarantees attached to the VPS Shares which are intended to underwrite the VPS Registrar's obligations.</p>
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#### 1.4 Section D – Risks

Element	Disclosure requirement	Disclosure
D.1	Key information on the key risks that are specific to the issuer or its industry	<p>Prospective investors should consider, among other factors, the following risks relating to the market in which Funcom operates:</p> <ul style="list-style-type: none"> <li>• digital piracy, where consumers obtain an illegal copy of the game instead of purchasing it from an accredited store;</li> <li>• theft or loss of source code;</li> <li>• any game is heavily dependent on the underlying hardware configuration of the device running the game;</li> <li>• hacking activities; and</li> <li>• Video gaming is a market with global competition and changing consumer preferences, which is a risk to revenues from current games and which makes it difficult to predict revenue from new games.</li> </ul> <p>Prospective investors should consider, among other factors, the following risks related to Funcom and its business:</p> <ul style="list-style-type: none"> <li>• the Company is dependent on the performance of individual games;</li> <li>• the Company is dependent on its <i>Dreamworld Technology</i> to develop new games and new content for its existing games;</li> <li>• rating risks and reviews;</li> <li>• unsuccessful projects under development;</li> <li>• difficulties in enforcing the Company's intellectual property and proprietary rights;</li> <li>• the Company has until 2017 had a history of operating losses;</li> <li>• the Company may require additional capital in the future in order to fulfill its business plan; and</li> <li>• the Company is a Dutch company listed on Oslo Børs which operates in a global industry and the Company is thus subject to laws and regulation in several jurisdictions.</li> </ul>
D.3	Key information	Prospective investors should consider, among other factors, the following risks related to the securities described herein:

	on the key risks that are specific to the securities	<ul style="list-style-type: none"> <li>• the market value of the Shares may fluctuate;</li> <li>• there may occur a lack of liquidity in the Shares;</li> <li>• future share issues may have a material adverse effect on the market price of the Shares;</li> <li>• shareholders will be diluted if they are unable or unwilling to participate in future share issues; and</li> <li>• the VPS Shares listed on Oslo Børs are not the underlying Company Shares, but Depositary Receipts over such. This implies the risk that the shareholders may not be able to exercise their shareholder rights if the VPS Registrar does not fulfill its obligations under the Registrar Agreement.</li> </ul>
D.4	Information about the underlying shares	See D.1
D.5	Information about the depositary receipts	See D.3

## 1.5 Section E – Offer

Element	Disclosure requirement	Disclosure
E.1	Net proceeds/ Estimated Expenses	<p><b>The Private Placement</b></p> <p>The Private Placement Subscription Price per New VPS Share was NOK 13.00<sup>14</sup>, amounting to an aggregate subscription price and gross proceeds of NOK 88.4 million.</p> <p>The Company will bear the fees and expenses related to the Private Placement, which are estimated to amount to NOK 0.5 million.</p> <p>Total net proceeds from the Private Placement will amount to about NOK 87.9 million.</p> <p><b>The Cabinet Transaction</b></p> <p>The subscription price per Consideration VPS Share was NOK 13.00<sup>15</sup>, amounting to an aggregate subscription price and gross proceeds of approximately NOK 58 million. The subscription price for the Consideration VPS Shares was settled through an in-kind contribution of 50% of the partnership interests in Heroic Signatures, and the</p>

<sup>14</sup> Calculated after the completion of the Reverse Share Split. The actual subscription price was NOK 2.60 per New VPS Share, as the New VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>15</sup> Calculated after the completion of the Reverse Share Split. The actual subscription price was NOK 2.60 per Consideration VPS Share, as the Consideration VPS Shares were subscribed before completion of the Reverse Share Split.

		<p>Company has thus not received any cash proceeds for the Consideration VPS Shares.</p> <p>The Company will bear its fees and expenses related to the Cabinet Transaction, which are estimated to amount to NOK 1.5 million.</p>
E.2a	Reasons for the offer/ Use of proceeds/ Estimated net amounts	<p><b>The Cabinet Transaction</b></p> <p>The Company considers that access to Heroic Signatures' IP portfolio is a key enabler to increase the robustness of Funcom's revenue streams and strengthen its self-funding ability. Furthermore, the IP portfolio secures a competitive advantage for Funcom as a publishing partner, as the joint venture secures the ability to offer attractive IP on which game development studios can base their next titles on. Access to the IP portfolio will also give increased control over a strategically important IP, as two of Funcom's most successful games, <i>Conan Exiles</i> and <i>Age of Conan</i> have been based on the <i>Conan the Barbarian</i> IP and the Company has built up extensive knowledge and experience working with this IP. Access to the IP portfolio can also be an attractive investment from a valuation perspective.</p> <p><b>The Private Placement</b></p> <p>In order to raise capital for further growth, the Company decided to raise additional capital through the Private Placement.</p> <p>The main objective with the net proceeds of approximately NOK 88.4 million from the Private Placement is to fund additional game partnership and publishing opportunities. These partnerships and opportunities will vary in setup and form but will all be similar to the existing partnership with Bearded Dragon International LTD in the sense that it will leverage Funcom's internal strengths and financing to complement the partner's own capabilities. The proceeds will also increase the flexibility to make optimal investment decisions for value creation in internal game development initiatives.</p>
E.3	Terms and conditions of the offer	<p><b>The Cabinet Transaction</b></p> <p>The Cabinet Transaction comprises an issuance of 4,460,000 Consideration VPS Shares, each with a par value of EUR 0.20<sup>16</sup>, at a subscription price of NOK 13.00. The Consideration VPS Shares was subscribed by Cabinet, and were issued as transaction consideration in the Cabinet Transaction.</p>

<sup>16</sup> Both the amount of the Consideration VPS Shares and the par value as calculated after the completion of the Reverse Share Split. The actual amount of Consideration VPS Shares issued was 22,300,000, each with a par value of EUR 0.04, as the Consideration VPS Shares were subscribed before completion of the Reverse Share Split

		<p>The issuance of the Consideration VPS Shares was completed on 8 February 2018. The first day of trading on Oslo Børs of the Consideration VPS Shares will be on or about 26 February 2018.</p> <p><b>The Private Placement</b></p> <p>The Private Placement comprises an issuance of 6,800,000 New VPS Shares, each with a par value of EUR 0.20<sup>17</sup>, at a subscription price of NOK 13.00 per New VPS Share. The Private Placement was directed towards the Swedbank Robur Ny Teknik and Swedbank Robur Microcap funds, both funds managed by Swedbank Robur Fonder AB.</p> <p>The issuance of the New VPS Shares was completed on 1 February 2018. The first day of trading of the New VPS Shares on Oslo Børs will be on or about 26 February 2018.</p>
E.4	Material interests in the Offer	<p>Fredrik Malmberg, member of the Supervisory Board, has an interest in the Cabinet Transaction as he controls Cabinet. Mr. Malmberg has been excused from the Supervisory Board when the Cabinet Transaction was discussed.</p> <p>Other than as set out above, there are no other interests (including conflicts of interests) of natural and legal persons involved in the Private Placement or the Cabinet Transaction.</p>
E.5	Managers/ Lock-up	<p>The Company has not engaged any managers in the Private Placement or the Cabinet Transaction.</p> <p>All New VPS Shares will be newly issued VPS Shares. Cabinet has undertaken not to sell or otherwise directly or indirectly dispose of (including by mortgaging or otherwise encumbering) the Consideration VPS Shares in the 6 month period from 8 February 2018. Swedbank Robur Fonder AB will not be subject to lock-up.</p>
E.6	Dilution	<p>The dilutive effect following issuance of 6,800,000 New VPS Shares and 4,460,000 Consideration VPS Shares will represent an immediate dilution of approximately 16.27% for the existing shareholders of the Company as of 15 December 2017, the last trading day before the announcement of the Private Placement and the Cabinet Transaction.</p>
E.7	Estimated expenses	<p>Not applicable. The Company will not charge any costs, expenses or taxes directly to any shareholder or to any investor in connection with the Private Placement and the Cabinet Transaction.</p>

<sup>17</sup> Both the amount of the New VPS Shares and the par value as calculated after the completion of the Reverse Share Split. The actual amount of New VPS Shares issued was 34,000,000, each with a par value of EUR 0.04, as the New VPS Shares were subscribed before completion of the Reverse Share Split.

## 2 RISK FACTORS

*Before investing in the Company, investors should carefully consider all of the information contained in this Prospectus, and in particular the following risk factors, which may affect some or all of the Company's activities, the industry in which it operates and the Company's securities. Any of these risks could have a material adverse effect on the business, operating results and financial condition of the Group and, as a result, the value and trading price of the Company's Shares may decline, which could in turn, result in a loss of all or part of any investment in the Shares. Furthermore, the risks and uncertainties described below may not be the only ones the Group faces. Additional risks and uncertainties not presently known to the Company or the Group or that the Company or the Group currently deems immaterial may also impair its business, financial condition and results of operations in the future. Investing in the Company involves inherent risks. This Section 2 "Risk Factors" contains an overview of the risk factors that are known to the Company and considered material by it. Investors should consult their own expert advisors as to the suitability of an investment in the Company's Shares.*

*An investment in the Shares is suitable only for investors who understand the risk factors associated with this type of investment and who can afford a loss of all or part of the investment.*

*If any of the following risks materialize, the Company's business, financial position and operating results could be materially adversely affected, which may cause a decline in the value and trading price of the Shares that could result in a loss of all or part of any investment in the Shares.*

*The order in which the risks are presented below is not intended to provide an indication of the likelihood of their occurrence nor of their severity or significance.*

### 2.1 Revenue risks

#### 2.1.1 Dependence on performance of individual games

Funcom's financial performance, including future income, is highly influenced by the performance of current games, and new games to be released in the future. Under the Funcom strategy (as described in section 7.3 "The Funcom strategy"), Funcom will develop both smaller and larger games, publish third party games as well as conduct both in-going and outgoing licensing. Funcom expects that the financial performance of the Company will be materially dependent on the performance of its larger games, as well as the success of the overall strategy.

Funcom's financial performance is also dependent on a number of other factors related to its games, such as development costs, license costs and successful development of new content for the current Live Games including full launch of *Conan Exiles* on PC, Xbox and PlayStation. If some of Funcom's games attain low revenue numbers (*i.e.* only produces sufficient revenue to cover Funcom's investment in the game) there may be a negative impact on future cash flows and the valuation of Funcom. In particular, the Live Games have historically been the main revenue contributor for Funcom. Furthermore, the games in development are intended to be funding sources for the development of future new games, and lower cash inflows than expected could also have an indirect effect in terms of reduced revenues, earnings and cash flows from new games and the future funding requirements of the Company.

It is in the nature of computer games, including Funcom's Live Games, that they produce declining revenues over time due to the ageing of the games. There is, thus, a risk that Funcom's Live Games will not produce sufficient revenue in the future if the Company is not able to retain the players of its current Live Games, for example due to ageing or Funcom not being able to produce updates or new content for its current Live Games. There can be no assurance that Funcom is able to develop new games that produce sufficient revenue.

#### 2.1.2 Dependence on the attractiveness of brands used for the games

Funcom will have a strong portfolio of brands going forward which should be attractive for other companies (*i.e.* licensee(s)) to produce game titles with. However, the willingness to become a licensee, and the success of the new games based on these brands are dependent on the attractiveness of the brands. The developments of these brands are often influenced by factors outside of Funcom's control, such as the creative processes of the licensor (if the brand is licensed), development of new content or products under the brand and general market perception. There is a risk that such factors may affect the performance of Funcom's games negatively.

#### 2.1.3 Dependence on consumer satisfaction

The commercial success of Funcom's games, and games produced through license(s) from Funcom, is to a high degree dependent on consumer satisfaction. Consumer satisfaction is dependent on the perceived fun factor, quality of service of the support and error correction services. Even though the Company strives to ensure high consumer satisfaction there is a risk that the consumers will be unsatisfied with products produced by Funcom or any licensees, the support and the number of bugs and errors in the products. Consumer satisfaction may also be affected by the gaming community related to the specific game.

#### 2.1.4 Rating risks

Funcom is, as a developer of mature games, exposed to the risk that rating agencies in the various markets will set the allowed age level to play the Funcom games too high or too low and thereby potentially limiting the addressable market. Rating agencies, including the Entertainment Software Rating Board<sup>18</sup>, may also change their rating policies, or fine Funcom for rating breaches, although Funcom always strives to adhere to rating regulations. Funcom may also receive the attention of regulatory compliance organizations, such as the US Federal Trade Commission which enforces the Children's Online Privacy Protection Act, focusing on the gaming industry, both through public relations campaigns and through legal procedures. It is also a risk that disloyal employees or disloyal outside parties by mistake, or on purpose, introduce unknown and/or controversial material into the games of the Company that may constitute a risk for legal penalties or other actions from rating agencies.

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<sup>18</sup> For more information on the Entertainment Software Rating Board, please refer to [www.esrb.org](http://www.esrb.org). The information on [www.esrb.org](http://www.esrb.org) is not a part of this Prospectus.

## 2.2 Operational risks

### 2.2.1 Launch risks for online games and risk of non-retention of players after launch

The number of players of newly launched games may increase rapidly over a short amount of time, which may imply risks of technical failure within the games if the game servers cannot support such increase in number of players. The Company cannot exclude the possibility that future launches will encounter such problems. This may lead to a negative consumer perception of the game.

Even though the launch of a game may be successful initially, there can be no assurance that Funcom succeeds in creating additional attractive content for the game and thereby retaining the players.

### 2.2.2 Delay of product releases

For the current development projects, the Group has a strong focus on making plans, analyzing risks, estimating time needed in each project phase and measuring progress. There is, however, a large inherent development timeline risk in all software development, including in game software development, and there is no assurance that development schedules will be held. The timeline can also be jeopardized due to factors external to the Group, such as larger companies or games occupying the intended release period. If the Group does not manage to release games at the planned dates, the development budgets of the games may increase. There is also a risk that competitors will gain a foothold in the market at the expense of the Group or that the games will be less competitive when launched due to advances of competitors, making users less willing to spend additional time and money on new games from the Group.

### 2.2.3 Unsuccessful projects under development

Currently, there is a large number of games in development and operation worldwide. Hence, consumers have and will have a large number of options to choose between. Through the history of video games, the market has never accommodated many top-selling products at any one time, although that number is growing. With its upcoming game (already released in Early Access), *Conan Exiles*, the Company is moving into the segment of "Open World, Online, Multiplayer Survival Games". There is a risk that one or more of Funcom's games within this segment could be unsuccessful. Within this games segment, Funcom's competitors include developers such as Daybreak Game Company, Bluehole, Bohemia Interactive, Facepunch Studios Ltd. and Studio Wildcard. For games developed within other segments, there are a number of competitors which increases the risk that future games will be unsuccessful. In the other segments where Funcom competes, examples of competitors include Activision Blizzard, Electronic Arts, Ubisoft, Bethesda Softworks and Take-Two Interactive in addition to many other smaller, but still extremely relevant, game publishers.

### 2.2.4 Reviews

The commercial success of Funcom's games may be, to a high degree, dependent on favorable reviews by gaming publications and consumers. Should Funcom fail to meet the expectations this may have a negative effect in the review scores of its game and thereby potentially on the sales potential of the games.

### 2.2.5 Competition and changes in markets and trends

The market for Funcom's games is exposed to competitors and is trend-oriented. The competitors may develop more popular games and achieve higher attention from the customers in the computer games market. Failure of Funcom to maintain competitive games and service offerings may render the products of Funcom obsolete or limit the ability for Funcom to generate revenue from their products, and thus have a material adverse effect on Funcom.

Further, Funcom's games are exposed to changes and variations in market trends for PC and console games, including if consumer demand for games is directed towards other genres of games than those offered by Funcom from time to time.

Further, Funcom may develop games that do not become profitable if Funcom's games fail to meet the market trends at the time of release of a specific game.

If consumer demand becomes more directed towards other genres of games than those offered by Funcom from time to time or if Funcom fails to meet market trends at the time of release of a specific game, this must be expected to have an adverse effect on the earnings and financial position of Funcom.

### 2.2.6 Difficulties in recruiting and loss of key employees

Funcom is dependent on the ability to recruit, motivate and retain highly skilled technical, managerial and marketing personnel. Funcom may experience difficulties in recruiting, motivating and retaining the necessary expertise and key employees, or may need to pay higher compensation, which could adversely affect operating results. Further, it should be taken into consideration that work permits can be difficult to obtain. There is also a risk of losing vital information if key employees, for various reasons, leave Funcom. Funcom's current development studios are not located in large gaming hubs, which can reduce the speed at which recruiting can be executed.

### 2.2.7 External parties and counterparty risk

Funcom's success depends also partly on the ability of the Company's partners to effectively fulfill their commitments, including the distribution services offered by Steam, Microsoft and Sony, the continued licensing from Conan Properties International and the continued right to use the Unreal 4 graphics engine. Funcom also has partners in the areas of hosting and server administration, billing, publishing, sales and distribution, hardware as well as development of technology and other game related development. In addition, Funcom has game development partners that it works with in relation to publishing and distribution.

In general, the Group is subject to counterparty risk. If the contractual counterparties of the Group are unwilling or unable to fulfill their contractual obligations, this may have an adverse effect on the earnings and financial position of the Group.

### 2.2.8 Difficulties in enforcing the Company's intellectual property and proprietary rights

Funcom relies on a combination of trade secret, copyright and trademark laws, non-disclosure agreements and contractual provisions to protect its proprietary rights. International copyright and trademark laws protect Funcom's technology. Existing trade secrets and copyright laws afford only

limited protection, and unauthorized parties may attempt to copy aspects of Funcom's proprietary rights or to obtain and use information and technology that Funcom regards as proprietary. In addition, the laws of some foreign jurisdictions do not protect Funcom's proprietary rights in the same manner and to the same extent as the laws of the Netherlands, the United States and Norway do. There can be no assurance that the steps taken by Funcom to protect its proprietary rights will be adequate. Similar risks will also apply to the intellectual property rights Funcom gets access to through Heroic Signatures.

#### 2.2.9 Intellectual property rights of others

Funcom operates in a competitive industry. Technology is evolving at a fast pace and innovating companies develop solutions in relatively close technological proximity. This poses the risk that the Group could inadvertently encroach upon the protected rights of others, including rights protected by patents. This is the nature of the industry in which Funcom operates. Funcom is aware of the fact that there may be patents potentially forming basis of infringement claims. United States patents and/or litigation in the United States are particularly worrisome because there are a large number of United States software patents in existence. There is also to a greater extent a culture for opportunistic patent litigation in the United States. Infringement on copyrights, design rights and trademark law could surface as well. There is always an inherent risk of substantial claims related to infringement of intellectual property rights. If any claims of infringement of intellectual properties are submitted towards contract parties from which Funcom licenses intellectual property, this could also have a negative impact on the rights and obligations of the Company under any such contract.

#### 2.2.10 Loss of reputation

Any negative publicity related to the Company or its partners could adversely affect its reputation and the value of the Group's intellectual property. The Company is exposed, among others, to the risk that litigation, consultants, employee or officer's misconduct, operational failures, disclosure of confidential information, negative publicity, whether or not founded could damage the Company's reputation. Any erosion of the Company's reputation may have a material adverse effect on its business, revenues and results of operations or financial conditions.

### 2.3 Technical risks

#### 2.3.1 Game engine technologies

The Company is dependent on the *Dreamworld Technology* and the Unreal Engine technology to generate revenue, as these technologies form the basis of the games developed and published by Funcom, including its Live Games. The *Dreamworld Technology* provides Funcom with a unique competitive advantage by enabling more flexible, faster and more predictable development and deployment of upcoming games. Funcom is continuously striving to further develop and improve the *Dreamworld Technology*, including by making the *Dreamworld Technology* compatible with third-party software such as the Unreal Engine 4 technology.

The Unreal Engine technology is licensed from Epic Games and developments made to that technology by the licensor might require additional development from the Company and could potentially impact revenues or time to market of a project.

If the Company is not able to utilize the *Dreamworld Technology*, or third parties' technology like the Unreal Engine in the future or is not able to develop the *Dreamworld Technology* further, including making the *Dreamworld Technology* compatible with appropriate third-party software, in order to meet the standards of future video games, the Company will incur additional development costs and may experience lack of revenue.

### 2.3.2 Technological risks

Any game is heavily dependent on the underlying hardware configuration of the device running the game, managed by Funcom itself or through third party service providers like G-Portal. Funcom's games support a variety of hardware platforms capable of running the games and each platform can have multiple configurations of its hardware. The number of combinations of platforms and configurations is such that it is unfeasible to guarantee optimal game performance on them all and thus there is a risk that specific configurations do not perform as well as specified and have an adverse effect on Funcom's ability to gain revenues.

Additionally, online games depend on a large number of complicated hardware and software components that need to work successfully together. Any errors, bugs or viruses in any software may harm the operation of the online game and thus have an adverse effect on Funcom's ability to gain revenues. Similarly, any errors, power failures, shortcuts etc. in any hardware component may harm the operation of the online game and thus have an adverse effect on Funcom's ability to gain revenues. Although Funcom endeavors to reduce the technological risks before a game launch and during the operations of a game, these risks will always be present to some degree at launch.

### 2.3.3 Hacking and cheating

Funcom's online games may be subject to hacking and cheating activities. Any such activity may affect Funcom's ability to operate their online games at the level the games' players expect, which will in turn affect Funcom's ability to gain revenues.

### 2.3.4 Risks related to the internet

Funcom's online games are operated on the Internet, as are the digital stores responsible for most of Funcom's games sales. Funcom considers itself materially dependent on the Steam online distribution client for computer games, and for the services provided by Microsoft Xbox and Sony PlayStation. Funcom's revenues are therefore dependent on the continued and uninterrupted operation of the Internet. Any adverse incident, hereunder but not limited to bugs, viruses, worms, power outages, government restrictions, etc. affecting the Internet may affect Funcom's ability to gain revenues.

### 2.3.5 Theft or loss of source code

Funcom's source code is stored in a fireproof safe, but is also available to employees working on the Company's games. Should all or parts of the source code be stolen or lost, this may affect Funcom's ability to gain revenues or reduce its technological edge in the market.

### 2.3.6 Piracy

Funcom's games are subject to digital piracy, where consumers obtain an illegal copy of the game instead of purchasing it from an accredited store. Funcom's online games with strong server-based gameplay are less affected by this issue, but any single player or limited multiplayer games will potentially be affected.

## 2.4 Economic risks

### 2.4.1 Macroeconomic fluctuations

Funcom is exposed to the economic cycle, since changes in the general economic situation could affect demand for Funcom's products. Computer games are used for entertainment and therefore the demand may decline during recession when disposable income decreases.

### 2.4.2 Variability of operating results may cause the Group's results to negatively affect the financial position of the Group

Funcom's operating results may vary from month to month, as demand for Funcom's games will fluctuate in accordance with customer demands for Funcom's products. Funcom has a comparatively small number of Live Games and releases few games each year, which implies that the operating results of Funcom are more dependent on the performance of the current Live Games than larger gaming companies. The customer demand of Funcom's products generally declines slowly, but steadily after launch of a game, but may fluctuate due to updates of the games, marketing campaigns, in-game events, reviews, media attention (including social media attention), and other circumstances. The customer demand of Funcom's products may also fluctuate due to popularity of a competing game and increase in popularity of the general genres of Funcom's games. Even though the Company believes that updates, marketing campaigns and in-game events will contribute positively to the popularity of its games, no assurance can be made that such activities will imply an increased demand for Funcom's products. Funcom's operating result may thus be hard to forecast due to unpredictable demand for its products, the competitive environment, other general economic and market conditions and unanticipated difficulties in pursuing Funcom's business strategy, and this variation in operating results may cause the financial position of the Group to vary, implying, *inter alia*, that the Company may experience higher liquidity requirements than expected. Significant variations in operating results may have a material adverse effect on the Group's business, operations, financial position, results of operation, cash flow and/ or prospects.

### 2.4.3 Contracts

Several of the agreements entered into by Funcom are governed by the laws of jurisdiction in which Funcom does not have a presence. In addition, dispute resolution is set to venues in different places in Europe and the United States. This may increase the legal risk and increase the costs in connection with the enforcement of any specific agreement.

### 2.4.4 Currency fluctuations

Because a considerable share of the Group's business is conducted in currencies other than its functional currency, Funcom will be exposed to volatility associated with foreign currency exchange rates and may experience currency exchange losses upon such volatility and/ or difficulties to cover

its liabilities in case of an adverse development of the exchange rate between the revenue currencies and operational expenses of Funcom. Funcom's key revenue currencies are US dollar, Euro and British pound. The majority of the operational expenses is denominated in Norwegian kroner, US dollar, Euro and British pound. In particular, a lower USD to NOK exchange rate will reduce the ability to cover operational costs in NOK with USD revenue. The Company does not currently use any financial instruments to hedge its exposure to currency exchange rate risks arising from operational, financing and investment activities.

#### 2.4.5 Tax exposure

The Company is incorporated in the Netherlands with subsidiaries in Norway, China and the United States. The overall tax charge depends on where profits are accumulated and taxed since these countries have different tax systems and tax rates. The Group is today taxed under a number of different legal systems with different laws for tax residency, tax credits and tax exemption. Consequently, the Group is exposed to changes of tax policies and changes of tax legislations, proactively and/or retroactively. The Company is of the view that it reports profits and losses in accordance with tax rules applicable to the Group. The tax authorities in the jurisdictions where the Group operates are not bound by the judgment of the Company, and there can be no assurance that they will agree to it. If one or more of the relevant tax authorities challenges the Company's view, this may result in an increased overall tax charge.

Specifically, the tax position of the Company is currently being assessed by the Dutch tax authorities with respect to the fiscal years 2014 and 2015, as further described in Section 2.4.7 "Deferred tax asset and operating losses".

#### 2.4.6 Sales tax exposure

The Group generates sales transactions from potentially all over the world. Because of this, the Group is exposed to different sales tax issues, including VAT issues. On 1 January 2015, a new EU VAT regulation came into force where electronic services will be taxed in the country where the customer is established rather than where the service provider is located. This change in regulation created VAT exposure in different EU states and increased the overall amount of VAT to be remitted given the difference in VAT rates in each state. The Group obtains from its payment service providers relevant information to calculate and process VAT payments. Further, the changes in regimes for value added tax may lead to higher costs in complying with the regimes for value added tax on digital goods. Should the Group fail to comply with the different regulations it might lead to real cash costs, including irrecoverable VAT, penalties, and interest.

Further, there can be no assurance that an increase in overall charge of value added tax may be recovered in higher sales prices for Funcom's products, and may therefore entail an adverse effect on the earnings of the Group.

#### 2.4.7 Deferred tax asset and operating losses

The Group's has over the time incurred tax losses, which are located in the Company. In the Financial Statements of 2016, a tax asset is recognized on the balance sheet. The Management has discussed to which extent the Group will be able to utilize the deferred tax asset, and has adjusted the amount in the statement of financial position accordingly. In evaluating the Group's ability to utilize the deferred tax assets, all available positive and negative evidence has been considered,

including past operating results, the existence of cumulative losses in the most recent fiscal years and the forecast of future taxable income on a jurisdiction by jurisdiction basis, as well as feasible and prudent tax planning strategies. These assumptions require significant judgment about the forecasts of future taxable income and are consistent with the plans and estimates the Management is using to run the underlying businesses. The Group also has historical operating losses that have not been recognized on the balance sheet.

In the 2016 Financial Statement, the Group reported as of 31 December 2016 tax losses of USD 17,473 thousand, of which USD 11,843 thousand pertains to Funcom N.V. The tax position of Company is currently being assessed by the Dutch tax authorities with respect to the fiscal years 2014 and 2015, which implies that the carry forward losses position of the Company still require final confirmation from the Dutch tax authorities. The Company has recently received a proposal from the Dutch tax authorities with respect to the tax assessment, which implies that there are no taxes due for the Company for the fiscal years 2014 and 2015, and that there will be no net operating losses that can be carried forward as of the end of 2015. The Company expects to determine whether or not it will accept this proposal by the end of Q1 2018. Consequently, there is a risk that the total carried forward losses position of the Company will be reduced.

The tax losses carried forward related to Funcom N.V. are generated from holding and financing activities and may potentially only be offset against future profits from similar activities. Future trading profits may consequently not be utilized against such tax losses. Furthermore, there is a risk that tax losses carried forward will not be recognized by the tax authorities if the Company wishes to offset such carried forward losses and the tax authorities considers that the profits have not been obtained from similar activities as those related to the carry forward losses.

#### 2.4.8 Tax credits

Funcom Oslo AS has received tax credits for its technology research efforts in Norway (*SkatteFUNN*) and continues to explore additional incentives in different countries to help fund the game and technology development.

The tax credits that Funcom Oslo AS receives have been obtained through the SkatteFUNN R&D tax incentive scheme, a government program designed to stimulate research and development in Norwegian trade and industry. Under the SkatteFUNN scheme, qualifying companies receive support through either tax credits or payment of an amount corresponding to the tax credits (if the company is not in a taxable position). Funcom Oslo AS applied for, and got approved, support for an ongoing project called "DreamWorld support for third-party tools". The main objective of this project is to upgrade Funcom's proprietary *DreamWorld Technology* to allow the core areas of the platform to integrate seamlessly with any third party engine. The grant is based on hours spent on the project and 20% of the expenses are accrued as SkatteFUNN tax credits. Funcom Oslo AS received for 2016 NOK 1,925 thousand.

There can be no assurance that Funcom Oslo AS, or other Group companies, will be eligible for SkatteFUNN tax credits, or tax credits available under other schemes, in the future.

## 2.5 Financial risks

### 2.5.1 History of operating losses

The Group has a history of operating losses mainly as a result of the significant investments made in the Company's games and proprietary game engine *Dreamworld Technology* combined with poor revenues for some of the Company's games. The Company's strategy going forward is to focus on developing and releasing multiple games per year, smaller and innovate games in addition to larger online games as well as license out IP's for game production to third party companies. The long-term goal is to produce titles in parallel releasing more than one game a year. The strategy is expected to increase the profitability and the liquidity of the Company, however, no assurance can be given that the strategy will in fact have this effect. If the goals under the strategy are not achieved the performance of the Company could be affected by its ability to raise external financing in the form of equity issuance or non-dilutive debt instruments. The timing and amount of such financing will depend on market conditions and compliance with financial indebtedness restrictions as well as the Company's overall performance, which could affect the investors' confidence and willingness to invest in the Company.

### 2.5.2 Additional capital needs

The Company may require additional capital in the future pursuant to its business plan, due to unforeseen liabilities or in order for it to take advantage of growth opportunities. Further, negative developments in sales or production cost may lead to a strained liquidity position and the potential need for additional funding through equity funding, debt financing or other means. Any additional equity financing may be dilutive to existing shareholders. There can be no assurance that the Company will be able to obtain necessary funding in a timely manner and on acceptable terms. Further, the Company's existing financing through the Bonds contain financial indebtedness restrictions which limit the amount of debt financing which may be raised without consent from the Bondholders.

### 2.5.3 Covenant compliance

The Company has entered into a Bond Agreement, which contain customary restrictions and covenants, being information covenants, covenants on conduct (*i.e.* no change of nature of business of the Group) or disposal of the business of the Company or any Group company, covenants on related party transactions which are not made on arms-length terms, restrictions on dividend payments, covenant to keep the VPS Shares registered with the VPS, financial indebtedness restrictions and restrictions on creation of security interests over the Company's assets. There can be no assurance that the Group will be able to comply with all such restrictions and financial covenants or that the Company's lenders will extend waivers or amend terms to avoid any actual or anticipated breaches of such restrictions or financial covenants. This could lead to acceleration of loans, which may challenge the Company's ability to fund itself.

For further information regarding such covenants, please refer to Section 10.9.1 "The Bonds".

## 2.6 Legal risks

### 2.6.1 Compliance with laws and regulations in several jurisdictions

Funcom is a public company with VPS Shares traded on Oslo Børs and a business that is operated globally. Thus, the Company is subject to laws and regulations in a number of jurisdictions and relating to several areas including, but not limited to, data protection, consumer protection, administrative, accounting, corporate governance, market disclosure and employment. Such laws and regulations may be subject to change and interpretation. It may not be possible for the Group to detect or prevent every violation in every jurisdiction where the Group carries out its business operations, or in which its employees, sub-contractors or joint-venture partners are located. Any failure to comply with applicable laws and regulations now or in the future may lead to disciplinary, administrative, civil and/ or criminal liability and negative publicity harming the Group's business and reputation.

In addition, changes in laws and regulations may impose more onerous obligations on the Group and limit its profitability, including increasing the costs associated with the Group's compliance with such laws and regulations.

Failure to comply with laws and regulations and changes in laws and regulations may have a material adverse effect on the Group's business, revenue, profit and financial condition.

### 2.6.2 Disputes

The Company may from time to time be involved in dispute, including disputes regarding its intellectual property rights, with all ensuring risks and costs, which could have a material adverse effect on Funcom's business, financial condition and results of operations.

### 2.6.3 Dutch law may limit the shareholders' ability to bring an action against the Company

The rights of holders of Shares are governed by Dutch law and by the Articles of Association. These rights may differ from the rights of shareholders in other jurisdictions. In addition, it may be difficult to prevail in a claim against the Company under, or to enforce liabilities predicated upon, securities laws in jurisdictions other than the Netherlands.

## 2.7 Risks related to the Private Placement and the Cabinet Transaction

### 2.7.1 Risk related to co-operation with Cabinet through Heroic Signatures

The Company's entry into the Cabinet Transaction will involve that the Company (through its subsidiary Funcom Oslo Licensing AS) and Cabinet (through Cabinet Interactive, LLC) will through a partnership agreement in respect of Heroic Signatures and license agreements between the Cabinet Group and Heroic Signatures cooperate and work together to commercialize the interactive video game rights, on all technology platforms, relating to an IP portfolio including *Conan the Barbarian*®, *Mutant Year Zero*™, *Mutant Chronicles*™, *Kult*®, *Chronopia*® and *Solomon Kane*® held by the Cabinet Group. Such co-operation processes can be challenging and involve risks, and there can be no assurance that the co-operation will be successful. A failure to co-operate effectively and to solve a decision deadlock may ultimately result in litigation and legal actions. The partnership agreement includes specific exit regulations in the event of material breach of the partnership agreement. It

may also be that the Company decides to dispose of its partnership interests due to failures to co-operate effectively with Cabinet (including in deadlock situations) or otherwise. If so, no assurance can be made that there will be any market for those partnership interests. Third parties could also litigate Heroic Signatures. No assurance can be given that the outcome of any potential litigation will be successful for the Group, and any negative result may have a material adverse effect on the business, prospects, financial condition or results of operation of the Group.

Any failure to co-operate effectively through Heroic Signatures may prevent the Group from monetizing or leveraging the relevant IP rights, and more generally may make it more difficult to achieve the anticipated benefits of the Cabinet Transaction.

#### 2.7.2 Commercial risk related to Heroic Signatures

There is a risk that the games that use the IP will have lower revenues than expected and that fewer than expected game development studios will license the IP. Low revenues over time could potentially cause impairment of the book value of the IP rights.

### 2.8 Risks relating to the Shares

#### 2.8.1 The market value of the Shares may fluctuate

The trading price for the Shares may fluctuate significantly and may not always reflect the underlying asset value of the Company. A number of factors outside Funcom's control may impact its performance and the price of the Shares, including, but not limited to, quarterly variations in operating results, adverse business developments, changes in market sentiment regarding the VPS Shares, the operating and share price performance of other companies in the industry and markets in which the Group operates, changes in financial estimates and investment recommendations or ratings. Changes in market sentiment may be due to speculation about Funcom's business in the media or investment community, changes to Funcom's profit estimates, the publication of research reports by analysts and changes in general market conditions. If any of these factors actually occurs, they may have a material adverse effect on the pricing of the Shares.

The market price of the Shares could decline due to sales of a large number of the Shares in the market or the perception that such sales could occur. Such sales could also make it more difficult for the Company to offer equity securities in the future at a time and at a price that are deemed appropriate.

In recent years, the stock market has experienced extreme price and volume fluctuations. This volatility has had a significant impact on the market price of securities issued by many companies, including companies in the same industry as the Company. Those changes may occur without regard to the operating performance of these companies. The price of the Shares may therefore fluctuate based upon factors that have little or nothing to do with the Company, and these fluctuations may materially affect the price of the Shares.

Specifically, the Shares have been subject to higher volatility than other listed shares and shares in other companies who operate within the same market as Funcom. Historically, this has been due to the revenues of Funcom being very dependent on upcoming game titles. Funcom believes that their strategy (see Section 7.3 "The Funcom strategy" for further information) will contribute to reduce the volatility in the Funcom Share, but each investor should be aware of the historical volatility of

the Funcom Shares and no assurance can be made that such strategy will in fact reduce the volatility of the Share.

The Company will not undertake any price stabilizing activities in relation to the Private Placement and the Cabinet Transaction.

#### 2.8.2 Lack of liquidity in the Shares

The majority of the Company's Shares are currently listed on Oslo Børs (1,615 Shares are not listed because the holders of those Shares never took the appropriate actions to have those Shares listed). The current listing does not imply that there will always be a liquid market for the Shares. An investment in the Shares may thus be difficult to realize. Investors should be aware that the value of the Shares may be volatile and may go down as well as up. In the case of low liquidity of the Shares, or limited liquidity among the Company's shareholders, the share price can be negatively affected and may not reflect the underlying asset value of the Company. Investors may, on disposing of the Shares, realize less than their original investment or lose their entire investment.

#### 2.8.3 Funcom's ability to pay dividends is dependent on the availability of distributable reserves and the consent of the Bondholders

Dutch law provides that any declaration of dividends must be adopted by the General Meeting. Dividends may only be declared to the extent that Funcom has distributable funds and Funcom's Supervisory Board finds such a declaration to be prudent in consideration of the size, nature, scope and risks associated with Funcom's operations and the need to strengthen its liquidity and financial position.

The Company's General Meeting may not declare higher dividends than the Supervisory Board has proposed or approved. If, for any reason, the General Meeting does not declare dividends in accordance with the above, a shareholder will, as a general rule, have no claim in respect of such non-payment, and Funcom will, as a general rule, have no obligation to pay any dividend in respect of the relevant period.

The Bond Agreement implies that dividend distributions may only be made with the consent of the Bondholders or by the trustee on behalf of the Bondholders. In addition, any dividend distribution is subject to the requirements described in section 11.12 "Distribution of dividends".

#### 2.8.4 Future share issues may have a material adverse effect on the market price of the Shares

Funcom currently has no concrete plans for an offering of additional VPS Shares. However, it is possible that Funcom may decide to offer additional Shares or securities in the future in order to strengthen its capital base or for other reasons. Any additional offering of Shares may be made at a significant discount to the prevailing market price and could have a material adverse effect on the market price of the outstanding Shares.

#### 2.8.5 Risk of deviation from pre-emptive rights and of dilution

Unless otherwise resolved by the General Meeting, shareholders in Dutch public limited liability companies, such as Funcom, have pre-emptive rights proportionate to the aggregate number of Shares they hold with respect to any new Shares issued notwithstanding the provisions of the law

(such as (i) Shares issued to employees of the Company or of a Group company and (ii) shares issued against a contribution in kind can be issued without pre-emptive rights to existing shareholders).

The Supervisory Board shall have the power to limit or debar the pre-emptive right accruing to shareholders, if and in so far as the Supervisory Board has also been designated by the General Meeting for this purpose as the authorized body for the period of such designation. The Supervisory Board currently holds such designation and has previously held such designations. Consequently, there is a risk that the Supervisory Board may in the future pass resolutions to deviate from the pre-emptive rights of its shareholders and this will imply dilution for shareholders who does not participate in the share issue.

Further, due to regulatory requirements under foreign securities laws or other factors (including that the shareholder's pre-emptive rights may be set aside), foreign investors may be unable to participate in a new issuance of Shares or other securities. Any investor that is unable or unwilling to participate in any future share issues will be diluted.

In addition, the Company has issued convertible Bonds. Conversion of the Bonds to VPS Shares will have a dilutive effect to shareholders who do not hold Bonds.

#### 2.8.6 Norwegian Depositary Receipts

Funcom has entered into the Registrar Agreement, attached as Appendix 1 to this Prospectus, to facilitate registration of the Company Shares in connection with the listing of the Company Shares at Oslo Børs. In accordance with the Registrar Agreement, the VPS Registrar is registered as the legal owner of the Company Shares. Under the Registrar Agreement, the VPS Registrar registers the beneficial interests in the VPS Shares in book-entry form in the VPS. Accordingly, it is not the Company Shares issued in accordance with Dutch law that are registered in the VPS and may be traded on Oslo Børs, but the beneficial interests in the Company Shares (*i.e.* the VPS Shares).

In accordance with market practice in Norway and system requirements of the VPS, the beneficial interests in the Company Shares will be registered in the VPS under the category of a "share". Although each "share" registered with the VPS will represent evidence of beneficial ownership of one Company Share, such beneficial ownership will not necessarily be recognized by a Dutch court. As such, investors may have no direct rights against Funcom and may be required to obtain the cooperation of the VPS Registrar in order to assert claims against Funcom, and to look solely to the VPS Registrar for the payment of any dividends, for exercise of voting rights attaching to the underlying Company Shares and for all other rights arising in respect of the underlying Company Shares. Exercising such shareholder rights through the VPS Registrar is subject to certain terms and conditions, as further described in Section 12.4 "The VPS and transfer of VPS Shares – Beneficial interests in the Company Shares" of this Prospectus. Funcom cannot guarantee that the VPS Registrar will be able to execute its obligations under the Registrar Agreement, including that the beneficial owners of the Company Shares will receive the notice of a general meeting in time to instruct the VPS Registrar to either effect a re-registration of their VPS Shares or otherwise vote for their Company Shares in the manner desired by such beneficial owners. Any such failure may *inter alia*, limit the access for, delay or prevent, the beneficial shareholders being able to exercise the rights attaching to the underlying Company Shares.

The VPS Registrar may terminate the Registrar Agreement by not giving less than three months' prior written notice. Further, the VPS Registrar may terminate the Registrar Agreement if Funcom

does not perform its payment obligations to the VPS Registrar (and such non-payment has not been remedied by Funcom within ten business days following receipt of notice regarding this from the VPS Registrar) or commit any other material breach of the Registrar Agreement. In the event the Registrar Agreement is terminated, Funcom will use its reasonable best efforts to enter into a replacement agreement for purposes of permitting the uninterrupted registration of the Company Shares in the VPS and the listing of the VPS Shares at Oslo Børs. There can be no assurance, however, that it would be possible to enter into such new agreements on substantially the same terms or at all. A termination of the Registrar Agreement could therefore have a material and adverse effect on Funcom and its shareholders.

The Registrar Agreement limits the VPS Registrar's liability for any loss suffered by Funcom. The VPS Registrar disclaims any liability for any loss attributable to circumstances beyond the VPS Registrar's control, including, but not limited to, errors committed by others. The VPS Registrar is liable for direct losses incurred as a result of events within the VPS. Thus, Funcom may not be able to recover its entire loss if the VPS Registrar does not perform its obligations under the VPS Registrar Agreement.

#### 2.8.7 Certain transfer and selling restrictions may limit the possibility of the shareholders to sell or otherwise transfer their Shares

The VPS Shares have been admitted to trading in Norway. This Prospectus has been approved by the AFM and passported into Norway as described above in the preliminary text of this Prospectus under "Important Information". Funcom has not registered the Shares under the U.S. Securities Act or securities laws of other jurisdictions, and it does not expect to do so in the future. The Shares may not be offered or sold in the United States or in any other jurisdiction in which the registration or qualification of the Shares is required but has not taken place, unless an exemption from the applicable registration or qualification requirement is available or the offer or sale of the Shares occurs in connection with a transaction that is not subject to such provisions. In addition, there can be no assurances that shareholders residing or domiciled in the United States or other jurisdictions will be able to participate in future capital increases or subscription rights.

## 2.9 Notice

**Note that the list of risk factors above is not exhaustive and only represents a summary of material risk factors related to the Company, the Shares and the Private Placement and the Cabinet Transaction. Other risk factors not mentioned in this document may also adversely affect the Company's business and the value of the Shares. Potential investors are urged to independently evaluate the risks involved in investing in the Company and to consult with their own advisors, in addition to acquaint themselves with the risk factors, other information in this Prospectus and other relevant information. In particular, the Company's performance may be affected by changes in legal, regulatory and tax requirements in any of the jurisdictions in which the Company operates or intends to operate as well as overall global financial conditions.**

### **3 RESPONSIBILITY STATEMENT**

This Prospectus is made available by Funcom and Funcom accepts sole responsibility for the information contained in this Prospectus.

The Management Board of Funcom N.V. hereby declares that, after having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

22 February 2018

The Management Board of Funcom N.V.

Rui Casais  
Chairman/ CEO

Christian Olsthoorn  
Member of the Management Board

The Supervisory Board of Funcom N.V. hereby declares that, after having taken all reasonable care to ensure that such is the case, the information contained in this Prospectus is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

22 February 2018

The Supervisory Board of Funcom N.V.

Ole Gladhaug  
Chairman

Alain Tascan  
Vice-Chairman

Fredrik Malmberg  
Member of the Supervisory Board

Egil Kvannli  
Member of the Supervisory Board

Magnus Grøneng  
Member of the Supervisory Board

## 4 GENERAL INFORMATION

### 4.1 Third party information

In certain Sections of this Prospectus, information sourced from third parties has been reproduced. In such cases, the source of the information is identified. Such third-party information has been accurately reproduced, and as far as the Company is aware and is able to ascertain from information published by that relevant third party, no facts have been omitted which would render the reproduced information inaccurate or misleading.

### 4.2 Non-IFRS financial measures

In this Prospectus and in Section 10.3 "Operating and financial review" specifically, the Company presents certain non-IFRS financial measures:

- **"EBIT"** (Earnings before Interest and Tax) is a measure of the Group's profit that includes all expenses except interest and income tax expenses. EBIT measures has been included in this Prospectus to show the difference between the operating revenues and operating expenses of the Company;
- **"EBITDA"** (Earnings before Interest, Tax, Depreciation and Amortization) is a measure of the Group's net earnings, before interest expenses, taxes, depreciation and amortization are subtracted.

The non-IFRS financial measures presented herein are not recognized measurements of financial performance or liquidity under IFRS, but are used by the Company to monitor and analyze the underlying performance of the Group's business and operations. In particular, non-IFRS financial measures should not be viewed as a substitutes for profit/loss for the period, profit/loss before tax from continuing operations, operating income, cash and cash equivalents at period end or other income statement or cash flow items computed in accordance with IFRS. The non-IFRS financial measures do not necessarily indicate whether cash flow will sufficient or available to meet the Group's cash requirements and may not be indicative of the Group's historical operating results, nor are such measures meant to be predictive of the Group's future results. The non-IFRS measures presented herein have not been audited or reviewed by any third party.

The Company has presented these non-IFRS financial measures in this Prospectus because it considers them to be important supplemental measures of the Group's performance and believes that they are widely used by investors in comparing performance between companies. Because companies calculate the non-IFRS financial measures presented herein differently, the non-IFRS financial measures presented herein may not be comparable to similarly defined terms or measures used by other companies. The non-IFRS financial measures presented herein are also classified as alternative performance measures under the guidelines of the European Securities and Markets Authority.

### 4.3 Forward Looking Statements

This Prospectus contains forward-looking statements ("**Forward Looking Statements**") relating to the Company's business and the sectors in which it operates. Forward Looking Statements include all statements that are not historical facts, and can be identified by words such as (what follows are examples without excluding words having the same meaning): "anticipates", "believes", "expects",

"intends", "may", "projects", "should", or the negatives of these terms or similar expressions. These statements appear in a number of places in this Prospectus, in particular in Section 2 "Risk Factors", Section 8 "Market overview" and Section 10 "Operating and Financial Information" and include statements regarding the Company's Management's intent, belief or current expectations with respect to, among other things:

- strategies for the Company's services, segments and business;
- global and regional economic conditions;
- sales volumes, price levels, costs and margins;
- competition and actions by competitors and others affecting the global or regional market of the Company;
- the Company's planned capacity and utilization rates;
- fluctuations in foreign exchange rates, interest rates, earnings, cash flows, dividends and other expected financial results and conditions;
- cash requirements and use of available cash;
- financing plans;
- anticipated capital spending;
- growth opportunities;
- development, production, commercialization and acceptance of new services and technologies;
- environmental and other regulatory matters;
- legal proceedings; and
- intellectual property.

No Forward Looking Statements contained in this Prospectus should be relied upon as predictions of future events. No assurance can be given that the expectations expressed in these Forward Looking Statements will prove to be correct. Actual results could differ materially from expectations expressed in the Forward Looking Statements if one or more of the underlying assumptions or expectations proves to be inaccurate or is unrealized. Some important factors that could cause actual results to differ materially from those in the Forward Looking Statements are, in certain instances, included with such Forward Looking Statements and in Section 2 "Risk Factors".

## 5 TRANSACTION WITH CABINET

### 5.1 Overview and strategic rationale

The Company has entered into an agreement with Tranicos, LLC and Cabinet Group LLC whereby Funcom has acquired 50% of the partnership interests in a joint venture under the name Heroic Signatures, that is structured as a Norwegian company with apportioned liability (Nw: *Delt Ansvar*, abbreviated DA) ("**Heroic Signatures**") (the Cabinet Transaction). The Cabinet Transaction was consummated on 8 February 2018. The purpose of Heroic Signatures will be to commercialize the interactive video game rights, on all technology platforms, relating to an IP portfolio including *Conan the Barbarian*<sup>®</sup>, *Mutant Year Zero*<sup>™</sup>, *Mutant Chronicles*<sup>™</sup>, *Kult*<sup>®</sup>, *Chronopia*<sup>®</sup> and *Solomon Kane*<sup>®</sup> held by the Cabinet Group. As settlement for the partnership interests acquired by Funcom, Cabinet received 4.46 million Consideration VPS Shares. The subscription price for the Consideration VPS Shares was settled through an in-kind contribution of 50% of the partnership interests in Heroic Signatures. No cash will be payable to Cabinet by the Company in the Cabinet Transaction, however the Company will contribute to the initial funding of Heroic Signatures.

The Company considers that access to Heroic Signatures's IP portfolio is a key enabler to increase the robustness of Funcom's revenue streams and strengthen its self-funding ability. The IP portfolio is expected to generate multiple revenue sources with very little associated cost.

Furthermore, Funcom's access to this IP portfolio greatly amplifies Funcom's position as a publishing partner for third party game developers, by allowing them to leverage a vast array of characters and brands with which to increase the appeal of their games.

Access to the IP portfolio will also give increased control over a strategically important IP, as two of Funcom's most successful games, *Conan Exiles* and *Age of Conan* have been based on the *Conan the Barbarian* IP and the Company has built up extensive knowledge and experience working with this IP. The agreement also secures the terms for two new *Conan the Barbarian* games (in addition to one game not related to the *Conan the Barbarian IP*) to be developed by Funcom.

Access to the IP portfolio can also be an attractive investment from a valuation perspective. The value of contents and intellectual property is increasingly supported by the extreme reach of internet enabled distribution channels. As an example, the IP's related to the Star Wars and Marvel universes were acquired for billions of dollars before reaching today's success levels. Even though Heroic Signatures will not hold rights to develop products and intellectual properties beyond interactive video games, other use of the IP included in Heroic Signatures's IP portfolio, including through comic books, movies, TV series and many other uses, may increase the value of Heroic Signatures's IP portfolio through increased brand recognition and appeal.

### 5.2 Description of the IP portfolio

Heroic Signatures's portfolio of intellectual properties contains a wealth of worlds and characters spanning across a wide variety of genres, styles, and time periods. Here are some of the key properties in the portfolio.

#### *Conan the Cimmerian*

Undoubtedly, the most well-known IP is that of *Conan the Cimmerian* (or *Conan the Barbarian* as many know the character itself). Recognized as the mightiest character in all of heroic fantasy,

Conan is a free barbarian from distant Cimmeria who ventures into splendid kingdoms of the south to find his fortune in the lost eons of the Hyborian Age between the sinking of Atlantis and the dawn of history. *Conan the Cimmerian* is part of works of Robert E. Howard, similarly to *Kull*, *Solomon Kane*, and other IP rights of Heroic Signatures.

There have been numerous novels, comic books, video games, board games, card games, and more based on *Conan the Cimmerian*. There have also been three major motion pictures (in 1982, 1984, and 2011) as well as several television series. Funcom has previously developed the *Age of Conan* MMO based on this IP as well as the more recent *Conan Exiles*.

### Solomon Kane

God's angry warrior, *Solomon Kane*, is Robert E. Howard's most unusual creation. Black-clad and steely tempered, Kane combines the headlong action of Conan with the swashbuckling valor of the Three Musketeers as he bestrides demon-infested Africa and the war-torn Europe of Queen Elizabeth I to dispense relentless justice with the point of his sword.

*Solomon Kane* originally appeared in *Weird Tales* during the 1930's, then repackaged in multiple editions worldwide. There was also a 2009 motion picture titled *Solomon Kane*. The character has appeared in Marvel Comics since the 1970's. Dark Horse Comics has published three mini-series of *Solomon Kane* during the last 10 years. There was also a pen-and-paper RPG released in 2008 by Pinnacle.

### Kull

*Kull* of Atlantis and Valusia – the barbarian who becomes a gladiator, the gladiator who seizes a magnificent kingdom from a mad tyrant and crowns himself king. In the dawn world of 100,000 years ago, *Kull* holds his throne against scheming conspirators, murderous rivals, and deadliest of all, the snake-headed Serpent Men who are mankind's secret masters.

*Kull* originally appeared in *Weird Tales* during the 1930's, then repackaged in multiple editions worldwide. In 1997 there was a motion picture titled *Kull the Conqueror*. *Kull* has appeared in hundreds of comics worldwide since 1971 (Marvel Comics, Dark Horse Comics, IDW Publishing).

### Mutant Chronicles

*Mutant Chronicles* takes place in a distant future where the Earth has long since been depleted of natural resources and abandoned. Humanity has spread to the worlds of Venus, Mars, Mercury, Luna (the first settlement following the exodus from Earth), and the Asteroid Belt. Since the exodus from Earth the traditional nation-states of the world have merged into five huge mega corporations: Bauhaus, styled after the culture of continental Europe, the American-influenced Capitol, the Japanese-themed Mishima, the British-inspired Imperial, and the ultra-secretive, ambiguous, high-tech wielding Cybertronic, all of whom use private military forces to fight for resources.

*Mutant Chronicles* has spawned the *Mutant Chronicles* motion picture from 2008, numerous pen-and-paper role-playing games, several video games all the way back to the Super Nintendo, multiple books, card games, miniatures, and more.

### Mutant: Year Zero

Of course the world ends. It was always just a question of time. When it's all over, Earth is still. Nature invades the ruined cities. Winds sweep through empty streets, turned into graveyards. Yet life remains. In the Ark, a small settlement on the edge of a dead town, the People live. You are the

spawn of humanity, but not human anymore. You are twisted funhouse images, mutated freaks. Your bodies and minds have incredible powers, but you are unstable. Fragile. None of the People are over 30 years old.

*Mutant: Year Zero* is a post-apocalyptic IP that has spawned both pen-and-paper role-playing games and multiple tabletop games. There has also been a *Mutant: Year Zero* card game.

### *Kult*

In *Kult*, the world around us is a lie. Mankind is trapped in an illusion. We do not see the great citadels of Metropolis towering over our highest skyscrapers. We do not hear the screams coming from the cellar where hidden stairs lead us to Inferno. We do not smell the blood and burnt flesh from those sacrificed to gods long since forgotten. But, some of us see glimpses beyond the veil. We have this strange feeling that something is not right - the ramblings of a madman in the subway seems to carry a hidden message, and our reclusive neighbor does not appear to be completely human. By slowly discovering the truth about our prison, our captors and our hidden pasts, we can finally awaken from our induced sleep and take control of our destiny.

*Kult* has been turned into several pen-and-paper role-playing games, comic books, collectible card games, and novels.

### *El Borak™ (Francis X Gordon)*

Gordon is called "El Borak" – the Swift – by the untamed tribesmen of Central Asia and the Middle East. The nickname describes his speed with sword and revolver, the latter skill perfected in an earlier career as a Texas gunman. A freelance adventurer who occasionally hires on with the British Secret Service to foil Russia's imperialistic designs north of the Khyber Pass, Gordon sometimes rides into trouble alone, sometimes with a small band of dedicated friends.

*El Borak* originally appeared in *Weird Tales* during the 1930's, then repackaged in multiple editions worldwide. He has also appeared in comic books by Marvel Comics and Dark Horse Comics.

### *Other intellectual properties in the portfolio*

- *Chronopia*
- *Dark Agnes*
- *Bran Mark Morn*
- *James Allison*
- *Cormac Mac Art*
- *Black Turlogh*
- *Kirby O'Donnell*
- *Cormac Fitzgeoffrey*
- *Terence Vulmea*
- *Wolfshead*
- *Steve Harrison*
- *Almuric*
- *Steve Costigan*
- *The Black Stone*
- *The Children of the Night*
- *The Fire of Asshurbanipal*
- *The Cairn of the Headland*
- *The Horror From the Mound*
- *Old Garfield's Heart*

- *The Dead Remember*
- *Black Canaan*
- *Pigeons From Hell*

### 5.3 Further information about the Cabinet Transaction and Heroic Signatures

Heroic Signatures was incorporated on 4 January 2018 as a Norwegian company with apportioned liability with Cabinet as its sole owner, through Cabinet's wholly owned companies Tranicos, LLC and Cabinet Interactive, LLC, and registered in the Norwegian Register of Business Enterprises on 20 January 2018 with registration number 920 195 385. As a company with apportioned liability, each owner in Heroic Signatures has an unlimited liability for the obligations of Heroic Signatures up to their pro rata part of the partnership interests. Consequently, each of the wholly owned subsidiaries held by Funcom (being Funcom Oslo Licensing AS) and Cabinet (being Cabinet Interactive, LLC) will be liable for 50 % of the obligations of Heroic Signatures (following consummation of the Cabinet SPA, as defined below).

In connection with the consummation of the Cabinet Transaction, Funcom became owner of 50% of the partnership interests in Heroic Signatures through a sale and purchase agreement entered into on 18 December 2017 (the "**Cabinet SPA**"). The Cabinet SPA was consummated on 8 February 2018. Consummation of the Cabinet SPA was subject to certain conditions, including *inter alia* that the IP rights of the Cabinet Group (as defined below) was successfully granted to Heroic Signatures and that the Supervisory Board of Funcom had resolved to issue the Consideration VPS Shares and the underlying Company Shares following an increased authorization which is expected to be granted to the Supervisory Board by the General Meeting.

The Cabinet SPA was entered into on arms-length terms, and contains customary provisions for this kind of transaction.

As part of the Cabinet Transaction, Cabinet and certain of its subsidiaries and affiliates (jointly, the "**Cabinet Group**"<sup>19</sup>) have granted Heroic Signatures (i) exclusive, sub-licensable, irrevocable (except for termination due to material breach as found by a competent arbitration tribunal), and perpetual licenses to the Cabinet Group's interactive video gaming rights on all platforms now existing or hereafter launched for their respective entertainment property portfolios existing at the time of the consummation of the Cabinet Transaction, and (ii) all other rights to interactive games held by Cabinet Group necessary for exploiting, administering, further develop, enhance, create derivative works of, commercialize and monetize such licenses.

In connection with the consummation of the Cabinet Transaction, certain intragroup transactions were carried out:

- (i) the Company contributed its partnership interest in Heroic Signatures to Funcom Oslo Licensing AS through a share capital increase with total proceeds of NOK 57,980,000 in Funcom Oslo Licensing AS;
- (ii) the Company sold its shares in Funcom Oslo Licensing AS to Funcom Oslo AS for a consideration of USD 7,493,380.21 to be settled through a seller credit evidenced by a

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<sup>19</sup> For further information on the entities included in this definition, please refer to Section 16 "Definitions and glossary of terms".

promissory note issued by Funcom Oslo AS. The purchase price of USD 7,493,380.21 corresponds to NOK 58,010,000 (*i.e.* the value of the partnership interest in Heroic Signatures (NOK 57,980,000) and the share capital of Funcom Oslo Licensing AS (NOK 30,000)) when applying an exchange rate of NOK 7.7415 per USD 1, as quoted by DNB Bank ASA on 25 January 2018; and

- (iii) The Company entered into a credit facility agreement with its wholly owned subsidiary Funcom Oslo AS in order to transfer funds to Funcom Oslo AS to be used for general corporate purposes.

Following those intragroup transactions, the partnership interest in Heroic Signatures is held by Funcom Oslo Licensing AS and Funcom Oslo Licensing AS is wholly owned by Funcom Oslo AS. An overview of the Group's legal structure is set out in Section 7.6.1 "Overview" of this Prospectus.

## 6 THE PRIVATE PLACEMENT AND ISSUANCE OF CONSIDERATION SHARES

### 6.1 Background and use of proceeds

The Company has recently entered into and consummated the Cabinet SPA regarding the Cabinet Transaction. As settlement in the Cabinet Transaction, Funcom issued 4,460,000 new VPS Shares (the "Consideration VPS Shares") to Cabinet. For further information regarding the Cabinet Transaction, please refer to Section 5 "Transaction with Cabinet".

In order to raise capital for further growth, the Company has decided to raise additional capital through the Private Placement.

The main objective with the net proceeds of approximately NOK 88.4 million from the Private Placement is to fund additional game partnership and publishing opportunities. These partnerships and opportunities will vary in setup and form, but will all be similar to the existing partnership with Bearded Dragon International Ltd., in the sense that it will leverage Funcom's internal strengths and financing to complement the partner's own capabilities. The proceeds will also increase the flexibility to make optimal investment decisions for value creation in internal game development initiatives.

### 6.2 The Private Placement

On 18 December 2017, the Company publicly announced that it had raised applications of approximately NOK 88.4 million in gross proceeds through the Private Placement of 6,800,000 New VPS Shares, each with a par value of EUR 0.20<sup>20</sup>, at a subscription price of NOK 13.00<sup>21</sup> per New VPS Share (the "**Private Placement Subscription Price**"). The Private Placement was conditional upon the Company's extraordinary General Meeting granting a sufficient authorization to the Company's Supervisory Board to issue the New VPS Shares and the underlying Company Shares. Such authorization was granted on 30 January 2018.

The Private Placement was directed towards the funds Swedbank Robur Ny Teknik and Swedbank Robur Microcap, both funds managed by Swedbank Robur Fonder AB, which applied for New VPS Shares for NOK 88,400,000 and were allotted New VPS Shares for an equivalent amount.

The Supervisory Board resolved to increase the share capital related to the New VPS Shares on 30 January 2018.

### 6.3 The Issuance of Consideration VPS Shares

On 18 December 2017, the Company publicly announced that it has entered into the Cabinet SPA, whereby the Company agreed to issue 4,460,000 Consideration VPS Shares as transaction

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<sup>20</sup> Both the amount of the New VPS Shares and the par value as calculated after the completion of the Reverse Share Split. The actual amount of New VPS Shares issued was 34,000,000, each with a par value of EUR 0.04, as the New VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>21</sup> Calculated after the completion of the Reverse Share Split. The actual subscription price was NOK 2.60 per New VPS Share, as the New VPS Shares were subscribed before completion of the Reverse Share Split.

consideration, each with a par value of EUR 0.20<sup>22</sup>, at a subscription price of NOK 13.00<sup>23</sup> per Consideration VPS Share, amounting to an aggregate subscription price and gross proceeds of NOK 57,980,000. The subscription price for the Consideration VPS Shares was settled through an in-kind contribution of 50% of the partnership interests in Heroic Signatures, and the Company did thus not receive any cash proceeds for the Consideration VPS Shares.

Consummation of the Cabinet Transaction was subject to, *inter alia*, (i) the Company's extraordinary General Meeting granting a sufficient authorization to the Company's Supervisory Board to issue the Consideration VPS Shares (such authorization was granted on 30 January 2018), and (ii) Cabinet not being in material breach with the Cabinet SPA. The Supervisory Board resolved to issue the Consideration VPS Shares and the underlying Company Shares on 30 January 2018, however so that the formal issuance should happen on the date of the consummation of the Cabinet SPA (8 February 2018).

#### **6.4 Resolution regarding the Private Placement**

On 30 January 2018, the extraordinary General Meeting of Funcom granted an authorisation to issue up to a maximum of 34,000,000<sup>24</sup> new Company Shares in Funcom, specifically including the authority to issue rights to acquire shares (*rechten tot het nemen van aandelen*) in the capital of Funcom:

*Proposal to designate (aanwijzen), pursuant to Section 4.9 and 4.1 of Funcom N.V.'s articles of association, the Board of Supervisory Directors as body (orgaan) of Funcom N.V. authorized to issue up to a maximum of 34,000,000 (thirty-four million) shares (aandelen) in the capital of Funcom N.V., specifically including the authority to issue rights to acquire shares (rechten tot het nemen van aandelen) in the capital of Funcom N.V., and to determine the terms and conditions of each and any such issuance(s), which proposed designation of the Board of Supervisory Directors shall be valid from the date of the Meeting until the first ordinary general meeting of shareholders of Funcom N.V. to be held in the year 2018. This proposed designation of the Board of Supervisory Directors shall furthermore be in addition to – expand- the authority granted to the Board of Supervisory Directors in the Annual General Meeting of Shareholders of Funcom N.V. of 27 June 2017. This proposed designation may at all times be revoked by the general meeting of Funcom N.V. The general meeting of Funcom N.V. furthermore remains authorized to (i) resolved on any issuance of shares (aandelen) and/or rights to acquire shares (rechten tot het nemen van aandelen) during the period of this proposed designation of the Board of Supervisory Directors and (ii) to designate (aanwijzen), pursuant to section 4.9 and 4.1 of Funcom N.V.'s articles of association, the Board of Supervisory Directors as body (orgaan) of Funcom N.V. authorized to issue shares (aandelen) in the capital of Funcom N.V., specifically including the authority to issue rights to acquire shares (rechten tot het nemen van aandelen) in the capital of Funcom N.V.*

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<sup>22</sup> Both the amount of the Consideration VPS Shares and the par value as calculated after the completion of the Reverse Share Split. The actual amount of New VPS Shares issued was 22,300,000, each with a par value of EUR 0.04, as the Consideration VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>23</sup> Calculated after the completion of the Reverse Share Split. The actual subscription price was NOK 2.60 per Consideration VPS Share, as the Consideration VPS Shares were subscribed before completion of the Reverse Share Split.

<sup>24</sup> Calculated prior to the completion of a Reverse Share Split.

## **6.5 Resolutions regarding the issuance of Consideration VPS Shares and the underlying Company Shares**

On 30 January 2018, the extraordinary General Meeting of Funcom granted an authorisation to issue up to a maximum of 22,300,000<sup>25</sup> million new Company Shares in Funcom, specifically including the authority to issue rights to acquire shares (*rechten tot het nemen van aandelen*) in the capital of Funcom:

*Proposal to designate (aanwijzen), pursuant to Section 4.9 and 4.1 of Funcom N.V.'s articles of association, the Board of Supervisory Directors as body (orgaan) of Funcom N.V. authorized to issue up to a maximum of 22,300,000 (twenty-two million three hundred thousand) shares (aandelen) in the capital of Funcom N.V., and to determine the terms and conditions of each and any such issuance(s), which proposed designation of the Board of Supervisory Directors shall be valid from the date of the Meeting until the first ordinary general meeting of shareholders of Funcom N.V. to be held in the year 2018. This proposed designation of the Board of Supervisory Directors shall furthermore be in addition to – expand- the authority granted to the Board of Supervisory Directors in the Annual General Meeting of Shareholders of Funcom N.V. of 27 June 2017. This proposed designation may at all times be revoked by the general meeting of Funcom N.V. The general meeting of Funcom N.V. furthermore remains authorized to (i) resolved on any issuance of shares (aandelen) and/or rights to acquire shares (rechten tot het nemen van aandelen) during the period of this proposed designation of the Board of Supervisory Directors and (ii) to designate (aanwijzen), pursuant to section 4.9 and 4.1 of Funcom N.V.'s articles of association, the Board of Supervisory Directors as body (orgaan) of Funcom N.V. authorized to issue shares (aandelen) in the capital of Funcom N.V., specifically including the authority to issue rights to acquire shares (rechten tot het nemen van aandelen) in the capital of Funcom N.V.*

## **6.6 The New VPS Shares and the Consideration VPS Shares**

The new Company Shares issued in relation to the Private Placement and the Cabinet Transaction were issued as ordinary shares in accordance with Dutch law on 1 February 2018 (with regards to the Private Placement) and on 8 February 2018 (with regards to the Cabinet Transaction). In order to facilitate registration with the VPS, the new Company Shares are registered in the name of the VPS Registrar in the Company's shareholders' register in the Netherlands. Following the receipt of the underlying Dutch notarial deed, the VPS Registrar issued the New VPS Shares to Swedbank Robur Ny Teknik and Swedbank Robur Microcap funds, both funds managed by Swedbank Robur Fonder AB, (as applicants in the Private Placement) and the Consideration VPS Shares to Cabinet at the Separate ISIN. The New VPS Shares and the Consideration VPS Shares will be converted to the Ordinary ISIN as soon as practically possible after the publication date of this Prospectus in accordance with applicable law.

Both the new Company Shares, the New VPS Shares and the Consideration VPS Shares will rank *pari passu* in all respects with the existing Shares. The Company Shares will carry full shareholder rights in the Company from the time of issuance. The new Company Shares issued in connection with the Private Placement and the Cabinet Transaction and the New VPS Shares and the Consideration VPS Shares will be eligible for any dividends that the Company may declare after said date. For a description of rights attached to the Shares, see Section 11 "Share capital, shareholder matters and Dutch corporate law".

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<sup>25</sup> Calculated prior to completion of the Reverse Share Split.

## **6.7 Share capital following completion of the Private Placement and the issuance of Consideration VPS Shares**

The Company's share capital following the completion of the Private Placement and the issuance of the Consideration VPS Shares is EUR 13,838,104.40 divided into 69,190,522 Shares, each with a par value of EUR 0.20.

## **6.8 Dilution**

The dilutive effect following issuance of 6,800,000 New VPS Shares and 4,460,000 Consideration VPS Shares represents an immediate dilution of approximately 16.27% for the existing shareholders of the Company as of 15 December 2017, the last trading day before announcement of the Private Placement and the Cabinet Transaction.

## **6.9 The Private Placement Subscription Price and the subscription price for the Consideration VPS Shares**

The Private Placement Subscription Price was determined through negotiations between the Company's Executive Management and Swedbank Robur Fonder AB as independent parties. Similarly, the subscription price per Consideration VPS Share of NOK 13.00 was negotiated between the Company's Executive Management and Cabinet as independent parties.

The Private Placement Subscription Price represented a 18.18% premium compared to the closing price for the Company's VPS Shares on Oslo Børs on 15 December 2017, the last trading day before announcement of the Private Placement and the Cabinet Transaction<sup>26</sup>.

The Private Placement Subscription Price was announced through Oslo Børs' information system on 18 December 2017.

## **6.10 Allocation of the New VPS Shares**

The Private Placement was directed towards Swedbank Robur Ny Teknik and Swedbank Robur Microcap funds, both funds managed by Swedbank Robur Fonder AB, as the only investors. The Private Placement implies that the pre-emptive rights of the Company's existing shareholders are deviated from. The Company's extraordinary General Meeting authorized, on 30 January 2018 the Supervisory Board to limit or exclude the pre-emptive rights of the shareholders. The Supervisory Board considers that this deviation is justifiable as the Private Placement is directed towards an external investor, that the Private Placement Subscription Price was above the prevailing market price of the VPS Shares as of the date the Private Placement was announced and that the expeditious placement reduced the risk of trading based on assumptions regarding the share price development. The Supervisory Board also recognizes the value of a reputable long term investor for the Company and all shareholders.

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<sup>26</sup> Based on the price of the VPS Shares at that date, *i.e.* prior to the Reverse Share Split.

### **6.11 Participation of major existing shareholders and members of the Supervisory Board, the Management Board and the Executive Management**

Neither major existing shareholders (*i.e.* existing shareholders holding more than 3% of the total outstanding VPS Shares prior to the completion of the Private Placement) nor members of the Company's Supervisory Board, Management Board and Executive Management applied for New VPS Shares in the Private Placement. However, Cabinet, a company controlled by Fredrik Malmberg, member of the Supervisory Board, subscribed for all 4,460,000 Consideration VPS Shares to be issued in the Cabinet Transaction.

### **6.12 Listing of the New VPS Shares and the Conversion VPS Shares**

The AFM approved this Prospectus on 22 February 2018. The New VPS Shares and the Consideration VPS Shares are expected to be listed on Oslo Børs on or about 26 February 2018, where 57,930,522 VPS Shares are already listed (1,615 Company Shares have not been registered with the VPS and listed because the holders of those Shares never took the appropriate actions in order to have those Shares registered with the VPS and listed).

### **6.13 Transferability of the New VPS Shares and the Consideration VPS Shares**

Swedbank Robur Fonder AB, with regards to the New VPS Shares, and Cabinet, with regards to the Consideration VPS Shares, will not under any circumstances be entitled to sell or transfer the New VPS Shares or the Consideration VPS Shares until the New VPS Shares or the Consideration VPS Shares (as applicable) have been credited on their respective VPS account. Further, Cabinet has undertaken not to sell or otherwise directly or indirectly dispose of (including by mortgaging or otherwise encumbering) the Consideration VPS Shares in the 6 month period from 8 February 2018. Swedbank Robur Fonder AB will not be subject to lock-up.

### **6.14 VPS registration and delivery of the New VPS Shares**

The New VPS Shares and the Consideration VPS Shares will, together with the existing VPS Shares, be registered as Depositary Receipts over the underlying Company Shares and may be identified by ISIN number NL 0012756266. The VPS Shares are issued by the Company's VPS Registrar, DNB Bank ASA, Verdipapirservice, Dronning Eufemias gate 30, P.O. Box 1600 Sentrum, 0021 Oslo, Norway.

The New VPS Shares and the Consideration VPS Shares will be tradable on Oslo Børs, and issued to the VPS accounts of Swedbank Robur Ny Teknik and Swedbank Robur Microcap funds, both funds managed by Swedbank Robur Fonder AB, and Cabinet following approval of this Prospectus by the AFM.

Please note that, pursuant to the Registrar Agreement, the VPS Registrar will be registered as the holder of every new Company Share in the Company's shareholders' register in the Netherlands. The VPS Registrar shall register the beneficial interests in the new Company Shares in book-entry form with the VPS. Therefore, it is not the shares in registered form issued in accordance with the Dutch Civil Code, but the beneficial interests in such shares in book-entry form under the category of a "share" that are registered with the VPS and traded on Oslo Børs. The beneficial interests in the new Company Shares, in the form of New VPS Shares and Consideration VPS Shares, are registered in the VPS as of the date of this Prospectus. Each VPS Share registered with the VPS represents beneficial ownership of one Company Share.

### **6.15 Selling and transfer restrictions**

For a description of selling and transfer restrictions applicable to the Private Placement and the Cabinet Transaction, please refer to Section 14 "Selling and Transfer restrictions".

### **6.16 Proceeds and expenses related to the Private Placement and the Cabinet Transaction**

The gross proceeds from the Private Placement will be approximately NOK 88.4 million. The net proceeds from the Private Placement, following a deduction of transaction costs, will be up to approximately NOK 87.9 million.

The gross proceeds from the Cabinet Transaction will be approximately NOK 58 million. The subscription price for the Consideration VPS Shares was settled through an in-kind contribution of 50% of the partnership interests in Heroic Signatures, and the Company has thus not received any cash proceeds for the Consideration VPS Shares.

The Company will bear its fees and expenses related to the Cabinet Transaction, which are estimated to amount to NOK 1.5 million.

### **6.17 Governing law and jurisdiction**

The terms and conditions of the Private Placement shall be governed by and construed in accordance with Swedish law. This Prospectus and the Cabinet Transaction shall be governed by and construed in accordance with Norwegian law. The issuance of the new Company Shares in relation to the Private Placement and the Cabinet Transaction shall be governed by and construed in accordance with Dutch law. The issuance of the New VPS Shares and the Consideration VPS Shares shall be governed by and construed in accordance with Norwegian law.

### **6.18 Advisors**

Advokatfirmaet CLP DA is acting as the Company's legal adviser on Norwegian law matters in relation to the Private Placement and the Cabinet Transaction. Weidema van Tol (Netherlands) B.V. is acting as the Company's legal adviser on Dutch law matters in relation to the Private Placement and the Cabinet Transaction. Thompson & Knight LLP is acting as the Company's legal adviser on US law matters in relation to the Cabinet Transaction.

### **6.19 Interests of natural and legal persons involved in the Private Placement and the Cabinet Transaction**

Fredrik Malmberg, member of the Supervisory Board, has an interest in the Cabinet Transaction as he controls Cabinet. Mr. Malmberg was excused from the Supervisory Board when the Cabinet Transaction was discussed.

Other than as set out above, there are no other interests (including conflicts of interests) of natural and legal persons involved in the Private Placement or the Cabinet Transaction.

## 7 PRESENTATION OF FUNCOM N.V.

### 7.1 Overview

The Company was incorporated as private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) under the law of the Netherlands on 29 November 1996 under the name Funcom B.V. Funcom B.V was converted into a limited liability company (*naamloze vennootschap*) on 16 October 2000. The Company's name was changed accordingly to Funcom N.V. The Company's commercial name is Funcom.

The Company is registered with the Commercial Register of the Chamber of Commerce (*Handelsregister van de Kamer van Koophandel*) under registration number 28073705. The Company's registered office is at Prins Mauritslaan 37 – 39 Badhoevedorp 1171LP, the Netherlands. The telephone number to Funcom's Oslo office is +47 22 92 59 00, and +31 202409106 to Funcom's Badhoevedorp office.

The principal activities of the Company (and the Group) are to develop, market and carry on business in computer games in the broadest sense. This is further elaborated in article 2 of the Company's Articles of Association, which states that the operational objective of the Company is to develop, market and carry on business in computer games, hereunder massively multiplayer online games, online role-playing games and related games on electronic devices of different kinds. The objectives of the Company further include to take and grant licenses and other industrial property interests, assume commitments in the name of any enterprise with which it may be associated within a group of companies, to take financial interests in such enterprises and to take any other action, such as but not limited to the granting of securities or the undertaking of obligations on behalf of third parties, which in the broadest sense of the term, may be related or contribute to the aforesaid objectives.

The key criteria for the overall performance of the Group are (i) cost of development of new products; (ii) cost of maintenance and support of Live Games; (iii) overall reach and sales of products; (iv) lifetime retention and revenues per customers; and (v) lifetime of the Group's products.

The Group also has offices in Oslo, Norway and in Durham, North Carolina, the United States. As of the date hereof, the Group has a total of 120 employees. In addition, the Group has also currently hired 10 consultants, and has outsourced work to sub-contractor companies for a total of 21 people<sup>27</sup>.

### 7.2 Business concept

Funcom is a developer and publisher of video games, which specializes in the making of on-line multiplayer games. However, Funcom has also developed and published several single-player games. Funcom's games are published on a number of different platforms, which implies a wide potential reach for its games.

Since the incorporation of Funcom, the Company has developed and published over 25 game titles across several genres and gaming platforms. Most notable of these are the online *games Conan*

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<sup>27</sup> For further information on such outsourcing, please refer to Section 7.10 "Development of the Company's games"

*Exiles, Secret World Legends, The Secret World, Age of Conan* and *Anarchy Online* and the single player games *The Longest Journey* and *Dreamfall*. In its early days, Funcom developed console games such as *Pocahontas* and *Casper*, and also created numerous ports<sup>28</sup> of existing games to various platforms.

### 7.3 The Funcom strategy

Funcom is currently executing the next phase of the strategic turnaround put in place in 2015 which has the same fundamental high-level objectives: Securing short development time bringing all games fast to the market, working on multiple games and revenue generating activities in parallel and having different sized budgets based on a project's risk profile.

These objectives will enable the Company to create more revenue streams at a lower risk, leading to more predictable cash flows and financials and a more stable base from which to grow.

Fueled by the successful activities of 2017, and by the investment into intellectual properties, the strategy will also grow the Company's publishing and co-development arm in order to boost the numbers of meaningful revenue activities in each financial year.

The strategy now consists of:

- (i) **Internal Game Development and Publishing:** Having a minimum of two games in development internally at all times, which utilize the Company's IPs and competence in Online RPGs. These projects will have different budget sizes, ranging from small and experimental titles to larger productions. These games will then be brought to market directly by the Company and its PR & Marketing, Server Operations, Quality Assurance, Customer Service and other relevant teams. The games will be targeted towards platforms such as PC and Consoles and will have business models that fit the genre and market conditions at their release time, always including additional monetization in order to successfully monetize the investments for as long as possible.
- (ii) **External Co Development and Publishing:** Building a network of trusted developers with whom the Company can partner up to co-develop and/or publish a game and bring it to market utilizing its internal resources that the external developers do not typically have themselves, such as Marketing, Sales, Community management, Online operations, Technology and porting to console expertise, Motion Capture, Localization, Quality Assurance and Customer Service. The goal is to grow this activity to have two such external products launched annually.
- (iii) **Internal Technology Development:** Leveraging the internal Technology's team know how and competence gained during the creation of the *DreamWorld Technology* to create a modern technological platform that all of the Company's projects, internal or external, can leverage to obtain a key competitive advantage in the market.
- (iv) **Intellectual Properties:** Continue developing the internal IP portfolio comprised of *The Longest Journey, Anarchy Online* and *The Secret World* and generate activity and revenues from the recently acquired interactive IP rights that include *Conan the Barbarian, Mutant Year Zero, Solomon Kane* and other appealing IPs.

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<sup>28</sup> Ports are games developed for one platform and subsequently made compatible for another platform.

Additionally, the Company will keep developing and supporting the existing games as they are an important source of revenue and drive the internal intellectual properties.

The Company will be focused on the PC and Console digital markets, with Steam being the largest storefront for games on the PC digital market. Physical retail distribution of the Company's games will be done when relevant and executed in conjunction with a partner.

Geographically, the Company focuses primarily in North America and Europe, with other important markets handled on a case by case basis either directly or through partners.

The strategy is meant to reduce the Company's overall risk exposure, control costs through careful investment decisions and budgeting and increase the financial stability by having more revenue sources. The Company has executed a cost-saving scheme called "Structural cost", that saw the reduction of the Group's costs by liquidating companies that no longer added value to the Group.

The above-mentioned statements and objectives are forward-looking and are subject to change along with industry trends. The Company strongly encourages all investors, analysts, press and others to investigate and analyze the gaming industry. The industry has drastically changed over the past few years. It is the Company's clear goal to align itself with the market, leverage its technology and know-how and adapt its portfolio of products to address the current as well as future needs.

#### 7.4 History and development

The table below highlights the Company's most significant events from its incorporation until the date of this Prospectus:

Year	Significant event
1993	The business that is now Funcom was founded by Erik Gløersen, Tyr Nielsen, Andre Backen, Gaute Godager and Olav Mørkrid.
1995	The Company is incorporated as Funcom B.V.
1999	<i>The Longest Journey</i> is released for Windows PC's.
2000	The Company is converted from Funcom B.V. into Funcom N.V.
2001	<i>Anarchy Online</i> is released.
2002	Trond Arne Aas is appointed new CEO of Funcom.
2005	Funcom is listed on the Oslo Børs.
2006	<i>Dreamfall: The Longest Journey</i> is released for Windows PC's and Microsoft Xbox platforms.
2007	The Company lowers the priority traditional "offline" product distribution in favor of digital distribution.
2008	<i>Age of Conan</i> is released for Windows PC's.
2009	Funcom announces the establishment of a new development studio in Montreal, Canada.
2012	Funcom announces Ole Schreiner as the new CEO of Funcom and as a new member of the Management Board.
2012	<i>The Secret World</i> is released.
2013	Funcom announces a restructuring of the Company.
2014	<i>The Longest Journey</i> is released for iOS devices.
2014	<i>Dreamfall: Chapters</i> is released for the Windows, Mac OS X and Linux platforms on license by Red Thread Games.

2014	LEGO® <i>Minifigures Online</i> is released.
2015	Funcom announces Rui Casais as the new CEO of Funcom.
2015	Funcom announces its new strategy.
2015	Funcom accepts a fine of NOK 1,500,000 from Økokrim and the investigation of the Company is discontinued and the case closed for Funcom.
2015	<i>The Park</i> is released.
2016	The Company completed a private placement, raising gross proceeds of approximately NOK 52.8 million, and a debt conversion which implied a reduction of the Company's debt obligations with USD 7.7 million.
2016	Launch of the smaller game <i>Hide &amp; Shriek</i> , the first product developed in Funcom's North Carolina studio.
2017	<i>Conan Exiles</i> is released in Early Access on the Steam Platform.
2017	<i>Conan Exiles</i> is release on the Xbox platform under "game preview".
2017	Relaunched <i>The Secret World</i> as <i>Secret World Legends</i> with a new free-to-play business model.
2017	KGJ Investments sold 20,000,000 VPS Shares and converted 3,500,000 Bonds into VPS Shares, which reduced the Company's total debt obligations.
2017/ 2018	The Company entered into the Cabinet Transaction and made the Private Placement. The Private Placement was completed on 1 February 2018 and the Cabinet Transaction was completed on 8 February 2018.

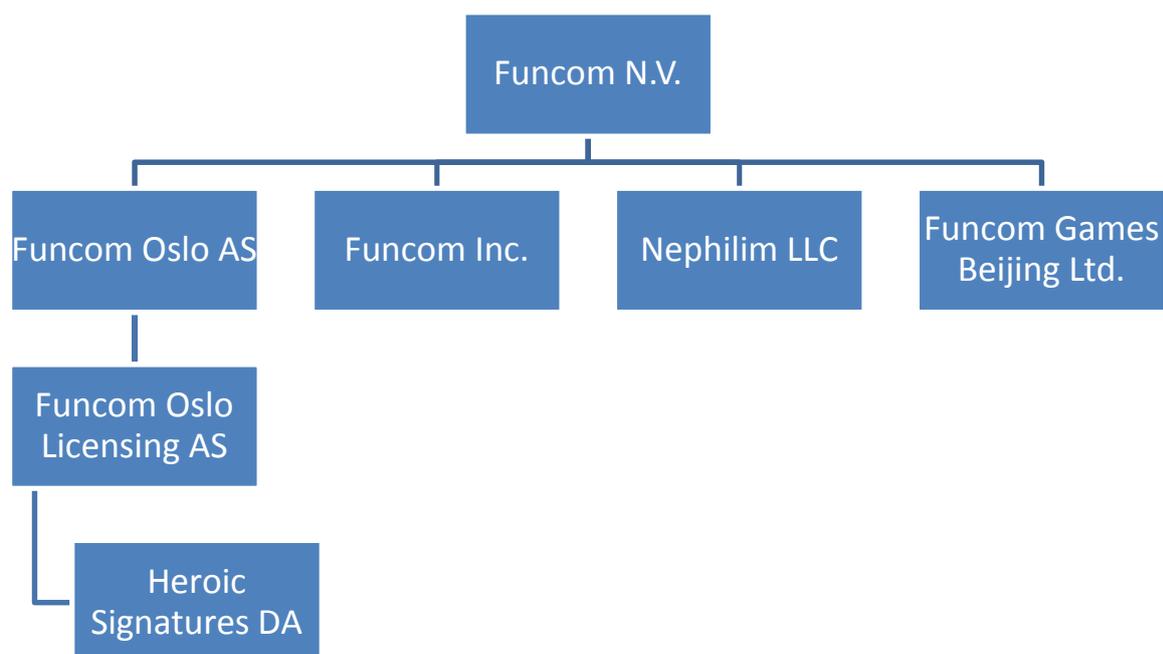
## 7.5 Vision, goals and strategy

Funcom's long term vision is to become a leading developer and publisher of interactive entertainment across multiple technological platforms, owning and developing an exciting intellectual property portfolio for internal and 3<sup>rd</sup> party licensing use and embracing new and emerging markets and technologies.

## 7.6 Legal structure

### 7.6.1 Overview

The Company is a holding company. The legal structure of the Group is set out below. All companies in the Group are wholly owned, except for Heroic Signatures DA in which Funcom Oslo Licensing AS owns 50% of the partnership interests.



## 7.6.2 Subsidiaries

As of the date of this Prospectus, the Company is the ultimate parent company of 5 wholly owned subsidiaries. The table below provides an overview of the Group's subsidiaries.

Subsidiary	Registered office	Principal activity	Ownership	Voting rights
Funcom Inc.	10 Laboratory Drive, Building 2, Suite 105, RTP, NC 27709, the United States	The development of computer games.	100% owned by Funcom N.V.	100%
Funcom Oslo AS	Kirkegata 15 0153 Oslo Norway	The development of computer games.	100% owned by Funcom N.V.	100%
Funcom Games Beijing Ltd.	No. 1-22, Building 78 F1, Dongsihuan Zhonglu, Chaoyang District, Beijing	Business development	100% owned by Funcom N.V.	100%
Nephilim LLC	2711 CENTERVILLE RD STE 400, Wilmington Delaware 19808	Management of IP Services	100% owned by Funcom N.V.	100%
Funcom Oslo Licensing AS	c/o Funcom Oslo AS, Kirkegata 15 0153 Oslo Norway	Licensing of intellectual property	100% owned by Funcom Oslo AS	100%

In 2014, Funcom took the decision to reorganize and simplify its group structure, by reducing the number of subsidiaries and by moving the business to Funcom Oslo AS. In consequence Funcom GmbH was liquidated and deregistered on 11 May 2016, Funcom Sales GmbH was liquidated and deregistered on 8 June 2016, Funcom S.a r.l. was liquidated and deregistered on 13 January 2016, and Funcom Games Canada was liquidated and deregistered on 6 September 2017.

## **7.7 Technology**

### *7.7.1 The Dreamworld Technology*

Funcom has since 2000 developed its own proprietary and trademarked technology for development of computer games, called the "*Dreamworld Technology*". The *Dreamworld Technology* is the technological foundation on which Funcom's MMOs are built, including *Age of Conan* and *Secret World Legends*.

The *Dreamworld Technology* is tailored and optimized for creating world class MMO's. The technology has a highly modular structure in which new and upgraded technology modules can be integrated into the technology base.

With the change in strategy in 2015, the development of the *DreamWorld Technology* shifted away from its initial focus on MMO games and towards the integration of modules and systems into the Unreal Engine 4 technology.

This is an ongoing process that will lead to a framework of systems to complement the capabilities of off-the-shelf solutions like Unreal Engine and provide Funcom with strong competitive advantages.

## **7.8 Game Intellectual Properties and associated products**

### *7.8.1 The Longest Journey*

Under the intellectual property related to *The Longest Journey*, the Company has developed and/or published four games.

#### ***The Longest Journey***

*The Longest Journey* was released for Windows PC's in 1999 and 2000 (depending on geographic location). *The Longest Journey* is a single player point-and-click adventure video game where the player interacts with objects on the screen to solve puzzles and advance the story. *The Longest Journey* was released for iOS in late 2014.

The game takes place in the parallel universes of the magic-dominated *Arcadia* and the technologically advanced world of *Stark*. The protagonist is April Ryan, an 18-year old art student living in *Stark*.

Together with the associated games *Dreamfall* and *Dreamfall Chapters*, *The Longest Journey* has a following of 1 – 1.5 million players. These numbers have been relatively stable and have not fluctuated much over time as long as there are activities directed towards the community like

updates to a game, a new game or marketing activities around games. Usually it increases with activity and decreases when it has been a while since last update to the games or with new games.

### ***Dreamfall: The Longest Journey***

*Dreamfall: The Longest Journey* was released for Windows PC's and Microsoft Xbox platforms in 2006. *Dreamfall: The Longest Journey* is a singly player adventure video game and a sequel to *The Longest Journey*.

The story in *Dreamfall: The Longest Journey* takes place ten years after the events of the first game. The story focuses on three characters (Zoë Castillo, April Ryan and Kian Alvane) that live in two parallel worlds, the magic-dominated *Arcadia* and the technologically advanced world of *Stark*.

### ***Dreamfall Chapters***

*Dreamfall Chapters* is an ongoing single player 3D adventure game with emphasis on character interaction, exploration of the game world and puzzle solving. *Dreamfall Chapters* consists of five different episodes, which may be independently purchased and played, and was released fully on PC during 2016 and consoles in 2017.



*Picture from Dreamfall Chapters*

*Dreamfall Chapters* continues the story of *Dreamfall: The Longest Journey*.

*Dreamfall Chapters* is being developed and published by Red Thread Games under license from Funcom.

### **7.8.2 *Anarchy Online***

*Anarchy Online* is a massively multiplayer online role-playing game (MMORPG), which was released in the summer of 2001. *Anarchy Online* is one of the few MMO's which still can offer its players an exciting game even after being over sixteen years old, due to its incredible depth and unique features.



Picture from *Anarchy Online*

*Anarchy Online* is set in a unique science fiction world tens of thousands of years into the future on the planet Rubi-Ka, where the rebellious *Clans* are fighting the corporation Omni-Tek. *Anarchy Online* offers a huge and ever-expanding game world. Through the years, the world and game systems of *Anarchy Online* have continuously been made bigger and deeper through expansions such as *The Notum Wars*, *Shadowlands*, *Alien Invasion*, *Lost Eden* and *Legacy of the Xan*.

The keys behind the game's longevity are both a strong and tightly knit community and incredibly deep game systems, which allow the players to develop their characters to great extents.

More than 2 million players have engaged in the game, and Funcom has an active email address pool<sup>29</sup> for *Anarchy Online* with more than 700,000 addresses. These numbers have been relatively stable and has not fluctuated much over time. *Anarchy Online* launched in its Free to Play ("F2P") form on the Steam platform in February 2017, which has resulted in additional game downloads and increased revenue from Downloadable content ("DLC") sales and in-game purchases.

### 7.8.3 *Age of Conan*

#### ***Age of Conan***

*Age of Conan*, based on the IP "*Conan the Barbarian*" owned by Conan Properties LLC, is a fantasy-themed MMORPG, which was released in May 2008 for Windows PC's.

*Age of Conan* offers a brutal and mature world, capturing the essence and magic of Robert E. Howard's incredible stories about *Conan the Barbarian* and the world of Hyboria. It combines action based combat with deep character progression, captivating stories and extraordinary content.

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<sup>29</sup> Active e-mail addresses are e-mail addresses which are valid and from which the owner is still a subscriber of the newsletter connected to that e-mail address.



*Picture from Age of Conan*

*Age of Conan* has since its release been expanded with numerous updates. The *Age of Conan* also offers an in-game Item Shop where players may make purchases to increase the items owned by and the abilities of their character.

More than 4.2 million players have engaged in the game, Funcom has an active email address pool<sup>30</sup> for *Age of Conan* with more than 2,700,000 addresses. These numbers have been relatively stable and have not fluctuated much over time. There is no guarantee that this trend will continue.

#### 7.8.4 *The Secret World*

Under the intellectual property related to *The Secret World*, the Company has developed and published two games.

##### ***The Secret World and Secret World Legends***

*The Secret World* is a MMORPG of myths and legends, set in a modern-day real world under attack from occult forces, which was released in July 2012. The game offers deep and creative storylines, free form character progression and challenging content in a modern-day setting.



*Picture from Secret World Legends*

*The Secret World* has since June 2017 been successfully relaunched as *Secret World Legends* with a F2P business model including micro transactions, optional subscription (patron status) and in-game

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<sup>30</sup> Active e-mail addresses are e-mail addresses which are valid and from which the owner is still a subscriber of the newsletter connected to that e-mail address.

currency exchange for a paid currency. *Secret World Legends* is being continuously updated with new items for sale, events and content.

The relaunch increased the number of players significantly shortly after the relaunch. However, in line with the Company's other games and in accordance with the Company's expectations, the number of players have been declining steadily following the relaunch.

#### 7.8.5 *The Park*

*The Park* is a first-person single player psychological horror adventure video game, which was released in October 2015. *The Park* utilizes *The Secret World* intellectual property and is set in a location called "Atlantic Island Park".

As a project, *The Park*'s main objective was to prepare the Funcom Oslo team to adapt the new Funcom strategy and to build the skills needed for the larger game to be released in 2016.

More specifically, it was meant as an experimental title to develop Funcom Oslo's team expertise with Unreal Engine 4, Xbox One and PlayStation 4, its ability to develop and release a game in a very short timeframe (6 months), to test the Single Player Horror market and to test releasing a horror/thriller game around the Halloween timeframe, all while generating a new revenue stream.

*The Park* has proven to be a profitable project, however *The Park* has not generated any significant revenue to the Group. This, together with the increased knowledge of both the Unreal 4 graphics engine and the Xbox One and PlayStation 4 consoles by the Funcom Oslo team, implies that the Company is satisfied with the performance of *The Park*.

The Xbox One and PlayStation 4 release of *The Park* on 3 May 2016 was meant to build internal expertise regarding developing and launching on the new generation of game consoles.

#### 7.8.6 *Conan Exiles*

On 17 December 2015, Funcom Oslo AS entered into an agreement with Conan Properties LLC. Under this agreement, Funcom Oslo AS is the preferred partner for PC and console games based on the *Conan the Barbarian* brand and the agreement gives Funcom Oslo AS the rights to develop multiple games based on *Conan the Barbarian* and the world of Hyboria.

*Conan Exiles* is being produced under this agreement and is scheduled for full launch on the Steam Platform (PC), and also Xbox and PlayStation on 8 May 2018.

The game was successfully launched on the PC platform in the "Steam" store under the "Early Access" program 31 January 2017 recouping its development cost in a week. In August 2017, it was released on the Xbox One platform in the "Game Preview" program. The game is and will continue to be commercialized using a premium business model.

The game is being developed by the team in Funcom Oslo and will represent an estimated investment of between USD 10 and 20 Million, adjustable based on the reception and sales performance of the game to be measured at full release. The estimated investment refers to Funcom's total investment in *Conan Exiles* for the lifetime of this game. Funcom expects that the

financial performance of the Company will be materially dependent on the performance of the larger games, including *Conan Exiles*, developed under the new Funcom strategy.

#### 7.8.7 Bearded Dragon partnership

Funcom announced on 23 June 2017 that it has entered into an agreement with Bearded Dragon International LTD regarding the development support and publishing of a new game. The game is in the "tactical turn-based strategy" genre and is planned to be released during 2018. Initial platform will be PC, with consoles to be evaluated after the PC launch. More information about the game will be revealed when PR and Marketing activities are initiated prior to release. This activity is part of Funcom's strategy of releasing multiple game titles per year, providing significant activities more often and building a larger portfolio of products.

#### 7.8.8 Games in early stage development

Concept and prototype development for a new title is underway in Funcom's US studio. More information about this project will be revealed when timely.

### 7.9 Monetization of existing games/ IP portfolio and further information on business models

All existing games in operation by Funcom are expected to continue to generate operational profits, even though both *Age of Conan* and *The Secret World* have gone through several impairment charges. Different types of sales activities and product updates will be conducted if they are deemed expedient to temporarily increase revenue and prolong the lifetime of the product. In addition, the Company will, over time, produce more products around the IP's of these products to strengthen the IP, and also strengthen the potential of existing products and products produced on these IPs in the future.

The Company will at any given time choose the business model that makes the most sense based on product genre and the market. In general, the business models utilized by the Company can be divided into three different categories; (i) F2P (Free to Play), (ii) Subscription based models and (iii), Premium models.

- (i) F2P games are free to start playing and usually come with different micro transaction possibilities where you can buy in-game items, additional areas of the games or other game enhancement features. Some F2P games are totally free, but the game will then usually include advertisements from third parties.
- (ii) Subscription based games come with a subscription, usually monthly. As subscription based games evolve over time they often adapt to different business models and become partly F2P, and will often include micro transactions.
- (iii) Premium models are models where you pay a one-time fee for the game. There are usually no subscriptions or free elements of the game. Any additions to the games are usually referred to as DLC's (Downloadable content), and is typically something the customer will have to buy. Some premium models also come with elements of micro transactions.

The description of business models above is only a summary, and is not an exhaustive summary. There are many variables of the different models and games might evolve over time, adapting to any or parts of the mentioned models.

### 7.10 Development of the Company's games

The Company follows an iterative development process for its games based on frequent milestone deliveries, with most of the development done in-house and some outsourcing/subcontractor work when necessary.

It is the Company's intention to have a solid development team with experienced developers that can interface with outsourcing/subcontractors for periods of time when the development demands are higher, *i.e.* when the Company has a production need which cannot be met with in-house capabilities, to avoid inflating the Company's headcount and personnel costs in an unsustainable way.

At present, the Company has contracts with three outsourcing/work for hire companies that assists in the development of the Company's games, being (i) Coconut Lizard Limited, (ii) Zona Paradoxal Lda and (iii) Testronics Sp. Z.o.o.

- (i) Coconut Lizard is a company based in England specializing in the Unreal Engine 4 technology for PC and consoles.
- (ii) Zona Paradoxal is a company specializing in graphic production based in Portugal.
- (iii) Testronics provides services within the area of Quality Assurance and has offices, *inter alia*, in the United States.

### 7.11 Licenses and intellectual property

The Company is dependent on the intellectual property rights held by it, to develop and publish games. The Company considers itself materially dependent on its proprietary intellectual property rights utilized in its Live Games, including *The Longest Journey*, *Dreamfall*, *Anarchy Online*, *The Secret World*, *The Park*, *Hide and Shriek* and *Secret World Legends*.

The Company holds a number of trademarks related to their games and the branding of the Company, which are registered in all jurisdictions the Company has deemed it appropriate to register trademarks and copyrights.

The table below lists the Group's trademark portfolio as of the date of this Prospectus:

Trademark	Type	Country	Classes	Status	Reg. No.	Reg. Date
ANARCHY ONLINE		European Mark	9, 28, 41	Granted protection under Madrid Protocol (IR)	IR874576	14.11.2005
ANARCHY ONLINE		Madrid-II <sup>31</sup>	9, 28, 41	Registered	IR874576	14.11.2005
ANARCHY ONLINE		Norway	9, 28, 41	Registered	233041	02.06.2006

<sup>31</sup> For further information on the Madrid Protocol system for registration of trademarks, please refer to <http://www.wipo.int/madrid/en/>. The information on <http://www.wipo.int/madrid/en/> is not part of this Prospectus.

ANARCHY ONLINE		U.S.A.	9, 41	Granted protection under Madrid Protocol (IR)	3237605	01.05.2007
DREAMFALL		European Mark	9, 28, 41	Granted protection under Madrid Protocol (IR)	IR874577	14.11.2005
DREAMFALL		Madrid-II	9, 28, 41	Registered	IR874577	14.11.2005
DREAMFALL		Norway	9, 28, 41	Registered	233040	02.06.2006
DREAMFALL		U.S.A.	9, 41	Granted protection under Madrid Protocol (IR)	3237606	01.05.2007
DREAMWORLD TECHNOLOGY		European Mark	9, 42	Granted protection under Madrid Protocol (IR)	IR881648	14.11.2005
DREAMWORLD TECHNOLOGY		Madrid-II	9, 42	Registered	IR881648	14.11.2005
DREAMWORLD TECHNOLOGY		Norway	9, 42	Registered	233738	03.07.2006
DREAMWORLD TECHNOLOGY		U.S.A.	9, 42	Granted protection under Madrid Protocol (IR)	3237657	01.05.2007
FUNCOM	Fig	European Mark	9, 28, 41, 42	Granted protection under Madrid Protocol (IR)	IR874580	14.11.2005
FUNCOM		China	28, 41, 42	Granted protection under Madrid Protocol (IR)	IR874579	14.11.2005
FUNCOM		European Mark	9, 28, 41, 42	Granted protection under Madrid Protocol (IR)	IR874579	14.11.2005
FUNCOM		Japan	9, 41, 42	Granted protection under Madrid Protocol (IR)	IR874579	14.11.2005
FUNCOM		Southern Korea	41, 42	Granted protection under Madrid Protocol (IR)	IR874579	14.11.2005
FUNCOM		Russia	9, 28, 41, 42	Granted protection under Madrid Protocol (IR)	IR874579	14.11.2005
FUNCOM		Singapore	9, 28, 41, 42	Granted protection under Madrid Protocol (IR)	IR874579	14.11.2005
FUNCOM	Fig	Madrid-II	9, 28, 41, 42	Registered	IR874580	14.11.2005
FUNCOM		Madrid-II	9, 28, 41, 42	Registered	IR874579	14.11.2005
FUNCOM		Norway	9, 28, 41, 42	Registered	235287	03.10.2006
FUNCOM	Fig	Norway	9, 28, 41, 42	Registered	235286	03.10.2006
FUNCOM		Canada	9, 28, 41, 42	Registered	TMA813721	09.12.2011
FUNCOM	Fig	U.S.A.	9, 41, 42	Granted protection under Madrid Protocol (IR)	3245104	22.05.2007
FUNCOM		U.S.A.	9, 41, 42	Granted protection under Madrid Protocol (IR)	3245103	22.05.2007
FUNCOM (2017 Logo)	Fig	Madrid-II	9, 28, 41, 42	In progress		
FUNCOM (2017 Logo)	Fig	Canada	9, 28, 41, 42	In progress		

FUNCOM (2017 Logo)	Fig	Madrid-II	9, 28, 41, 42	in progress		
HIDE AND SHRIEK		U.S.A.	9, 28	Published		
HIDE AND SHRIEK		Canada	9	Pending		
HIDE AND SHRIEK	Fig	Canada	9	Pending		
HIDE AND SHRIEK	Fig	U.S.A.	9, 28	Published		
HIDE AND SHRIEK		E U	9, 28	Registered	015870082	25.01.2017
HIDE AND SHRIEK	Fig	E U	9, 28	Registered	015883127	25.01.2017
SECRET WORLD LEGENDS	Fig	Canada	9, 28, 41	Pending		
SECRET WORLD LEGENDS	Fig	Madrid-II	9, 28, 41	Pending		
SECRET WORLD LEGENDS	Fig	Norway	9, 28, 41	Registered	294368	18.10.2017
THE DREAMWORLD ENGINE		Norway	9, 42	Registered	233039	02.06.2006
THE LONGEST JOURNEY		European Mark	9, 28, 41	Granted protection under Madrid Protocol (IR)	IR874581	14.11.2005
THE LONGEST JOURNEY		U.S.A.	9	Registered	2560221	09.04.2002
THE LONGEST JOURNEY		Madrid-II	9, 28, 41	Registered	IR874581	14.11.2005
THE LONGEST JOURNEY		Norway	9, 28, 41	Registered	233042	02.06.2006
THE LONGEST JOURNEY		Canada	9, 28	Registered	TMA562667	28.05.2002
THE PARK		European Mark	9, 28, 41, 42	Published		
THE PARK		U.S.A.	9, 41, 42	Provisional refusal / examination in process		
THE PARK	Fig	European Mark	9, 28, 41, 42	Published		
THE PARK	Fig	U.S.A.	9, 41, 42	Pending		
THE PARK		Norway	9, 28, 41, 42	Registered	286048	26.02.2016
THE PARK	Fig	Norway	9, 28, 41, 42	Registered	286049	26.02.2016
THE PARK		Madrid-II	9, 28, 41, 42	Registered	IR1340613	17.03.2016
THE PARK	Fig	Madrid-II	9, 28, 41, 42	Registered	IR1340998	17.03.2016
THE SECRET WORLD		European Mark	9, 28, 41	Granted protection under Madrid Protocol (IR)	IR874609	14.11.2005
THE SECRET WORLD		Madrid-II	9, 28, 41	Registered	IR874609	14.11.2005
THE SECRET WORLD		Norway	9, 28, 41	Registered	235787	23.10.2006
THE SECRET WORLD		Canada	9, 28, 41	Registered	TMA813730	09.12.2011

THE SECRET WORLD		U.S.A.	9, 41	Granted protection under Madrid Protocol (IR)	3245105	22.05.2007
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The Company is also dependent on know-how and trade secrets, which the Company seeks to protect through appropriate confidentiality undertakings.

In addition, the source codes related to the games of Funcom are proprietary intellectual property rights of Funcom and are registered with the U.S. Copyright office.

The Company does not own any patents.

The Company has also entered into license agreements as part of its business. The license agreements are both inbound (meaning that the Company may utilize intellectual property owned by third parties) and outbound (meaning that third parties may utilize intellectual property owned by Funcom). The Company has entered into the following license agreements:

**In-Bound license agreements:**

- (i) Conan Properties International – License to produce multiple games based on the *Conan the Barbarian* brand on the PC and console platforms. The underlying agreement was entered into in December 2015 and has an initial contract term of 5 years. The Company is materially dependent on the licenses granted from Conan Properties Inc.

**Out-Bound license agreements:**

- (i) Red Thread Games for *The Longest Journey* - license to develop and publish *Dreamfall Chapters*.
- Bearded Dragon International LTD has the license to exploit one of the IPs in this portfolio in a PC and Console Tactical Strategy game and is receiving development and publishing support from Funcom (in line with item (ii) of the current Funcom strategy, as described in Section 7.3 "The Funcom strategy").

**Other license agreements**

As part of the Cabinet Transaction, the rights to license several hundred Cabinet-owned intellectual properties for interactive game development and publishing have been contributed to Heroic Signatures. These licenses may be sublicensed to the Group or to third parties for development of new games. The list of intellectual properties includes the following:

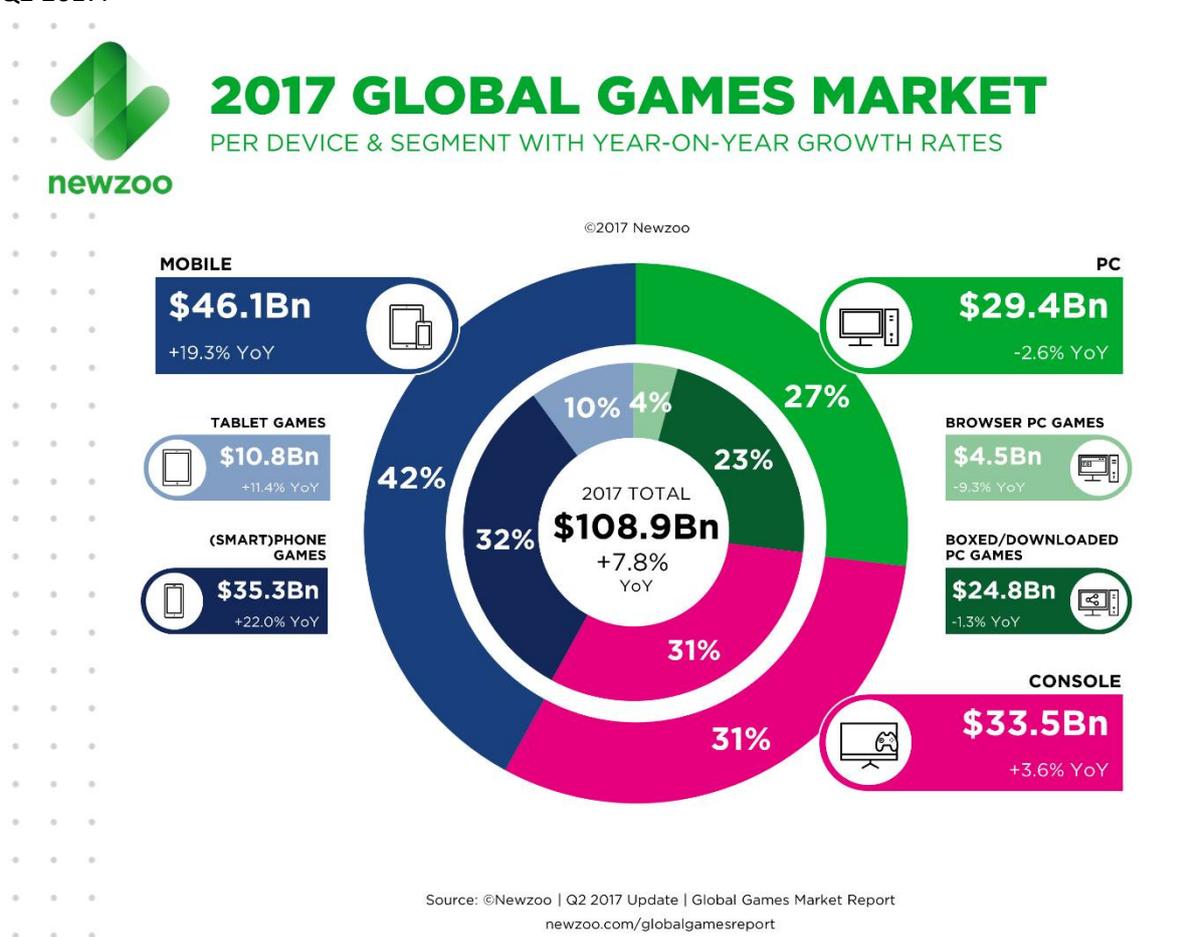
- (i) *Conan the Barbarian*;
- (ii) *Chronopia*;
- (iii) *Kull*;
- (iv) *Mutant Chronicles*;
- (v) *Solomon Kane*;
- (vi) *El Borak*; and
- (vii) *Kult*.

## 8 MARKET OVERVIEW

### 8.1 Global games market

The global games market produces, publishes and distributes interactive content to its users worldwide. Just as the movie- and music industry, the games industry directs its focus towards production, publication and distribution of intellectual property rights. The games market can be divided into segments in many different ways, based on distribution platform, game genre or for instance level of connectivity. In this Prospectus, unless specified, the market segmentation is based on public information provided by the independent research company NewZoo. They divide the market into three different types of platforms that enable players to engage in gaming content: Mobile, PC and Console.

The figure below presents the global games market, and estimated market shares per segment for Q2 2017.



Funcom's intends to produce games to be made available in both the online PC and Console markets. This means the Company will focus equally on both market segments, and type of game, genre and potential for each individual game will decide the number of gaming platforms the game will be launched on. In addition, third-party developers will be able to license Funcom's intellectual properties and develop both online and single player games for all three segments, and all available

platforms. As mentioned in section 7.5 "Vision, goals and strategy", an important part of Funcom's strategy is to distribute its upcoming games across multiple platforms.

#### 8.1.1 PC segment

The PC market has according to Newzoo 27% market share. The PC segment can be divided into two sub-segments, Browser PC games and Boxed/Downloaded PC games with a total expected revenue of USD 29,4bn.

Browser PC games is the smaller sub-segment within the PC segment accounting for approximately 15% of revenue volume, or USD 4.5bn. Browser PC games are small online games which require a minimum of long-term commitment from the user, and are typically a plug-in application installed at a games website.

#### 8.1.2 Mobile

Mobile games are games which are played on either a smartphone or a tablet. Revenue volume is primarily driven by Smartphone Games. The Mobile segment is expected to grow further and reach revenue of 46.1bn USD in 2017.

#### 8.1.3 Console

The Console segments consist of games developed for traditional consoles such as Xbox, PlayStation, Nintendo Switch and all handheld devices such as Nintendo 3DS. Consoles are estimated to generate USD 33.5bn in 2017.

### 8.2 Future outlook of the global games market

The games market is expected to deliver consistent revenue growth the next three years, adapting to new consumer trends and digital devices. According to a global games market report by NewZoo, the games market is estimated to grow from with 7.8% YoY to 108.9bn in 2017.

Different factors contribute to the growth in each individual segment, but some factors apply for all. Some key drivers of growth in the global games market as a whole include, but are not limited to:

- rapidly increasing broadband penetration in developing markets;
- technological innovations;
- ageing/expanding demographics – continuing increase in the average age of computer gamers;
- more mass market games;
- time spent online is still increasing;
- continued improvement in hardware performance;
- connectivity of the console market; and
- increased consumer willingness to use online payments.

All of the factors listed above are expected to affect Funcom. However, the Company deems that the rapidly increased broadband penetration in developing markets and the increase in time spent online will be especially important as Funcom expects these factors to increase the market for the type of games produced by Funcom. Funcom also expects that the console technology moving towards PC technology will be beneficial to Funcom as Funcom has significant experience and competence in developing PC games.

#### 8.2.1 PC and console game platforms

The market leading online gaming distribution platform for PC is Steam, which is developed by the gaming software company Valve. Both Microsoft and Sony have their own gaming platforms that provide similar services as Steam. The Company considers itself to be materially dependent on these online gaming distribution platforms as they provide the Company with the widest distribution of its games compared to other distribution platforms. In addition to the advantages mentioned above, these gaming platforms provide users with features such as friend's lists, groups, cloud saving and in-game voice and chat-functionality. For Steam specifically, Steamworks, a Steam application programming interface (API), enables third-party developers to implement these Steam features directly into their games.

### 8.3 Global online games market

An online game is a video game that is primarily or partially played online. The online game market has increased alongside the increased usage of internet. German research group Statista predicts that the global online game industry will generate revenues of USD 41.2bn by the end of 2015<sup>32</sup>, growing 6.2% from 2014.

The use of digital distribution platforms has increased drastically since early 2000, also in the global games industry. Compared to traditional retail distribution of games, digital distribution platforms offer several additional advantages to both gamers and developers. Such advantages include, but are not limited to:

- the user can purchase the game instantly from his home. No need to travel to any retail location;
- the product is a digital file; there is no risk for the desired game to be sold out;
- the game is often cloud-based; no need for physical storage;
- digital distribution entails lower costs for the developers, which often would imply a lower price for the end-user;
- digital distribution cuts-off the retailer and its share of the profits, which should also imply lower prices for the end-user;
- digital distribution offer unlimited deployment size for developers; and
- developers can easily deploy updates that are updated automatically across all of the users devices.

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<sup>32</sup> Statista statistics, statista.com, 2016

### 8.3.1 Steam game platform

The market leading online gaming distribution platform is Steam, which is developed by the gaming software company Valve. The Company considers itself to be materially dependent on the Steam online gaming distribution platform as Steam provides the Company with the widest distribution of its games compared to other distribution platforms. In addition to the advantages mentioned above, the Steam gaming platform provides users with features such as friend's lists, groups, cloud saving and in-game voice and chat-functionality. Steamworks, a Steam application programming interface (API), enables third-party developers to implement these Steam features directly into their games. In 2015, the amount of active Steam users surpassed 125 million<sup>33</sup>, which highlights the platforms popularity. The picture below illustrates the Steam platform's user interface.



*Screenshot of the Steam Client in March 2015*

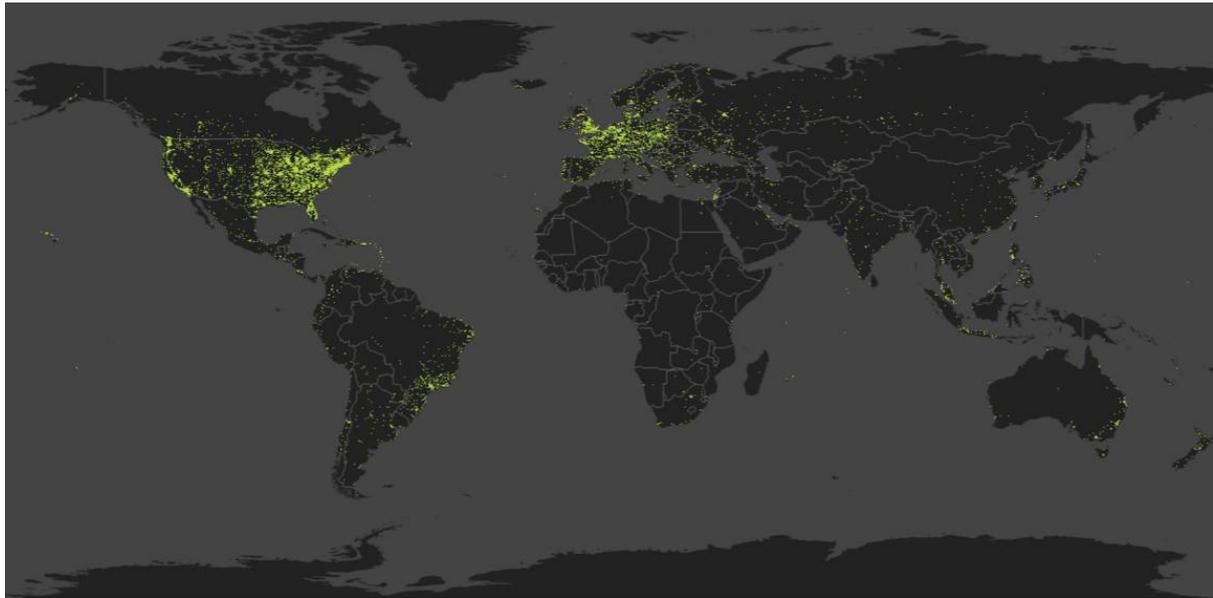
Valve does not share all of its market data with the public, and all partners have to sign non-disclosure agreements before entering into partnerships. However, Steam Spy, an independent Steam statistics website, estimates Steam to be responsible for 15% of the global PC game sales in 2015.

Steam's market share is however not the only reason for Steam's popularity. Its user base, combined with the platforms comprehensive third-party integration, makes the platform attractive for third-party developers.

Steam's user base consists primarily of users from Europe and North America. Steam's popularity in other parts of the world, such as Asia and the Pacific is limited. This is highlighted in the figure below:

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<sup>33</sup> Valve – Steam user statistics



*Steam user activity in 2014*

### 8.3.2 Xbox Live

Xbox Live is an online gaming and entertainment service platform developed by Microsoft, and is after the launch of Windows 8 accessible from any Windows-based device. This includes Xbox consoles, PCs and other handheld Windows devices running Windows 8, 10 or Windows mobile. The subscription based games platform has approximately 39 million active users as of 2015<sup>34</sup>.

### 8.3.3 PlayStation (PS) Network

PlayStation Network is a games platform and entertainment service developed by Sony, and is accessible from PlayStation Consoles<sup>35</sup>, both portable and stationary, and from Sony BRAVIA TVs and Xperia Handsets. PlayStation Network has 65 million active monthly users as of 2015<sup>36</sup>.

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<sup>34</sup> Microsoft

<sup>35</sup> Includes PS3, PS4, PS Vita, PS Portable, PS Mobile

<sup>36</sup> Softpedia.com

## 9 BOARD OF SUPERVISORY DIRECTORS, MANAGEMENT, EMPLOYEES AND RELATED PARTY TRANSACTIONS

### 9.1 Board of Supervisory Directors

#### 9.1.1 General

The Board of Supervisory Directors of Funcom (the "**Supervisory Board**") is responsible for the supervision and administration of the Company's affairs and for ensuring that the Company's operations are organized in a satisfactory manner.

The Supervisory Board consists, in accordance with the Dutch Civil Code, Book 2 (*Burgerlijk Wetboek 2*) and Section 17 of the Articles of Association, of one or more members, to be appointed by the General Meeting. The members of the Supervisory Board are, in accordance with section 17 of the Articles of Association, elected by the General Meeting for a period of up to and including the first ordinary General Meeting which is held after two full calendar years have elapsed since the day as per which he was appointed. Members of the Supervisory Board may be re-elected.

For further information about the organization of the Supervisory Board, please refer to Section 11.13.3 "The Supervisory Board".

As of the date of this Prospectus, the Supervisory Board consists of five members, including one Chairman and one Vice-Chairman.

#### 9.1.2 Overview of the members of the Supervisory Board

The table below sets out the name, position, current term of office, shareholding and annual remuneration for each member of the Supervisory Board as of the date of this Prospectus.

Name	Member since	Term expires	VPS Shares owned	Options owned <sup>37</sup>	Remuneration paid in 2016	Options granted in 2016 <sup>38</sup>	Business address
Ole Gladhaug	2016 <sup>39</sup>	AGM 2019	0	425,000	USD 12,000	200,000	Haakon VII's gate 6, 0161 Oslo, Norway
Alain Tascan	2012		0	450,000	USD 32,000	100,000	410 St Nicolas St. Suite 260, Montréal, QC, H2Y 2P5, Canada
Fredrik Malmberg	2016	AGM 2019	4,460,000 <sup>40</sup>	250,000	USD 7,000	100,000	6565 Sunset Blvd., suite 517, Los Angeles, CA 90028, USA

<sup>37</sup> The options listed in this table has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

<sup>38</sup> The amount of options in this column has not been adjusted for the Reverse Share Split.

<sup>39</sup> Mr. Gladhaug has previously been a member of the Supervisory Board from 24 April 2013 until 11 August 2015.

<sup>40</sup> Held through Tranicos, LLC.

Egil Kvannli	2016	AGM 2019	0	250,000	USD 7,000	100,000	Boganesstraen 23, 4020 Stavanger, Norway
Magnus Grøneng	2016 <sup>41</sup>	AGM 2019	88	250,000	USD 7,000	100,000	Haakon VII's gate 6, 0161 Oslo, Norway

### 9.1.3 Brief biographies of the members of the Supervisory Board

Set out below are brief biographies of the members of the Supervisory Board of Funcom as of the date of this Prospectus.

#### **Ole Gladhaug (born 1954), Chairman**

Mr. Gladhaug has been a member of the Supervisory Board since 5 October 2016.

Mr. Gladhaug has held senior executive positions within the shipping, oil services, banking and asset management industries. Prior to joining the Kristian Gerhard Jebsen Group, Mr. Gladhaug served 7 years as Chief Financial Officer of Smedvig ASA. Mr. Gladhaug joined the Kristian Gerhard Jebsen Group in 2002 as Chief Financial Officer and member of the Group's executive team, and is now Executive Vice President in the Group. Mr. Gladhaug has served as a non-executive director on a number of boards within banking, insurance, asset management and other industries. Mr. Gladhaug holds a business and administration degree from the Norwegian School of Economics and a political science degree from the University of Bergen. Mr. Gladhaug is a Norwegian citizen and lives in Oslo, Norway.

Mr. Gladhaug holds 425,000 options<sup>42</sup> in the Company and zero VPS Shares.

#### *Overview of directorships, partnerships and management positions*

##### *Current:*

KGJ Partnership I AS, Chairman  
 Kristian Gerhard Jebsen Group Ltd., Executive Vice President  
 KGJ Partnership IV AS, Chairman  
 KGJ Partnership V AS, Chairman  
 KGJ Capital AS, Chairman  
 Jebsen Asset Management AS, Chairman  
 GSP Invest AS, Chairman  
 GSP Invest II AS, Chairman  
 GSP Invest IV AS, Chairman  
 GSP Holding AS, Chairman  
 Gladhaug, Sørgaard & Partners AS, Chairman  
 Pelican Capital Partners AS, Chairman  
 Ellamar AS, Chairman  
 Ellamar Holding AS, Chairman  
 Ellamar Management AS, Chairman  
 Prydz & Co. AS, Chairman

<sup>41</sup> Mr. Grøneng has previously been a member of the Supervisory Board from 24 April 2013 until 11 August 2015.

<sup>42</sup> The number of options has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

Callum, Bracewell & Co. Ltd., Chairman  
Seefeld Finance S.a.r.l, Chairman  
Blaatind II AS, Chairman  
KGJ Real Estate AS, Director  
Gladhaug & Sørgaard AS, Director  
Blaatind AS, Director  
The Mathematical Games Company Ltd., Director  
*Past five years:*  
N/A

**Alain Tascan (born 1967), Vice-Chairman**

Mr. Tascan has been a member of the Supervisory Board since 27 June 2012.  
Mr. Tascan presently works as an entrepreneur in the multimedia and gaming industry. Mr. Tascan was a co-founder of Ubisoft in Montreal and a founder of EA Montreal which he managed for seven years. He also created Ubisoft's licensing group that partners with the major Hollywood studios. Previously, Mr. Tascan also held executive positions in the media industry in France at companies such as Radio France International and Telerama. Currently, Mr. Tascan works as an entrepreneur in the multimedia and gaming industry. Mr Tascan holds a Master degree in Economics from the University of Nice-Sophia Antipolis and a post-graduate degree in cultural management from the Institut Supérieur de Management Culturel de Paris.

Mr. Tascan holds 450,000 options<sup>43</sup> in the Company and zero VPS Shares.

*Overview of directorships, partnerships and management positions*

*Current:*

- President and CEO of UMI Mobile Inc., Montreal Canada since August 2015

*Past five years:*

- President and CEO of Sava Transmedia Inc., Montreal, Canada from March 2011 to June 2014

- Board member of Transcontinental Inc., Montreal Canada from Sept 2012 March 2015

**Fredrik Malmberg (born 1962), member of the Supervisory Board**

Mr. Malmberg has been a member of the Supervisory Board since 5 October 2016.

Mr. Malmberg has a background as a successful entrepreneur in film and television, publishing, table top and video games industries. Mr. Malmberg pioneered trans-media thinking and migrated into the Film/TV industry as an Executive Producer on *Heavy Gear* and *Mutant Chronicles*. Mr. Malmberg facilitated the financing and purchase of the *Conan the Barbarian* character and the Robert E. Howard library on behalf of Paradox Entertainment in 2002, and a second time when he purchased it for Cabinet Holdings, Inc. (US) in 2015, where he is President & CEO. He was furthermore (co-) founder and board member of Paradox Entertainment (1999-2013) and Target Games (1980-1999).

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<sup>43</sup> The number of options has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

Mr. Malmberg holds 250,000 options<sup>44</sup> in the Company and 4,460,000 VPS Shares (through wholly owned company Tranicos, LLC).

*Overview of directorships, partnerships and management positions*

*Current:*

Cabinet Holdings, Inc., President and CEO

Cabinet Entertainment, LLC, Manager

Cabinet Group, LLC, President and CEO

Cabinet Licensing, LLC, President of Managing Sole Member

Mutant Chronicles International LLC, President of Managing Sole Member

Robert E Howard Properties LLC, President of Managing Sole Member

Cabinet Financing, LLC, Manager

Conan Properties International, LLC, Manager and President

Pathfinder Media, LLC, Manager

*Past five years:*

Paradox Entertainment, Inc., President and CEO from October 2006 to April 2014

Paradox Entertainment AB, Board member from January 2000 to June 2013

**Egil Kvannli (born 1972), member of the Supervisory Board**

Mr. Kvannli has been a member of the Supervisory Board since 5 October 2016.

Mr. Kvannli has a background as Chief Executive Officer & Chief Financial Officer. Mr. Kvannli holds a Bachelor degree for Business and Administration, BI of the Norwegian School of Management of Stavanger, Norway and Bishops University, Quebec, Canada. From 2017 Mr. Kvannli works for Global Maritime Group, an international company Norwegian entity and fulfils the role of Chief Executive Officer. From 2015 to 2017 Mr. Kvannli worked as CEO for Quickflange. Before August 2015 Mr. Kvannli fulfilled the role of Chief Financial Officer at Quickflange AS (2011-2015), Fabricom GDF Suez (2010-2011), Sevan Marine ASA (2005-2008), all Norwegian entities. Mr. Kvannli also acted as VP Finance for REC Site Services Pte Ltd. (2008-2010), a Singapore entity. Mr. Kvannli furthermore worked for MISWACO in Norway and in Houston, United States of America (1997-2005) the last two and a half last years as Financial Director for Scandinavia. In addition, Mr. Kvannli has been member of different boards since 1995.

Mr. Kvannli holds 250,000 options<sup>45</sup> in the Company and zero VPS Shares.

*Overview of directorships, partnerships and management positions*

*Current:*

Global Maritime Group AS, Chairman and CEO

*Past five years:*

Quickflange AS, CFO and CEO from April 2011 to February 2017

Zaptec AS, Director from November 2014 to December 2015

Dwellop AS, Director from June 2014 to June 2015

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<sup>44</sup> The number of options has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

<sup>45</sup> The number of options has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

## **Magnus Grøneng, (born 1981), member of the Supervisory Board**

Mr. Grøneng has been a member of the Supervisory Board since 5 October 2016.

Mr. Grøneng has a background as management consultant in McKinsey & Company where he served clients within the oil and gas, technology and banking sectors in Europe. Prior to joining Jebesen Asset Management (an indirect subsidiary of the Kristian Gerhard Jebsen Group) where he currently is serving as Investment Director, he served as Business Development Manager in Kebony ASA, a Norwegian growth company. Mr. Grøneng holds a MSc (Nw: *Sivilingeniør*) degree from the Norwegian University of Science and Technology and the University of Karlsruhe in Germany.

Mr. Grøneng holds 250,000 options<sup>46</sup> in the Company and 88 VPS Shares.

### *Overview of directorships, partnerships and management positions*

#### *Current:*

Grønslått AS, chairman

GSP Invest IV AS, director

GSP Invest V AS, director

Gladhaug, Sørgaard & Partners AS, director

Sameiet Eddaveien 24, chairman

#### *Past five years:*

N/A

#### 9.1.4 Remuneration and benefits

The benefits received from the Company by the members of the Supervisory Board are described in Section 9.1.2 "Overview of the members of the Supervisory Board" above. None of the members of the Supervisory Board have received any other benefits from the Company. No member of the Supervisory Board has any service contracts with the Company or any of its subsidiaries providing for benefits upon termination of employment.

#### 9.1.5 Loans and guarantees

As of the date of this Prospectus, the Company has no outstanding loans or guarantees to any member of the Supervisory Board.

## **9.2 Board of Managing Directors**

### 9.2.1 General

The Management Board is responsible for the management of the Company's affairs. The Management Board is supervised by the Supervisory Board.

The Management Board consists, in accordance with the Dutch Civil Code, Book 2 (*Burgerlijk Wetboek Boek 2*) and Section 10 of the Articles of Association, of one or more members, to be appointed by the General Meeting. The members of the Management Board are, in accordance with

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<sup>46</sup> The number of options has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

Section 10 of the Articles of Association, elected by the General Meeting for service periods of up to two years. Members of the Management Board may be re-elected.

For further information on the organization of the Management Board, please refer to Section 11.13.2 "The Management Board".

As of the date of this Prospectus, the Management Board consists of two members.

### 9.2.2 Overview of the members of the Management Board

The table below sets out the name, position, current term of office, shareholdings and annual remuneration for the members of the Management Board as of the date of this Prospectus.

Name	Member since	Term expires	VPS Shares owned	Options owned <sup>47</sup>	Remuneration paid in 2016	Options granted in 2016 <sup>48</sup>	Business address
Rui Casais	2015	AGM 2019	30,000	1,446,664	USD 325,000 <sup>49</sup>	400,000	Kirkegata 15, N-0153 Oslo, Norway
Christian Olsthoorn	2017	AGM 2020	0	287,500	EUR 127,480 <sup>50</sup>	150,000	Le Roc Fleuri, 1 rue du Ténao, 98000 Monaco

### 9.2.3 Brief biographies of the members of the Management Board

For the biography of Rui Casais, please refer to Section 9.4.2 "Brief Biographies of the Members of the Executive Management".

#### **Christian Olsthoorn, (born 1982), member of the Management Board**

Mr. Olsthoorn has been a member of the Management Board since 29 March 2017.

Christian Olsthoorn has been a member of the Management Board of Funcom N.V. since March 2017. He served as the CFO of Funcom from November 2014 until July 2017; and has therefore acquired an in-depth knowledge of the financial situation and processes of Funcom. Christian fulfils these positions on a consultancy basis through the firm Temmes Management Services Monaco S.A.R.L., whose partner Mr. Pieter van Tol was closely involved with Funcom during 19 years through various positions such as member of the Management Board, member of the Supervisory Board, and Chief Financial Officer.

<sup>47</sup> The options listed in this table has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

<sup>48</sup> The amount of options in this column has not been adjusted for the Reverse Share Split.

<sup>49</sup> This figure includes remuneration in Casais' position as CEO, further detailed in Section 9.4.4 "Remuneration and benefits to the Executive Management".

<sup>50</sup> Remuneration paid to Temmes Management Services in 2016 for Mr. Olsthoorn's services.

Christian Olsthoorn holds a chartered accountant degree ("*diplôme d'expertise comptable*") both in France and in Luxembourg. He has gained a strong experience in the financial industry after having worked as an auditor and a financial consultant at Mazars in Amsterdam, at KPMG in France, and at PwC in Monaco. In 2012, Mr. Olsthoorn actively participated in the incorporation and development of Temmes Management Services both in Monaco and in France. He has developed an expertise in the provision of accounting, tax, and treasury management services to multinational corporations in a wide range of jurisdictions and industries. His technical knowledge, dedication and availability are valued by Funcom.

Mr. Olsthoorn holds 287,500 options<sup>51</sup> in the Company and zero VPS Shares.

#### *Overview of directorships, partnerships and management positions*

##### *Current:*

MVW International Holding Company S.A.R.L, bureau administrative, branch manager

Temmes Management Services Monaco S.A.R.L, Managing Partner

Temmes Management Services France S.A.S, Chairman

Temmes Financial Services Limited, Board member

##### *Past five years:*

EVPA Group S.A.R.L, liquidator

Funcom S.a r.l., liquidator

European Value Partners S.A., liquidator

Micromania GameStop S.A.S, board member

#### 9.2.4 Remuneration and benefits

The benefits (including options held and granted in 2016) received from the Company by the members of the Management Board are described in Section 9.2.2 "Overview of the members of the Management Board" and Section 9.4 "Executive Management".

The members of the Management Board have not received any other benefits from the Company. Christian Olsthoorn provides his services to the Management Board through a service agreement between Temmes Management Services and the Company. Rui Casais is also employed as the Company's CEO and will receive nine (9) months' salary upon termination of his employment as CEO. Apart from this, the members of the Management Board have no service contracts with the Company or any of its subsidiaries providing for benefits upon termination of employment.

#### 9.2.5 Loans and guarantees

As of the date of this Prospectus, the Company has no outstanding loans or guarantees to the members of the Management Board.

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<sup>51</sup> The number of options has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

## 9.3 Audit- and Remuneration Committee

### 9.3.1 Audit committee

On 1 November 2016, the Supervisory Board decided to form an audit committee. As of the date of this Prospectus, the members of the Audit committee are Magnus Grøneng (chairman) and Egil Kvannli.

The audit committee undertakes preparatory work for the Supervisory Board's decision-making regarding the supervision of the integrity and quality of the Company's financial reporting and the effectiveness of the Company's internal risk management and control systems. Among other things, it focuses on monitoring the Management Board with regard to:

- (i) relations with, and compliance with recommendations and following up of comments by, the external auditors;
- (ii) the funding of the Company;
- (iii) the application of information and communication technology by the Company, including risks relating to cybersecurity; and
- (iv) the Company's tax policy.

### 9.3.2 Remuneration committee

On 1 November 2016, the Supervisory Board decided to form a remuneration committee. As of the date of this Prospectus, the members of the remuneration committee are Alain Tascan (chairman) and Fredrik Malmberg.

The Supervisory Board should determine the remuneration of the individual members of the Management Board, within the limits of the remuneration policy adopted by the General Meeting. The remuneration committee should prepare the Supervisory Board's decision-making regarding the determination of remuneration.

## 9.4 Executive Management

### 9.4.1 Overview of the Executive Management

The Executive Management of Funcom comprises 5 executives with good domain knowledge within their job functions and with senior management experience from across the industry. The Executive Management of Funcom currently includes the following persons:

Name	Position	Business address
Rui Casais	Chief Executive Officer	Kirkegata 15, N-0153 Oslo, Norway
Stian Drageset	Chief Financial Officer	Kirkegata 15, N-0153 Oslo, Norway
Lawrence Poe	Vice-president of Digital Products	10 Laboratory Drive, Building 2, Suite 105, RTP, NC 27709 USA
Ole Schreiner	Executive Vice-President Business Operations	Kirkegata 15, N-0153 Oslo, Norway
Erling Ellingsen	Vice-President of PR & Marketing	Kirkegata 15, N-0153 Oslo, Norway

## 9.4.2 Brief Biographies of the Members of the Executive Management

Set out below are brief biographies of the members of the Executive Management of Funcom as of the date of this Prospectus.

### **Rui Casais**

Fresh from a Master Degree in Computer Science and Engineering from the University of Lisbon, Rui Casais started in Funcom in 2004 as a Junior AI Programmer for *Age of Conan*. Two years later he became Lead Programmer on the project and after *Age of Conan* launched in 2008 he was promoted to Chief Technology Officer, establishing a technology team for the Company's *DreamWorld Technology* engine.

In 2009, he moved to Montreal to start Funcom Games Canada, where he stayed until 2011 when he moved back to Oslo. Rui became CEO and member of the Management Board in 2015 and has since then been steering the Company with his passion for games and his technology and business acumen.

#### *Overview of directorships, partnerships and management positions*

##### *Current:*

- Funcom N.V. – Chairman of the Management Board / CEO
- Nephilim LLC – Manager
- Design & Beauty AS, Board member

##### *Past five years:*

- MMORPG Technologies Inc., President
- Board member at Outracks Technologies AS from September 2013 to July 2014.

### **Stian Drageset**

Prior to joining Funcom in August 2017, Stian Drageset served as Director M&A at Telenor ASA, where he held critical roles within international expansion, M&A and digital strategy. He has 15 years of experience from financial leadership, business and strategy development, entrepreneurship and M&A, from Telenor, Herkules Capital (private equity), The Boston Consulting Group, Storebrand and founding a successful EdTech company. Stian Drageset earned his MBA from INSEAD and his Engineering Master's degree in Computer Cybernetics from NTNU and Oxford University, also including entrepreneurship studies at Cornell University.

#### *Overview of directorships, partnerships and management positions*

##### *Current:*

Nyali Invest AS, Chairman and CEO

##### *Past five years:*

Lumenia AS, Chairman from November 2016 to October 2017  
Telenor ASA, Director M&A from January 2012 to July 2017

### **Lawrence Poe**

Lawrence Poe started his career in the games industry working on the MMORPG EverQuest in 1999 during the early days of the Online gaming phenomenon. After several years spent at Sony Online Entertainment and other companies in Southern California he moved to Norway to Join Funcom in 2006. He has worn many hats in his time at Funcom, serving as a Designer, Design Director, Director of Publishing, Executive Producer, and his current position of Vice President of Digital Products.

Most recently Lawrence has moved from Oslo to North Carolina to serve as the head of Funcom's studio there.

*Overview of directorships, partnerships and management positions*

*Current:*

None, apart from his position with the Company

*Past five years:*

- Rosegården Handleri AS, Board member from 2012 to 2017
- Funcom, director of publishing
- Funcom, design director

**Ole Schreiner**

Ole Schreiner has over the years served in many positions in Funcom including heading the studios in North Carolina, Beijing and Montreal. From 2012 to 2015 he was member of the Management Board of Funcom N.V. and from 2008 to 2012 he served as COO.

Prior to joining Funcom, Ole worked as Director of Customer Relations and Billing in Broadband Mobile, and before that as Business Developer in Telenor Mobile under the Marketing department as Interactive Relationship Manager. Ole has a four-year economic education from BI Norwegian Business School and a one year psychology study, both following an Officer Candidate education in the Norwegian Air Force.

*Overview of directorships, partnerships and management positions*

*Current:*

- Funcom Oslo AS, Chairman of the Board of Directors
- Funcom Beijing, Legal Representative
- Stunlock Studios AB, Board member
- Hus og Hagehjelpen AS, Chairman of the Board of Directors
- Astronic AS, Chairman of the Board of Directors and owner
- Pilotech AS – Incumbent Board Member

*Past five years:*

- CEO of Funcom Group
- Managing Director of Funcom N.V.
- Funcom Inc., President
- MMORPG Technologies Inc., board member
- Sweet Robot AS, chairman of the board of directors
- Sweet Robot GmbH, manager
- Funcom Sales GMBH, manager
- Funcom GmbH, manager
- Funcom SARL, administrator Class B
- Funcom Games Canada, board member

**Erling Ellingsen**

Erling Ellingsen has a background in journalism and communication. After working for many years as a journalist in both the specialist media and national mainstream media (including several years as a journalist at Norway's largest newspaper VG), he joined Funcom in 2006 as a Product Manager. Initially working with PR and marketing for *Age of Conan*, he moved on to become Director of

Communications in 2009 working on all of Funcom's titles. In 2015, he entered his current position as VP of PR & Marketing and joined Funcom's Executive Management team.

*Overview of directorships, partnerships and management positions*

*Current:*

None, except for his positions at Funcom (including current position as board member of Funcom Oslo AS)

*Past five years:*

Operaverket Buskerud, board member

### 9.4.3 Shareholdings of the members of the Executive Management

The table below sets out the shareholding and number of options held for each of the members of the Executive Management of Funcom, as of the date of the Prospectus. None of the members of the Executive Management holds any warrants.

<b>Name</b>	<b>VPS Shares owned</b>	<b>Options<sup>52</sup></b>	<b>Date of option grant</b>	<b>Strike price options</b>	<b>Option period</b>
Rui Casais	30,000	1,446,664	Variable <sup>53</sup>	Variable <sup>54</sup>	Variable <sup>55</sup>
Stian Drageset	0	300,000	7 July 2017	NOK 2.56 <sup>56</sup>	Expires on 7 July 2022
Lawrence Poe	0	660,419	Variable <sup>57</sup>	Variable <sup>58</sup>	Variable <sup>59</sup>
Ole Schreiner	14,004	1,130,000	Variable <sup>60</sup>	Variable <sup>61</sup>	Variable <sup>62</sup>

<sup>52</sup> The options listed in this table has not been adjusted for the Reverse Share Split. Such adjustment is currently in process, and will be effected as soon as practically possible. This implies that the number of options will be adjusted downwards to reflect the Reverse Share Split.

<sup>53</sup> Rui Casais has been granted options on several occasions between September 2012 and July 2016.

<sup>54</sup> The options held by Rui Casais may be exercised at prices ranging between NOK 1.53 and NOK 4.96 per option. After adjustments due to the Reverse Share Split, the prices will range between NOK 7.65 and NOK 24.80 per option.

<sup>55</sup> As Rui Casais has been granted options on several occasions, the option periods vary both in terms of vesting period and expiry date.

<sup>56</sup> The strike price will be NOK 12.80 after adjustment due to the Reverse Share Split.

<sup>57</sup> Lawrence Poe has been granted options on several occasions between September 2012 and July 2017.

<sup>58</sup> The options held by Lawrence Poe may be exercised at prices ranging between NOK 1.09 and NOK 4.96 per option. After adjustments due to the Reverse Share Split, the prices will range between NOK 5.45 and NOK 24.80 per option.

<sup>59</sup> As Lawrence Poe has been granted options on several occasions, the option periods vary both in terms of vesting period and expiry date.

<sup>60</sup> Ole Schreiner has been granted options on several occasions between August 2012 and July 2017.

<sup>61</sup> The options held by Ole Schreiner may be exercised at prices ranging between NOK 1.09 and NOK 4.93 per option. After adjustments due to the Reverse Share Split, the prices will range between NOK 5.45 and NOK 24.65 per option.

<sup>62</sup> As Ole Schreiner has been granted options on several occasions, the option periods vary both in terms of vesting period and expiry date.

Erling Ellingsen            0                            644,443                    Variable<sup>63</sup>    Variable<sup>64</sup>    Variable<sup>65</sup>

No member of the Executive Management has paid any consideration for the options.

#### 9.4.4 Remuneration and benefits to the Executive Management

The salaries and other benefits paid to members of the Executive Management for the financial year ended 31 December 2016 are set out in the table below.

Name	Salary	Options granted in 2016 <sup>66</sup>	Share-based payment	Bonus	Pension	Other allowances	Total
Rui Casais	USD 211,000	400,000	USD 54,000	USD 55,000	USD 5,000	0	USD 325,000
Stian Drageset	N/A	N/A		N/A	N/A	N/A	N/A
Lawrence Poe	NOK 830,493	225,000	<sup>67</sup>	0	NOK 16,610	0	NOK 847,103
Ole Schreiner	NOK 1,297,826	165,000	<sup>68</sup>	0	NOK 25,957	0	NOK 1,323,783
Erling Ellingsen	NOK 758,878	225,000	<sup>69</sup>	0	NOK 15,178	0	NOK 774,056
<b>Total</b>	USD 211,000/ NOK 2,887,197	1,015,000	USD 54,000	USD 55,000	USD 5,000/ NOK 57,744	0	USD 325,000/ NOK 2,944,941

The employment agreements for Rui Casais, Ole Schreiner, Lawrence Poe and Erling Ellingsen provide for benefits upon involuntary termination of the employment agreements. Upon involuntary termination, Erling Ellingsen will receive full salary and other benefits according to the Norwegian Work Environment Act for the full resignation period of six (6) months. He is exempt from his duty to work in the resignation period. Lawrence Poe will receive full salary and other benefits according to his contract for the full resignation period of three (3) months. He is exempt from his duty to work in the resignation period. In addition, he will receive three (3) months' salary upon termination. Ole Schreiner will receive full salary and other benefits according to the Norwegian Work Environment Act for the full resignation period of three (3) months. He is not exempt from his duty to work in the resignation period. In addition, he will receive nine (9) months' salary upon termination. Rui Casais will receive full salary and other benefits according to the Norwegian Work Environment Act for the full resignation period of three (3) months. He is not exempt from his duty to work in the resignation period. In addition, he will receive nine (9) months' salary upon termination.

<sup>63</sup> Erling Ellingsen has been granted options on several occasions between September 2012 and July 2017.

<sup>64</sup> The options held by Erling Ellingsen may be exercised at prices ranging between NOK 1.09 and NOK 4.96 per option. After adjustments due to the Reverse Share Split, the prices will range between NOK 5.45 and NOK 24.80 per option.

<sup>65</sup> As Erling Ellingsen has been granted options on several occasions, the option periods vary both in terms of vesting period and expiry date.

<sup>66</sup> The amount of options in this column has not been adjusted for the Reverse Share Split resolved on 30 January 2018.

<sup>67</sup> This figure has not been calculated.

<sup>68</sup> This figure has not been calculated.

<sup>69</sup> This figure has not been calculated.

#### 9.4.5 Service contracts

No members of the Company's Executive Management have any service contracts with the Company or any of its subsidiaries providing for benefits upon termination of employment, except for the normal term of notice.

#### 9.4.6 Loans and guarantees

As of the date of the Prospectus, the Company has no outstanding loans or guarantees to any member of the Executive Management.

### 9.5 Employees

#### 9.5.1 General

The table below shows the development in the average number of employees in the Company as of 31 December 2015 and 31 December 2016. Since 31 December 2016, the total number of employees in the Group has risen to 120 persons.

	Oslo	Durham	Badhoevedorp	Beijing	Montreal	Sum
31.12.15	44	50	1	1	2	98
31.12.16	52	48	0	1	1	102

#### 9.5.2 Employee incentive scheme

The Company has established an option program for its Executive Management and key personnel, members of the Management Board and members of the Supervisory Board. For further information on this option program, please refer to Section 11.5.2 "Options".

### 9.6 Conflicts of interest and restrictions on transfer of securities

Erling Ellingsen was board member of a small theater company, Operaverket Buskerud, which went bankrupt. Ole Schreiner has held positions in the liquidated or disposed companies Funcom Sàrl, MMORPG Technologies Inc., Sweet Robot AS, Sweet Robot GmbH, Funcom Games Canada Inc. and Funcom Sales GmbH (all former subsidiaries in the Group). In addition, Rui Casais held a position in the liquidated company MMORPG Technologies Inc., and Christian Olsthoorn has acted as Liquidator of the liquidated company Funcom S.a r.l.

Save from the above, during the last five years preceding the date of this Prospectus, no members of the Supervisory Board, the Management Board or the Executive Management has:

- (i) had any convictions in relation to fraudulent offences;
- (ii) been officially publicly incriminated and/or sanctioned by any statutory or regulatory authorities (including designated professional bodies) or been disqualified by a court from acting as a member of the administrative, management or supervisory bodies of a company or from acting in the management or conduct the affairs of a company; or
- (iii) been associated with any bankruptcy, receivership or liquidation.

Ole Gladhaug is an employee of Kristian Gerhard Jebsen Group Ltd. (which is the owner of KGJI and KGJ Capital AS). Magnus Grøneng, member of the Supervisory Board, is employed by Jebsen Asset Management (an indirect subsidiary of the Kristian Gerhard Jebsen Group Ltd). Mr. Gladhaug and Mr. Grøneng are consequently not independent of the Company's major shareholders. As a general rule, no member of the Supervisory Board may take part in deliberations and adoption of resolutions if he/she has a direct or indirect personal interest in them which conflicts with the interests of the Company and its business. If a resolution cannot be adopted due to one or more members not being able to participate, the resolution must be adopted by a General Meeting of the Company. The Supervisory Board assesses before each resolution to be passed, whether or not a conflict of interests exists.

Fredrik Malmberg is the owner of Cabinet Interactive that is licencing IP to Funcom for *Conan Exiles* and *Age of Conan* and is the counterparty for the Cabinet Transaction. Christian Olsthoorn is a partner with Temmes Management services, which has service contracts with Funcom. Apart from this, no member of the Supervisory Board, the Management Board or the Executive Management have any potential conflicts of interests between their private interests and the duties owed to the Company and/or the Group. There are no arrangements or understanding with major shareholders, customers, suppliers or others, pursuant to which such major shareholder, customer, supplier or other person have been selected as a member of the Supervisory Board, the Management Board or the Executive Management. There are no family relationships between any members of the Supervisory Board, the Management Board and the members of the Executive Management.

The Company has adopted regulations, which *inter alia* restrict the possibility of the Group's employees (including the members of the Executive Management) and the members of the Management Board and the Supervisory Board to transfer VPS Shares, and other securities related to the Company, in certain time periods prior to the publications of financial reports or prospectuses.

## **9.7 Related party transactions**

For the period since 1 January 2017 up to the date of this Prospectus, the following material transactions with related parties have taken place:

During 2017, the Company's major shareholder KGJI both converted its remaining balance of USD 250,000 of the convertible loan previously provided by KGJI and converted 3,500,000 Bonds (plus accrued interest). The conversion of the convertible loan took place in January 2017, and a total of 2,413,127<sup>70</sup> new Shares were issued to KGJI. The conversion of the Bonds took place in April 2017, and a total of 34,675,480<sup>71</sup> new Shares were issued to KGJI.

On 18 December 2017, the Company entered into the Cabinet Transaction with Cabinet. Cabinet is controlled by Mr. Fredrik Malmberg, member of the Supervisory Board. For further information on the Cabinet Transaction, please refer to Section 5 "Transaction with Cabinet".

On 8 February 2018 and in connection with the consummation of the Cabinet Transaction, certain intragroup transactions were carried out:

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<sup>70</sup> Calculated before completion of the Reverse Share Split.

<sup>71</sup> Calculated before completion of the Reverse Share Split.

- (i) the Company contributed its partnership interest in Heroic Signatures to Funcom Oslo Licensing AS through a share capital increase with total proceeds of NOK 57,980,000 in Funcom Oslo Licensing AS;
- (ii) the Company sold its shares in Funcom Oslo Licensing AS to Funcom Oslo AS for a consideration of USD 7,493,380.21 to be settled through a seller credit evidenced by a promissory note issued by Funcom Oslo AS. The purchase price of USD 7,493,380.21 corresponds to NOK 58,010,000 (*i.e.* the value of the partnership interest in Heroic Signatures (NOK 57,980,000) and the share capital of Funcom Oslo Licensing AS (NOK 30,000)) when applying an exchange rate of NOK 7.7415 per USD 1, as quoted by DNB Bank ASA on 25 January 2018; and
- (iii) The Company entered into a credit facility agreement with its wholly owned subsidiary Funcom Oslo AS in order to transfer funds to Funcom Oslo AS to be used for general corporate purposes.

For the period since 1 January 2017 up to the date of this Prospectus, there have been no transactions with non-consolidated entities or equity-accounted entities. Equity-accounted entities include associates and joint ventures. Associates are those entities, in which the Group has significant influence, but not control, over the financial and operating policies. Significant influence is presumed to exist when the Group holds between 20 and 50 % of the voting power of another entity. Joint ventures are those entities over whose activities the Group has joint control, established by contractual agreement and requiring unanimous consent for strategic financial and operating decisions.

Apart from the above, the Company has not conducted any material transactions with related parties since 1 January 2017 up to the date of this Prospectus.

## 10 OPERATING AND FINANCIAL INFORMATION

The following section presents selected financial information derived from the Group's audited consolidated statements (including the notes thereto) as of, and for the years ended, 31 December 2015 and 2016 (the "**Financial Statements**") and the Group's unaudited consolidated financial statements for the financial periods ended 30 September 2017 and 2016 (the "**Interim Financial Statements**"). The Financial Statements have been audited by BDO Audit & Assurance B.V. The Financial Statements have been prepared in accordance with IFRS, as adopted by the EU. The Interim Financial Statements has been prepared in accordance with IAS 34 and has neither been reviewed nor audited.

The Financial Statements and the Interim Financial Statements have been incorporated by reference. For documents incorporated by reference, please refer to Section 15.6 "Documents incorporated by reference".

Funcom continuously seeks to improve the presentation of its financial information, and will make revisions if necessary. If there are discrepancies between previously published reports and the financial information included in this Prospectus, the Prospectus provides the most recent and accurate information.

### 10.1 Accounting principles

For a description of Funcom's significant accounting principles, please refer to note 2 to the Financial Statements for 2016, pages 34-45. The Financial Statements for 2016 have been incorporated by reference. For documents incorporated by reference, please refer to Section 15.6 "Documents incorporated by reference".

### 10.2 Historical financial information

The following section presents a summary of the Financial Statements and the Interim Financial Statements.

#### 10.2.1 Consolidated statement of comprehensive income

USD 1,000	Q3 2017 (nine months ended) (unaudited)	Q3 2016 (nine months ended) (unaudited)	2016 (audited)	2015 (audited)
<b>Continuing operations</b>				
Revenue	20,020	5,494	7,322	10,238
Operating expenses	-10,582	-5,546	-7,091	-9,845
Depreciation, amortization and impairment charges	-2,345	-1,373	-1,811	-6,571
<b>Operating result</b>	<b>7,093</b>	<b>-1,425</b>	<b>-1,580</b>	<b>-6,179</b>

Share of result from equity-accounted entities	0	0	0	-173
Net financial result	279	-463	-1,181	-478
Result before income tax	7,372	-1,888	-2,761	-6,829
Income tax (expense)/ income	4	0	1,066	40
<b>Result for the period</b>	<b>7,376</b>	<b>-1,888<sup>72</sup></b>	<b>-1,695</b>	<b>-6,789</b>
<b>Other comprehensive income</b>				
<b>Items that may be reclassified subsequently through profit or loss</b>				
Foreign exchange translation differences	497	-305	-357	-1,415
<b>Total comprehensive income for the period</b>	<b>7,873</b>	<b>-2,193</b>	<b>-2,052</b>	<b>-8,204</b>
<b>Result for the period attributable to:</b>	<b>7,376</b>	<b>-1,888<sup>73</sup></b>	<b>-1,695</b>	<b>-6,789</b>
Equity holders of Funcom N.V.	7,376	-1,888	-1,695	-6,789
<b>Total comprehensive income attributable to:</b>	<b>7,873</b>	<b>-2,193</b>	<b>-2,052</b>	<b>-8,204</b>
Equity holders of Funcom N.V.	7,873	-2,193	-2,052	-8,204
<b>Earnings per share<sup>74</sup></b>				
Basic earnings per share (USD) <sup>75</sup>	0.03	-0.01	-0.01	-0.07
Diluted earnings per share (USD) <sup>76</sup>	0.02	-0.01	-0.01	-0.07

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<sup>72</sup> In the Q4 2016 financials, an adjustment was recorded on the year-to-date figures as of 30 September 2016 by decreasing the Depreciation, amortization and impairment charges with an amount of USD 1,581 thousand, and by increasing the Foreign exchange translation difference with the same amount. This adjustment had no impact on the Total comprehensive income for the period nor on the statement of financial position.

<sup>73</sup> An adjustment was recorded on the year-to-date figures as of 30 September 2016 by decreasing the Depreciation, amortization and impairment charges with an amount of USD 1,581 thousand, and by increasing the Foreign exchange translation difference with the same amount. This adjustment had no impact on the Total comprehensive income for the period nor on the statement of financial position.

<sup>74</sup> Based on result for the period. Actual USD amount, not thousands.

<sup>75</sup> Actual USD amount, not thousands.

<sup>76</sup> Actual USD amount, not thousands.

## 10.2.2 Consolidated statement of financial position

<b>USD 1,000</b>	<b>Q3 2017</b>	<b>Q3 2016</b>	<b>2016</b>	<b>2015</b>
	<b>(nine months ended)</b>	<b>(nine months ended)</b>	<b>(audited)</b>	<b>(audited)</b>
	<b>(unaudited)</b>	<b>(unaudited)</b>		
<b>Assets</b>				
<b>Non-current assets</b>				
Deferred tax assets	1,156	-	1,069	-
Intangible assets	8,619	5,998	6,617	4,394
Equipment	2	45	4	100
Long term receivables	380	65	19	65
<b>Total non-current assets</b>	<b>10,157</b>	<b>6,108</b>	<b>7,709</b>	<b>4,559</b>
<b>Current assets</b>				
Trade receivables	3,218	606	628	1,443
Prepayments and other receivables	518	242	466	506
Income tax receivable	-	-	-	-
Cash and cash equivalents	8,481	5,208	3,709	616
<b>Total current assets</b>	<b>12,217</b>	<b>6,057</b>	<b>4,803</b>	<b>2,565</b>
<b>Total assets</b>	<b>22,374</b>	<b>12,165</b>	<b>12,512</b>	<b>7,124</b>
<b>Equity and liabilities</b>				
<b>Equity</b>				
Share capital	13,525	11,734	11,808	4,802
Reserves	167,561	164,901	165,128	157,105
Retained earnings (Accumulated deficit)	-164,898	-173,356	-173,163	-171,468
<b>Total equity</b>	<b>16,189</b>	<b>3,279</b>	<b>3,773</b>	<b>-9,561</b>
<b>Non-current liabilities</b>				
Loans and borrowings	3,355	7,054	7,019	3,434
Deferred tax liabilities	19	1	1	25
<b>Total non-current liabilities</b>	<b>3,374</b>	<b>7,055</b>	<b>7,020</b>	<b>3,459</b>
<b>Current liabilities</b>				
Deferred income	641	706	605	1,037
Loans and borrowings	169	244	48	10,150
Other short term liabilities	2,002	880	1,065	2,040
<b>Total current liabilities</b>	<b>2,812</b>	<b>1,831</b>	<b>1,719</b>	<b>13,226</b>
<b>Total liabilities</b>	<b>6,185</b>	<b>8,886</b>	<b>8,739</b>	<b>16,685</b>

<b>Total equity and liabilities</b>	<b>22,374</b>	<b>12,165</b>	<b>12,512</b>	<b>7,124</b>
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### 10.2.3 Consolidated statement of cash flow

<b>USD 1,000</b>	<b>Q3 2017 (nine months ended) (unaudited)</b>	<b>Q3 2016 (nine months ended) (unaudited)</b>	<b>2016 (audited)</b>	<b>2015 (audited)</b>
<b>Cash flows from operating activities</b>				
Profit (loss) before income tax	7,389	-1,888	-2,761	-6,829
Adjustments for:				
- Depreciation, amortization and impairment losses	2,345	1,373	1,811	6,571
- Share-based payments	479	255	146	814
- Share of result from equity-accounted entities	-	-	-	173
- Income tax paid	4	-	-	-
- Effect of exchange rate fluctuations	-	-152	-	-
- Changes in working capital	-1,918	959	2,125	466
Net cash from operating activities	8,299	518	1320	1,195 <sup>77</sup>
<b>Cash flows from investing activities</b>				
Purchase of equipment and investment in intangible assets	-3,748	-2,909	-4,304	-3,401
Investment in /loan to (from) equity-accounted entities	-	-	-	11
Net cash used in investing activities	-3,748	-2,909 <sup>78</sup>	-4,304	-3,401
<b>Cash flows from financing activities</b>				

<sup>77</sup> In the 2016 annual accounts, the item "Effect of exchange rate fluctuations" was moved from "Net cash from operating activities" to a separate line item further below in the presentation.

<sup>78</sup> Please refer to footnote 72.

Net proceeds from issue of share capital	470	7,122	7,122	411
Proceeds /repayments from (of) borrowings and leases	-	-	-	-23
Net cash from financing activities	470	7,122	7,122	388
Net increase in cash and cash equivalents	5,022	4,731 <sup>79</sup>	4,138	-1,817
Effect of exchange rate fluctuations	-251	-139 <sup>80</sup>	-1,045	-1,272 <sup>81</sup>
Cash and cash equivalents at beginning of period	3,709	616	616	3,705
<b>Cash and cash equivalents at end of period</b>	<b>8,481</b>	<b>5,208</b>	<b>3,709</b>	<b>616</b>

Funcom's revenue comes mainly from sales of videogames for pc and consoles, and in-game items, also referred to as Micro Transactions. The revenue generated from the sale is mainly reinvested in the Company to develop new computer games including technology.

#### 10.2.4 Condensed consolidated statement of changes in equity

<b>USD 1,000</b>	<b>Q3 2017 (nine months ended) (unaudited)</b>	<b>Q3 2016 (nine months ended) (unaudited)</b>	<b>2016 (audited)</b>	<b>2015 (audited)</b>
Opening balance	3,773	-9,561	-9,561	-2,756
Total comprehensive income for the period	7,873	-2,193	-2,052	-8,204
Equity issues	3,906	14,176	14,609	411
Grating of warrants	-	-	-	173
Exercise of warrants	157	157	157	-
Equity portion of the convertible loan previously owed to KGJI	-	394	394	-
Equity portion related to issuance of additional Bonds	-	82	82	-
Share-based payments	479	224	146	814
Closing balance	16,189	3,279	3,773	-9,561

<sup>79</sup> In the 2016 annual accounts, the item "Effect of exchange rate fluctuations" was moved from "Net cash from operating activities" to a separate line item further below in the presentation.

<sup>80</sup> Please refer to footnote 77.

<sup>81</sup> Please refer to footnote 77.

### 10.3 Operating and financial review

Please refer to Section 4.2 "Non-IFRS financial measures" for further information on the EBITDA and EBIT measures included in this Section 10.3 "Operating and financial review".

#### 10.3.1 Review of Funcom's financial position and financial results for 2015

Revenues in 2015 are USD 10,238 thousand compared to USD 12,593 thousand in 2014 following a gradual and expected decrease in sales. The decrease in sales is due to the typical pattern of game revenues, that peak shortly after launch and declines thereafter. The only release in 2015 was the small and experimental project *The Park*, which although successful compared to internal expectations had a small budget and therefore the revenues from that game were not sufficient to counteract the natural decline of the other games.

The Company continued its cost-saving efforts in 2015 and realized operating cost savings of USD 3,420 thousand in comparison to 2014. In consequence, the Earnings before Interest, Tax, Depreciation and Amortization ("**EBITDA**") for 2015 increased to USD 393 thousand compared to USD -672 thousand in 2014.

The revenues generated by the game LEGO® Minifigures Online did not meet the internal forecasts. The Company has therefore fully written-off the underlying asset and the related Dreamworld Technology, and recorded in 2015 an impairment charge of USD 3,156 thousand in relation to this game.

Earnings before Interest and Tax ("**EBIT**") for 2015 were USD -6,179 thousand compared to USD -8,117 thousand in 2014, mainly due to the significant impairment charges recorded in both periods. The loss for the period was USD -6,789 thousand compared to USD -8,761 thousand in 2014. The cash position at the end of 2015 was USD 616 thousand compared to USD 3,705 thousand at the end of 2014.

The total equity of the Company decreased from USD -2,756 thousand at the end of 2014 to USD -9,561 thousand at the end of 2015, mainly due to the accumulated losses of USD -6,789 thousand recorded in 2015.

Please find below a table that shows the underlying calculations for EBITDA and EBIT measures presented in this Section 10.3.1 "Review of Funcom's financial position and financial results for 2015":

<b>USD 1,000</b>	<b>2015</b>	<b>2014</b>
Revenue	10,238	12,593
Operating expense	-9,845	-13,265
<b>EBITDA</b>	<b>393</b>	<b>-672</b>
Depreciation, amortization and impairment charges	-6,571	-7,445
Total operating expenses	-16,414	-20,710
<b>EBIT</b>	<b>-6,179</b>	<b>-8,117</b>

### 10.3.2 Review of Funcom's financial position and financial results for 2016

Revenues in 2016 are USD 7,322 thousand compared to USD 10,238 thousand in 2015 following a gradual and expected decrease in sales. The decrease in sales is due to the typical pattern of game revenues, that peak shortly after launch and declines thereafter. The only release in 2016 was the small and experimental project *Hide and Shriek*, which had a small budget and therefore the revenues from that game were not sufficient to counteract the natural decline of the other games.

The Company continued its cost-saving efforts in 2016 and realized operating cost savings of USD 2,755 thousand in comparison to 2015. Despite decreased revenues, the EBITDA for 2016 decreased slightly to USD 231 thousand compared to USD 393 thousand in 2015.

No impairment charge was recorded in 2016 for the underlying assets of the Live Games.

EBIT for 2016 were USD -1,580 thousand compared to USD -6,179 thousand in 2015. The significant impairment charges recorded in 2015 is the main difference between the two years. For parts of 2016, the Company focused on developing *Conan Exiles* that launched in 2017 and hence did not contribute any revenue to 2016.

The loss for the period was USD -1,695 thousand compared to USD -6,789 thousand in 2015. The cash position at the end of 2016 was USD 3,709 thousand compared to USD 616 thousand at the end of 2015.

The total equity of the Company increased from USD -9,561 thousand at the end of 2015 to USD 3,773 thousand at the end of 2016, mainly due to share issues, from both private placements and conversion of loan facilities.

Please find below a table that shows the underlying calculations for EBITDA and EBIT measures presented in this Section 10.3.2 "Review of Funcom's financial position and financial results for 2016":

<b>USD 1,000</b>	<b>2016</b>	<b>2015</b>
Revenue	7,322	10,238
Operating expense	-7,091	-9,845
<b>EBITDA</b>	<b>231</b>	<b>393</b>
Depreciation, amortization and impairment charges	-1,811	-6,571
Total operating expenses	-8,902	-16,417
<b>EBIT</b>	<b>-1,580</b>	<b>-6,179</b>

### 10.3.3 Review of Funcom's financial position and financial results for Q3 2017

Revenues for the first three quarters of 2017 are USD 20,020 thousand compared to USD 5,494 thousand for the first three quarters of 2016. As all other games are on a long term declining path, as expected due to the time passed since their launch, the increase is driven by *Conan® Exiles* and the relaunch of *The Secret World to Secret World Legends*. The revenues from *Conan Exiles* in the period were significantly larger than the revenue from *Secret World Legends*. This was illustrated by the increase in quarterly revenue from USD 1.8 million in Q4 2016 to USD 10.9 million in Q1 2017,

that was driven by the launch of *Conan Exiles* in Early Access on 31 January 2017. It sold 480.000 units in the first month. The game was released on Xbox One Game Preview on 16 August 2017.

EBITDA for the first three quarters of 2017 increased to USD 9,438 thousand compared to USD -52 thousand for the first three quarters of 2016 mainly due to the successful launch of *Conan® Exiles*, as described above. The result also includes costs related to a game to be launched in 2018 in partnership with Bearded Dragons.

No impairment charge was recorded in the first three quarters of 2017 or the first three quarters of 2016 for the underlying assets of the Live Games. The internal forecasts justified their book values. EBIT for the first three quarters of 2017 were USD 7,093 thousand compared to USD – 1,425 thousand for the first three quarters of 2016, mainly due to the significant revenue contributions from *Conan® Exiles* in 2017.

The profit for the first three quarters of 2017 was USD 7,376 thousand compared to a loss of USD - 1,888 thousand for the first three quarters of 2016. The increase was mainly due to *Conan Exiles*. The total development and marketing cost of the game until Early Access launch was less than USD 5 million and the game became profitable after the first week of sales. The cash position at the end of the third quarter of 2017 was USD 8,481 thousand compared to USD 5,208 thousand at the end of the third quarter of 2016.

The total equity of the Company increased from USD 3,279 thousand at the end of the third quarter of 2016 to USD 16,189 thousand at the end of the third quarter of 2017, mainly due to the significant revenue contributions from *Conan® Exiles* in 2017.

Please find below a table that shows the underlying calculations for EBITDA and EBIT measures presented in this Section 10.3.3 "Review of Funcom's financial position and financial results for Q3 2017":

<b>USD 1,000</b>	<b>Q3 2017</b>	<b>Q3 2016</b>
Revenue	6,027	1,728
Operating expense	-4,214	-1,631
<b>EBITDA</b>	<b>1,813</b>	<b>97</b>
Depreciation, amortization and impairment charges	-850	-474
Total operating expenses	-5,064	-2,104
<b>EBIT</b>	<b>964</b>	<b>-376</b>

For further details, reference is made to the unaudited Interim Financial Statements.

#### **10.4 Significant factors affecting the Group's operations**

The Group's business is to a large degree driven by customer uptake of the games, particularly in the periods shortly after launch of the games with a "Premium" business model, as the customer will then pay to be able to play the game. Customer uptake is also important for games with other business models, as a higher number of players increase possible revenues from micro transactions and subscriptions. Customer uptake is influenced by a series of factors, where the perceived entertainment and popularity of the games are the most important. Other factors that might influence customer uptake are press and player reviews, interest and attention from social media

influencers, and PR and marketing efforts. For example, *Conan Exiles* were positively influenced by several of the mentioned factors, included that the game was perceived as entertaining and benefitted from interest from social media influencers and PR and marketing efforts Customer uptake is thus a significant factor in the revenue streams that a game produces.

Some countries are currently modernizing the value added tax on digital goods, which could affect the Company's operations going forward, as the Company may incur additional costs in complying with the regimes for value added tax on digital goods. Further, there can be no assurance that an increase in overall charge of value added tax may be recovered in higher sales prices for Funcom's products. Apart from this, there are no governmental, economic, fiscal, monetary or political factors or policies that have materially affected, directly or indirectly, the issuer's operations in the relevant period.

## **10.5 Working capital statement**

The Company is of the opinion that the current working capital is sufficient for the Group's present requirements for at least the next twelve months.

## **10.6 Trend information**

This section sets out information on trends and other factors which may affect the financial position of the Group.

### **10.6.1 The Funcom strategy**

For further information, please refer to Section 7.3 "The Funcom strategy".

### **10.6.2 Games in operation**

Overall, Funcom's large scale MMOs continue to generate a positive net contribution to the business. These require low investment levels which are constantly reviewed and aligned with expected revenue to ensure that they will continue to contribute positively to the Company in the future.

*Conan Exiles* was released in Early Access on the Steam platform in January 2017 and on the Xbox platform in "Game Preview" in August. The Early Access launch on Steam significantly exceeded the internal expectations.

*The Secret World* was relaunched as "*Secret World Legends*" with a F2P business model late June 2017 exceeding internal expectations.

For further details on trend information, reference is made to the Financial Statements for 2016, and especially to the "Report of the Management Board", to the "Report of the Supervisory Board of Directors", and to the Note 27 "Capital Management and Risk Factors". More recent trend information can be found in the Interim Financial Statements and related presentation material.

## 10.7 Investments

### 10.7.1 General

The investments of Funcom consist mainly of cumulated capitalized expenses for the development of games and technology. This intellectual property is owned by the Company and recognized in the balance sheet if it can be proven that there are probable future economic benefits that can be attributed to the assets which are owned by the Company, and the assets' cost price can be reliably estimated. Intangible assets are initially recognized at their cost price and subsequently measured using the cost method (*i.e.* historical cost less accumulated amortization and accumulated impairment losses). A review to assess whether there are indicators of impairment is undertaken at the end of each reporting period. In addition, intangible assets not yet available for use are tested for impairment annually.

The Company amortizes investment in the development of technology and game assets on a systematic basis over their useful life which normally does not exceed five years. The Company applies the diminishing balance amortization method which reflects the pattern of consumption of the future economic benefits. If that pattern cannot be determined reliably, the Company uses the straight-line method.

For further details on the Company's investments, reference is made to the Financial Statements for 2016, and especially to the Note 11 "Intangible assets" and the Note 12 "Equipment".

The table below shows the Company's investments in intangible assets for the period from 1 January 2015 to 31 December 2016:

<i>In thousands of US dollars</i>	<b>Development costs</b>	<b>Software</b>	<b>Trademarks &amp; licenses</b>	<b>Total</b>
<b>Cost</b>				
Balance at January 1, 2015	131,777	1,169		<b>132,946</b>
Acquisitions, internally developed	3,309			<b>3,309</b>
Other acquisitions		20	173	<b>193</b>
Disposals				
Government grant				
Translation difference		-173		<b>-173</b>
<b>Balance at December 31, 2015 (audited)</b>	<b>135,086</b>	<b>1,016</b>	<b>173</b>	<b>136,275</b>
Balance at January 1, 2016	135,086	1,016	173	<b>136,275</b>
Acquisitions, internally developed	4,082			<b>4,082</b>
Other acquisitions		329		<b>329</b>
Disposals	-20,767			<b>-20,767</b>
Government grant				
Translation difference				
<b>Balance at December 31, 2016 (audited)</b>	<b>118,401</b>	<b>1,346</b>	<b>173</b>	<b>119,920</b>

<b>Accumulated amortization and impairment losses</b>			
Balance at January 1, 2015	124,519	1,048	<b>125,567</b>
Amortization for the year	2,786	43	<b>2,829</b>
Impairment losses (reversal of losses)	3,647		<b>3,647</b>
Disposals			
Translation difference		-162	<b>-162</b>
<b>Balance at December 31, 2015 (audited)</b>	<b>130,952</b>	<b>928</b>	<b>131,880</b>

<b>Accumulated amortization and impairment losses</b>			
Balance at January 1, 2016	130,952	928	<b>131,880</b>
Amortization for the year	1,772	54	<b>1,826</b>
Amortization of disposals	-20,766		<b>-20,766</b>
Translation difference	364	-1	<b>363</b>
<b>Balance at December 31, 2016 (audited)</b>	<b>112,322</b>	<b>982</b>	<b>113,304</b>

<b>Carrying amount at Jan. 1, 2015 (audited)</b>	<b>7,258</b>	<b>121</b>		<b>7,379</b>
<b>Carrying amount at Dec. 31, 2015 (audited)</b>	<b>4,134</b>	<b>87</b>	<b>173</b>	<b>4,395</b>
<b>Carrying amount at Jan. 1, 2016 (audited)</b>	<b>4,134</b>	<b>87</b>	<b>173</b>	<b>4,395</b>
<b>Carrying amount at Dec. 31, 2016 (audited)</b>	<b>6,079</b>	<b>364</b>	<b>173</b>	<b>6,616</b>

Methods of amortization	Straight line and accelerated	Straight line
Estimated useful lives	5 years	5 years

The table below shows the Company's investments in tangible assets for the period from 1 January 2015 to 31 December 2016:

	<b>Computers</b>	<b>Furniture</b>	<b>Total:</b>
<i>In thousands of US dollars</i>			
<b>Cost</b>			
Balance at January 1, 2015	10,066	2,129	<b>12,195</b>
Acquisitions			
Disposals			
Translation difference	-412	-335	<b>-747</b>
<b>Balance at December 31, 2015 (audited)</b>	<b>9,654</b>	<b>1,794</b>	<b>11,448</b>
Balance at January 1, 2016	9,654	1,794	<b>11,448</b>
Acquisitions			
Disposals			
Translation difference	54	53	<b>108</b>

<b>Balance at December 31, 2016 (audited)</b>	<b>9,708</b>	<b>1,847</b>	<b>11,555</b>
<b>Accumulated depreciation and impairment losses</b>			
Balance at January 1, 2015	10,035	1,905	<b>11,940</b>
Disposals			
Impairment charges			
Depreciation for the year	22	97	<b>119</b>
Translation difference	-409	-303	<b>-712</b>
<b>Balance at December 31, 2015 (audited)</b>	<b>9,648</b>	<b>1,699</b>	<b>11,347</b>
Balance at January 1, 2016	9,648	1,699	<b>11,347</b>
Disposals			
Impairment charges		28	<b>28</b>
Depreciation for the year	6	59	<b>65</b>
Translation difference	54	57	<b>111</b>
<b>Balance at December 31, 2016 (audited)</b>	<b>9,708</b>	<b>1,843</b>	<b>11,551</b>
<b>Carrying amount at Jan. 1, 2015 (audited)</b>	<b>31</b>	<b>224</b>	<b>254</b>
<b>Carrying amount at Dec. 31, 2015 (audited)</b>	<b>6</b>	<b>93</b>	<b>100</b>
<b>Carrying amount at Jan. 1, 2016 (audited)</b>	<b>6</b>	<b>95</b>	<b>100</b>
<b>Carrying amount at Dec. 31, 2016 (audited)</b>	<b>-</b>	<b>4</b>	<b>4</b>
Method of depreciation	Straight line	Straight line	
Estimated useful lives	3 years	5 years	

As detailed in the Interim Financials, the carrying amount of the intangible assets has increased somewhat during 2017. No significant movements have been recorded for the tangible assets.

#### 10.7.2 Book value of investments

As of 31 December 2016, the main intangible assets of the Company were the Group's video games *Conan Exiles* (USD 2,487k, 2015: nil), *The Secret World* (USD 1,428k, 2015: USD 1,882k), *Age of Conan* (USD 569k, 2015: USD 577k), and the *Dreamworld Technology* (USD 1,768k, 2015: USD 1,847k).

As of 31 December 2016, other minor investments include tangible fixed assets (USD 4k, 2015: USD 100k), software (USD 364k, 2015: USD 88k), and long-term receivables (USD 19k, 2015: USD 65k).

#### 10.7.3 Ongoing investments

The major ongoing investments are in *Conan Exiles* and *Secret World Legends*.

Investments in *Conan Exiles* prepare the game to be fully launched on PC, Xbox and PlayStation 4 in early 2Q 2018. *The Secret World* was re-launched as *Secret World Legends*, current investments focus on relaunching old story contents in the new game. Selective investments in new contents will also be done as long as this is assessed to give a satisfactory financial return.

The Company is investing in a game made by the company Bearded Dragon International LTD where Funcom will act as publisher. However, these investments have been fully expensed as cost on the P&L and not capitalized to the balance sheet.

Smaller investments are also made to *Age of Conan* and the *Dreamworld Technology*.

In 2017, the cash flow from the Live Games has been sufficient to finance the ongoing investments and increase the cash reserve.

#### 10.7.4 Planned investments

As explained in the 7.3 "The Funcom strategy", The Company will focus on investing in the following:

- (i) **Internal Game Development and Publishing:** Having a minimum of two games in development internally at all times, which utilize the Company's IPs and competence in Online RPGs. These projects will have different budget sizes, ranging from small and experimental titles to larger productions. These games will then be brought to market directly by the Company and its PR & Marketing, Server Operations, Quality Assurance, Customer Service and other relevant teams. The games will be targeted towards platforms such as PC and Consoles and will have business models that fit the genre and market conditions at their release time, always including additional monetization in order to successfully monetize the investments for as long as possible.
- (ii) **External Co Development and Publishing:** Building a network of trusted developers with whom the Company can partner up to co-develop and/or publish a game and bring it to market utilizing its internal resources such as Marketing, Sales, Community management, Online operations, Technology and porting to consoles expertise, Motion Capture, Localizations, Quality Assurance and Customer Service. The partner will typically have expertise in the specific genre of game development. The goal is to grow this activity to have two such external products launched annually.
- (iii) **Internal Technology Development:** Leveraging the internal Technology's team know how and competence gained during the creation of the *DreamWorld Technology* to create a modern technological platform that all of the Company's projects, internal or external, can leverage to obtain a key competitive advantage in the market.
- (iv) **Intellectual Properties:** Continue developing the internal IP portfolio comprised of *The Longest Journey*, *Anarchy Online* and *The Secret World* and generate activity and revenues from the recently acquired interactive IP rights that include *Conan the Barbarian*, *Mutant Year Zero*, *Solomon Kane* and other appealing IPs.

The abovementioned investments will mainly be funded by the current cash balance, the Private Placement and cash flow going forward. Except for games in development internally and the externally developed Bearded Dragons partnership, firm commitments have not been made. Stepwise investment decisions will be made at appropriate times based on relevant business cases.

Additionally, the Company will keep developing and supporting the existing Live Games as they are an important source of revenue and drive the internal intellectual properties. This will be smaller, opportunistic investments.

## **10.8 Financial Statements and auditors**

### 10.8.1 Financial Statements

The Company's Financial Statements for the financial years 2015 and 2016, and the Interim Financial Statements for Q3 2016 and Q3 2017 are incorporated by reference hereto. Please refer to Section 15 "Additional information" for further information.

### 10.8.2 Auditor

The Company's historical financial information has since November 2014 been audited by BDO Audit & Assurance B.V., registration number 17171186, with registered business address at Dr. Holtropaan 23, Eindhoven, the Netherlands. BDO Audit & Assurance B.V is a member of the Netherlands Institute of Chartered Accountants (*Nederlandse Beroepsorganisatie van Accountants*). The annual reports for 2015 and 2016 have been audited by BDO Audit & Assurance B.V.

In the 2015 auditor's report, the following qualification was given:

#### ***Material uncertainty related to going concern***

*We draw attention to the going concern paragraph in the notes on page 36<sup>82</sup> of the financial statements which indicates that the performance of the Company is largely affected by its ability to generate sufficient cash inflows from both sales and new financing. The Company is depending on the positive outcome of these factors. These conditions indicate that a material uncertainty exists which may cast significant doubt on the Company's ability to continue as a going concern. Our opinion is not modified in respect of this matter.*

The audit report for 2016 is not qualified in any respect.

## **10.9 Debt overview**

### 10.9.1 The Bonds

#### **Overview**

As of the date of this Prospectus, 3,399,194 Bonds are outstanding. These Bonds have a face value of USD 1 (total USD 3,399,194) and are due on 31 December 2018. They are convertible into common Shares of Funcom at a conversion price of USD 0.1036 per Share. The interest rate is 3.5 % p.a. The interest is payable at maturity or conversion in either cash or Funcom shares at the discretion of the bondholder. For further information on the Bonds, please refer to Section 11.5.1 "Convertible bonds".

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<sup>82</sup> Reference should in fact be made to page 37 of the annual report for 2015.

## Covenants

The Bond Agreement contains customary restrictions and covenants, being information covenants, covenants on conduct (*i.e.* no change of nature of business of the Group) or disposal of the business of the Company or any Group company, covenants on related party transactions which are not made on arms-length terms, restrictions on dividend payments, covenant to keep the VPS Shares registered with the VPS and financial indebtedness restrictions.

More specifically, the following covenants have been agreed in the Bond Agreement:

### Information covenants:

During the term of the Bonds, the Company shall comply with the following information covenants, unless the Bond Trustee (or the bondholder's meeting, as the case may be) has agreed in writing to waive any covenant, and then only to the extent of such waiver, and on the terms and conditions set out in such waiver:

- (i) immediately inform the Bond Trustee of any event of default as well as of any event or circumstance that may lead to an event of default;
- (ii) of its own accord, make annual financial statements and unaudited financial statements in the English language available on the Company's website (alternatively by sending them to the Bond Trustee for publication on [www.stamdata.no](http://www.stamdata.no)<sup>83</sup>) as they are available, and not later than 150 days after the end of the financial year and not later than 60 days after the end of the relevant interim report period;
- (iii) at the request of the Bond Trustee send a report outlining the balance of the Bonds;
- (iv) forward to the Bond Trustee copies of any creditor's notifications of the Company including but not limited to; mergers, demergers and reduction of shareholders' capital;
- (v) at the request of the Bond Trustee provide the documents and information necessary to enable the Bond Trustee to carry out its rights and duties pursuant to the Bond Agreement and applicable laws and regulations;
- (vi) within a reasonable time limit provide information about the Company's financial condition as the Bond Trustee may reasonably request, always subject to compliance with relevant laws and regulations regarding dealing with insider information;
- (vii) annually deliver a compliance certificate to the Bond Trustee concerning the Company's compliance with the agreed covenants. In the event of non-compliance, the reasons thereof as well as the steps which the Company has taken to and will take in order to rectify the non-compliance;
- (viii) of its own accord, inform the Bond Trustee of any event that results in an adjustment of the conversion price of the Bonds; and
- (ix) following the occurrence of a change of control event, immediately after the Company becomes aware of it, notify the Bondholders and the Bond Trustee. The notice shall specify (i) the Bondholders' entitlement to exercise their right to require redemption of the Bonds at 100 % of par plus accrued interest, (ii) the period each Bondholder may

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<sup>83</sup> The information included on [www.stamdata.no](http://www.stamdata.no) is not part of the Prospectus.

require redemption and (iii) details concerning the change of control event.

#### General covenants

During the term of the Bonds, the Company shall (unless the Bond Trustee or the Bondholders' meeting (as the case may be) in writing has agreed to otherwise) comply with the following general covenants:

- (i) not, and ensure that no material subsidiary shall:
  - (a) cease to carry on its business;
  - (b) sell or dispose of all or a substantial part of its assets or operations;
  - (c) change the nature of its business; or
  - (d) merge, demerge or in any other way restructure its business other than solvent restructuring of the Group;in a manner which (in the reasonable opinion of the Bond Trustee) is likely to have a material adverse effect;
- (ii) not declare or make any dividend payments or other distributions or loans to its shareholders – whether in cash or in kind – including without limitation repurchase of shares, any total return swaps or instruments with similar effect and reductions in share capital or equity; and
- (iii) not engage in, directly or indirectly, any transaction with any related party, except in the ordinary course of such member of the Group's business and upon fair and reasonable terms that are no less favorable to the member of the Group than those which might be obtained in an arm's length transaction at the time.

#### Financial indebtedness restrictions:

During the term of the Bonds, the Company shall not, and shall ensure that no member of the Group will, incur or create any financial indebtedness (whether secured or unsecured), except for:

- (i) financial indebtedness created pursuant to the terms of the Bond Agreement (meaning financial indebtedness in the form of the Bonds and the financial indebtedness described in (ii) and (iii) below);
- (ii) refinancing of the Company's USD 10,000,000 senior unsecured loan<sup>84</sup> with warrants in the maximum principal amount of USD 10,000,000 (or its equivalent in other currencies), not being subject to any encumbrance or guarantee and ranking no better than pari passu with the Bonds;
- (iii) at the option of the Company, either financial indebtedness (i) in the aggregate maximum amount of USD 5,000,000 (or its equivalent in other currencies) subject to any encumbrance or guarantee or prior ranking to the Bonds, or (ii) in the aggregate maximum amount of USD 10,000,000 (or its equivalent in other currencies) subject to no encumbrances and of no better ranking than pari passu with the Bonds, of which combinations of (i) and (ii) shall be permitted in a ratio of 1:2.

#### Conversion Rights, etc.

- (i) During the term of the Bonds, the Company shall ensure that all Shares issued upon

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<sup>84</sup> This loan has now been settled in full.

exercise of conversion of the Bonds shall be registered in the VPS and listed on Oslo Børs as soon as possible; and

- (ii) During the term of the Bonds, the Company shall not take any action, and shall procure that no action is taken, that would otherwise result in a reduction of the conversion price such that the Shares issued upon conversion would fall to be issued at a discount to their par value.

#### **10.10 Standby Equity Facility**

On 25 May 2012, Funcom announced that it had strengthened its financial flexibility through an up to USD 22 million standby equity facility (the "**Equity Facility**") with YA Global Master SPV, Ltd. ("**YA Global Master**"), a fund managed by USD based Yorkville Advisors LLC. The Equity Facility expired on 25 May 2015.

The Equity Facility gave Funcom access to additional capital by drawdowns of funds in exchange for issuing New VPS Shares to YA Global Master.

In total, Funcom utilized EUR 3,777,152 of the Equity Facility through issuance of 9,108,203 Shares.

#### **10.11 Significant changes in financial and trading position after 30 September 2017**

The Company entered into the Cabinet SPA and announced the Private Placement on 18 December 2017.

As of the date of this Prospectus, the Group is not aware of any governmental, economic, fiscal, monetary or political policies or factors that have materially affected, or could materially affect, directly or indirectly, the Group's operations.

Except for the abovementioned, there has been no significant change in the financial or trading position of the Group since 30 September 2017.

## **11 SHARE CAPITAL, SHAREHOLDER MATTERS AND DUTCH CORPORATE LAW**

### **11.1 General**

The following is a summary of certain information relating to the Shares and certain shareholder matters, including summaries of certain provisions of the Company's Articles of Association and applicable Dutch law in effect as of the date of this Prospectus. The summary does not purport to be complete and is qualified in its entirety by the Company's Articles of Association and Dutch law.

The majority of the Company Shares are listed on Oslo Børs as VPS Shares (1,615 Company Shares are not listed as certain shareholders never took the appropriate actions to have their Company Shares registered with the VPS and listed on Oslo Børs as VPS Shares).

It is a requirement that the shares in companies listed on the Oslo Børs are registered with the VPS or another share register with authorization to act as a securities register in accordance with section 3-1 of the Norwegian Securities Register Act. The Company Shares are registered in the VPS as the VPS Shares. In order to facilitate registration with the VPS, the Company Shares are registered in the name of DnB Bank ASA (Funcom's VPS Registrar) in the Company's shareholders' register in the Netherlands. The VPS Registrar registers beneficial interest in the Company Shares in the VPS by issuing Depositary Receipts (*Nw: depotbevis*) to the beneficial shareholders. Therefore, not the shares themselves, but the beneficial interests in the Company Shares are registered in the VPS and are listed on the Oslo Børs. For the purpose of this Prospectus, the Depositary Receipts issued by the VPS Registrar in relation to the Company Shares are referred to as the VPS Shares (unless stated otherwise or evident from the context).

### **11.2 Share capital**

#### **11.2.1 Current share capital**

As of the date of this Prospectus, the Company's registered share capital is EUR 13,838,104.40 divided into 69,190,522 Company Shares, each with a par value of EUR 0.20. For the avoidance of doubt, the VPS Shares have the same par value as the Company Shares. All of the Company Shares are authorized, issued and fully paid in compliance with the Dutch Civil Code Book 2 (*Burgerlijk Wetboek Boek 2*). The VPS Shares are registered in the VPS under ISIN NL 0012756266.

The authorized share capital is EUR 30,000,000, and the issued share capital is EUR 13,838,104.40.

The Company has no obligations over authorized but unissued capital other than the obligation to issue shares in line with an underlying agreement (for example convertible bond agreements, convertible loan agreements and/or license agreement) or following exercise of options.

#### **11.2.2 Share capital development**

The table below sets out the developments in the share capital of the Company for the period covering the historical financial information and up until the date of this Prospectus. The table also indicates the total number of Shares, share capital and par value per Share at the start and end of each year comprised by the historical financial information.

Date	Type of change in share Capital	Changes in issued share capital (EUR)	Change in number of Shares	Issue price (EUR/USD /NOK)	No of Shares following change	Nominal or par value per Share (EUR)	Share Capital following increase (EUR)	Share premium (EUR/ USD)
2015	None – start of year				90,444,823	0.04	3,617,793.00	
2015	Drawdown under Equity Facility	70,532.44	1,763,311	EUR 0.21	92,208,134	0.04	3,688,325.36	EUR 7,151,584
2015	None – end of year				92,208,134	0.04	3,688,325.36	
2016	None – start of year				92,208,134	0.04	3,688,325.36	
2016	Private Placement	3,838,800.00	95,970,000	NOK 0.55	188,178,134	0.04	7,527,125.36	USD 1,732 thousand
2016	Debt conversion	1,711,111.12	42,777,778	USD 0.18	230,955,912	0.04	9,238,236.48	USD 5,430 thousand
2016	Exercise of Warrants	62,600	1,565,000	USD 0.10	232,520,912	0.04	9,300,836.48	USD 87 thousand
2016	Subsequent offering	600,000	15,000,000	NOK 0.55	247,520,912	0.04	9,900,836.48	USD 278 thousand
2016	Conversion of Bonds	70,440.40	1,761,010	USD 0.1036	249,281,922	0.04	9,971,276.88	USD 108 thousand
2016	None – end of year				249,281,922	0.04	9,971,276.88	
2017	None – start of year				249,281,922	0.04	9,971,276.88	
2017	Conversion of convertible loan	96,525.08	2,413,127	USD 0.1036	251,695,049	0.04	10,067,801.96	USD -102 thousand
2017	Exercise of Warrants	20,000	500,000	USD 0.10	252,195,049	0.04	10,087,801.96	USD 29 thousand
2017	Exercise of Warrants	42,600	1,065,000	USD 0.10	253,260,049	0.04	10,130,401.96	USD 60 thousand
2017	Exercise of employee options	27,564.48	689,112	NOK 1.90 <sup>85</sup>	253,949,161	0.04	10,157,966.44	USD 126 thousand
2017	Exercise of employee options	3,280	82,000	NOK 1.66 <sup>86</sup>	254,031,161	0.04	10,161,246.44	USD 12 thousand
2017	Conversion of Bonds	1,387,019.20	34,675,480	USD 0.1036	288,706,641	0.04	11,548,265.64	USD 2,122 thousand
2017	Exercise of employee options	640	16,000	NOK 1.87	288,722,641	0.04	11,548,905.64	USD 3 thousand

<sup>85</sup> Average exercise price for the 689,112 options exercised by various employees of Funcom on 6 March 2017.

<sup>86</sup> Average exercise price for the 82,000 options exercised by various employees of Funcom on 6 April 2017.

Date	Type of change in share Capital	Changes in issued share capital (EUR)	Change in number of Shares	Issue price (EUR/USD /NOK)	No of Shares following change	Nominal or par value per Share (EUR)	Share Capital following increase (EUR)	Share premium (EUR/ USD)
2017	Exercise of employee options	37,198.76	929,969	NOK 1.17 <sup>87</sup>	289,652,610	0.04	11,586,104.40	USD 96 thousand
2017	None – end of year				289,652,610	0.04	11,586,104.40	
2018	None – start of year				289,652,610	0.04	11,586,104.40	
2018	Issuance of the New VPS Shares	1,360,000	34,000,000	NOK 2.60	323,652,610	0.04	12,946,104.40	USD 9,814 thousand
2018	Issuance of the Consideration VPS Shares	892,000	22,300,000	NOK 2.60	345,952,610	0.04	13,838,104.40	USD 6,241 thousand
2018	Reverse Share Split	N/A	N/A	N/A	69,190,522	0.20	13,838,104.40	N/A

### 11.3 Treasury Shares

#### 11.3.1 Holdings of treasury Shares

Neither Funcom nor its (in)direct subsidiaries hold any treasury Shares.

#### 11.3.2 Regulation of the Company's possibility to purchase treasury Shares under applicable law and the Articles of Association

Pursuant to the Articles of Association, the Company may acquire, for valuable considerations, shares in its own capital if and in so far as: a) its equity less the purchase price of these shares is not less than the aggregate amount of the paid up and called up capital and the reserves which must be maintained pursuant to the law; (b) the par value of the shares in its capital which the Company acquires, holds or holds in pledge, or which are held by a subsidiary company, amounts to no more than one-tenth of the issued share capital; and (c) the General Meeting has authorized the managing board to acquire such shares, which authorization may be given for no more than eighteen months on each occasion, notwithstanding the further statutory provisions.

The above conditions under (b) is more stringent than under Dutch law, which provides that the Company may acquire for valuable considerations, shares in its own capital if and in so far as (i) the par value of the shares in its capital which the Company acquires, holds or holds in pledge, or which are held by a subsidiary company, amounts to no more than half of the issued share capital and (ii) the General Meeting has authorized the managing board to acquire such shares, which authorization may be given for no more than five years on each occasion.

<sup>87</sup> Average exercise price for the 929,969 options exercised by various employees of the Company on 1 September 2017.

## 11.4 Authorizations

### 11.4.1 Authorization to increase the share capital

The Supervisory Board has been granted the following authorizations to increase the Company's share capital:

Date granted	Purpose	Possible increase of issued share capital (EUR)	Amount utilized	Valid until
27 June 2017	General authorisation.	1,000,000	EUR 37,198.76	Annual General Meeting 2018
30 January 2018	Authorisation to be used for issuance of the Consideration VPS Shares	892,000	EUR 892,000	Annual General Meeting 2018
30 January 2018	Authorisation to be used for issuance of the New VPS Shares	1,360,000	EUR 1,360,000	Annual General Meeting 2018

The abovementioned authorization also includes the possibility of the Supervisory Board to limit or exclude the pre-emptive rights of the Funcom shareholders.

### 11.4.2 Authorization to purchase treasury shares

As of the date of this Prospectus, the Company has not authorized acquisition of treasury shares.

## 11.5 Convertible loans, options and warrants

### 11.5.1 Convertible bonds

The Company has issued convertible Bonds, as described below.

#### **Convertible Bonds:**

On 21 December 2011, Funcom issued 150 Bonds with a face value of USD 100,000 (total USD 15,000,000) and 10 % coupon due on 22 December 2014 and convertible into VPS Shares of Funcom at a price of 1.37 USD per VPS Share.

In a bondholders' meeting held on 3 April 2013, the bondholders resolved to make the following amendments to the terms of the Bond Agreement:

- The maturity date was extended from 22 December 2014 to 22 December 2015;
- The fixed rate was adjusted from 10% to 5% per annum;
- interest on the Bonds will accrue based on the amended fixed rate and become payable on the earlier of the conversion date or the extended maturity date at the option of the bondholders in either cash or VPS Shares; and
- the conversion price was adjusted from USD 1.37 to USD 0.37 per VPS Share.

In a bondholders' meeting on 26 October 2015, the bondholders resolved to make the following amendments to the terms of the Bond Agreement:

- the maturity date was extended from 22 December 2015 to 15 December 2016;
- the conversion price was adjusted from USD 0.37 to USD 0.24 per VPS Share;
- introduction of a "prepayment option", which gives Funcom (under certain conditions) the possibility to redeem (all or a part of) the loans outstanding under the Bond Agreement.
  - to redeem the outstanding loans; or
  - to apply a minimum of 80% of the Proceeds to redeem the outstanding loans.

In a bondholders' meeting held on 20 July 2016, the bondholders resolved the following amendments to the terms of the Bond Agreement:

- the maturity date to be extended from 15 December 2016 to 31 December 2018;
- decrease the interest rate of the Bonds to 3.5% p.a.;
- adjustment of conversion price of the Bonds from USD 0.24 per Share to USD 0.1036 per Share<sup>88</sup>;
- reduction of the par value of each Bond from USD 100,000 to USD 1; and
- issuance of 1,003,194 new Bonds as payment for accrued, but not paid, interest under the Bond Agreement.

In a bondholders' meeting held on 19 September 2016, the bondholders resolved the following amendments to the terms of the Bond Agreement:

- the interest became payable on the maturity date instead of quarterly; and
- the interest became payable either in cash or in the form of Shares (issued through set-off of accrued unpaid interest).

As of the date of this Prospectus, there are 3,399,194 Bonds still outstanding. The remaining 13,500,000 Bonds have been converted into VPS Shares at the following dates and at the following conversion prices:

Date	Conversion price per Share	New Shares issued <sup>89</sup>	Outstanding Bonds after conversion	Outstanding debt after conversion (excl. accrued interest)
1 March 2012	USD 1.37	1,094,880	135	USD 13,500,000
2 March 2012	USD 1.37	72,992	134	USD 13,400,000
6 March 2012	USD 1.37	145,984	132	USD 13,200,000
7 March 2012	USD 1.37	729,920	122	USD 12,200,000
9 March 2012	USD 1.37	145,984	120	USD 12,000,000
12 March 2012	USD 1.37	72,992	119	USD 11,900,000
13 March 2012	USD 1.37	2,919,680	79	USD 7,900,000
13 March 2012	USD 1.37	437,952	73	USD 7,300,000
25 April 2012	USD 1.37	291,968	69	USD 6,900,000

<sup>88</sup> This reduction in conversion price was resolved to reflect the subscription price of NOK 0.55 per VPS Share in the private placement of approx. NOK 52.8 million completed on 26 May 2016.

<sup>89</sup> An equal number of Company Shares and VPS Shares have been issued following conversion of the Bonds.

30 April 2012	USD 1.37	145,984	67	USD 6,700,000
3 May 2012	USD 1.37	145,984	65	USD 6,500,000
4 May 2012	USD 1.37	145,984	64	USD 6,400,000
1 June 2012	USD 1.37	72,992	63	USD 6,300,000
13 June 2012	USD 1.37	72,992	62	USD 6,200,000
9 December 2016	USD 0.1036	1,761,010	6,899,194	USD 6,899,194
11 April 2017	USD 0.1036	34,675,480	3,399,194	USD 3,399,194

### 11.5.2 Options

The Group has established a share option program for its employees, members of the Management Board and members of the Supervisory Board. Under the share option program, the option holders may exercise options to purchase VPS Shares in the Company. The plan is an equity-settled, share-based compensation plan.

As of the date of this Prospectus, there are a number of 15,058,637 outstanding options granted to employees and directors in the Company. Please refer to Section 9 "Board of Supervisory Directors, Management, employees and related party transactions" for further information on the options held by certain members of the Company's Supervisory Board, Management Board and the Executive Management.

The exercise price of the granted options is equal to the weighted market price of the Shares 5 trade days prior to and 5 trade days following the date of grant. The Company has no legal or constructive obligation to repurchase or settle the options in cash.

Please see the table below for further information on the options granted, exercised, terminated and expired in the period covering the historical financial information:

List of outstanding options	Number of options	Weighted average exercise price (USD)	Number of options	Weighted average exercise price (USD)
	2016	2016	2015	2015
Outstanding options on 1 January	8,458,073	0.57	8,030,154	0.60
Outstanding options on 1 January - Adjusted <sup>90</sup>	7,136,019	0.42	8,098,211	0.60
Options granted	6,180,000	0.13	1,050,000	0.26
Options exercised	0	N/A	0	N/A
Options terminated	(391,409)	0.37	(309,170)	0.50

<sup>90</sup> The opening balance of options has been adjusted to reflect revised figures. The adjustment has no material impact on the Financial Statements.

Options expired	(2,581,138)	0.48	(380,968)	0.41
<b>Outstanding options on 31 December</b>	<b>10,343,469</b>	<b>0.23</b>	<b>8,458,073</b>	<b>0.57</b>

### 11.5.3 Warrants

There are no outstanding warrants.

## 11.6 General Meeting

The ordinary General Meeting in the Company shall be held each year within six months after the close of the financial year. The following matters shall be discussed and treated at the ordinary General Meeting:

- (i) the written report of the Management Board on the course of business of the Company during the past financial year, and the report of the Supervisory Board;
- (ii) adoption of the annual accounts and the declaration of any dividends;
- (iii) granting of discharge to the members of Management Board for their management during the past financial year and to the members of the Supervisory Board for their supervision on such management;
- (iv) filling vacancies in the Management Board;
- (v) filling vacancies in the Supervisory Board; and
- (vi) the proposals placed on the agenda by the Management Board or by the Supervisory Board, together with proposals made by shareholders in accordance with the provisions of the Articles of Association.

The ordinary General Meeting can only adopt the annual accounts if the shareholders have first – amongst others – been informed about: (i) remuneration of the (former) members of the Management Board, (ii) remuneration of the (former) members of the Supervisory Board, (iii) employee benefits and (iv) the option program in the Company.

Extraordinary General Meetings shall be held as often as deemed necessary by the Supervisory Board and shall be held if one or more shareholders and other persons entitled to attend the meetings of shareholders jointly representing at least one-tenth of the issued share capital make a written request to that effect to the Management Board or Supervisory Board, specifying in detail the business to be dealt with. If the Management Board or Supervisory Board fail to comply with a request in such manner that the General Meeting can be held within six weeks after the request, the persons making the request may be authorized by the President of the Court (*President van de Rechtbank*) within whose jurisdiction the Company is established to convene the meeting themselves.

The Company's General Meetings shall be held at its place of establishment, at Amsterdam, Haarlemmermeer (Schiphol Airport), Rotterdam, Badhoevedorp or The Hague. The notice convening a General Meeting shall be published electronically and shall be permanently and directly accessible until the General Meeting.

The notice convening the meeting shall be issued by the Management Board, by the Supervisory Board or by those who according to the law or these articles are entitled thereto.

The notice convening a General Meeting shall contain *inter alia*:

- (i) the agenda stating the business to be transacted;
- (ii) the location and time of the General Meeting;
- (iii) the procedure for participating in the General Meeting by written proxy;
- (iv) the procedure for participating in the General Meeting and the Company's website address; and
- (v) the registration date and the manner in which persons entitled to vote and attend meetings can register and the manner in which they can exercise their rights.

The notice convening the meeting referred to in the foregoing paragraph shall be issued no later than on the forty-second day prior to the meeting. The agenda shall contain such business as may be placed thereon by the person(s) entitled to convene the meeting, and furthermore such business as has been requested of the Management Board or by one or more shareholders at least sixty days prior to the date of the meeting in accordance with the law. Resolutions shall not be passed in the meeting on business other than that on the agenda.

Under Dutch company law, all shareholders in Dutch companies are entitled to attend the General Meetings, to address the General Meeting and to vote. Shareholders in Funcom (as holders of VPS Shares) are entitled to attend and vote at the General Meeting on the basis of a proxy from the VPS Registrar. Persons entitled to vote and to attend meetings are those persons who on the twenty-eighth day prior to the meeting (the day of registration) have these rights and are registered as having these rights in a registry designated by the Management Board, regardless of who owns the shares, or is holder of VPS Shares issued with the concurrence of the Company, at the time the General Meeting is held.

Shareholders and other persons entitled to attend meetings of shareholders may be represented by proxies with written authority to be shown for admittance to a meeting. The requirement of written authorization of the proxy is met if the proxy is recorded electronically. A shareholder is allowed to notify the Company of the proxy electronically. Subject to certain exceptions provided by the Dutch Civil Code and the Articles of Association (such as, for example, in case of an amendment of the Articles of Association or liquidation of the Company, which requires a two-thirds majority of votes cast), resolutions are passed by a simple majority of votes cast. Blank and invalid votes shall not be counted. In case of an equal vote, the proposal shall be deemed to have been rejected.

## **11.7 Shareholder rights, including voting rights**

### **11.7.1 The rights of a holder of Shares**

The Company has one class of Shares and all Shares carry the same rights. All Shares confer the right to cast one vote at the General Meetings of the Company.

### 11.7.2 Pre-emptive rights

In the event of an issue of new Shares, shareholders shall have a pre-emptive right in proportion to the number of Shares which they own, notwithstanding the provisions of the law (such as (i) Shares issued to employees of the Company or of a Group company and (ii) Shares issued against a contribution in kind can be issued without pre-emptive rights to existing shareholders). In addition, preference shareholders<sup>91</sup> do not have a pre-emptive right unless the Articles of Association provide otherwise.

The Supervisory Board shall have the power to limit or debar the pre-emptive right accruing to shareholders, if and in so far as the Supervisory Board has also been designated by the General Meeting for this purpose as the authorized body for the period of such designation. A designation as referred to above shall only take place for a specific period of no more than the period up to and including the first ordinary General Meeting which is held after three full calendar years have elapsed since said designation and may not be extended by more than the aforementioned period on each occasion.

### 11.7.3 Conversion provisions

There are no provisions in the Articles of Association which are more stringent than Dutch law in view of the amendment of rights of holders of Shares. A change in the rights of holders of Shares will require an amendment of the Articles of Association of the Company. A resolution to amend the Articles of Association by which the rights conferred on holders of Shares of a specific class as such are changed shall require the approval of the relevant class meeting with a two-thirds majority of the votes cast.

### 11.7.4 Rights attaching to the VPS Shares

The VPS Shares rank *pari passu* in all respects with each other in relation to the Company Shares, including voting rights, entitlements to dividends, liquidation proceeds, subscription or pre-emptive rights in the event of a share issue and pre-emptive rights in the event of the issuance of equity-linked securities. Neither Funcom nor the VPS Registrar applies any restrictions or limitations on the transferability of the VPS Shares.

The holders of VPS Shares may be entitled to attend and vote at the General Meeting on the basis of a proxy from the VPS Registrar.

## 11.8 Shareholder structure

As of 7 February 2018, the Company had 6,693 holders of VPS Shares<sup>92</sup> and 50 holders of Company Shares (including the VPS Registrar).

Below is an overview of the Company's 20 largest holders of VPS Shares<sup>93</sup> as of 7 February 2018 (*i.e.* prior to issuance of the Consideration VPS Shares):

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<sup>91</sup> There are currently no preference shareholders in Funcom.

<sup>92</sup> Including nominee accounts.

<sup>93</sup> Including nominee accounts.

#	Investor	Holding (VPS Shares)	% of total VPS Shares
1	Skandinaviska Enskilda Banken S.A. <sup>94</sup>	12,525,111	19.35
2	JPMorgan Chase Bank, N.A., London	6,872,292	10.62
3	KGJ Capital AS	3,816,162	5.90
4	Avanza Bank AB	3,499,978	5.41
5	Nordea Bank AB	3,477,426	5.37
6	Nordnet Livsforsikring AS	1,121,082	1.73
7	Atle Sandvik Pedersen	993,281	1.53
8	Nordea Bank AB	852,327	1.32
9	Danske Bank A/S	719,136	1.11
10	Nordea Bank AB	702,321	1.09
11	Nevrokiro Invest AS	640,059	0.99
12	Egil Pettersen	480,243	0.74
13	Gjestøy AS	458,840	0.71
14	Clearstream Banking S.A.	444,869	0.69
15	Saxo Bank A/S	436,443	0.67
16	Nobelsystem Scandinavia AS	400,000	0.62
17	The Bank of New York Mellon SA/NV	391,488	0.60
18	UBS Switzerland AG	353,201	0.55
19	KLP Aksjenorge Indeks	352,285	0.54
20	Trond Fløistad	350,000	0.54
<b>Top 20 holders of VPS Shares</b>		<b>38,886,544</b>	<b>60.08</b>
Other		25,842,363	39.92
<b>Total holders of VPS Shares</b>		<b>64,728,907</b>	<b>100</b>

Below is an overview of the Company's 20 largest holders of the Company Shares as of the date of this Prospectus:

#	Holder	Holding (Company Shares)
1	DnB Bank ASA <sup>95</sup>	69,188,907
2	Olivia White	135
2	Padraig Crowley	135
4	Philip Plunkett	95
5	Thomas O'Neill	85
5	Amanda Ronai	85
7	Andrew McKenzie	70
8	Andrew Griffin	65
9	James Kelly	55
9	Mark Lee	55
9	Steve Reberg	55
12	Tom Tømmervåg Gjerde	45

<sup>94</sup> To the knowledge of the Company, the beneficial owner is KGJL.

<sup>95</sup> In its capacity as VPS Registrar

12	Karsten Hammer Hansen	45
14	Aidan Walsh	40
14	Geir Bjarte Terum	40
14	Tanya Flood	40
14	Tore Lode	40
18	Tor Andre Wigmostad	35
18	Anders Finer	35
20	Hans Kjærnet	30
<b>Top 20 holders of the Company Shares</b>		<b>69,190,092</b>
Other		430
<b>Total holders of the Company Shares</b>		<b>69,190,522</b>

As of the date of this Prospectus and to the extent known by the Company (following issuance of the Consideration VPS Shares and the New VPS Shares), the following registered shareholders have holdings in excess of the statutory thresholds for disclosure requirements:

- Mr. Hans Peter Jebsen and companies controlled by him (including KGJI and KGJ Capital AS) hold a total of 16,381,570 VPS Shares, corresponding to 23.68 % of the total outstanding Shares;
- Funds managed by Swedbank Robur Fonder AB hold 6,800,000 VPS Shares, corresponding to 9.83% of the total outstanding VPS Shares after the distribution of the New VPS Shares and the Consideration VPS Shares; and
- Cabinet will hold 4,460,000 VPS Shares, corresponding to 6.45% of the total outstanding VPS Shares after the distribution of the New VPS Shares and the Consideration VPS Shares.

All Shares have equal voting rights. Thus, all major shareholders have the same voting rights relative to the number of Shares held.

The Company is not aware that the Company is controlled or owned, directly or indirectly, by any shareholder or related shareholders as of the date of this Prospectus.

### 11.9 Shareholder agreement

To the Company's knowledge, there are no shareholder agreements regarding the Shares of the Company. However, Cabinet has undertaken not to sell or otherwise directly or indirectly dispose of (including by mortgaging or otherwise encumbering) the Consideration VPS Shares in the 6 month period from 8 February 2018.

### 11.10 VPS Registrar – issuer of VPS Shares

The Company's registrar in the VPS is DnB Bank ASA, Verdipapirservice, Dronning Eufemias gate 30, 0191 Oslo, Norway (the VPS Registrar).

The VPS Registrar is the issuer of the VPS Shares, which evidence the shareholders' beneficial rights to the Company Shares. The VPS Shares are issued under the laws of Norway.

The address of the VPS Registrar is DNB Bank ASA, Verdipapirservice, Dronning Eufemias gate 30, P.O. Box 1600 Sentrum, 0021 Oslo, Norway. DNB Bank ASA was incorporated in Norway on 10 September 2002 with registered number 984 851 006 as a public limited liability company under the Norwegian Public Limited Liability Companies Act and is domiciled in Norway.

#### **11.11 Dividend policy**

The principal goal of the Company's shareholder policy is to protect shareholder rights and interests by maximizing the return earned by its shareholders over time within acceptable risk parameters through effective management of the Company's assets and continued growth of the Company's operations and profitability. However, the Supervisory Board considers that any surplus cash should be retained with the Company and invested in the development of Funcom's games. Future distribution of dividends is not foreseen and will only be possible if the equity and liquidity position allow such distributions and the Bondholders has consented to such distribution (as the Bond Agreement contains restrictions on distribution of dividends). For a description of the restrictions on distribution of dividends under the Bond Agreement, please refer to Section 10.9.1 "The Bonds".

The Company has not paid any dividends for the period covering the historical financial information.

#### **11.12 Distribution of dividends**

The main rule under Dutch law is that the Supervisory Board, at the proposal of the Management Board, shall determine what portion of the profit of the Company (if any) that shall be retained by way of reserve (having regard to the legal provisions relating to obligatory reserves). To the extent that the profits are not reserved, they will be at the disposal of the General Meeting either to be reserved in whole or in part or to be distributed (in cash or in kind). Distribution of profits only takes place following the adoption of the annual accounts from which it appears that such distribution is permitted.

Upon the proposal of the Supervisory Board, the General Meeting shall be entitled to resolve to make distributions charged to the share premium reserve or charged to the other reserves shown in the annual accounts not prescribed by the law. The Supervisory Board shall be entitled to resolve that distributions, the amount of which distributions has been resolved upon by the General Meeting, to shareholders may be made in full or partially in the form of the issue of shares in the share capital of the Company.

The distribution to a shareholder according to the preceding sentence shall be made to a shareholder in cash or in the form of shares in the share capital of the Company, or partially in cash and partially in the form of Shares in the share capital of the Company, such, if the Supervisory Board so resolves, at the option of the shareholders.

Distributions are payable as from a date to be determined by the General Meeting. A claim for dividends lapses five years after the start of the second day on which they became due and payable. The person entitled to a distribution on registered shares shall be the person in whose name the share is registered at the date of distribution.

However, the Bond Agreement implies that dividend distributions may only be made with the consent of the Bondholders or by the trustee on behalf of the Bondholders.

Notice of distributions and of the dates and places shall at least be published in a national daily newspaper in the Netherlands and abroad in at least one daily newspaper appearing in each of those countries other than the United States, where the shares, on the application of the Company, have been admitted for official quotation, and further in such manner as the Management Board may deem desirable. In addition, any distribution of dividends will be disclosed through stock exchange notices at [www.newsweb.no](http://www.newsweb.no)<sup>96</sup>, the official system for disclosure of stock exchange notices for companies listed at Oslo Børs.

Any future payments of dividends on the Shares (if any) will be denominated in USD and distributed to the VPS Registrar and the holders of Company Shares. Dividends paid to the VPS Registrar will be distributed to the holders of VPS Shares by the VPS Registrar and be distributed in NOK as exchanged from the USD amount distributed to the VPS Registrar. Dividends will be credited automatically to the VPS registered shareholders' NOK accounts, or in lieu of such registered NOK account, by check, without the need for shareholders to present documentation proving their ownership of VPS Shares. Investors registered in the VPS whose address is outside Norway and who have not supplied the VPS with details of any NOK account will however receive dividends by check in their local currency. If it is not practical in the sole opinion of the VPS Registrar to issue a check in a local currency, a check will be issued in USD. The issuing and mailing of checks will be executed in accordance with the standard procedures of DnB Bank ASA, Foreign Payments Department. The exchange rate(s) that is applied will be DnB Bank ASA's rate on the date of issuance.

### **11.13 Summary of the Company's Articles of Association**

#### **11.13.1 The object of the Company**

Pursuant to the Company's Articles of Association, the objects of the Company is to develop, market and carry on business in computer games, hereunder massively multi player online games, online role playing games and related games on electronic devices of different kinds, to take and grant licenses and other industrial properly interests, assume commitments in the name of any enterprises with which it may be associated within a group of companies, to take financial interests in such enterprises and to take any other action, such as but not limited to the granting of securities or the undertaking of obligations on behalf of third parties, which in the broadest sense of the term, may be related or contribute to the aforesaid objects.

#### **11.13.2 The Management Board**

The Company is managed by the Management Board, consisting of one or more managing directors under the supervision of the Supervisory Board. The number of members of the Management Board shall be resolved by the General Meeting upon the proposal of the Supervisory Board. The members of the Management Board shall be appointed by the shareholders meeting. A managing director is appointed for the period up to and including the first ordinary General Meeting which is held after three full calendar years have elapsed since the day as per which he was appointed. A retired managing director may immediately be re-elected.

Managing directors shall be appointed and revoked by the General Meeting upon the proposal of the Supervisory Board for each vacancy to be filled. A proposal to make one or more appointments

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<sup>96</sup> The information included on [www.newsweb.no](http://www.newsweb.no) is not part of the Prospectus.

to the Management Board may be placed on the agenda of a General Meeting by the Supervisory Board.

The Company has a policy regarding the compensation of the Management Board. The policy will be adopted by the General Meeting upon the proposal of the Supervisory Board. The Supervisory Board shall determine the compensation of the individual managing directors, within the scope of the compensation policy. The Supervisory Board will submit for approval by the General Meeting a proposal regarding the compensation in the form of Shares or rights to acquire Shares. This proposal sets forth at least how many Shares or rights to acquire Shares may be awarded to the Management Board and which criteria apply to an award or a modification.

The General Meeting shall be entitled to suspend or dismiss one or more managing directors. The managing directors can be jointly or individually suspended by the Supervisory Board. After suspension, a General Meeting shall be convened within three months, at which meeting it shall be decided whether the suspension shall be cancelled or maintained. The person involved shall be given the opportunity to account for his actions at that meeting.

The entire Management Board as well as each managing director may represent the Company.

The Supervisory Board shall appoint one of the managing directors as Chairman of the Management Board.

Resolutions of the Management Board shall be passed by simple majority of votes. In the event of a tie of votes the Chairman of the Management Board shall have a casting vote.

A director shall not participate in the deliberations and decision-making on any matter in respect of which his direct or indirect personal interests conflict with those of the Company and the business carried on by the Company. If no board resolution can be passed as a result of this, the Supervisory Board shall pass the board resolution.

The Management Board is supervised by the Supervisory Board. The Management Board shall provide the Supervisory Board in good time with all relevant information as well as the information the Supervisory Board requests, in connection with the exercise of its duties. At least once per year the Management Board shall inform the Supervisory Board in writing of the main features of the strategic policy, the general and financial risks and the management and control systems of the Company.

The Management Board shall then submit to the Supervisory Board for approval:

- (i) the operational and financial objectives of the Company;
- (ii) the strategy designed to achieve the objectives; and
- (iii) the parameters to be applied in relation to the strategy, *inter alia*, regarding financial ratios.

Without prejudice to provisions made elsewhere in these articles, the Management Board shall require the prior express approval:

- (i) from the Supervisory Board for decisions relating to:

- (a) the formation of subsidiaries, acquisition or sale of any participation, and conclusion of any cooperation and participation agreement;
  - (b) all pluriennial plans of the Company and the budget for the first coming year, covering the following matters:
    - (I) investment policy;
    - (II) policy regarding research and development, as well as commercial policy and objectives;
    - (III) general financial policy; and
    - (IV) policy regarding personnel;
  - (c) all acts, decisions or operations covered by the above list and constituting a significant change with respect to decisions already adopted by the Supervisory Board or not provided for in the above list and as specifically laid down by the Supervisory Board by resolution passed by it to that effect;
- (ii) from the General Meeting with respect to resolutions: regarding a significant change in the identity or nature of the Company or the enterprise, including in any event (a) transferring the enterprise or practically the entire enterprise to a third party, (b) entering into or cancelling any long-term cooperation between the Company or a subsidiary (*dochtermaatschappij*) and any other legal person or company or as a fully liable general partner of a limited partnership or a general partnership, provided that such cooperation or the cancellation thereof is of essential importance to the Company, and (c) the Company or a subsidiary (*dochtermaatschappij*) acquiring or disposing of a participating interest in the capital of a company with a value of at least one-third of the Company's total assets according to the consolidated balance sheet and notes thereto in the most recently adopted annual accounts of the Company;
- the absence of the approval provided for above may not be raised by or against third parties.

The Management Board shall require the approval of the General Meeting or the Supervisory Board according to the law and the provisions of the Articles of Association as well as such resolutions as are clearly defined by a resolution of the General Meeting or the Supervisory Board to that effect.

The Management Board of the Company shall make notes of the resolutions passed during the General Meeting. In respect of each resolution, the Company shall note:

- (i) the number of Shares in respect of which valid votes are cast;
- (ii) the percentage of issued capital represented by the number of Shares referred to under (i);
- (iii) the total number of votes validly cast; and
- (iv) the number of votes cast for and against the resolution and the number of abstentions.

Each year the Management Board shall cause annual accounts to be drawn up, consisting of a balance sheet as at the close of the preceding financial year and a profit and loss account in respect of the preceding financial year with the explanatory notes thereto. The Management Board shall be bound to draw up the aforesaid annual accounts in accordance with established principles of business management.

### 11.13.3 The Supervisory Board

The Supervisory Board shall be responsible for supervising the policy pursued by the Management Board and the general course of affairs of the Company and the business enterprise which it operates. The Supervisory Board shall assist the Management Board with advice relating to the general policy aspects connected with the activities of the Company. In fulfilling their duties, the supervisory directors shall serve the interests of the Company and the business enterprise which it operates.

The Management Board shall provide the Supervisory Board in good time with all relevant information as well as the information the Supervisory Board requests, in connection with the exercise of its duties. At least once per year the Management Board shall inform the Supervisory Board in writing of the main features of the strategic policy, the general and financial risks and the management and control systems of the Company. The Management Board shall then submit to the Supervisory Board for approval:

- (i) the operational and financial objectives of the Company;
- (ii) the strategy designed to achieve the objectives; and
- (iii) the parameters to be applied in relation to the strategy, *inter alia*, regarding financial ratios.

The Supervisory Board shall consist of one or more members, to be appointed by the General Meeting on proposal of the General Meeting. The number of supervisory directors shall be determined by the General Meeting.

A proposal to make one or more appointments to the Supervisory Board may be placed on the agenda of the General Meeting by the Supervisory Board. The General Meeting shall appoint a Chairman and a Vice-Chairman of the Supervisory Board.

The Supervisory Board may appoint one or more of its members as delegate supervisory director in charge of supervising the Management Board on a regular basis. They shall report their findings to the Supervisory Board. The offices of Chairman of the Supervisory Board and delegate supervisory director are compatible. The Supervisory Board may adopt rules regulating the division of its duties among its various supervisory directors. The Supervisory Board may decide that one or more of its members shall have access to all premises of the Company and shall be authorized to examine all books, correspondence and other records and to be fully informed of all actions which have taken place, or may decide that one or more of its supervisory directors shall be authorized to exercise a portion of such powers.

At the expense of the Company, the Supervisory Board may obtain such advice from experts as the Supervisory Board deems desirable for the proper fulfillment of its duties.

A supervisory director is appointed for the period up to and including the first ordinary General Meeting which is held after two full calendar years have elapsed since the day as per which he was appointed. A retired supervisory director may immediately be re-elected. The Supervisory Board may establish a rotation scheme.

The supervisory directors may be suspended or dismissed by the General Meeting. The Supervisory Board may make a proposal to the General Meeting for the suspension or dismissal of one or more of its supervisory directors.

The Supervisory Board may pass resolutions by simple majority of the votes of the members in office. Each supervisory director has the right to cast one vote. In case of a tie the vote of Chairman shall decide. In case of absence a supervisory director may issue a proxy, however, only to another supervisory director. A supervisory director may not take part in deliberations and the adopting of resolutions if he has a direct or indirect personal interest in them which conflicts with the interests of the Company and its business. If a resolution cannot be adopted as a result, the resolution must be adopted by the General Meeting. The Supervisory Board may pass resolutions in writing without holding a meeting provided that the proposals for such resolutions have been communicated in writing to all supervisory directors and no supervisory director is opposed to this method of passing a resolution. The managing directors shall attend meetings of the Supervisory Board at the latter's request. Meetings of the Supervisory Board shall be convened by the Chairman of the Supervisory Board, either on request of two or more supervisory directors or on request of the Management Board, or by the supervisory directors requesting the meeting to be held.

The Supervisory Board shall draw up standing orders regulating inter alia the manner of convening board meetings and the internal procedure at such meetings. These meetings may be held by telephone as well as by video or by equivalent means or communications. If one or more supervisory directors are absent or unable to act, the remaining supervisory director or Supervisory Directors will be charged temporarily with the supervision of the Company. If all the supervisory directors are absent or unable to act, a person to be appointed by the General Meeting for an indefinite period for this purpose will be charged temporarily with the supervision of the Company.

The General Meeting determines the compensation to the members of the Supervisory Board or to one or more of its members. The Supervisory Board members shall be reimbursed for their expenses.

General Meetings shall be presided over by the Chairman of the Supervisory Board or in his absence by the Vice-Chairman of the Supervisory Board.

The Supervisory Board shall cause the annual accounts to be examined by one or more registered accountant(s) designated for the purposes by the General Meeting or other experts designated for the purpose in accordance with section 393 of the Dutch Civil Code Book 2 (*Burgerlijk Wetboek Boek 2*), and shall report to the General Meeting on the annual accounts, notwithstanding the provisions of the law.

#### **11.14 Freely transferable Shares**

The Shares are freely transferable. The Company's Articles of Association do not contain any provisions imposing limitations on the ownership of the Shares and there are no limitations under Norwegian law on the rights of non-residents or foreign owners to hold or vote for the Shares.

#### **11.15 Provisions preventing change of control**

There are no provisions that prevent a change of control in Funcom.

## 11.16 Corporate governance

### 11.16.1 Funcom's corporate governance policy

Funcom aspires to generate value for its owners through profitable and sustainable business practices. Good corporate governance and management will ensure the greatest possible value creation at the same time as Group resources will be used in an efficient and sustainable manner. The added value will benefit shareholders, employees and the gaming community. Funcom is listed on Oslo Børs and is subject to Norwegian securities legislation and stock exchange regulations as well as Dutch legislation.

Funcom's key principles of corporate governance have been based upon the Dutch Corporate Governance Code (*De Nederlandse Corporate Governance Code*), that can be found on [www.commissiecorporategovernance.nl](http://www.commissiecorporategovernance.nl)<sup>97</sup> and the Norwegian Code of Practice for Corporate Governance (*Eierstyring og Selskapsledelse*), that can be found on [www.nues.no](http://www.nues.no)<sup>98</sup>. Oslo Børs requires listed companies to publish an annual statement listing all corporate governance recommendations and presenting compliance with the recommendations or explaining why the Company has chosen an alternative approach to the specific recommendation.

For the Dutch Corporate Governance Code, Funcom will present the best practice clauses where it does not comply and explain the rationale for this.

This form of corporate governance, which separates the powers of management from those of supervision, is considered to offer the most balanced framework governing the exercise of power.

The Supervisory Board oversees the efficient operation of the Company and reports to the shareholders. Appointment of the managing directors is done by the General Meeting further to a proposal from the Supervisory Board. The Supervisory Board appoints one of the managing directors as Chairman of the Management Board.

### 11.16.2 Departures from the Norwegian Code of Practice for Corporate Governance

The Company follows the Norwegian Code of Practice for Corporate Governance (the "**Norwegian Corporate Governance Code**"). The Company has the following departures from the Norwegian Corporate Governance Code.

For further information on the Company's compliance with the Norwegian Corporate Governance Code, please refer to the annual reports of the Company.

- Under Section 1, third paragraph of the Norwegian Corporate Governance Code, the Company should clarify its value base and prepare guidelines for ethics and corporate social responsibility. The Company has drawn up its own Corporate Code of Ethics<sup>99</sup> and Value Platform<sup>100</sup>. Compliance with and the follow up of the Code of Ethics have been subject to

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<sup>97</sup> The information included on [www.commissiecorporategovernance.nl](http://www.commissiecorporategovernance.nl) is not part of this Prospectus.

<sup>98</sup> The information included on [www.nues.no](http://www.nues.no) is not part of this Prospectus.

<sup>99</sup> The Corporate Code of Ethics is available at <http://www.funcom.com/corporate/ethics>. The information on <http://www.funcom.com/corporate/ethics> is not part of this Prospectus.

<sup>100</sup> The Value Platform is an internal guidelines document.

internal processes. The Company has not yet established separate guidelines for corporate social responsibility as implemented in the code of practice in October 2014, but considers the ethical guidelines to cover most of the relevant topics. The Company will consider developing separate guidelines for corporate social responsibility.

- Under Section 6, first paragraph, fifth bullet point, the members of the Supervisory Board, the Nomination Committee and the auditor should be present at General Meetings. The representatives of neither the Supervisory Board nor the auditor are generally not present at General Meetings as this is not customary for Dutch companies. The Company does not have a Nomination Committee. The auditor is always on standby to attend the annual General Meeting depending on shareholder attendance.
- Pursuant to Section 7 of the Norwegian Corporate Governance Code, the Company should have a Nomination Committee. The Company does not have a Nomination Committee, as such a committee is not deemed to be relevant given the Company's current size. However, the Company will continue to re-evaluate this policy according to its development in the future. The Supervisory Board shall carry out the duties of proposing the candidates for election to the Supervisory Board and to the corporate assembly (to the extent this exists) and the fees to be paid to members of these bodies. The Supervisory Board shall justify such recommendations.
- Pursuant to Section 10, first paragraph of the Norwegian Corporate Governance Code, the Company shall establish sound systems for internal control and risk management. The Management has set up a system of internal controls, which it considers to be effective and efficient for the size of the Company. The system may, however, be less detailed than expected in the Norwegian Corporate Governance Code. The Company considers the internal control relating to financial reporting to be at a reasonable level of assurance that the financial reporting does not contain any material inaccuracies, and confirms that these controls functions properly and that there are no indications that they will not continue to do so.
- Pursuant to Section 11, second paragraph of the Norwegian Corporate Governance Code, options should not be granted to members of the Supervisory Board. However, the Company will from time to time consider granting options to members of its Supervisory Board, see further Section 11.5.2 "Options". The Company has not set an absolute limit for its performance-related remuneration under the applicable option agreements. The Company views options as an important tool for remuneration of Supervisory Board Members, *e.g.*, to be able to have a board composition that reflects the global nature of its business.
- Pursuant to Section 12, third paragraph of the Norwegian Corporate Governance Code, performance-related remuneration of the executive personnel in the form of share options, bonus programmes or the like should be linked to value creation for shareholders or the Company's earnings performance over time. The allocation of options to the Company's executive personnel is determined on a case by case basis and is not made specifically dependent on the realization of certain targets that are determined in advance. This practice promotes an extremely dynamic business, in terms of both products and management responsibilities, which is appropriate for the fast changing nature of the business environment.

### 11.16.3 Departures from the Dutch Corporate Governance Code:

Funcom's adopted code and practices are in compliance with the Dutch Corporate Governance Code, with the exception of:

- (i) Pursuant to Provision 1.3.1, the Management Board should appoint an internal auditor and such appointment should be approved by the Supervisory Board. The Company has not assigned a specific internal auditor. Given the size of the Company, it believes its current internal control procedures are adequate. As noted in Provision 1.3.6 of the Dutch Corporate Governance Code, the size of the Company is – indirectly – an acceptable reason for this departure. Considering that the Supervisory Board that its current internal control procedures are adequate, which opinion is partly based upon advice of the audit committee, the Supervisory Board takes the position that no outsourcing of the internal audit function is required. The Company will continue to review its internal control procedures.
- (ii) Pursuant to Provision 2.1.5, the Supervisory Board should draw up a diversity policy for the composition of the Management Board and the Supervisory Board. The Supervisory Board has not drawn up such policy and there is no female member in the Management Board, the Supervisory Board, or the executive committee. The Company encourages selection of people from diverse backgrounds.
- (iii) Pursuant to Provision 2.2.2, members of the Supervisory Board should be appointed for periods of four years and may be reappointed once for another four-year period. The Supervisory Board members of Funcom are generally elected with terms expiring at the end of the first ordinary General Meeting which is held after two full calendar years have elapsed since the date of appointment. No member has surpassed eight years in the Supervisory Board.
- (iv) Pursuant to Provision 2.2.4, the Supervisory Board should draw up a retirement schedule in order to avoid, as much as possible, Supervisory Board members retiring simultaneously. The Company has not developed a retirement schedule and made it generally available, but the Supervisory Board monitors the situation and makes sure there is continuity and ongoing improvement in the management of the Company. The Company aims to develop a more structured guideline.
- (v) Pursuant to Provision 2.2.5, the Company should establish a selection and appointment committee. The Company has decided not to establish a selection and appointment committee. The Supervisory Board has taken over these tasks.
- (vi) Pursuant to Provision 2.3.5, the Supervisory Board should receive from each of its committees a report of their deliberations and findings. No such reports are prepared, but the Supervisory Board report includes the composition of the committees, and the description of activities of the Supervisory Board. The Supervisory Board report will provide more details on activities of the committees.
- (vii) Pursuant to Provision 2.3.10, the Supervisory Board should be supported by a company secretary. The Company has not assigned a specific secretary, but all related tasks are performed.
- (viii) Pursuant to Provision 2.5.4, the report of the Management Board should include an account on company culture. The Management Board touches upon this issue, such as in 'Internal & external environment' part of the report, but aims to provide more detailed information.

- (ix) Pursuant to Provision 3.1.2, the terms and conditions governing share options and conditions subject to which share options can be exercised should be taken into consideration when formulating the remuneration policy. The Company has an option program for the Management Board members where one third of the options vest each year for three years as of twelve months after the grant date. The Company is in the process of revising its option policy.
- (x) Pursuant to Provision 3.3.2, members of the Supervisory Board should not be awarded remuneration in the form of shares and/ or rights to shares. The Company has reserved the right to grant options to the Supervisory Board members. It views share options as an important tool for remuneration of the Supervisory Board members.

#### **11.17 Redemption or reduction of share capital**

Subject to the provisions of Dutch law and the Articles of Association, the General Meeting may resolve to reduce the Company's issued share capital by: (i) cancelling Company Shares (ii) cancelling with repayment all Company Shares or (iii) reducing the par value of the Company Shares, to be effected by an amendment of the Articles of Association. The General Meeting can only adopt a resolution to reduce the issued capital upon a proposal by the Management Board which has been approved by the Supervisory Board. A reduction of the par value of the Company Shares, whether without redemption or against partial repayment on the Company Shares or upon release from the obligation to pay up Company Shares, must be made pro rata on all Company Shares of that particular class. This pro rata requirement may be waived if all shareholders concerned agree to this waiver. In addition, a resolution to reduce the share capital shall require the prior or simultaneous approval of each group of holders of a similar class (if any) whose rights are prejudiced.

A resolution of the General Meeting to reduce the issued share capital requires a majority of at least two-thirds of the votes cast, if less than half of the issued and outstanding share capital is present or represented at the General Meeting. A resolution to reduce the issued share capital shall not take effect as long as creditors have legal recourse against the resolution.

#### **11.18 Liquidation**

A resolution to wind up the Company shall be valid only provided that:

- (i) the proposal to such a resolution has been proposed to the General Meeting by the Supervisory Board;
- (ii) the full proposals have been deposited for inspection by shareholders and other persons entitled to attend the General Meeting, at the office of the Company as from the day on which the notice is served until the close of that meeting;
- (iii) the proposal to such a resolution has been approved by a majority of at least two-thirds of the votes cast in a meeting.

If the Company is wound up, the liquidation shall be carried out by the Management Board or any person designated for that purpose by the General Meeting, under the supervision of the Supervisory Board. In passing a resolution to wind up the Company, the General Meeting shall upon the proposal of the Supervisory Board set the remuneration payable to the liquidators and to those responsible for supervising the liquidation.

The liquidation shall take place with due observance of the provisions of the law. After the liquidation has ended, the books and records of the Company shall remain in the custody of the person designated for that purpose by the liquidators during a seven-year period.

What is left of the Company's assets after all creditors have been satisfied shall be divided amongst the shareholders pro rata to their respective holdings of shares. The person entitled to a liquidation-distribution on registered shares shall be the person in whose name the share is registered at the date of liquidation-distribution.

## **12 SECURITIES TRADING IN NORWAY AND CERTAIN ASPECTS OF DUTCH LAW**

### **12.1 Introduction**

Oslo Børs was established in 1819 and is the principal market in which shares, bonds and other financial instruments are traded in Norway. Oslo Børs has entered into a strategic cooperation with the London Stock Exchange Group with regards to, inter alia, trading systems for equities, fixed income and derivatives. Oslo Børs VPS Holding ASA owns and operates the two regulated markets for equities in Norway; Oslo Børs and Oslo Axess. In addition, Oslo Børs opened a multilateral trading facility named Merkur Market in January 2016.

### **12.2 Trading of equities and settlement**

Trading of equities on Oslo Børs is carried out in the electronic trading system Millennium Exchange. This trading system is in use by all markets operated by the London Stock Exchange as well as by the Borsa Italiana and the Johannesburg Stock Exchange.

Official trading on Oslo Børs takes place between 09:00 hours (CET) and 16:20 hours (CET) each trading day, with pre-trade session between 08:15 hours (CET) and 09:00 hours (CET), a closing auction from 16:20 hours (CET) to 16:25 hours (CET) and a post-trade period from 16:25 hours (CET) to 17:30 hours (CET).

The settlement period for trading on Oslo Børs is currently two trading days (T+2).

Six X-Clear AG has a license from the NFSA to act as a central clearing service and offers clearing and counterparty services for equity trading on Oslo Børs.

Investment services in Norway may only be provided by Norwegian brokerage houses holding a license under the Norwegian Securities Trading Act, branches of brokerage houses from an EEA member state or brokerage houses from outside the EEA that have been licensed to operate in Norway. Brokerage houses in an EEA member state may also provide cross-border investment services in Norway.

It is possible for brokerage houses to undertake market-making activities in shares listed in Norway if they have a license to this effect under the Norwegian Securities Trading Act, or in the case of brokerage houses in an EEA member state, a license to carry out market-making activities in their home jurisdiction. Such market-making activities will be governed by the regulations of the Norwegian Securities Trading Act relating to brokers' trading for their own account. However, such market-making activities do not as such require notification to the NFSA or Oslo Børs except for the general obligation on brokerage houses that are members of Oslo Børs to report all trades in stock exchange listed securities.

### **12.3 Information, control and surveillance**

Under Norwegian law, Oslo Børs is required to perform a number of surveillance and control functions. The Surveillance and Corporate Control unit of Oslo Børs monitors all market activity on a continuous basis. Market surveillance systems are largely automated, promptly warning department personnel of abnormal market developments.

Under Norwegian law, a company which is listed, or has applied for listing, on a Norwegian regulated market, must promptly release any inside information (*i.e.* precise information about financial instruments, the issuer thereof or other matters which are likely to have a significant effect on the price of the relevant financial instruments or related financial instruments, and which are not publicly available or commonly known in the market). A company may, however, delay the release of such information in order not to prejudice its legitimate interests, provided that it is able to ensure the confidentiality of the information and that the delayed release would not be likely to mislead the public. Oslo Børs may levy fines on companies violating these requirements.

#### **12.4 The VPS and transfer of VPS Shares – Beneficial interests in the Company Shares**

The VPS is the Norwegian paperless centralized securities register. It is a computerized bookkeeping system in which the ownership of, and all transactions relating to, Norwegian listed shares must be recorded. VPS and Oslo Børs are both wholly owned by Oslo Børs VPS Holding ASA.

All transactions relating to securities registered with the VPS are made through computerized book entries. No physical share certificates are, or may be, issued. The VPS confirms each entry by sending a transcript to the registered shareholder irrespective of any beneficial ownership. To give effect to such entries, the individual shareholder must establish a share account with a Norwegian account agent. Norwegian banks, Norges Bank (Norway's central bank), authorized securities brokers in Norway and Norwegian branches of credit institutions established within the EEA, or credit institutions established within the EEA operating cross-border into Norway are allowed to act as account agents.

The VPS Shares in Funcom that are listed on Oslo Børs are registered in the name of the VPS Registrar and the VPS Registrar registers beneficial interests in the Company Shares in the VPS (*Nw: depotbevis*) as VPS Shares.

In order to enable registration of the beneficial interests of the Company Shares in the VPS, the Company Shares registered in the VPS are recorded in the name of the VPS Registrar in the Company's shareholders' register. Although the VPS Registrar will hold the Company Shares in the Company's shareholders' register, it will only do so as the legal owner for the beneficial holders.

The VPS Registrar will, in its capacity as registrar, operate the Company's register in the VPS which will record the beneficial owners of the Company Shares.

The technical settlement of any trading of the VPS Shares registered in the VPS will be carried out by transfer of such VPS Shares in the VPS Register. Each VPS Share will represent the beneficial ownership of one Company Share in Funcom in Funcom's Dutch shareholders' register. These arrangements are set out in the VPS Registrar Agreement, which is attached as [Appendix 1](#) to this Prospectus. The address of DNB Bank ASA, which acts as the VPS Registrar, is: DNB Bank ASA, Verdipapirservice, Dronning Eufemias gate 30, P.O. Box 1600 Sentrum, 0021 Oslo, Norway. DNB Bank ASA was incorporated in Norway on 10 September 2002 with registered number 984 851 006 as a public limited liability company under the Norwegian Public Limited Liability Companies Act and is domiciled in Norway.

The VPS Registrar will be regarded as the legal owner of the Company Shares in Funcom registered in the VPS. In accordance with market practice in Norway and system requirements of the VPS, the

investors will be registered in the VPS as beneficial owners of the Company Shares and the instruments traded will be referred to as shares in Funcom.

A shareholder may at any time require (at the shareholder's own cost) the VPS Registrar to register such shareholders' ownership of the underlying Company Shares (as evident from the VPS Shares) in the Dutch shareholders' register. After the registration of the ownership in the Dutch shareholders' register, the relevant VPS Shares will cease to be registered with the VPS.

When the VPS Registrar receives any notice, report, accounts, financial statements, circular or other similar document relating to our affairs, including notice of a shareholders meeting, the VPS Registrar will, upon request from the Company, ensure that a copy of such document is promptly sent to the investors registered as owners in the VPS, along with any proxy form or other relevant materials.

As a matter of Norwegian law, the entry of a transaction in the VPS is prima facie evidence in determining the legal rights of parties as against the issuing company or any third party claiming an interest in the given security. A transferee or assignee of shares may not exercise the rights of a shareholder with respect to such shares unless such transferee or assignee has registered such shareholding or has reported and shown evidence of such share acquisition, and the acquisition is not prevented by law, the relevant company's articles of association or otherwise.

The VPS is liable for any loss suffered as a result of faulty registration or an amendment to, or deletion of, rights in respect of registered securities unless the error is caused by matters outside the VPS's control which the VPS could not reasonably be expected to avoid or overcome the consequences of. Damages payable by the VPS may, however, be reduced in the event of contributory negligence by the aggrieved party.

The VPS must provide information to the Norwegian Financial Supervisory Authority (the "NFSA") on an ongoing basis, as well as any information that the NFSA requests. Further, Norwegian tax authorities may require certain information from the VPS regarding any individual's holdings of securities, including information about dividends and interest payments.

### **12.5 Shareholders' register**

The Company Shares are in the form of an entry in the shareholders' register without issue of a share certificate. Except to the extent the Shareholders have not or will not offer their Shares to the VPS Registrar, the Company Shares are held by the VPS Registrar. The VPS Shares in Funcom that are listed on Oslo Børs are registered in the name of the VPS Registrar and the VPS Registrar registers beneficial interests in the Company Shares in the VPS (Nw: *depotbevis*) as VPS Shares.

The names and addresses of holders of Company Shares are entered in a shareholders' register maintained and kept by or on behalf of the Company. The shareholders' register will include all such further information as the Management Board deems necessary or as is required by Dutch law. At the request of a shareholder, a usufructuary or a pledgee, the Company is required to provide, free of charge, a statement including the information contained in the shareholders' register with respect to such person's rights to the Company Shares.

Part(s) of the shareholders' register may be kept outside the Netherlands if necessary to meet requirements by foreign law or a foreign exchange.

## 12.6 Disclosure obligations

Shareholders may be subject to notification obligations under the Dutch Financial Supervision Act. Shareholders are advised to seek professional advice on these obligations.

### Shareholders

Pursuant to the Dutch Financial Supervision Act, any person who, directly or indirectly, acquires or disposes of an actual or potential interest in the capital or voting rights of the Company must immediately notify the AFM by means of a standard form, if, as a result of such acquisition or disposal, the percentage of capital interest or voting rights held by such person in the Company reaches, exceeds or falls below any of the following thresholds: 3%, 5%, 10%, 15%, 20%, 25%, 30%, 40%, 50%, 60%, 75% and 95%.

A notification requirement also applies if a person's capital interest or voting rights reaches, exceeds or falls below the abovementioned thresholds as a result of a change in the Company's total outstanding share capital or voting rights. Such notification has to be made no later than the fourth trading day after the AFM has published the Company's notification of the change in its outstanding share capital.

The Company is required to notify the AFM immediately of the changes to its total share capital or voting rights, if its issued share capital or voting rights changes by 1% or more since the Company's previous notification. The Company must furthermore notify the AFM within eight days after each quarter, in the event its share capital or voting rights changed by less than 1% in that relevant quarter since the Company's previous notification.

In addition, every holder of 3% or more of the Company's share capital or voting rights who, in relation to its previous notification, reaches, exceeds or falls below any of the abovementioned thresholds as a consequence of a different composition by means of an exchange or conversion into shares or the exercise of rights pursuant to an agreement to acquire voting rights, shall notify the AFM at the latest within four trading days.

Controlled entities, within the meaning of the Dutch Financial Supervision Act, do not have notification obligations under the Dutch Financial Supervision Act, as their direct and indirect, interests are attributed to their (ultimate) parent. Any person may qualify as a parent for purposes of the Dutch Financial Supervision Act, including an individual. A person who has a 3% or larger interest in the Company's share capital or voting rights and who ceases to be a controlled entity for these purposes must immediately notify the AFM. As of that moment, all notification obligations under the Dutch Financial Supervision Act will become applicable to the former controlled entity.

For the purpose of calculating the percentage of capital interest or voting rights, the following interests must, *inter alia*, be taken into account: (i) shares and voting rights directly held (or acquired or disposed of) by any person; (ii) shares and voting rights held (or acquired or disposed of) by such person's controlled entity or by a third party for such person's account or by a third party with whom such person has concluded an oral or written voting agreement; (iii) voting rights acquired pursuant to an agreement providing for a temporary transfer of voting rights against a payment; (iv) shares which such person (directly or indirectly) or third party referred to above, may acquire pursuant to any option or other right to acquire shares; (v) shares which determine the value of certain cash settled financial instruments such as contracts for difference and total return swaps; (vi) shares that must be acquired upon exercise of a put option by a counterparty; and (vii) shares which are the subject of another contract creating an economic position similar to a direct or indirect holding in those shares. Special attribution rules apply to shares and voting rights which are part of

the property of a partnership or other community of property. A holder of a pledge or right of usufruct in respect of shares can also be subject to the reporting obligations, if such person has, or can acquire, the right to vote on the shares. The acquisition of (conditional) voting rights by a pledgee or beneficial owner may also trigger the reporting obligations as if the pledgee or beneficial owner were the legal holder of the shares.

For the purpose of the notification obligation, the following instruments qualify as "shares": (i) shares; (ii) Depositary Receipts for shares (or negotiable instruments similar to such receipts); (iii) negotiable instruments for acquiring the instruments under (i) or (ii) (such as convertible bonds); and (iv) options for acquiring the instruments under (i) or (ii).

Gross short positions in shares must also be notified to the AFM. For these gross short positions, the same thresholds apply as for notifying an actual or potential interest in the capital and/or voting rights of a listed company, as referred to above, and without any set-off against long positions.

In addition, pursuant to Regulation (EU) No 236/2012, each person holding a net short position attaining 0.2% of the issued share capital of the Company is required to notify such position to the AFM. Each subsequent increase of this position by 0.1% above 0.2% must also be notified. Each net short position equal to 0.5% of the issued share capital of the Company and any subsequent increase of that position by 0.1% will be made public via the AFM short selling registers. To calculate whether a natural person or legal person has a net short position, their short positions and long positions must be set-off. A short transaction in a Share can only be contracted if a reasonable case can be made that the Shares sold can actually be delivered, which requires confirmation of a third party that the Shares have been located.

#### **Notification requirements of managing directors, supervisory directors and any other person who would have managerial or co-managerial responsibilities**

Each Managing Director and Supervisory Director must notify the AFM: (a) immediately following the admission to trading and (de-)listing of the Shares of the number of Shares he/she holds and the number of votes he/she is entitled to cast in respect of the Company's issued share capital, and (b) subsequently of each change in the number of Shares he/she holds and of each change in the number of votes he/she is entitled to cast in respect of the Company's issued share capital, immediately after the relevant change.

#### **Reporting of Insider Transactions**

The Market Abuse Regulation (Regulation (EU) No. 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse, (the "**MAR**")) provides for some specific rules on market abuse, such as the prohibition on insider dealing, unlawful disclosure of inside information, tipping and market manipulation.

The MAR is supplemented by the Market Abuse Directive (Directive (EU) No. 2014/57 of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (together with the MAR, the "**EU Market Abuse Rules**")). The EU Market Abuse Rules apply as of 3 July 2016.

Pursuant to the MAR, members of the Management Board or of the Supervisory Board, or any other senior executive of the Company who has regular access to inside information relating directly or indirectly to the Company and has the power to take managerial decisions affecting the future developments and business prospects of the Company (the "**PDMRs**") must notify the AFM of all transactions conducted for their own account relating to the Shares or debt instruments of the Company or to derivatives or other financial instruments linked thereto.

In addition, persons closely associated with a PDMR must also notify the AFM of any transactions conducted for their own account relating to the Shares or debt instruments of the Company or to derivatives or other financial instruments linked thereto. The foregoing obligation applies to the following categories of persons: (i) the spouse or a partner considered to be equivalent to a spouse in accordance with national law, (ii) a dependent child in accordance with national law, (iii) other relatives who have shared the same household for at least one year on the date of the transaction concerned and (iv) any legal person, trust or partnership, the managerial responsibilities of which are discharged by a PDMR or a person closely associated with a PDMR or which is set up for the benefit of a PDMR or a person closely associated with a PDMR or the economic interests of which are substantially equivalent of a PDMR or a person closely associated with a PDMR. PDMRs and persons closely associated with a PDMR must make the notifications on managers' transactions to the AFM promptly and no later than three business days after the date of the transaction.

Notifications on managers' transactions are only required to be made on any subsequent transaction once a total amount of €5,000 has been reached within one calendar year. The AFM will publish the notified transaction in a register. Furthermore, a PDMR is not permitted to (directly or indirectly) conduct any transactions on its own account or for the account of a third party, relating to Shares or debt instruments of the Company or other financial instruments linked thereto, during a closed period of 30 calendar days before the announcement of an half-yearly report or an annual report of the Company.

The Company will maintain a list of persons working for the Company who could have access to inside information in accordance with the MAR and will regularly update such insider list. The Company will take all reasonable steps to ensure that any person on the insider list acknowledges in writing the legal and regulatory duties entailed and is aware of the sanctions applicable to insider dealing and unlawful disclosure of inside information.

If a Managing Director or Supervisory Director has notified a transaction to the AFM under the Dutch Financial Supervision Act as described above under the paragraph "Shareholders", such notification is sufficient for purposes of the Dutch Financial Supervision Act as described in this paragraph.

### **Non-compliance**

Non-compliance with the notification obligations under the Dutch Financial Supervision Act could lead to criminal fines, administrative fines, imprisonment or other sanctions. In addition, non-compliance with some of the notification obligations under the Dutch Financial Supervision Act may lead to civil sanctions, including suspension of the voting rights relating to the Company Shares held by the offender for a period of not more than three years, voiding of a resolution adopted by the General Meeting in certain circumstances and ordering the person violating the disclosure obligations to refrain, during a period of up to five years, from acquiring Shares and/or voting rights in Shares.

### **Public registry**

The AFM does not issue separate public announcements of these notifications. It does, however, keep a public register of all notifications under the Dutch Financial Supervision Act on its website ([www.afm.nl](http://www.afm.nl)<sup>101</sup>). Third parties can request to be notified automatically by e-mail of changes to the public register in relation to a particular company's shares or a particular notifying party. In addition,

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<sup>101</sup> The information included on [www.afm.nl](http://www.afm.nl) is not part of the Prospectus.

notifications of significant shareholdings shall be published by the Company through the Oslo Børs' news system, [www.newsweb.no](http://www.newsweb.no)<sup>102</sup>.

### **Dutch Financial Reporting Supervision Act**

Pursuant to the Dutch Financial Reporting Supervision Act (*Wet toezicht financiële verslaggeving*) (the "**FRSA**") the AFM supervises the application of financial reporting standards of, among others, companies whose corporate seats are in the Netherlands and whose securities are listed on a regulated Dutch or foreign stock exchange. The FRSA stipulates that the AFM has an independent right to (i) request an explanation from the Company regarding its application of the applicable financial reporting standards if, based on publicly known facts or circumstances, it has reason to doubt that the Company's financial reporting meets such standards and (ii) recommend the Company to make available further explanations. The AFM may, if such a Company does not comply with the AFM's request or recommendation, request that the enterprise chamber of the court of appeal in Amsterdam (*Ondernemingskamer van het Gerechtshof te Amsterdam*) (the "**Enterprise Chamber**") issue an order to the Company to (i) provide an explanation of the way it has applied the applicable financial reporting standards to its financial reports or (ii) prepare its financial reports in accordance with the Enterprise Chamber's instructions.

### **12.7 Insider trading**

Dutch law contains specific rules intended to prevent illegal insider trading and market manipulation, including the EU Market Abuse Rules. The DFSA provides for specific rules intended to prevent market abuse, such as the prohibitions on insider trading, divulging inside information and tipping off, and market manipulation. The person who is in possession of inside information will be subject to the Dutch insider trading prohibition, the Dutch prohibition on divulging insider information and tipping off and the Dutch prohibition on market manipulation. The Dutch prohibition on market manipulation may mean that certain restrictions apply to the ability of the Company to buy back shares. In certain circumstances, the Company's investors may also be subject to the Dutch market abuse rules.

As noted in Section 12.6 "Disclosure obligations", the Company is subject to the EU Market Abuse Rules. Pursuant to the MAR, no natural or legal person is permitted to:

- (i) engage or attempt to engage in insider dealing in financial instruments listed on a regulated market
- (ii) or for which a listing has been requested, such as the Shares,
- (iii) recommend that another person engage in insider dealing or induce another person to engage in insider dealing, or
- (iv) unlawfully disclose inside information relating to the Shares or the Company.

Furthermore, no person may engage in or attempt to engage in market manipulation.

In certain circumstances, the Company's investors can also be subject to the EU Market Abuse Rules.

The Company is subject to insider information disclosure obligations pursuant to Norwegian law.

According to Norwegian law, subscription for, purchase, sale or exchange of financial instruments that are listed, or subject to the application for listing, on a Norwegian regulated market, or

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<sup>102</sup> The information included on [www.newsweb.no](http://www.newsweb.no) is not part of the Prospectus.

incitement to such dispositions, must not be undertaken by anyone who has inside information, as defined in the Norwegian Securities Trading Act section 3-2. The same applies to the entry into, purchase, sale or exchange of options or futures/forward contracts or equivalent rights whose value is connected to such financial instruments or incitement to such dispositions.

## **12.8 Mandatory takeover offers**

The Company is partly subject to the mandatory take-over provisions as set out in the Norwegian Securities Trading Act chapter 6, and partly to the provisions set out in the Dutch Act on Financial Supervision.

Pursuant to the Dutch Financial Supervision Act, the obligation to make a public takeover bid for all issued and outstanding shares or Depositary Receipts for shares in the share capital of the Company arises when a party, by itself or together with parties with whom it is acting in concert, directly or indirectly acquires 'predominant control' in the Company. 'Predominant control' is defined as being able to cast, alone or acting in concert, at least 30% of the votes at the general meeting of such listed company.

Under the Dutch Financial Supervision Act, "*persons with whom a party is acting in concert*" has been defined as natural persons, legal persons or companies collaborating under a contract with the aim to acquire predominant control in the listed company or, if the target company is one of the collaborators, to frustrate the success of an announced public takeover bid for that company. The following categories of natural persons, legal persons or companies are deemed in any case to act in concert: (i) legal persons or companies which together form part of a group as referred to in Section 24b of the Dutch Civil Code Book 2 (*Burgerlijk Wetboek Boek 2*); and (ii) natural persons, legal persons or companies and the undertakings controlled by these persons or companies.

No obligation to launch a public takeover bid exists if an exemption applies, including if a party has decreased its shareholding to below 30% within a period of 30 days, unless the loss of predominant control is the result of a transfer of shares to a natural person, legal person or company that may invoke an exemption from the requirement to make a public takeover bid or if the controlling party has made use of its voting rights during that period.

Questions concerning consolidation of shareholdings in relation to the threshold at which the mandatory bid regulation is triggered are subject to Dutch law. The rules under the DFSA regarding mandatory public offers apply to the Company because it has its corporate seat in the Netherlands. However, as the Company Shares (as VPS Shares) are admitted to Oslo Børs the Dutch Decree on public offers (*Besluit openbare biedingen Wft*) will only apply in relation to matters to information to be provided to employees and labor unions and company law matters, such as a position statement of the Company and the convocation of a General Meeting.

The bidding process, including questions concerning the compensation offered in connection with the bid, in particular the bid price, the bid procedure, information on the bidder's decision to present a bid, the content of the offer document and the publication of the bid, is subject to Norwegian law, *i.e.* the Norwegian Securities Trading Act. The takeover supervisory authority with respect to these issues is the NFSA, or Oslo Børs.

Where an agreement on acquisition of shares triggers the bid obligation, the shareholder shall without delay notify the takeover supervisory authority and the Company accordingly. The

notification shall state whether a bid will be made to buy the remaining Shares in the Company. The takeover supervisory authority shall make the notification available to the public.

The bid shall be made without undue delay and at the latest four weeks after the mandatory bid obligation was triggered, and shall encompass all the remaining Shares of the Company. The bid price must be at least as high as the highest price paid or agreed to be paid by the offeror in the six-month period prior to the date the above threshold was exceeded, but equal to the market price if the market price was clearly higher when the threshold was exceeded. In the event that the acquirer thereafter, but prior to the expiration of the bid period acquires, or agrees to acquire, additional Shares at a higher price, the acquirer is obliged to restate its bid at that higher price. The bid shall state a time limit for shareholders to accept the bid, not to be shorter than four weeks or longer than six weeks.

The offeror is required to make an offer document complying with Norwegian law, and such document require approval by the takeover supervisory authority (being Oslo Børs) before the bid is made public. In the mandatory bid, all Shares of the Company must be treated equally. The mandatory bid must be made in cash or contain a cash alternative at least equal in value to any non-cash offer. A shareholder who fails to make the required offer must within four weeks dispose of sufficient Shares so that the obligation ceases to apply. Otherwise, the authorities may cause the Shares exceeding the threshold to be sold. Until the mandatory bid is made the shareholder may, under Norwegian law, not vote for Shares exceeding the threshold, unless a majority of the remaining shareholders approve. The shareholder can, however, exercise the right to dividends and pre-emption rights in the event of a share capital increase. The authorities may impose a daily fine upon a shareholder who fails to make the required offer.

## **12.9 Squeeze-out proceedings**

The squeeze-out rules are subject to Dutch corporate legislation.

Pursuant to Section 92a of the Dutch Civil Code Book 2 (*Burgerlijk Wetboek Boek 2*), a shareholder who for his or her own account contributes at least 95% of a Dutch company's issued share capital may institute proceedings against such company's minority shareholders jointly for the transfer of their shares to him or her. The proceedings are held before the Enterprise Chamber and can be instituted by means of a writ of summons served upon each of the minority shareholders in accordance with the provisions of the Dutch Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*). The Enterprise Chamber may grant the claim for squeeze-out in relation to all minority shareholders and will determine the price to be paid for the shares, if necessary after appointment of one or three experts who will offer an opinion to the Enterprise Chamber on the value to be paid for the shares of the minority shareholders. Once the order to transfer becomes final before the Enterprise Chamber, the person acquiring the shares shall give written notice of the date and place of payment and the price to the holders of the shares to be acquired whose addresses are known to him. Unless the addresses of all of them are known to him, he is required to publish the same in a daily newspaper with nationwide circulation.

The offeror under a public takeover bid is also entitled to start squeeze-out proceedings if, following the public takeover bid, the offeror contributes at least 95% of the outstanding share capital and represents at least 95% of the total voting rights. The claim of a takeover squeeze-out needs to be filed with the Enterprise Chamber within three months following the expiry of the acceptance period of the offer. The Enterprise Chamber may grant the claim for squeeze-out in relation to all minority shareholders and will determine the price to be paid for the shares, if necessary after appointment

of one or three experts who will offer an opinion to the Enterprise Chamber on the value to be paid for the shares of the minority shareholders. In principle, the offer price is considered reasonable if the offer was a mandatory offer or if at least 90% of the shares to which the offer related were received by way of voluntary offer.

The Dutch takeover provisions of the Dutch Financial Supervision Act also entitle those minority shareholders that have not previously tendered their shares under an offer to transfer their shares to the offeror, provided that the offeror has acquired at least 95% of the outstanding share capital and represents at least 95% of the total voting rights. With regard to price, the same procedure as for takeover squeeze-out proceedings initiated by an offeror applies. The claim also needs to be filed with the Enterprise Chamber within three months following the expiry of the acceptance period of the offer.

### **12.10 Foreign exchange controls**

There are currently no foreign exchange control restrictions in Norway, other than in certain extreme macroeconomic conditions, that would potentially restrict the payment of dividends to a shareholder outside Norway, and there are currently no restrictions that would affect the right of shareholders of a Dutch company who are not residents in Norway to dispose of their shares and receive the proceeds from a disposal outside Norway. There is no maximum transferable amount either to or from Norway, although transferring banks are required to submit reports on foreign currency exchange transactions into and out of Norway into a central data register maintained by the Norwegian customs and excise authorities. The Norwegian police, tax authorities, customs and excise authorities, the National Insurance Administration and the NFSA have electronic access to the data in this register.

## 13 TAX AND LEGAL MATTERS

### 13.1 Taxation of Norwegian shareholders

*Set out below is a summary of certain Norwegian tax matters related to investments in the Company. The summary is based on Norwegian laws, rules and regulations applicable as of the date of this Prospectus, which may be subject to any changes in law occurring after such date. Such changes could possibly be made on a retroactive basis. The summary does not address foreign tax laws.*

*The summary is of a general nature and does not purport to be a comprehensive description of all the Norwegian tax considerations that may be relevant for a decision to acquire, own or dispose of shares. Shareholders who wish to clarify their own tax situation should consult with and rely upon their own tax advisors. Shareholders resident in jurisdictions other than Norway and shareholders who cease to be resident in Norway for tax purposes (due to domestic tax law or tax treaty) should consult with and rely upon their own tax advisors with respect to the tax position in their country of residence and the tax consequences related to ceasing to be resident in Norway for tax purposes.*

*Please note that for the purpose of the summary below, a reference to a Norwegian or foreign shareholder refers to the tax residency rather than the nationality of the shareholder.*

#### 13.1.1 Taxation of dividends

##### **Norwegian Personal Shareholders**

Dividends received by shareholders who are individuals resident in Norway for tax purposes ("**Norwegian Personal Shareholders**") are taxable as ordinary income in Norway for such shareholders at an effective tax rate of 30.59%. This effective tax rate is a result of dividends being, for the purposes of calculating taxable income, grossed up by a factor of 1.33 before the ordinary income tax rate of 23% is applied. Dividends are only taxable to the extent the dividend exceeds a tax-free allowance.

The allowance is calculated on a share-by-share basis. The allowance for each share is equal to the cost price of the share multiplied by a determined risk-free interest rate based on the effective rate after tax of interest on treasury bills (Nw: *statskasseveksler*) with three months' maturity. The allowance is calculated for each calendar year, and is allocated solely to Norwegian Personal Shareholders holding shares at the expiration of the relevant calendar year. Norwegian Personal Shareholders who transfer shares will thus not be entitled to deduct any calculated allowance related to the year of transfer. Any part of the calculated allowance one year exceeding the dividend distributed on the share ("excess allowance") may be carried forward and set off against future dividends received on, or gains upon realization, of the same share. Any excess allowance will also be included in the basis for calculating the allowance on the same share the following years.

##### **Norwegian Corporate Shareholders**

The Shares will qualify for the Norwegian exemption method to the extent the Netherlands is not considered a low tax jurisdiction, or provided that the Netherlands is considered a low tax jurisdiction, if the Company is considered genuinely established in the Netherlands (the "substance test"). The tax consequences of Funcom meeting the conditions under the Norwegian exemption method are further described below. If the Shares do not qualify for the Norwegian exemption method, dividends and gains are taxable at 23%, while losses are deductible at the same rate.

Dividends received by shareholders who are limited liability companies (and certain similar entities) resident in Norway for tax purposes ("**Norwegian Corporate Shareholders**") are included in the calculation of the shareholders' net income from shares qualifying for participation exemption, including dividends received from the Company. Only 3% of net income from shares qualifying for participation exemption shall be included in the calculation of ordinary income. Ordinary income is subject to tax at a flat rate of 23%, implying that net income from shares is effectively taxed at a rate of 0.69%.

### 13.1.2 Capital gains tax on realization of Shares

#### **Norwegian Personal Shareholders**

Sale, redemption or other disposal of shares is considered a realization for Norwegian tax purposes. A capital gain or loss generated by a Norwegian Personal Shareholder through a realization of shares is taxable or tax deductible in Norway. Such capital gain or loss is included in or deducted from the shareholder's ordinary income in the year of disposal. Ordinary income is taxable at a rate of 25%. The gain is subject to tax and the loss is tax-deductible irrespective of the duration of the ownership and the number of shares disposed of.

The taxable gain/deductible loss is calculated per share, as the difference between the consideration for the share and the Norwegian Personal Shareholder's cost price of the share, including any costs incurred in relation to the acquisition or realization of the share. From a possible capital gain, Norwegian Personal Shareholders are entitled to deduct a calculated allowance, provided that such allowance has not already been used to reduce taxable dividend income. See Section 13.1.1 "Taxation of dividends" above for a description of the calculation of the allowance. The allowance may only be deducted in order to reduce a taxable gain, and cannot increase or produce a deductible loss, *i.e.* any unused allowance exceeding the capital gain upon the realization of a share will be annulled.

If the Norwegian Personal Shareholder owns shares acquired at different points in time, the shares that were acquired first will be regarded as the first to be disposed of, on a first-in, first-out basis.

#### **Norwegian Corporate Shareholders**

Capital gains derived from the realization of shares qualifying from the participation exemption method are exempted from taxation, *i.e.* capital gains on such shares will be fully exempt from Norwegian taxation. Losses incurred upon realization of such shares are not deductible.

### 13.1.3 Net wealth tax

The value of shares is included in the basis for the computation of net wealth tax imposed on Norwegian Personal Shareholders. Currently, the marginal net wealth tax rate is 0.85% of the value assessed. The value for assessment purposes for listed shares is equal to 80% of the listed value as of 1 January in the year of assessment (*i.e.* the year following the relevant fiscal year). The value of debt allocated to the listed shares for Norwegian wealth tax purposes is reduced correspondingly (*i.e.* to 80%).

Norwegian Corporate Shareholders are not subject to net wealth tax.

Shareholders not resident in Norway for tax purposes are not subject to Norwegian net wealth tax. Non-Norwegian Personal Shareholders can, however, be taxable if the shareholding is effectively connected to the conduct of trade or business in Norway.

## **13.2 Taxation in the Netherlands**

### 13.2.1 Introduction

This section describes solely the material Dutch tax consequences of the acquisition, ownership and disposal of the Shares. This section does not consider every aspect of Dutch taxation that may be relevant to a particular holder of Shares in special circumstances or who is subject to special treatment under applicable law. Shareholders and any potential investor should therefore consult their own tax advisors regarding the Dutch tax consequences of acquiring, owning and disposing of Shares in their particular circumstances.

Where in this section the terms "the Netherlands" and "Dutch" are used, these refer solely to the European part of the Kingdom of the Netherlands. Where in this section English terms and expressions are used to refer to Dutch concepts, the meaning to be attributed to such terms and expressions shall be the meaning to be attributed to the equivalent Dutch concepts under Dutch tax law.

This section also assumes that the Company is organized, and that the business will be conducted, in the manner outlined in this Prospectus. Any change to the organizational structure or to the manner in which the Company will conduct its business may invalidate the contents of this section, which will not be updated to reflect any such change.

This section is based on the tax law of the Netherlands (whereby unpublished case law is not included) as it stands at the date of this Prospectus. The law upon which this section is based is subject to change, perhaps with retroactive effect. Any such change may invalidate the contents of this description, which will not be updated to reflect such change.

### 13.2.2 Further information about categories of tax payers

The descriptions set out in this Section 13.2 "Taxation in the Netherlands" apply only to a holder of the Shares, who is a "Dutch Individual holder", a "Dutch Corporate holder" or a "Non-resident holder".

#### **Dutch Individual holders**

For the purposes of this Section 13.2 "Taxation in the Netherlands", a holder is a "Dutch Individual holder" if such holder satisfies the following tests:

- (i) such holder is an individual;
- (ii) such holder is a resident, or deemed to be a resident, in the Netherlands for Dutch income tax purposes;
- (iii) such holder's Shares, and any benefits derived or deemed to be derived therefrom have no connection with such holder's past, present or future employment, if any; and
- (iv) such holder's Shares, do not form part of a substantial interest (*aanmerkelijk belang*) or a deemed substantial interest in the Company within the meaning of Chapter 4 of the

#### Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*).

Generally, if a person holds an interest in the Company such interest forms part of a substantial interest, or a deemed substantial interest, in the Company if any one or more of the following circumstances is present:

- (a) Such person - either alone or, in the case of an individual, together with his partner, if any, or pursuant to article 2.14a, of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) - owns or is deemed to own, directly or indirectly, either a number of Shares in the Company representing five percent or more of the total issued and outstanding capital (or the issued and outstanding capital of any class of shares), or rights to acquire, directly or indirectly, Shares, whether or not already issued, representing five percent or more of the total issued and outstanding capital (or the issued and outstanding capital of any class of the shares), or profit-participating certificates (*winstbewijzen*) relating to five percent or more of the annual profit or to five percent or more of the liquidation proceeds. The Shares are considered a separate class of shares.
- (b) Such person's Shares, rights to acquire Shares or profit-participating certificates in the Company are held by him or deemed to be held by him following the application of a non-recognition provision.
- (c) Such person's partner or any of his relatives by blood or by marriage in the direct line (including foster-children) or of those of his partner has a substantial interest (as described under (a) and (b) above) in the Company.

For the purposes of circumstances (a), (b) and (c) above, if a holder is entitled to the benefits from the Shares or profit-participating certificates (for instance if a holder is a holder of a right of usufruct), such holder is deemed to be a holder of shares or profit-participating certificates, as the case may be, and such holder's entitlement to benefits is considered a share or profit-participating certificate, as the case may be.

If a Dutch Individual holder satisfies test (ii) above, but does not satisfy test (iii) and/or test (iv) above, such holder's Dutch income tax position is not discussed in this Prospectus. If a holder of Shares is an individual who does not satisfy test (b), please refer to the Section Non-resident holders below.

#### **Dutch Corporate holders**

For the purposes of this Section 13.2 "Taxation in the Netherlands" a holder is a "Dutch Corporate holder" if such holder satisfies the following tests:

- (i) such holder is a corporate entity (*lichaam*), including an association that is taxable as a corporate entity, that is subject to Dutch corporation tax in respect of benefits derived from its Shares;
- (ii) such holder is a resident, or deemed to be resident, in the Netherlands for Dutch corporation tax purposes;
- (iii) such holder is not an entity that, although subject to Dutch corporation tax, is in whole or in part, specifically exempt from that tax; and
- (iv) such holder is not an investment institution (*beleggingsinstelling*) as defined in article

28 of the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*).

If a holder of Shares, is not an individual and if such holder does not satisfy any one or more of these tests, with the exception of test (ii), such holder's Dutch corporation tax position is not discussed in this Prospectus. If a holder of Shares is not an individual and if such holder does not satisfy test (ii), please refer to the Section Non-resident holders below.

### **Non-resident holders**

For the purposes of this section, a holder of Shares is a "Non-resident holder" if such holder satisfies the following tests:

- (i) such holder is neither resident, nor deemed to be resident, in the Netherlands for purposes of Dutch income tax or corporation tax, as the case may be;
- (ii) such holder's Shares, and any benefits derived or deemed to be derived from such Shares have no connection with past, present or future employment, management activities and functions or member of the Management Board (*bestuurder*) or member of the Supervisory Board (*commissaris*);
- (iii) such holder's Shares, do not form part of a substantial interest or a deemed substantial interest in the Company within the meaning of Chapter 4 of the Dutch Income Tax Act 2001 (*Wet inkomstenbelasting 2001*); and
- (iv) if such holder is not an individual, no part of the benefits derived from such holder's Shares, is exempt from Dutch corporation tax under the participation exemption as laid down in the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*).

See above for a description of the circumstances under which Shares form part of a substantial interest or a deemed substantial interest.

If a holder of Shares, satisfies test (i), but does not satisfy any one or more of tests (ii), (iii), and (iv), such holder's Dutch income tax position or corporation tax position, as the case may be, is not discussed in this Prospectus.

### 13.2.3 Taxes on income and capital gains

#### **Dutch Individual holders**

##### *Dutch Individual holders deriving profits or deemed to be deriving profits from an enterprise*

If a Dutch Individual holder derives or is deemed to derive any benefits from such holder's Shares, including any capital gain realized on the disposal of such Shares, that are attributable to an enterprise from which such holder derives profits, whether as an entrepreneur (*ondernemer*) or pursuant to a co-entitlement to the net value of an enterprise, other than as a shareholder, such benefits are generally subject to Dutch income tax at progressive rates.

##### *Dutch Individual holders deriving benefits from miscellaneous activities*

If a Dutch Individual holder derives or is deemed to derive (as outlined below) any benefits from such holder's Shares, including any gain realized on the disposal of such Shares, that constitute benefits from miscellaneous activities (as outlined below) (*resultaat uit overige werkzaamheden*), such benefits are generally subject to Dutch income tax at progressive rates.

A Dutch Individual holder may, *inter alia*, derive, or be deemed to derive, benefits from Shares that are taxable as benefits from miscellaneous activities if such holder's investment activities go beyond the activities of an active portfolio investor, for instance in the case of use of insider knowledge or comparable forms of special knowledge.

#### *Other Dutch Individual holders*

If a Dutch Individual holder's situation has not been discussed before in this Section 13.2 "Taxation in the Netherlands", benefits from such holder's Shares will be taxed annually as a benefit from savings and investments (*voordeel uit sparen en beleggen*). Such benefit is deemed to be four percent per annum of the holder's "yield basis" (*rendementsgrondslag*), generally to be determined at the beginning of the relevant year, to the extent that such yield basis exceeds the "exempt net asset amount" (*heffingvrij vermogen*) for the relevant year. The benefit is taxed at the rate of 30 percent. The value of a holder's Shares forms part of the holder's yield basis. Under this rule, actual benefits derived from such holder's Shares, including any gain realized on the disposal of such Shares, are not as such subject to Dutch income tax.

#### *Attribution rule*

Benefits derived or deemed to be derived from certain miscellaneous activities by, and yield basis for benefits from savings and investments of, a child or a foster child who is under eighteen years of age are attributed to the parent who exercises, or to the parents who exercise, authority over the child, irrespective of the country of residence of the child.

#### **Dutch Corporate holders**

If a holder of Shares is a Dutch Corporate holder, any benefits derived or deemed to be derived by such holder from such holder's Shares, including any gain realized on the disposal thereof, are generally subject to Dutch corporation tax, except to the extent that the benefits are exempt under the participation exemption as laid down in the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*).

#### **Non-resident holders**

A Non-resident holder of Shares will not be subject to any Dutch taxes on income or capital gains (other than the Dutch dividend withholding tax described below) in respect of any benefits derived or deemed to be derived by such holder from such holder's Shares, including any capital gain realized on the disposal thereof, unless:

- (i) such holder derives profits from an enterprise directly, or pursuant to a co-entitlement to the net value of such enterprise, other than as a holder of securities, which enterprise either is managed in the Netherlands or carried on, in whole or in part, through a permanent establishment or a permanent representative which is taxable in the Netherlands, and such holder's Shares are attributable to such enterprise; or
- (ii) such holder is an individual and such holder derives benefits from Shares that are taxable as benefits from miscellaneous activities in the Netherlands.

See above for a description of the circumstances under which the benefits derived from Shares may be taxable as benefits from miscellaneous activities, on the understanding that such benefits will be taxable in the Netherlands only if such activities are performed or deemed to be performed in the Netherlands.

### *Attribution rule*

Benefits derived or deemed to be derived from certain miscellaneous activities by a child or a foster child who is under eighteen years of age are attributed to the parent who exercises, or the parents who exercise, authority over the child, irrespective of the country of residence of the child.

### 13.2.4 Dividend withholding tax

#### **General**

The Company is generally required to withhold Dutch dividend withholding tax at a rate of 15 percent from dividends distributed by it. The Company assumes the responsibility for the withholding of withholding tax imposed by the Netherlands.

As an exception to this rule, the Company may not be required to withhold Dutch dividend withholding tax if it is considered to be a tax resident of both the Netherlands and another jurisdiction in accordance with the domestic tax residency provisions applied by each of these jurisdictions, while an applicable double tax treaty between the Netherlands and such other jurisdiction attributes the tax residency exclusively to that other jurisdiction. This exception does not apply to dividends distributed by the Company to a holder who is resident or deemed to be resident in the Netherlands for Dutch income tax purposes or Dutch corporation tax purposes.

The concept of "dividends distributed by the Company" as used in this Section 13.2 "Taxation in the Netherlands" includes, but is not limited to, the following:

- distributions in cash or in kind, deemed and constructive distributions and repayments of capital not recognized as paid-in for Dutch dividend withholding tax purposes;
- liquidation proceeds and proceeds of repurchase or redemption of Shares in excess of average capital recognized as paid-in for Dutch dividend withholding tax purposes;
- the par value of Shares issued by the Company to a holder of Shares or an increase of the par value of Shares, as the case may be, to the extent that it does not appear that a contribution, recognized for Dutch dividend withholding tax purposes, has been made or will be made; and
- partial repayment of capital, recognized as paid-in for Dutch dividend withholding tax purposes, if and to the extent that there are net profits (*zuivere winst*), unless (a) the general meeting of shareholders of the Company has resolved in advance to make such repayment and (b) the par value of the Shares concerned has been reduced by an equal amount by way of an amendment to the articles of association of the Company.

#### **Dutch Individual holders and Dutch Corporate holders**

If a holder is a Dutch Individual holder or a Dutch Corporate holder, such holder can generally credit Dutch dividend withholding tax against its Dutch income tax or Dutch corporation tax liability, as applicable, and such holder is generally entitled to a refund in the form of a negative assessment of Dutch income tax or Dutch corporation tax, as applicable, to the extent such Dutch dividend withholding tax, together with any other creditable domestic and/or foreign taxes, exceeds such holder's aggregate Dutch income tax or aggregate Dutch corporation tax liability.

Pursuant to domestic rules to avoid dividend stripping, Dutch dividend withholding tax will only be credited against Dutch income tax or Dutch corporation tax, as applicable, exempted, reduced or refunded if a holder is the ultimate beneficial owner (*uiteindelijk gerechtigde*) of dividends distributed by the Company. If a holder receives proceeds from Shares, such holder will not be recognized as the beneficial owner of such proceeds if, in connection with the receipt of the proceeds, such holder has given a consideration, in the framework of a composite transaction including, without limitation, the mere acquisition of one or more dividend coupons or the creation of short-term rights of enjoyment of shares (*kortlopende genotsrechten op aandelen*), whereas it may be presumed that (i) such proceeds in whole or in part, directly or indirectly, inure to a person who would not have been entitled to an exemption from, reduction or refund of, or credit for, Dutch dividend withholding tax, or who would have been entitled to a smaller reduction or refund of, or credit for, Dutch dividend withholding tax than such holder, the actual recipient of the proceeds; and (ii) such person acquires or retains, directly or indirectly, an interest in Shares or similar instruments, comparable to its interest in Shares prior to the time the composite transaction was first initiated.

See the "General" section above for a description of the concept "dividends distributed by The Company". Please refer to Section 13.2.2 "Further information about categories of tax payers" for a description of the terms Dutch Individual holders and Dutch Corporate holders.

#### 13.2.5 Non-resident holders relief

If a Non-resident holder is resident in the non-European part of the Kingdom of the Netherlands or in a country that has concluded a double tax treaty with the Netherlands, such holder may be eligible for a full or partial relief from the Dutch dividend withholding tax, provided such relief is timely and duly claimed. Pursuant to domestic rules to avoid dividend stripping, Dutch dividend withholding tax relief will only be available to a holder if such holder is the beneficial owner of dividends distributed by the Company.

In addition, a Non-resident holder that is not an individual is entitled to an exemption from Dutch dividend withholding tax, provided that the following tests are satisfied:

- (i) such holder is, according to the tax law in a Member State of the European Union or a state designated by ministerial decree, that is a party to the Agreement regarding the European Economic Area, resident there and such holder is not transparent for tax purposes according to the tax law of such state;
- (ii) any one or more of the following threshold conditions are satisfied:

- (a) at the time the dividend is distributed by the Company, such holder holds shares representing at least five percent of the Company's nominal paid-up capital; or
  - (b) such holder has held shares representing at least five percent of the Company's nominal paid up capital for a continuous period of more than one year at any time during the four years preceding the time the dividend is distributed by the Company; or
  - (c) such holder is connected with the Company within the meaning of article 10a, paragraph 4, of the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*); or
  - (d) an entity connected with such holder within the meaning of article 10a, paragraph 4, of the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*) holds at the time the dividend is distributed by the Company, shares representing at least five percent of the Company's nominal paid-up capital;
- (iii) such holder is not considered to be resident outside the Member States of the European Union or the states designated by ministerial decree, that are a party to the Agreement regarding the European Economic Area, under the terms of a double tax treaty concluded with a third State; and
  - (iv) such holder does not perform a similar function to an investment institution (*beleggingsinstelling*) as meant by article 6a or article 28 of the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*).

The exemption from Dutch dividend withholding tax is not available if a holder is a Non-resident holder and pursuant to a provision for the prevention of fraud or abuse included in a double tax treaty between the Netherlands and such holder's country of residence, such holder would not be entitled to the reduction of tax on dividends provided for by such treaty. Furthermore, the exemption from Dutch dividend withholding tax will only be available to a holder if such holder is the beneficial owner of dividends distributed by the Company, as described above. If a holder is a Non-resident holder and such holder is resident in a Member State of the European Union with which the Netherlands has concluded a double tax treaty that provides for a reduction of tax on dividends based on the ownership of the number of voting rights, the test under (ii)(a) above is also satisfied if such holder owns five percent of the voting rights in the Company.

#### 13.2.6 Credit

If a Non-resident holder is subject to Dutch income tax or Dutch corporation tax in respect of any benefits derived or deemed to be derived from such holder's Shares, including any capital gain realized on the disposal thereof, such holder can generally credit Dutch dividend withholding tax against Dutch income tax or Dutch corporation tax liability, as applicable, and such holder is generally entitled to a refund pursuant to a negative tax assessment if and to the extent the Dutch dividend withholding tax, together with any other creditable domestic and/or foreign taxes, exceeds such holder's aggregate Dutch income tax or aggregate Dutch corporation tax liability, respectively.

Please refer to Section 13.2.4 "Dividend withholding tax" for a description of the term "beneficial owner" and the concept "dividends distributed by the Company."

Please refer to Section 13.2.2 "Further information about categories of tax payers" for a description of the term Non-resident holder.

Please refer to Section 13.2.3 "Taxes on income and capital gains" for a description of the circumstances in which a Non-resident holder is subject to Dutch income tax or Dutch corporation tax.

#### 13.2.7 Gift and inheritance taxes

If a holder of Shares disposes of Shares by way of gift, in form or in substance, or if a holder of Shares who is an individual dies, no Dutch gift tax or Dutch inheritance tax, as applicable, will be due, unless:

- (i) the donor is, or the deceased was, resident or deemed to be resident in the Netherlands for purposes of Dutch gift tax or Dutch inheritance tax, as applicable; or
- (ii) the donor made a gift of the Shares, then became a resident or deemed resident of the Netherlands and died as a resident or deemed resident of the Netherlands within 180 days of the date of the gift.

For purposes of the above, a gift of Shares made under a condition precedent is deemed to be made at the time the condition precedent is satisfied.

For example, and without being exhaustive, an individual who has the Dutch nationality is deemed to be resident in the Netherlands at the time of his death or the making of the gift, if he resided in the Netherlands at any time during a period of ten years preceding the time of his death or the time of the gift. In addition, as a further example, and without being exhaustive, any individual who has been resident in the Netherlands and who has made a gift within a period of one year after he has taken up his residence outside the Netherlands, is deemed to be resident in the Netherlands at the time of the gift.

#### 13.2.8 Value added tax

No Dutch value added tax will arise in respect of any payment in consideration for the issue of Shares.

#### 13.2.9 Registration taxes and duties

No Dutch registration tax, transfer tax, stamp duty or any other similar documentary tax or duty, other than court fees, is payable in the Netherlands by a holder in respect of or in connection with (i) the subscription, issue, placement or allotment of Shares, (ii) the enforcement by way of legal proceedings (including the enforcement of any foreign judgment in the courts of the Netherlands) of the documents relating to the issue of Shares or the performance by the Company of the Company's obligations under such documents, or (iii) the transfer of Shares.

#### 13.2.10 Residency

Subject to the exceptions mentioned above, a holder of Shares will not become a resident, or a deemed resident, of the Netherlands for tax purposes, or become subject to Dutch taxes, by reason only of the Company's performance, or the acquisition by a holder of Shares (by way of issue or transfer to it), holding and/or disposal of the Shares.

## **14 SELLING AND TRANSFER RESTRICTIONS**

### **14.1 General**

The Shares may, in certain jurisdictions, be subject to restrictions on transferability and resale and may not be transferred or resold except as permitted under applicable securities laws and regulations. Investors should be aware that they may be required to bear the financial risks of this investment for an indefinite period of time. Any failure to comply with these restrictions may constitute a violation of the securities laws of any such jurisdiction.

This Prospectus does not constitute an offer or solicitation to buy, subscribe or sell the securities described herein, and no securities are being offered or sold pursuant to this Prospectus in any jurisdiction.

### **14.2 United States**

No Shares are being offered or sold, directly or indirectly, in or into the United States pursuant to this prospectus and no Shares have been, or will be, registered under the U.S. Securities Act, or under the securities laws of any state of the United States and, accordingly, the Shares may not be offered or sold, directly or indirectly, in or into the United States (as defined in Regulation S under the U.S. Securities Act), unless registered under the U.S. Securities Act or pursuant to an exemption from the registration requirements of the U.S. Securities Act and in compliance with any applicable state securities laws of the United States.

## **15 ADDITIONAL INFORMATION**

### **15.1 Name, incorporation and registered office**

Funcom N.V. is a Dutch public limited liability company registered in The Netherlands. The Company was incorporated on 29 November 1996 in Katwijk, The Netherlands with registration number 28073705. The Company's head office is in Prins Mauritslaan 37-39, Badhoevedorp 1171 LP, The Netherlands. The Company's e-mail for investor enquiries is [investor@funcom.com](mailto:investor@funcom.com). The Company's web site is: [www.funcom.com](http://www.funcom.com)<sup>103</sup>.

### **15.2 Significant contracts**

Neither the Company nor any of the Group companies has entered into any significant contracts outside the ordinary course of business during the last two years, save for the agreement to restructure the debt owed to KGJI under a convertible loan and the Bonds (for further information about this loan conversion, please refer to sections 7.4 "History and development", 10.9 "Debt overview", 11.2.2 "Share capital development" and 11.5.1 "Convertible bonds").

### **15.3 Legal and arbitration proceedings**

The Company is not, or have not been during period covering at least the previous 12 months, involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened) which may have, or have had in the recent past, significant effects on the Company's and/or the Group's financial position or profitability.

### **15.4 Auditor and advisors**

The Company's auditor since year November 2014 has been BDO Audit & Assurance B.V. The address of the auditor is Dr. Holtropaan 23, Eindhoven, the Netherlands.

Advokatfirmaet CLP DA is acting as the Company's legal adviser on Norwegian law matters in relation to the Private Placement and the Cabinet Transaction. Weidema van Tol (Netherlands) B.V. is acting as the Company's legal adviser on Dutch law matters in relation to the Private Placement and the Cabinet Transaction. Thompson & Knight LLP is acting as the Company's legal adviser on US law matters in relation to the Cabinet Transaction.

### **15.5 Statement regarding expert opinions**

This Prospectus does not refer to any expert opinions.

### **15.6 Documents incorporated by reference**

The information incorporated by reference to this Prospectus should be read in conjunction with the cross-reference list as set out below. The following documents have been incorporated by reference:

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<sup>103</sup> The information included on [www.funcom.com](http://www.funcom.com) is not part of the Prospectus.

Section in Prospectus	Incorporated by reference	Reference document and link
10	Consolidated annual report, accounting principles, notes and auditor's report for the financial year 2016	<a href="http://cdn.funcom.com/investor/2017/FUNCOM_NV_Annual_Report_2016.pdf">http://cdn.funcom.com/investor/2017/FUNCOM_NV_Annual_Report_2016.pdf</a>
10	Consolidated annual report, accounting principles, notes and auditor's report for the financial year 2015	<a href="http://www.newsweb.no/newsweb/search.do?messageld=399959">http://www.newsweb.no/newsweb/search.do?messageld=399959</a> or <a href="http://cdn.funcom.com/investor/2016/FUNCOM_NV_Annual_Report_2015.pdf">http://cdn.funcom.com/investor/2016/FUNCOM_NV_Annual_Report_2015.pdf</a>
10	Unaudited Q3 2017 report	<a href="http://cdn.funcom.com/investor/2017/Funcom_3Q17_report.pdf">http://cdn.funcom.com/investor/2017/Funcom_3Q17_report.pdf</a>
10	Unaudited Q3 2016 report	<a href="http://cdn.funcom.com/investor/2016/Funcom_NV_Quarterly_Report_2016_Q3.pdf">http://cdn.funcom.com/investor/2016/Funcom_NV_Quarterly_Report_2016_Q3.pdf</a>

### 15.7 Documents on display

For the life of the Prospectus, the following documents (or copies thereof) will be available for inspection at the Company's offices at Prins Mauritslaan 37-39, Badhoevedorp, 1171 LP, The Netherlands, and with a copy available at Kirkegata 15, 0153 Oslo, Norway, telephone: +47 22 92 59 00, or at [www.funcom.com](http://www.funcom.com)<sup>104</sup>:

- (i) the memorandum and Articles of Association of the Company;
- (ii) the historical financial information of the Company and its subsidiary undertakings for each of the two financial years preceding the publication of this Prospectus.

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<sup>104</sup> The information included on [www.funcom.com](http://www.funcom.com) is not part of the Prospectus

## 16 DEFINITIONS AND GLOSSARY OF TERMS

Definitions denoting the singular number shall include the plural and vice versa.

<b>Term</b>	<b>Definition</b>
<b>AFM</b>	The Netherlands Authority for the Financial Markets ( <i>De Stichting Autoriteit Financiële Markten</i> ).
<b>Articles of Association</b>	The Company's articles of association.
<b>Bond Agreement</b>	The loan agreement governing the terms and conditions for the Bonds.
<b>Bonds and Bond</b>	The convertible bonds issued under the Bond Agreement, each with a par value of USD 1. Each of these bonds are referred to as a Bond. Bondholder refers to a holder of Bonds.
<b>Bond Trustee</b>	Nordic Trustee ASA.
<b>Cabinet</b>	Cabinet Group LLC.
<b>Cabinet Group</b>	Means Cabinet Group LLC and its subsidiaries and affiliates, including Robert E Howard Properties, LLC, Conan Properties International LLC, Mutant Chronicles International LLC, Game Ark Ltd., Cabinet Licensing, LLC, Cabinet Interactive, LLC and Tranicos, LLC.
<b>Cabinet SPA</b>	The sale and purchase agreement regarding the Cabinet Transaction, entered into on 18 December 2017.
<b>Cabinet Transaction</b>	The transaction between the Company and Cabinet regarding a joint venture.
<b>CITA</b>	The Dutch Corporate Income Tax Act 1969.
<b>Company Shares</b>	Means the ordinary shares of Funcom with a par value of EUR 0.20 per share as registered in the Company's Dutch shareholders' register.
<b>Consideration VPS Shares</b>	The 4,460,000 new VPS Shares issued to Cabinet as transaction consideration in connection with the Cabinet Transaction.
<b>Company</b>	Funcom N.V.
<b>Depository Receipts</b>	Means beneficial interests in shares registered in the VPS. For example, the VPS Shares are Depository Receipts over the Company Shares.
<b>DLC</b>	Downloadable content.
<b><i>Dreamworld Technology</i></b>	Funcom's proprietary and trademarked technology for development of computer games.
<b>Dutch Corporate holders</b>	Entities that are subject to the CITA and are resident or deemed to be resident of the Netherlands for the purposes of the CITA.
<b>Dutch Financial Supervision Act or DFSA</b>	Dutch Act on financial supervision ( <i>Wet op het financieel toezicht</i> ).
<b>Dutch Individual holders</b>	Individuals who are resident or deemed to be tax resident in the Netherlands and individuals who opt to be treated as a resident in the Netherlands for purposes of Dutch taxation.
<b>Early Access</b>	Early Access is a funding model in the video game industry by which consumers can pay for a game in the early stages of development and obtain access to playable, but unfinished versions of the game, while the developer is able to use the funds to continue work on the game. Those that pay to participate typically help to debug the game, provide feedback and suggestions, and may have access to special materials upon release of the game.
<b>EBIT</b>	Earnings before Interest and Tax.

<b>EBITDA</b>	Earnings before Interest, Tax, Depreciation and Amortization.
<b>EEA</b>	The European Economic Area.
<b>Enterprise Chamber</b>	The Enterprise Chamber in Amsterdam, the Netherlands ( <i>Ondernemingskamer van het Gerechtshof te Amsterdam</i> ).
<b>Equity Facility</b>	The USD 22 million standby equity facility agreed between the Company and YA Global Master, under which the Company may draw down funds in exchange for issuing New VPS Shares to YA Global Master.
<b>EU</b>	The European Union.
<b>EU Market Abuse Rules</b>	MAR and the Market Abuse Directive (Directive (EU) No. 2014/57 of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse), jointly.
<b>EUR</b>	Euro, the lawful common currency of the EU member states who have adopted the Euro as their sole national currency.
<b>Executive Management</b>	The executive management of the Company.
<b>EU</b>	The European Union.
<b>EUR</b>	Euro, the lawful common currency of the EU member states who have adopted the Euro as their sole national currency.
<b>F2P</b>	Free to play, a business model for video games.
<b>Forward Looking Statements</b>	Means statements relating to the Company's business and the sectors in which it operates. Forward Looking Statements include all statements that are not historical facts, and can be identified by words such as (what follows are examples without excluding words having the same meaning) "anticipates", "believes", "expects", "intends", "may", "projects", "should", or the negatives of these terms or similar expressions. Please refer to Section 4.3 "Forward Looking Statements" for further information.
<b>FRSA</b>	The Dutch Financial Supervision Reporting Act.
<b>Funcom</b>	Funcom N.V. a limited liability company ( <i>naamloze vennootschap</i> ) registered with the Commercial Register of the Chamber of Commerce ( <i>Handelsregister van de Kamer van Koophandel</i> ) under registration number 28073705. Also referred to as the " <b>Company</b> ".
<b>General Meeting</b>	The general meeting of the shareholders of Funcom.
<b>Group</b>	The Company and its consolidated subsidiaries.
<b>Heroic Signatures</b>	Heroic Signatures DA, a company with apportioned liability incorporated under the laws of Norway with registration no. 920 195 385.
<b>IAS</b>	International Accounting Standard.
<b>IFRS</b>	International Financial Reporting Standards.
<b>IP</b>	Intellectual Property.
<b>ISIN</b>	International Securities Identification Number
<b>KGJI</b>	KGJ Investments S.A, SICAV-SIF, a limited liability company incorporated under the laws of Luxembourg with company registration number B172712 and registered address at 4, rue Peterelchen, L-2370 HOWALD, Luxembourg.

<b>Listing</b>	The listing of the New VPS Shares and the Consideration VPS Shares on Oslo Børs.
<b>Live Games</b>	Revenue generating games which are maintained and supported by the Company.
<b>Management</b>	The Management Board and Executive Management of the Company
<b>Management Board</b>	The board of managing directors of the Company ( <i>bestuur</i> ).
<b>MAR</b>	The Market Abuse Regulation (Regulation (EU) No. 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse).
<b>MMO</b>	Massively multiplayer online game.
<b>MMORPG</b>	Massively multiplayer online role-playing game.
<b>New VPS Shares</b>	The 6,800,000 new VPS Shares in Funcom issued as Depositary Receipts over the new Company Shares issued in the Private Placement.
<b>NFSA</b>	The Norwegian Financial Supervisory Authority.
<b>NOK</b>	Norwegian Kroner, the lawful currency of the Kingdom of Norway.
<b>Norwegian Corporate Governance Code</b>	The Norwegian Code of Practice for Corporate Governance, as amended from time to time.
<b>Norwegian Corporate Shareholders</b>	Shareholders who are limited liability companies (and certain similar entities) resident in Norway for tax purposes.
<b>Norwegian Personal Shareholders</b>	Shareholders who are individuals resident in Norway for tax purposes.
<b>Norwegian Public Limited Liability Companies Act</b>	The Norwegian Public Limited Liability Companies Act of 13 June 1997 no. 45 (Nw: <i>Allmennaksjeloven</i> ).
<b>Norwegian Securities Register Act</b>	The Norwegian Securities Register Act of 5 July 2002 no. 65 (Nw: <i>Verdipapirregisterloven</i> ).
<b>Norwegian Securities Trading Act</b>	The Norwegian Securities Trading Act of 29 June 2007 no. 75 (Nw: <i>Verdipapirhandelloven</i> ).
<b>Norwegian Work Environment Act</b>	The Norwegian Work Environment Act of 17 June 2005 no. 62 (Nw: <i>Arbeidsmiljøloven</i> ).
<b>Ordinary ISIN</b>	ISIN NL 0012756266, the ordinary ISIN of the Company's VPS Shares that are already admitted to trading on the Oslo Børs.
<b>Oslo Børs</b>	The Oslo Stock Exchange, operated by Oslo Børs ASA. Funcom is listed on the main list of Oslo Børs.
<b>PDMRs</b>	A person discharging managerial responsibilities, as defined in Article 3(1) (25) of the MAR.
<b>Private Placement</b>	The private placement of New VPS Shares announced on 18 December 2017.
<b>Private Placement Subscription Price</b>	The price paid per New VPS Share in the Private Placement, being NOK 13.00.
<b>Prospectus</b>	This prospectus dated 22 February 2018, and its appendices.
<b>Registrar Agreement</b>	The agreement for registrar services in the VPS which the Company has entered into with the VPS Registrar.
<b>Reverse Share Split</b>	The reverse share split of the Company's shares in the ratio of 5:1 resolved by the Extraordinary General Meeting on 30 January 2018, and implemented on 31 January 2018.
<b>Rule 144A</b>	Rule 144A under the US Securities Act.

<b>Separate ISIN</b>	ISIN NL 0012756274, the ISIN on which the Consideration VPS Shares and the New VPS Shares were initially issued to pending approval of this Prospectus.
<b>Shares</b>	Means both the Company Shares and the VPS Shares. This term is used when the distinction between the Company Shares and the VPS Shares is not of importance. Shareholder refers to a holder of Shares.
<b>Supervisory Board</b>	The board of supervisory directors of the Company ( <i>raad van commissarissen</i> ).
<b>USD</b>	United States Dollar, the lawful currency of the United States of America.
<b>U.S. Securities Act</b>	The U.S. Securities Act of 1933.
<b>VPS</b>	The Norwegian Central Securities Depository ( <i>Nw: Verdipapirsentralen</i> )
<b>VPS Registrar</b>	DnB Bank ASA, Verdipapirservice, Dronning Eufemias gate 30, 0191 Oslo, Norway.
<b>VPS Shares</b>	Means the Depository Receipts over Company Shares, <i>i.e.</i> the beneficial interests over the Company Shares registered in the VPS. Each VPS Share has a par value of EUR 0.20.
<b>YA Global Master</b>	YA Global Master SPV, Ltd., a fund managed by Yorkville Advisors LLC.

# **REGISTRAR AGREEMENT**

RELATED TO REGISTRATION IN  
THE NORWEGIAN CENTRAL SECURITIES DEPOSITORY

**BETWEEN**

*Funcom N.V.*

**AND**

*DnB NOR Bank ASA*  
*Registrars Department*

This agreement (the "Agreement") is entered into this 23 day of November 2005 by and between:

**Funcom N.V.**, a company under the laws of the Netherlands, with corporate seat in Katwijk, the Netherlands, and address at: Steinackerstrasse 9, 8700 Küsnacht, Switzerland, number N.V. 575611 (hereinafter the "Company")

and

**DnB NOR Bank ASA**, as represented by the Registrar's Department ("Verdipapirservice"), a company under the laws of the Kingdom of Norway with registered address at Stranden 21, 0250 OSLO, (postal address 0021 Oslo), Norway (hereinafter the "Registrar").

WHEREAS the Company is existing and operating under the laws of the Netherlands;

WHEREAS the Company's Shareholders Register in accordance with its Articles of Association and Netherlands law will be kept in the Netherlands, maintained by the Company;

WHEREAS the Company is applying for listing of the VPS Shares at the Oslo Stock Exchange;

WHEREAS the Registrar is willing to:

- (i) act as registrar on behalf of the Company in all matters relating to the VPS and thereby as the connecting link between the VPS, the Company's Shareholders Register and the Company; and
- (ii) act as nominee under the name of: DnB NOR Bank ASA, Registrar Dept., Stranden 21, 0250 Oslo (postal address 0021 Oslo), Norway, in the Company's Shareholders Register on behalf of the VPS-Shareholders who from time to time are registered in the VPS Register as owners of VPS Shares.

NOW, THEREFORE, the parties have entered into the following AGREEMENT:

## 1. DEFINITIONS

Shares	The shares of the Company as issued from time to time by the Company and registered in its shareholder register
Company's Shareholders Register	the register of shareholders of the Company maintained by the Company in accordance with the Company's Articles of Association.
VPS	The Norwegian Central Securities Depository ("Verdipapirsentralen"), a Norwegian computerised, book-entry based system, in which ownership and transactions related to securities are recorded.

VPS Register	The register of Shareholders maintained in the VPS.
VPS Shares	The VPS registered interest of the VPS Shareholders in the Share, each VPS Share representing beneficial ownership of one Share.
VPS-Shareholder	Person or legal entity registered in the VPS Register as owner of a VPS Share.
Security	Any share, debenture, security or other right, asset or benefit (other than cash dividend).
Oslo Stock Exchange	Oslo Børs ASA.

## **2. UNDERTAKINGS BY THE REGISTRAR**

- 2.1 The Registrar undertakes to hold as nominee on behalf of the VPS-Shareholders, all of the issued Shares in the Company (to the extent VPS Shares have not been exchanged into Shares in accordance with clause 8.2) and to provide for the registration in the VPS Register of each VPS-Shareholder's its VPS Shares, representing the VPS-Shareholder's beneficial ownership in an equal number of Shares in the Company in which that VPS-Shareholder has acquired a beneficial ownership.

If any Securities are issued, transferred or otherwise accrue to the Registrar as nominee under this Agreement, including, but not limited to, as a result of any change in nominal or par value, or any split-up, cancellation, consolidation or reclassification, of the Shares, or any recapitalization, reorganization, merger, consolidation or sale of assets affecting the Company or to which the Company is a party, the Registrar undertakes and will ensure that the legal or registered title to such Securities is held by it solely on behalf of and for the benefit of each VPS-Shareholder pro rata to the number of VPS Shares in which that VPS-Shareholder is recorded in the VPS Register as having an ownership.

At the request of the Company, the Registrar will, to the extent legally permitted and practically and reasonably possible within the VPS system, distribute such Securities to each VPS-Shareholder pro rata to the number of VPS Shares in which each VPS-Shareholder is recorded in the VPS Register as having an ownership, as in the case of the distribution of a non-cash asset, in accordance with Clause 2.4.

The Company shall issue all its Shares to the Registrar who shall hold legal title to the Shares on behalf of and for the benefit of the VPS-Shareholders.

- 2.2 The Registrar undertakes to keep records of the VPS Register with regard to the following:
- (a) the name and address of each VPS-Shareholder;
  - (b) the number of VPS Shares held by each VPS-Shareholder;
  - (c) the date each VPS-Shareholder was registered in the VPS Register as a VPS-Shareholder;

- (d) the date any person ceased to be a VPS-Shareholder;
- (e) any other information which Norwegian law, rules or regulations from time to time prescribes that the VPS Register shall include.

Information concerning (c) and (d) above will be retained for 10 years following the date referred to in (d). Additional information might be retained in order to comply with any applicable Norwegian legislation in force from time to time.

2.3 The Registrar undertakes to distribute all dividends or other cash amounts declared and paid to it by the Company to the VPS-Shareholders pro rata to the number of VPS Shares held by each VPS-Shareholder. Any dividends to be paid through the VPS must be available in a bank account held with the Registrar a minimum of two banking days prior to date of payment to the VPS-Shareholders. To VPS-Shareholders who maintain a Norwegian address and/or have supplied the VPS with details of their Norwegian kroner account such dividend will be paid in Norwegian kroner. VPS-Shareholders whose address registered with the VPS is outside Norway and who have not supplied the VPS with details of any Norwegian kroner account, will receive dividends by cheque in their local currency. If it is not practical in the Registrar's sole opinion to issue a cheque in a local currency, a cheque will be issued in U.S dollars. The issuing and mailing of cheques will be executed in accordance with the standard procedures of DnB NOR Bank ASA, Foreign Payments Department. The exchange rate(s) that is (are) applied will be DnB NOR Bank ASA's exchange rate on the date of issuance.

2.4 If the Company intends to distribute assets other than cash, the Company shall notify the Registrar at least 20 days in advance, and the Registrar will in its reasonable discretion determine whether the distribution of such assets to the VPS-Shareholders is lawful and reasonably practicable.

If the Registrar determines that it is lawful and reasonably practicable to distribute the assets to VPS-Shareholders, the Registrar shall distribute the assets to the VPS-Shareholders in a manner it deems practicable.

The Registrar will not distribute the assets to VPS-Shareholders or any class of VPS-Shareholders and will sell the assets to the extent that the Registrar determines that the distribution to VPS-Shareholders or such class of VPS-Shareholders is not lawful and/or reasonably practicable.

The Registrar shall distribute the proceeds of the sale to the VPS-Shareholders to whom the assets were not distributed as in the case of a cash distribution, in accordance with Clause 2.3.

2.5 The Registrar undertakes to ensure that whenever it receives notice that the Company calls for a general meeting of shareholders, it shall promptly (and in any event within the period required for notice by the Company's Articles of Association) dispatch to each VPS-Shareholder without undue delay (via air mail to VPS-Shareholders with non-Norwegian address) at his registered address in the VPS Register, a copy of the notice of the meeting along with any proxy card and other materials accompanying such notice.

The Registrar agrees not to attend or vote at such meeting other than in accordance with instructions (if any) of the VPS-Shareholders. If requested by a VPS-Shareholder to attend the Registrar such VPS-Shareholder shall cover the Registrar's reasonable costs and expenses. If requested to do so by a VPS-Shareholder, the Registrar agrees to issue in favour of the VPS-Shareholder (or any person nominated by the VPS-Shareholder) an instrument of proxy to allow that the VPS-Shareholder to attend and vote at a general meeting of the Company as if he was a direct shareholder in the Company in respect of the number of VPS Shares of which he is registered in the VPS Register as the owner.

- 2.6 The Registrar shall ensure that whenever the Company sends to the Register any notice, report, accounts, financial statements, circular or similar document (each a "Document") relating to the affairs of the Company, it shall despatch or procure the despatch of a copy of such Document to each VPS-Shareholder at his registered address in the VPS Register.
- 2.7 In the event of any change or alteration of the share capital of the Company, the Registrar undertakes to make all necessary amendments in the VPS without undue delay. For the purpose of this clause, any instructions from the Company shall be accompanied by relevant documentation specifying the new share capital of the Company or any other alterations hereto.
- 2.8 The Registrar undertakes, to the extent that it is within the Registrar's reasonable powers, to confer upon all VPS-Shareholders the rights and obligations to which the VPS-Shareholders would be entitled if they were direct shareholders of the Company including, without limitation the right of VPS-Shareholders who, in aggregate, hold at least ten per cent of the total number of VPS Shares on issue to require the Registrar to request the directors of the Company to convene a general meeting of the Company, and the right of VPS-Shareholders who in aggregate hold at least 1 % of VPS Shares or VPS Shares with a market value of fifty million Euro (Euro 50,000,000.-) to file agenda items for the next general meeting of shareholders of the Company if this request is received in writing not later than 60 days in advance of such meeting.
- 2.9 The Registrar undertakes to provide services to the Oslo Stock Exchange, investment firms, the supervisory board and the management board of the Company and the VPS-Shareholders in matters related to this Agreement and the VPS.
- 2.10 The Registrar undertakes to assist the Company in discharging all obligations towards the Oslo Stock Exchange under the listing agreement between Oslo Stock Exchange and the Company to the extent the information requested is available in the VPS system.
- 2.11 In addition to the undertakings stated above, the Registrar can, subject to a separate agreement between the Company and the Registrar, provide advice and technical assistance in connection with:
  - Preparing, organising and assisting the Company when a shareholder meeting and/or an annual or extraordinary general meeting of the Company is called for.
  - Maintaining and updating a record of the names of the persons that the Company considers to be insiders according to relevant legislation.
  - Issues with and without pre-emptive rights for former/existing VPS-Shareholders.

- Issues directed towards employees, and/or special groups, both in Norway and abroad.
- Bonus issues, with and without payment for excess holdings of shares.
- Write-downs of the nominal value of the Company's share capital.
- Share splits.
- Merger(s) and/or demerger(s).
- Sales of shares to employees or purchases of shares in the market.
- Subscriptions of convertible bonds, with or without pre-emptive rights for the Company's existing/former shareholders, which may be converted to Shares at a future date.
- Acquisitions.
- Special assignments.

2.12 However, notwithstanding the above, the Registrar does not undertake any obligation to render any tax reporting services to any tax authorities or to collect any tax on behalf of any tax authorities.

2.13 The Registrar may demand up front payment before commencing any such services as stated in this chapter 2.

### **3. UNDERTAKINGS BY THE COMPANY**

The Company undertakes to:

- a) Inform the Registrar of any decision made by the Company that is relevant for the continued registration of the Company and its VPS-Shareholders in the VPS Register, in order to enable the Registrar to comply with this Agreement.
- b) Inform the Registrar in advance of all details of any proposed dividend before any payment is made to the Registrar on behalf of the VPS-Shareholders, so that the Registrar may meet any requirements from the VPS related to processing the dividend payments to the VPS-Shareholders.
- c) Provide the Registrar with a copy of its Deed of Incorporation, and its Articles of Association as they are in force, and an extract of the Companies' file with the Trade Register, or any similar documents, and immediately inform, and send copies to, the Registrar of any amendment to such documents, and provide the Registrar with its view regarding such changes to the extent relevant for the registration with the Registrar.
- d) When a general meeting is called for, to give the Registrar ample time to distribute notices of such meeting to the VPS-Shareholders, to collect and to report the proxy voting totals to the Company within the given time limit for such reporting enabling the Registrar to comply with the provisions of this Agreement.

#### **4. INFORMATION FROM THE VPS REGISTER**

- 4.1 Each year the Registrar shall produce and send to the Company an updated list of the VPS-Shareholders registered in the VPS Register as at year's end.
- 4.2 At the request of the Company, the Registrar shall order from VPS and send to the Company a printout or printouts of the VPS Register, address labels or statistics from the VPS.
- 4.3 At the request of the Company, the Registrar shall facilitate the transfer of information generated in the VPS to the Company in line with such information packages etc. which from time to time are offered by the Registrar or VPS to issuers of VPS-registered securities.
- 4.4 If anyone other than the Company requests address labels for the VPS-Shareholders from the VPS, the Registrar shall request permission from the Company prior to releasing such address labels.
- 4.5 If investment firms, financial newspapers or other persons request a transcript of the Company's 20 largest VPS-Shareholders, the Registrar is authorised by the Company to release such transcripts to the requesting party.
- 4.6 Any statistics of the VPS-Shareholders of the Company may be released to any requesting party subject to a separate agreement between the Company and the Registrar, or the Company's general consent to release such statistics.

#### **5. PAYMENTS**

- 5.1 The Company agrees to pay the Registrar for the latter's services at the Registrar's standard rates as they apply from time to time, which may include reasonable internal and external fees, costs and expenses including internal and external legal fees. The Registrar shall send monthly invoices to the Company detailing the fees, costs and expenses payable including out-of-pocket expenses and costs incurred by the Registrar. In addition, the Company shall pay all expenses (including internal and external legal fees) incurred by Registrar in its capacity as Registrar.
- 5.2 The Company agrees to pay the account operator fee in advance in 3 instalments per year to the Registrar. The total amount of the account operator fee for the previous year will be calculated by the VPS and charged to the Company by the Registrar during the first quarter the following year.
- 5.3 The Registrar shall charge any fees, costs and expenses as described in clause 5.1 and 5.2 shall be to the Company's account No. 11 7099 04 47002 with DnB NOR Bank ASA. Such settlement of charges shall take place monthly in arrears.

## 6. CONFIDENTIALITY

Any information regarding the Company or otherwise relating to its affairs, which may be obtained by the Registrar in connection with the performance of its duties as Registrar in accordance with this Agreement, will be treated as private and confidential and will not be disclosed to any third person unless required by applicable law.

## 7. LIABILITY

### 7.1 VPS' liability

In accordance with article 9-1 of the Norwegian Act Concerning the Registration of Financial Instruments ("The Securities Registry Act") (Office translation):

"The Central Securities Depository is liable for financial loss inflicted on anyone as a result of errors that occur in connection with securities registration operations. This does not apply in the event that the Depository proves that the error is due to circumstances outside the Depository's control, the consequences of which the Depository could not reasonably be expected to avoid or surmount.

The Securities Depository is liable for other financial losses in the event that such loss is due to negligence on the part of the Depository or another entity for which the Depository is answerable.

The liability for damages as specified in the first sub-article above only applies to direct losses and such liability is in any event limited to a maximum of NOK 500million for any individual error".

As regards liability for other losses, in its business terms and conditions VPS has confined this to only apply to direct losses ensuing from events within VPS' control and limited to a maximum of NOK 2.5 million per wrongful act or omission. In addition, VPS operates with a deductible of NOK 10,000 per damage event.

The Company may have the Registrar, as Registrar for the Company, present any claims the Company has against VPS. The Registrar may only be held liable for such errors committed by VPS on the terms in clause 7.4.

In the event that the Registrar does not receive full settlement from VPS due to the deductible, the Registrar may demand payment of the corresponding amount from the Company.

- 7.2 Each party is liable for any direct losses suffered by the other party as a result of breach of this Agreement by the first party. The parties are not liable for indirect damage or indirect loss of any nature.
- 7.3 A party cannot under any circumstances be held liable for any loss attributable to circumstances beyond that party's control, including:
- a) errors committed by others, including errors attributable to sub-suppliers, incorrect or incomplete information from VPS, the other party, VPS-Shareholders, VPS-Shareholders' registrars or investment firms, or

- b) power failures, errors in or outages of electronic data processing systems, telecommunication networks etc., fire, water damage, strike, changes in legislation, orders or injunctions issued by the authorities or the suspension or cessation of monetary or securities settlements.

7.4 The Registrar cannot under any circumstances be held liable for errors committed by VPS or losses incurred as a result of VPS' conduct, unless and only to the extent that the Registrar may hold VPS liable for the same losses.

## **8. TAX LIABILITY**

8.1 The Registrar does not undertake any liability for taxes or duties to any authorities, whether Norwegian or foreign, in its capacity acting as Registrar in accordance with this Agreement. Further, the Registrar does not undertake any obligation to render any tax reporting to any tax authorities, or to collect any tax on behalf of any tax authorities.

8.2. The Company will indemnify the Registrar in respect of any claim for taxes or duties or other liability that may occur as a result of the Registrar either receiving, delivering or holding Company shares in connection with the Company being registered in the VPS or the Company's shares being so registered, or the Registrar issuing or cancelling Company shares in or out of the VPS system in accordance with Company instructions, or by the Registrar performing its duties in accordance with this Agreement.

## **9. THE RIGHTS OF THE VPS-SHAREHOLDERS**

9.1 This Agreement gives any VPS-Shareholder a third party right, to enforce the provisions in clauses 2.1 to 2.8 (inclusive) and 9.2 and 9.3 directly against the Registrar, and the Registrar may be held liable towards the VPS-Shareholders on the same terms as set out in clause 7.

9.2 A VPS-Shareholder may at any time request that the Registrar arrange for that VPS-Shareholder to be registered in the Company's Shareholders Register (in place of the Registrar as nominee) as the legal owner of a number of Shares equal to the number of VPS Shares in the Company of which that VPS-Shareholder is recorded in the VPS Register. Promptly upon receipt of such request, the Registrar shall, at the expense of that VPS-Shareholder sign all documents and do all such things as are reasonably necessary to have that VPS-Shareholder registered in the Company's Shareholders Register as the legal owner of such Shares. In order to enable the Registrar to terminate the VPS Shares, such VPS Shares must be transferred to a VPS account as determined by the Registrar. The VPS Shares must be transferred to the Registrar prior to the Registrar taking any actions as described in this clause.

9.3 A shareholder registered directly as legal owner of Shares in the Company's Register of Members may at any time request that, at the expense of that shareholder, the Registrar arrange for that shareholder to be registered in the VPS-Register as owner of VPS Shares against the Registrar being registered in the Company' Shareholders Register as legal owner (as nominee) of that number of Shares. Promptly upon receipt of such request, the Registrar

shall sign all documents and do all such things as are reasonably necessary to have that shareholder registered in the VPS- Register as the owner of such VPS Shares. In order to enable the Registrar to issue VPS Shares, the Shares must be transferred into the name of the Registrar, and the shareholder must directly or indirectly hold or open a VPS account in the VPS system, and advise such VPS account number to the Registrar.

## **10. TERMINATION**

- 10.1 This Agreement may be terminated by either party with a minimum of three months prior written notice.
- 10.2 Either of the parties may terminate this Agreement immediately on giving written notice to the other party in the event of the non-performance of payment obligations or any other material breach of the Agreement. In respect of the Company's payment obligations under clause 5, payment failure shall only give grounds for termination if such failure is not remedied on or before the 10th business day after the Registrar gives the Company notice of that failure. The Registrar may terminate this Agreement immediately in the event that the Company becomes unable to pay its debts.

## **11. NOTICES**

Any notice or other communication to be given under this agreement shall be sent to: -

### **In case of the Company:**

Funcom N.V.  
Steinackerstrasse 9,  
8700 Küsnacht,  
Switzerland

Fax no: + 41 1912 2715

Attn: Jan Inge Torgersen

### **In case of the Registrar:**

DnB NOR Bank ASA  
Stranden 21  
0021 OSLO

Fax no: 22 94 90 20

Attn: Kjetil Giil Berg

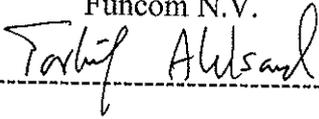
**12. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the Kingdom of Norway. The Company and the Registrar submit to the exclusive jurisdiction of the Norwegian court with respect to any dispute arising out of or in connection with this Agreement, venue to be Oslo Municipal Court.

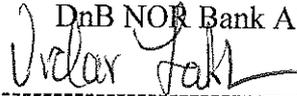
This Agreement is issued in two originals, one for each of the parties.

Oslo, 23 day November of 2005

Funcom N.V.



DnB NOR Bank ASA





JR/DI/530094571/II/STATUTENWIJZIGING

Heden, eenendertig januari tweeduizend achttien, verscheen voor mij, -----

Mr John Roozeboom, notaris te Rijswijk:-----

mevrouw Diana Schreur, secretaresse, werkzaam ten kantore van Caminada --

Notarissen aan de Haagweg 175 te 2281 AJ Rijswijk, geboren te 's-Gravenhage

op achttien november negentienhonderd tweeënzeventig. -----

De verschenen persoon verklaarde:-----

- dat de algemene vergadering van:-----

**FUNCOM N.V.**, een naamloze vennootschap, statutair gevestigd te Katwijk,

kantoorhoudende Prins Mauritslaan 37-39 te 1171 LP Badhoevedorp, -----

ingeschreven in het handelsregister onder nummer 28073705, hierna te -----

noemen: "de vennootschap", welke vennootschap werd opgericht bij akte op -

negenentwintig november negentienhonderd zesennegentig verleden voor Mr

C.E.M. van Steenderen, destijds notaris te Rijswijk, en welker statuten -----

laatstelijk werden gewijzigd bij akte op negentien oktober tweeduizend zestien

verleden voor Mr E.S. Voskamp, notaris te Rijswijk, heeft op voorstel van de -

raad van commissarissen besloten tot wijziging van de statuten van de -----

vennootschap;-----

- dat de verschenen persoon bij dat besluit werd gemachtigd de akte van -----

statutenwijziging te doen verlijden en te tekenen; -----

./ - dat van gemeld besluit tot statutenwijziging en gemelde machtiging blijkt uit -

een aan deze akte te hechten geschrift; -----

De verschenen persoon verklaarde vervolgens de statuten van de -----

vennootschap te wijzigen als volgt:-----

Artikel 3, onder handhaving van het opschrift, komt te luiden:-----

Het maatschappelijk kapitaal van de vennootschap bedraagt dertig miljoen ----

euro (EUR 30.000.000,00), verdeeld in eenhonderdvijftig miljoen (150.000.000)

aandelen, elk nominaal groot twintig eurocent (EUR 0,20). -----

Tenslotte werd verklaard dat de statuten van de vennootschap na voormelde --

wijziging luiden als volgt:-----

- 2 -

**Naam en zetel.** -----

**Artikel 1.**-----

1.1. De vennootschap is genaamd: **FUNCOM N.V.**-----

1.2. Zij is gevestigd te Katwijk.-----

**Doel.**-----

**Artikel 2.**-----

De vennootschap heeft ten doel het ontwikkelen, marketen en handelen in ----  
digitale spellen, zoals grote, online spellen van meerdere spelers, daarmee -----  
verbonden spellen en verschillende soorten elektronische apparatuur, het -----  
nemen en verlenen van licenties en andere industriële eigendomsrechten, het --  
nemen van verplichtingen voor ondernemingen waarmee zij in een groep is ---  
verbonden, het nemen van een financieel belang in die ondernemingen, -----  
zomede al hetgeen in de ruimste zin van het woord met het vorenstaande -----  
verband houdt of daartoe bevorderlijk kan zijn, waaronder begrepen doch niet  
beperkt tot het op enigerlei wijze stellen van zekerheid of het zich verbinden --  
voor verplichtingen van derden. -----

**Kapitaal.**-----

**Artikel 3.**-----

Het maatschappelijk kapitaal van de vennootschap bedraagt dertig miljoen ----  
euro (EUR 30.000.000,00), verdeeld in eenhonderdvijftig miljoen (150.000.000)  
aandelen, elk nominaal groot twintig eurocent (EUR 0,20). -----

**Uitgifte van aandelen.**-----

**Artikel 4.**-----

4.1. De raad van commissarissen is bevoegd tot uitgifte van aandelen en -  
tot het vaststellen van de koers en de verdere voorwaarden van de ---  
uitgifte indien en voor zover de raad van commissarissen door de ----  
algemene vergadering van aandeelhouders daartoe is aangewezen als -  
bevoegd orgaan. Een aanwijzing als hierboven bedoeld kan slechts ---  
geschieden voor een bepaalde duur van ten hoogste de periode tot en  
met de eerstvolgende algemene vergadering van aandeelhouders -----  
welke wordt gehouden nadat drie volledige kalenderjaren zijn -----  
verstreken sinds de dag van vorenbedoelde aanwijzing (de "Periode")  
en zal telkens met niet meer dan een Periode kunnen worden -----



- verlengd. -----
- 4.2. Indien een aanwijzing als bedoeld in het eerste lid niet van kracht is, is de algemene vergadering van aandeelhouders bevoegd op voorstel --- van en op de voorwaarden en condities vastgesteld door de raad van commissarissen te besluiten tot uitgifte van aandelen. -----
- 4.3. In geval van uitgifte van aandelen genieten aandeelhouders een recht van voorkeur in verhouding tot het aantal aandelen dat zij bezitten, -- behoudens het in de wet bepaalde. Bij uitgifte van aandelen bestaat -- geen voorkeursrecht op aandelen uit te geven aan werknemers van de vennootschap of van een groepsmaatschappij. -----  
De raad van commissarissen is bevoegd tot het beperken of uitsluiten van het aan aandeelhouders toekomende voorkeursrecht, indien en -- voor zover de raad van commissarissen ook daartoe door de ----- algemene vergadering van aandeelhouders is aangewezen als het voor de duur van de aanwijzing bevoegde orgaan. Het bepaalde in de ----- tweede volzin van het eerste lid is van overeenkomstige toepassing.---
- 4.4. Indien een aanwijzing als bedoeld in het derde lid niet van kracht is, is de algemene vergadering van aandeelhouders bevoegd op voorstel --- van de raad van commissarissen het aan aandeelhouders toekomende voorkeursrecht te beperken of uit te sluiten. -----
- 4.5. Voor een besluit van de algemene vergadering tot beperking of ----- uitsluiting van het voorkeursrecht of tot aanwijzing van de raad van -- commissarissen als het orgaan dat bevoegd is te besluiten omtrent ---- beperking of uitsluiting van het voorkeursrecht is een meerderheid --- van ten minste twee derden van de uitgebrachte stemmen vereist. ----
- 4.6. Onverminderd het bepaalde in artikel 80, lid 2, Boek 2, Burgerlijk ---- Wetboek, worden aandelen uitgegeven a pari. -----
- 4.7. Gewone aandelen worden slechts tegen volstorting uitgegeven. -----
- 4.8. Storting moet in geld geschieden voor zover niet een andere inbreng is overeengekomen. Storting in geld kan in vreemd geld geschieden -- indien de vennootschap daarin toestemt. Met storting in vreemd geld wordt aan de stortingsplicht voldaan voor het bedrag waartegen het -- gestorte bedrag vrijelijk in Nederlands geld kan worden omgewisseld.

- 4 -

Bepalend is de wisselkoers op de dag van storting, dan wel na -----  
toepassing van de volgende zin op de daarbedoelde dag. De -----  
vennootschap kan storting verlangen tegen de wisselkoers op een ----  
bepaalde dag binnen twee maanden voor de laatste dag waarop moet  
worden gestort mits de aandelen of certificaten daarvan onverwijld na  
de uitgifte zullen worden opgenomen in de prijscourant van een beurs  
buiten Nederland. -----

- 4.9. Dit artikel is van overeenkomstige toepassing op het verlenen van ----  
rechten tot het nemen van aandelen, doch is niet van toepassing op --  
het uitgeven van aandelen aan iemand die op een voordien reeds ----  
verkregen recht tot het nemen van aandelen uitoefent. -----

**Inkoop van aandelen.**-----

**Artikel 5.**-----

- 5.1. De vennootschap kan onder bezwarende titel eigen aandelen -----  
verwerven indien en voor zover: -----
- a. haar eigen vermogen verminderd met de verkrijgingsprijs niet ---  
kleiner is dan het geplaatste en opgevraagde kapitaal vermeerderd  
met de reserves die krachtens de wet moeten worden -----  
aangehouden;-----
  - b. het nominale bedrag van de aandelen in haar kapitaal die de -----  
vennootschap verkrijgt, houdt of in pand houdt, of die worden --  
gehouden door een dochtermaatschappij, niet meer belooft dan  
een/tiende van het geplaatste kapitaal; en -----
  - c. de algemene vergadering van aandeelhouders aan de directie ----  
machtiging heeft verleend tot het verkrijgen van zodanige -----  
aandelen, welke machtiging telkens voor ten hoogste achttien ----  
maanden kan worden verleend, onverminderd het overigens in --  
de wet te dier zake bepaalde. -----
- 5.2. De vennootschap kan zonder daartoe door de algemene vergadering  
van aandeelhouders te zijn gemachtigd en onverminderd het -----  
overigens in lid 1 onder a en b bepaalde eigen aandelen verwerven ---  
om, krachtens een voor hen geldende regeling, deze aandelen over te  
dragen aan arbeiders in dienst van de vennootschap of van een -----



- groepsmaatschappij. -----
- 5.3. Aldus verworven aandelen kunnen weer vervreemd worden. De -----  
vennootschap is tot verwerving van eigen aandelen als in lid 1 -----  
bedoeld – indien een machtiging als daar bedoeld van kracht is – of --  
als in lid 2 bedoeld niet bevoegd dan met goedkeuring van de raad ---  
van commissarissen. Tot vervreemding van eigen aandelen – met -----  
uitzondering van eigen aandelen verworven onder toepassing van het  
bepaalde in lid 2 – is de vennootschap evenmin bevoegd dan met ---  
goedkeuring van de raad van commissarissen.-----  
Indien certificaten van aandelen in de vennootschap zijn uitgegeven, -  
worden voor de toepassing van dit lid en het vorige lid zodanige -----  
certificaten met aandelen gelijkgesteld.-----
- 5.4. Voor een aandeel dat toebehoort aan de vennootschap of aan een ----  
dochtermaatschappij daarvan kan in de algemene vergadering van ----  
aandeelhouders geen stem worden uitgebracht; evenmin kan stem ----  
worden uitgebracht voor een aandeel waarvan de vennootschap of ---  
een dochtermaatschappij de certificaten houdt. -----  
Bij de vaststelling in hoeverre de aandeelhouders stemmen, aanwezig  
of vertegenwoordigd zijn, of in hoeverre het aandelenkapitaal wordt -  
verschafft of vertegenwoordigd is, wordt geen rekening gehouden met  
aandelen waarvan de wet of de statuten bepaalt dat daarvoor geen ---  
stem kan worden uitgebracht.-----
- 5.5. Op voorstel van de raad van commissarissen, is de algemene -----  
vergadering van aandeelhouders bevoegd te besluiten tot intrekking --  
van door de vennootschap verworven eigen aandelen. -----

**Aandelen, aandeelbewijzen en aandeelhoudersregister.** -----

**Artikel 6.**-----

De aandelen luiden op naam in de vorm van een inschrijving in het -----  
aandelenregister zonder afgifte van een aandeelbewijs.-----

**Artikel 7.**-----

- 7.1. Met inachtneming van het in de wet bepaalde wordt door of namens  
de vennootschap met betrekking tot de aandelen op naam een register  
gehouden, dat regelmatig wordt bijgehouden en dat, geheel of -----

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gedeeltelijk, uit meerdere exemplaren kan bestaan en op meerdere ----  
plaatsen kan berusten, een en ander zoals de directie zal beslissen. ----  
Een deel van het register kan in het buitenland worden gehouden om  
te voldoen aan buitenlandse wettelijke vereisten of aan de vereisten --  
gesteld door een buitenlandse effecten beurs. -----

7.2. In het register wordt ten aanzien van iedere aandeelhouder -----  
aangetekend zijn naam, zijn adres, alsmede zodanige verdere gegevens  
als de directie, al dan niet op verzoek van een aandeelhouder, -----  
wenselijk oordeelt. -----

7.3. De directie bepaalt de vorm en de inhoud van het aandelenregister ---  
met inachtneming van het in de eerste twee leden van dit artikel ----  
bepaalde. De directie kan beslissen dat het register verschillend zal ---  
zijn van vorm en inhoud al naargelang het betrekking heeft op -----  
aandelen volgens model I, of op aandelen volgens model II. -----

**Artikel 8.**-----

8.1. Op zijn verzoek wordt aan een aandeelhouder om niet een verklaring  
verstrekkt van hetgeen het register vermeldt omtrent te zijnen name ---  
ingeschreven aandelen, welke verklaring kan worden ondertekend ----  
door een der daartoe door de directie aan te wijzen bijzondere -----  
gemachtigden.-----

8.2. Het in de artikelen 7 en 8 bepaalde is van overeenkomstige toepassing  
ten aanzien van hen die een recht van vruchtgebruik of een pandrecht  
hebben op een of meer aandelen op naam, op voorwaarde dat de ----  
overige door de wet vereiste gegevens in het register dienen te worden  
vermeld.-----

**Levering van aandelen.**-----

**Artikel 9.**-----

9.1. De levering van een aandeel op naam geschiedt hetzij door de -----  
betekening van de akte van levering aan de vennootschap, hetzij door  
de schriftelijke erkenning der levering door de vennootschap, -----  
onverminderd echter het in de volgende leden van dit artikel -----  
bepaalde.-----

9.2. Het in het voorgaande lid van dit artikel bepaalde vindt -----



overeenkomstige toepassing ten aanzien van de toebedeling van -----  
aandelen op naam bij scheiding en deling van enige vorm van -----  
gemeenschap, de levering van een aandeel op naam als gevolg van ----  
executie en het vestigen van beperkte zakelijke rechten op een aandeel  
op naam. -----

**Directie.** -----

**Artikel 10.** -----

- 10.1. De vennootschap wordt bestuurd door een directie, bestaande uit een  
of meer directeuren onder toezicht van een raad van commissarissen.  
Het aantal directeuren zal op voorstel van de raad van -----  
commissarissen worden vastgesteld door de algemene vergadering --  
van aandeelhouders. De directeuren zullen worden benoemd door de  
algemene vergadering van aandeelhouders. -----  
Een directeur wordt benoemd voor de periode tot en met de -----  
eerstvolgende algemene vergadering van aandeelhouders welke wordt  
gehouden nadat drie volledige kalenderjaren zijn verstreken sinds de -  
dag met ingang waarvan hij is benoemd.-----  
Een aftredende directeur is onmiddellijk herbenoembaar. -----
- 10.2. De benoeming en ontslag van de directeuren geschiedt door de -----  
algemene vergadering van aandeelhouders, voor iedere te vervullen --  
plaats, op voorstel van de raad van commissarissen. -----
- 10.3. Een voorstel tot benoeming van een of meer directeuren kan door de  
raad van commissarissen op de agenda van een algemene vergadering  
van aandeelhouders worden geplaatst, een en ander onverminderd het  
bepaalde in artikel 25, lid 2.-----
- 10.4. De vennootschap heeft een beleid op het terrein van bezoldiging van  
de directie. Het beleid wordt vastgesteld door de algemene -----  
vergadering van aandeelhouders op voorstel van de raad van -----  
commissarissen. -----
- 10.5. De bezoldiging van de directeuren wordt met inachtneming van het -  
beleid, bedoeld in het vorige lid, vastgesteld door de raad van -----  
commissarissen. De raad van commissarissen legt ter goedkeuring aan  
de algemene vergadering van aandeelhouders voor een voorstel ten --

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aanzien van regelingen van bezoldigingen in de vorm van aandelen of rechten tot het nemen van aandelen. Dit voorstel bepaalt ten minste - hoeveel aandelen of rechten tot het nemen van aandelen aan de ----- directie mogen worden toegekend en welke criteria gelden voor ----- toekenning of wijziging.-----

**Artikel 11.**-----

- 11.1. De algemene vergadering van aandeelhouders is bevoegd één of meer directeuren te schorsen of te ontslaan.-----
- 11.2. De leden van de directie kunnen, gezamenlijk of afzonderlijk, door de raad van commissarissen worden geschorst. Na schorsing wordt ----- binnen drie maanden een algemene vergadering van aandeelhouders - gehouden, die beslist of de schorsing zal worden opgeheven of ----- gehandhaafd.-----
- De betrokkene heeft het recht zich in die vergadering te ----- verantwoord.-----

**Artikel 12.**-----

- 12.1. De directie zomede iedere directeur afzonderlijk is bevoegd de ----- vennootschap te vertegenwoordigen.-----
- 12.2. De directie is bevoegd rechtshandelingen aan te gaan als genoemd in artikel 94, lid 1, Boek 2, Burgerlijk Wetboek, voor zover deze ----- bevoegdheid niet bij enige bepaling dezer statuten dan wel bij enig --- besluit van de raad van commissarissen uitdrukkelijk mocht zijn ----- uitgesloten of beperkt.-----

**Artikel 13.**-----

- 13.1. De raad van commissarissen benoemt een van de directeuren tot ---- voorzitter van de directie.-----
- 13.2. Besluiten worden genomen bij volstreekte meerderheid van stemmen. Bij staking van stemmen heeft de voorzitter van de directie een ----- beslissende stem.-----
- 13.3. Een directeur neemt niet deel aan de beraadslaging en besluitvorming als hij daarbij een direct of indirect persoonlijk belang heeft dat ----- strijdig is met het belang van de vennootschap en de met haar ----- verbonden onderneming. Wanneer hierdoor geen directiebesluit kan -



worden genomen, wordt het directiebesluit genomen door de raad --  
van commissarissen. -----

**Artikel 14.** -----

14.1. Onverminderd het elders in deze statuten bepaalde, heeft de -----  
directie voor de navolgende besluiten: -----

(i) de voorafgaande uitdrukkelijke goedkeuring van de raad van ----  
commissarissen:-----

1. de besluiten tot het oprichten van alle soorten -----  
vennootschappen, en tot het verkrijgen dan wel het -----  
verkoop van een deelneming en tot het aangaan van enige -  
samenwerking of participatie overeenkomst; -----

2. alle meerjaren plannen van de vennootschap en het budget -  
voor het komende jaar, waarin de volgende onderwerpen --  
worden behandeld: -----  
-het investeringsbeleid;-----  
-het beleid betreffende onderzoek en ontwikkeling alsmede -  
het commerciële beleid en de doelstellingen; -----  
-het algemene financiële beleid; -----  
-het personeelsbeleid; -----

3. alle handelingen, besluiten of transacties die onder de -----  
hierboven genoemde lijst vallen en die substantieel afwijken  
van de reeds door de raad van commissarissen aangenomen  
besluiten of alle handelingen, besluiten of transacties die niet  
onder de hierboven genoemde lijst vallen en die in een -----  
daartoe strekkend besluit door de raad van commissarissen -  
specifiek omschreven zijn vastgelegd;-----

(ii) de voorafgaande uitdrukkelijke goedkeuring van de algemene ----  
vergadering van aandeelhouders: besluiten omtrent een -----  
belangrijke verandering van de identiteit of het karakter van de --  
vennootschap of de onderneming, waaronder in ieder geval (a) --  
overdracht van de onderneming van de vennootschap of vrijwel  
de gehele onderneming van de vennootschap aan een derde, (b) -  
het aangaan of verbreken van duurzame samenwerking van de --

vennootschap of een dochtermaatschappij met een andere -----  
 rechtspersoon of vennootschap dan wel als volledig -----  
 aansprakelijke vennote in een commanditaire vennootschap of --  
 vennootschap onder firma, indien deze samenwerking of -----  
 verbreking van ingrijpende betekenis is voor de vennootschap, en  
 (c) het nemen of afstoten van een deelneming in het kapitaal van  
 een vennootschap ter waarde van tenminste één/derde van het --  
 bedrag van de activa volgens de geconsolideerde balans met ----  
 toelichting volgens de laatst vastgestelde jaarrekening van de ----  
 vennootschap, door haar of een dochtermaatschappij;-----  
 het ontbreken van de hierboven vermelde goedkeuring kan niet door  
 of aan derden worden tegengeworpen.-----

14.2. De directie heeft de goedkeuring nodig van de algemene vergadering  
 van aandeelhouders of de raad van commissarissen overeenkomstig -  
 het in de wet en deze statuten bepaalde alsmede voor zodanig -----  
 directiebesluiten als door de algemene vergadering van -----  
 aandeelhouders of de raad van commissarissen in haar daartoe -----  
 strekkend besluit nader zijn omschreven.-----

**Artikel 15.** -----

In geval van ontstentenis of belet van één of meer directeuren zullen de -----  
 overige directeuren, respectievelijk zal de overblijvende directeur, tijdelijk met  
 het gehele bestuur zijn belast. Bij ontstentenis of belet van alle directeuren ----  
 zullen een of meer personen, daartoe aangewezen door de raad van -----  
 commissarissen tijdelijk met het bestuur zijn belast. -----

**Raad van commissarissen.** -----

**Artikel 16.** -----

16.1. De raad van commissarissen is belast met het houden van toezicht op  
 het beleid van de directie, op de algemene gang van zaken in de -----  
 vennootschap en de onderneming die door haar wordt uitgeoefend. --  
 De raad van commissarissen staat de directie met raad betreffende de  
 algemene aspecten van het beleid samenhangende met de activiteiten  
 van de vennootschap terzijde. Bij de vervulling van hun taak richten -  
 de commissarissen zich op de belangen van de vennootschap en van



- haar onderneming. -----
- 16.2 De directie verschafft de raad van commissarissen tijdig de voor de ---  
uitoefening van diens taak noodzakelijke gegevens alsmede de -----  
gegevens waarom de raad van commissarissen de directie heeft -----  
verzocht. -----
- 16.3 De directie stelt ten minste één keer per jaar de raad van -----  
commissarissen schriftelijk op de hoogte van de hoofdlijnen van het -  
strategisch beleid, de algemene en financiële risico's en het beheers- --  
en controlesysteem van de vennootschap.-----  
De directie zal alsdan ter goedkeuring voorleggen aan de raad van ---  
commissarissen: -----
- a. de operationele en financiële doelstellingen van de vennootschap;
  - b. de strategie die moet leiden tot het realiseren van de -----  
doelstellingen; en -----
  - c. de randvoorwaarden die bij voormelde strategie worden -----  
gehanteerd, onder meer ten aanzien van de financiële ratio's.-----

**Artikel 17.** -----

- 17.1. De raad van commissarissen bestaat uit een of meer leden, te -----  
benoemen door de algemene vergadering van aandeelhouders op ----  
voorstel van de raad van commissarissen. Het aantal commissarissen  
wordt door de algemene vergadering van aandeelhouders vastgesteld.
- 17.2. Een voorstel tot benoeming van een of meer commissarissen kan ---  
door de raad van commissarissen op de agenda van een algemene ----  
vergadering van aandeelhouders worden geplaatst, een en ander -----  
onverminderd het bepaalde in artikel 25, lid 2. -----
- 17.3. De algemene vergadering van aandeelhouders benoemt een voorzitter  
en een vice-voorzitter van de raad van commissarissen. -----

**Artikel 18.** -----

- 18.1. De raad van commissarissen kan uit zijn midden een of meer -----  
gedelegeerde commissarissen benoemen die belast zijn met het -----  
onderhouden van een meer regelmatig toezicht op de directie. Zij ---  
brengen van hun bevindingen aan de raad van commissarissen verslag  
uit. De functies van voorzitter van de raad van commissarissen en ---

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gedelegeerd commissaris zijn verenigbaar.-----

18.2. De raad van commissarissen kan met inachtneming van deze statuten een reglement opstellen, waarin de verdeling van zijn taak over de --- verschillende commissarissen wordt geregeld.-----

18.3. De raad van commissarissen kan bepalen, dat één of meer van zijn --- leden toegang zullen hebben tot alle bedrijfsruimten van de ----- vennootschap en bevoegd zullen zijn inzage te nemen van alle ----- boeken, correspondentie en andere bescheiden en kennis te nemen -- van alle handelingen die plaats hebben gehad, dan wel een of meer --- van zijn leden een gedeelte van deze bevoegdheden zullen kunnen --- uitoefenen.-----

18.4. De raad van commissarissen kan op kosten van de vennootschap --- adviezen inwinnen die de raad van commissarissen voor een juiste --- uitoefening van zijn taak wenselijk acht. -----

**Artikel 19.** -----

19.1. Een commissaris wordt benoemd voor de periode tot en met de ----- eerstvolgende algemene vergadering van aandeelhouders welke wordt gehouden nadat twee volledige kalenderjaren zijn verstreken sinds de dag met ingang waarvan hij is benoemd.-----

Een aftredende commissaris is onmiddellijk herbenoembaar. -----

19.2. De raad van commissarissen kan een rooster van aftreden vaststellen.

19.3. De commissarissen kunnen worden geschorst of ontslagen door de -- algemene vergadering van aandeelhouders. De raad van ----- commissarissen kan aan de algemene vergadering van aandeelhouders voorstellen om tot schorsing of ontslag van een of meer ----- commissarissen over te gaan. -----

**Artikel 20.** -----

20.1. De raad van commissarissen kan besluiten nemen met een gewone --- meerderheid van de stemmen van de in functie zijnde ----- commissarissen. -----

Iedere commissaris heeft recht op het uitbrengen van één stem. Bij -- staken van stemmen heeft de voorzitter de beslissende stem. Bij ----- afwezigheid kan een commissaris een volmacht verlenen, echter -----



slechts aan een andere commissaris. -----

Een commissaris neemt niet deel aan de beraadslaging en -----  
besluitvorming als hij daarbij een direct of indirect persoonlijk belang  
heeft dat tegenstrijdig is met het belang van de vennootschap en de --  
met haar verbonden onderneming. Wanneer hierdoor geen besluit ---  
kan worden genomen, wordt het besluit genomen door de algemene -  
vergadering. -----

De raad van commissarissen kan schriftelijk besluiten zonder een ----  
vergadering te houden, mits de voorstellen voor dergelijke besluiten -  
schriftelijk aan alle commissarissen zijn medegedeeld en geen -----  
commissaris zich tegen deze wijze van besluitvorming heeft verzet. ---

20.2. De leden van de directie wonen, op verzoek van de raad van -----  
commissarissen, de vergaderingen van deze raad bij.-----

20.3. Vergaderingen van de raad van commissarissen worden -----  
bijeengeroepen door de voorzitter van die raad van commissarissen, -  
hetzij op verzoek van twee of meer commissarissen, hetzij op verzoek  
van de directie, dan wel door de commissarissen die verzocht hebben  
de vergadering te houden. -----

20.4. De raad van commissarissen stelt een reglement vast inhoudende ----  
onder meer regelen betreffende de wijze van oproeping tot zijn -----  
vergaderingen en de interne orde in die vergaderingen. Deze -----  
vergaderingen kunnen zowel telefonisch als per video of gelijksoortige  
communicatiemiddelen worden gehouden. -----

20.5. Bij belet of ontstentenis van een of meer commissarissen zijn de ----  
overige commissarissen, of is de enige overgebleven commissaris, ---  
tijdelijk met het toezicht belast.-----

Bij belet of ontstentenis van alle commissarissen is een door de ----  
algemene vergadering daartoe voor onbepaalde tijd aan te wijzen ----  
persoon tijdelijk met het toezicht belast.-----

**Artikel 21.** -----

De algemene vergadering van aandeelhouders stelt de vergoeding voor de ----  
leden van de raad van commissarissen of voor een of meer van haar leden vast.  
Kosten worden aan de commissarissen vergoed.-----

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**Algemene vergadering van aandeelhouders.** -----

**Artikel 22.** -----

- 22.1. De gewone algemene vergadering van aandeelhouders wordt -----  
telkenjare binnen zes maanden na afloop van het boekjaar gehouden.
- 22.2. In deze algemene vergadering wordt (worden) aan de orde gesteld:----
- a. het door de directie schriftelijk uitgebrachte verslag omtrent de --  
gang van zaken van de vennootschap gedurende het afgelopen --  
boekjaar en het door de raad van commissarissen uitgebrachte ---  
verslag;-----
  - b. de vaststelling van de jaarrekening en de bepaling van het -----  
dividend op de in artikel 33 omschreven wijze;-----
  - c. het verlenen van décharge aan de directeuren voor hun bestuur -  
over het afgelopen boekjaar en aan de commissarissen voor hun  
toezicht daarop;-----
  - d. voorziening in vacatures in de directie;-----
  - e. voorziening in vacatures in de raad van commissarissen;-----
  - f. de voorstellen van de directie of van de raad van commissarissen,  
zomede voorstellen van aandeelhouders die overeenkomstig de -  
bepalingen dezer statuten zijn ingediend. -----

**Artikel 23.** -----

- 23.1. Buitengewone algemene vergaderingen van aandeelhouders worden -  
gehouden zo dikwijls de raad van commissarissen dat nodig acht en --  
moeten worden gehouden, indien een of meer aandeelhouders en ---  
overige vergadergerechtigden, die ten minste een/tiende gedeelte van  
het geplaatste kapitaal vertegenwoordigen, dit schriftelijk onder -----  
nauwkeurige opgave der te behandelen onderwerpen aan de directie -  
verzoeken. -----
- 23.2. Indien de directie of raad van commissarissen in gebreke blijven aan -  
een verzoek als bedoeld in het hierboven genoemde lid 1 gevolg te ---  
geven, zodanig dat de algemene vergadering van aandeelhouders -----  
binnen zes weken na het verzoek kan worden gehouden, kunnen de -  
verzoekers door de President van de Arrondissementsrechtbank -----  
binnen welker rechtsgebied de vennootschap is gevestigd, worden ----



gemachtigd zelf de oproeping te doen.-----

**Artikel 24.**-----

- 24.1. De algemene vergaderingen van aandeelhouders worden gehouden in de plaats van statutaire vestiging, Amsterdam, Haarlemmermeer ----- (Schiphol Airport), Rotterdam, Badhoevedorp of te 's-Gravenhage.---
- 24.2. De oproeping tot een algemene vergadering van aandeelhouders ----- geschiedt door een langs elektronische weg openbaar gemaakte ----- aankondiging, welke tot aan de algemene vergadering van ----- aandeelhouders rechtstreeks en permanent toegankelijk is. -----
- 24.3. De oproeping gaat uit van de directie of raad van commissarissen of -- van diegenen, die daartoe krachtens de wet of deze statuten de ----- bevoegdheid bezitten. -----
- 24.4. Bij de oproeping tot een algemene vergadering van aandeelhouders -- worden, inter alia, vermeld:-----
- a. de agenda waarop de te behandelen onderwerpen zijn vermeld; --
  - b. de plaats en het tijdstip van de algemene vergadering van ----- aandeelhouders;-----
  - c. de procedure voor deelname aan de algemene vergadering bij --- schriftelijk gevolmachtigde;-----
  - d. de procedure voor deelname aan de algemene vergadering van -- aandeelhouders en het adres van de website van de ----- vennootschap;-----
  - e. de dag van registratie als bedoeld in artikel 27 lid 2, alsmede de -- wijze waarop de stem- en vergadergerechtigden zich kunnen ---- laten registreren en de wijze waarop zij hun rechten kunnen ----- uitoefenen.-----

**Artikel 25.**-----

- 25.1 De oproeping als bedoeld in het vorige artikel geschiedt niet later dan op de tweeënveertigste dag vóór die der vergadering.-----
- 25.2. De agenda vermeldt de onderwerpen, welke daarop zijn geplaatst ---- door degene die gerechtigd is de vergadering bijeen te roepen en ----- voorts de onderwerpen welke plaatsing op de agenda ten minste ---- zestig dagen vóór de dag der vergadering overeenkomstig de wet aan

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de directie is verzocht door een of meer houders van aandelen of met medewerking van de vennootschap uitgegeven certificaten. -----  
Over andere onderwerpen dan die, welke op de agenda voorkomen, -  
wordt in de vergadering geen besluit genomen. -----

**Artikel 26.** -----

26.1. De algemene vergaderingen van aandeelhouders worden geleid door -  
de voorzitter van de raad van commissarissen of bij zijn afwezigheid -  
door de vice-voorzitter van de raad van commissarissen. Bij -----  
afwezigheid van zowel de voorzitter als de vice-voorzitter van de raad  
van commissarissen zal de vergadering worden voorgezeten door een  
andere door de raad van commissarissen aan te wijzen persoon. -----

26.2. Van het verhandelde in een algemene vergadering van aandeelhouders  
worden notulen gehouden, die door de voorzitter en een dadelijk na -  
het openen der vergadering door hem aan te wijzen persoon worden  
vastgesteld en getekend.-----

**Artikel 27.** -----

27.1. Alle houders van aandelen of met medewerking van de vennootschap  
uitgegeven certificaten en overige vergadergerechtigden zijn -----  
gerechtigd de algemene vergadering van aandeelhouders bij te wonen,  
het woord te voeren en stem uit te brengen. -----  
Voor zover een reglement niet van toepassing is, kan de voorzitter de  
spreektijd rantsoeneren indien hij zulks met het oog op een goed ----  
verloop van de vergadering gewenst acht. -----

27.2. Als stem- en vergadergerechtigde hebben te gelden zij die op de -----  
achtentwintigste dag vóór die der vergadering (de dag van registratie)  
die rechten hebben en als zodanig zijn ingeschreven in een door het -  
bestuur aangewezen register, ongeacht wie ten tijde van de algemene  
vergadering van aandeelhouders de rechthebbenden op de aandelen -  
zijn of met medewerking van de vennootschap uitgegeven -----  
certificaten. -----

**Artikel 28.** -----

28.1. Aandeelhouders en overige vergadergerechtigden kunnen zich doen -  
vertegenwoordigen via een schriftelijke volmacht, welke volmacht ----



dient te worden getoond om toegelaten te worden. -----

Aan de eis van schriftelijkheid van de volmacht wordt voldaan indien de volmacht elektronisch is vastgelegd. Het is een aandeelhouder ---- toegestaan de vennootschap langs elektronische weg van de volmacht in kennis te stellen. -----

- 28.2. Omtrent alle zaken betreffende de toelating tot de algemene ----- vergadering, het uitoefenen van stemrecht, en het resultaat van een -- stemming alsmede alle andere zaken de algemene vergadering ----- betreffende, besluit de voorzitter van de vergadering, met ----- inachtneming van het bepaalde in artikel 13 Boek 2, Burgerlijk ----- Wetboek.-----

**Artikel 29.** -----

- 29.1. Voor zover bij deze statuten niet anders is bepaald, worden besluiten genomen met gewone meerderheid van de door de stemgerechtigde - aandeelhouders uitgebrachte stemmen. Blanco stemmen en stemmen die van onwaarde zijn worden niet meegeteld. De voorzitter bepaalt - de wijze van stemming. -----
- 29.2. Staking van stemmen geldt als verwerping van het desbetreffende --- voorstel.-----
- 29.3 Het bestuur van de vennootschap houdt van de genomen besluiten -- aantekening. De vennootschap stelt voor elk genomen besluit vast: ---
- a. het aantal aandelen waarvoor geldige stemmen zijn uitgebracht; --
  - b. het percentage dat het aantal onder a bedoelde aandelen ----- vertegenwoordigd in het geplaatste kapitaal; -----
  - c. het totale aantal geldig uitgebrachte stemmen;-----
  - d. het aantal stemmen dat voor en tegen het besluit is uitgebracht, - alsmede het aantal onthoudingen. -----

**Artikel 30.** -----

In de algemene vergadering van aandeelhouders geeft ieder aandeel recht op -- het uitbrengen van één stem. -----

**Jaarrekening, jaarverslag en uitkeringen.**-----

**Artikel 31.** -----

- 31.1. Het boekjaar loopt van één januari tot en met eenendertig december.-

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- 31.2. De directie doet jaarlijks een jaarrekening opmaken, bestaande uit een balans per het einde van het voorafgaande boekjaar en een winst- en verliesrekening over het voorafgaande boekjaar met de toelichting op deze stukken.-----
- 31.3. De directie is verplicht voornoemde jaarrekening volgens -----  
bedrijfseconomische grondslagen op te maken. -----

**Artikel 32.**-----

- 32.1. De raad van commissarissen doet de jaarrekening onderzoeken door een of meer daartoe door de algemene vergadering van -----  
aandeelhouders aan te wijzen registeraccountant(s) of andere daartoe overeenkomstig artikel 393, Boek 2, Burgerlijk Wetboek aangewezen deskundigen en brengt aan de algemene vergadering van -----  
aandeelhouders omtrent de jaarrekening verslag uit, onverminderd het in de wet bepaalde.-----
- 32.2. Afschriften van de opgemaakte jaarrekening, van het verslag van de --  
raad van commissarissen, het verslag van de directie en van de -----  
krachtens de wet toe te voegen gegevens worden vanaf de dag van de oproeping tot de algemene vergadering van aandeelhouders, bestemd voor hun behandeling tot na afloop van die vergadering ten kantore -  
van de vennootschap voor aandeelhouders en overige -----  
vergadergerechtigden ter inzage gelegd.-----

**Artikel 33.**-----

- 33.1. Uitkering van winst ingevolge het in dit artikel bepaalde geschiedt na vaststelling van de jaarrekening waaruit blijkt dat zij volgens de wet --  
geoorloofd is. -----
- 33.2. De raad van commissarissen bepaalt op voorstel van de directie, welk gedeelte van de winst – het positieve saldo van de winst- en -----  
verliesrekening – bij wijze van reserve zal worden ingehouden, zulks -  
met inachtneming van de wettelijke bepalingen met betrekking tot ---  
verplichte reserves.-----
- 33.3. Het gedeelte van de winst dat overblijft na toepassing van lid 2 staat -  
ter vrije beschikking van de algemene vergadering van -----  
aandeelhouders.-----



- 33.4. De algemene vergadering van aandeelhouders is bevoegd tot uitkering van de winst in geld of in natura dan wel om genoemd gedeelte van -- de winst geheel of gedeeltelijk niet uit te keren. -----

**Artikel 34.** -----

- 34.1. Op voorstel van de raad van commissarissen, is de algemene ----- vergadering van aandeelhouders met inachtneming van het in lid 2 --- bepaalde, bevoegd te besluiten tot het doen van uitkeringen ten laste van de agioreserve dan wel ten laste van de in de jaarrekening ----- opgenomen “overige reserves” die niet door de wet zijn ----- voorgeschreven. -----

- 34.2. De raad van commissarissen is bevoegd te besluiten dat uitkeringen -- aan aandeelhouders waarvan de hoogte is vastgesteld door de ----- algemene vergadering van aandeelhouders, geheel of gedeeltelijk ---- plaatsvinden in de vorm van uitgifte van aandelen in de ----- vennootschap. De uitkering aan een aandeelhouder overeenkomstig - de vorige zin zullen geschieden in geld of in de vorm van aandelen in het kapitaal van de vennootschap, of gedeeltelijk in geld en ----- gedeeltelijk in de vorm van aandelen in het kapitaal van de ----- vennootschap, zulks, indien de raad van commissarissen dat bepaalt, - ter keuze van de aandeelhouders. -----

**Artikel 35.** -----

De directie kan indien zij zulks wenselijk acht en met inachtneming van artikel 105, lid 4, Boek 2, Burgerlijk Wetboek, reeds voor de goedkeuring en ----- vaststelling van de jaarrekening over enig boekjaar één of meer interim- ----- uitkeringen doen op de aandelen.-----

**Artikel 36.** -----

- 36.1. Uitkeringen zullen betaalbaar zijn op een door de algemene ----- vergadering van aandeelhouders te bepalen datum.-----
- 36.2. Tot een uitkering op aandelen op naam is diegene gerechtigd, te wiens name het aandeel is gesteld op de datum van uitkering. -----
- 36.3. Kennisgevingen betreffende uitkeringen, alsmede betreffende data en plaatsen als bedoeld in de voorgaande leden van dit artikel, worden in Nederland gepubliceerd tenminste in een landelijk verspreid dagblad -

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en in het buitenland ten minste in een dagblad in elk van die landen, -  
daaronder niet begrepen de Verenigde Staten van Amerika, waar de --  
aandelen op verzoek van de vennootschap tot een officiële notering -  
zijn toegelaten, en daarnevens nog op zodanig wijze als de directie ---  
wenselijk acht. -----

- 36.4. In geval van een uitkering in de vorm van aandelen in de -----  
vennootschap op grond van artikel 34, lid 2 zullen de aandelen welke  
niet zijn opgevraagd binnen een door de raad van commissarissen te -  
bepalen termijn worden verkocht voor rekening van de -----  
rechthebbenden, die de aandelen niet hebben opgevraagd. De periode  
en wijze van verkoop, vast te stellen door de raad van commissarissen  
zoals bedoeld in de vorige zin zal overeenkomstig lid 3 worden -----  
medegedeeld. De netto-opbrengst van een zodanige verkoop blijft ---  
daarna, in verhouding tot ieders recht, ter beschikking van de -----  
rechthebbende; het recht op de opbrengst vervalt aan de -----  
vennootschap echter, indien en voor zover de opbrengst niet vijf ----  
jaren na de datum waarop de uitkering in de vorm van aandelen -----  
betaalbaar is geworden, is opgevorderd. -----

**Statutenwijziging, ontbinding, liquidatie.** -----

**Artikel 37.** -----

- 37.1. Een besluit tot wijziging der statuten of tot ontbinding der -----  
vennootschap is slechts geldig indien:-----
- a. het voorstel voor een zodanig besluit door de raad van -----  
commissarissen aan de algemene vergadering van aandeelhouders  
is voorgesteld;-----
  - b. de volledige voorstellen van de dag der oproeping tot de -----  
algemene vergadering van aandeelhouders tot na afloop dier ----  
vergadering ten kantore der vennootschap voor de -----  
aandeelhouders en overige vergadergerechtigden ter inzage -----  
hebben gelegen;-----
  - c. het voorstel is aangenomen met een meerderheid van twee -----  
derden van de ter vergadering uitgebrachte stemmen.-----
- 37.2. Een besluit tot wijziging van de statuten waarbij verandering wordt --



gebracht in de rechten die aan houders van aandelen van een bepaalde  
soort als zodanig toekomen, behoeft de goedkeuring van de -----  
vergadering van houders van aandelen van die bepaalde soort. -----

**Artikel 38.** -----

- 38.1. Bij ontbinding van de vennootschap geschiedt de vereffening door de  
directie of een daartoe door de algemene vergadering van -----  
aandeelhouders aangewezen persoon, onder toezicht van de raad van  
commissarissen. -----
- 38.2. Bij het besluit tot ontbinding zal de algemene vergadering van -----  
aandeelhouders op voorstel van de raad van commissarissen de aan --  
de vereffenaars, en aan degenen die met het toezicht op de -----  
vereffening belast zijn, toe te kennen beloning vaststellen. -----
- 38.3. De vereffening geschiedt met inachtneming van de wettelijke -----  
bepalingen. -----
- 38.4. Na afloop der vereffening blijven de boeken en bescheiden van de ---  
vennootschap gedurende zeven jaar berusten onder degene die -----  
daartoe door de vereffenaars is aangewezen. -----

**Artikel 39.** -----

Hetgeen na voldoening van alle schulden overblijft wordt verdeeld tussen de --  
aandeelhouders naar verhouding van het nominale bedrag van hun bezit aan --  
aandelen. -----

**De verschenen persoon verklaarde verder:** -----

Het geplaatste en gestorte kapitaal bedraagt thans elf miljoen -----  
vijfhonderdzesentachtigduizend eenhonderdvier euro en veertig eurocent -----  
(EUR 11.586.104,40), verdeeld in zevenenvijftig miljoen -----  
negenhonderddertigduizend vijfhonderdtweeëntwintig (57.930.522) -----  
aandelen, genummerd 1 tot en met 57.930.522, elk nominaal groot twintig ----  
eurocent (EUR 0,20) -----

**Slot akte** -----

Deze akte is in minuut opgemaakt en verleden te Rijswijk op de datum in de --  
aanhef van deze akte vermeld. -----

Nadat de inhoud van deze akte zakelijk aan de verschenen persoon is -----  
opgegeven en toegelicht, heeft deze verklaard van de inhoud van deze akte ---

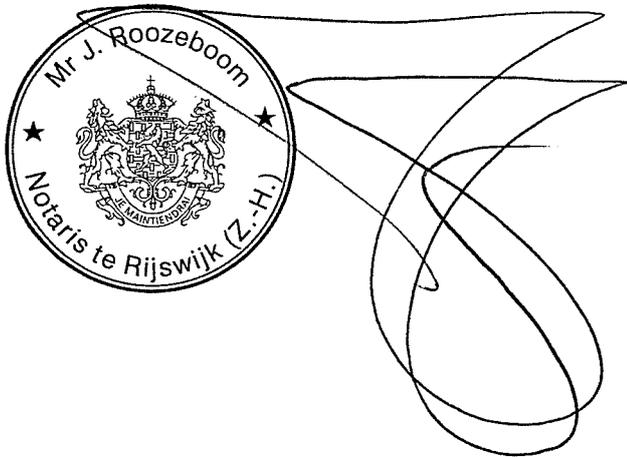
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kennis te hebben genomen en op volledige voorlezing daarvan geen prijs te ---  
stellen. -----

Vervolgens is deze akte, na beperkte voorlezing overeenkomstig de wet, door -  
de verschenen persoon, die mij, notaris, bekend is, en mij, notaris, -----  
ondertekend, om zestien uur en veertig minuten. -----

(Volgt ondertekening)

Uitgegeven voor afschrift



**INFORMAL ENGLISH TRANSLATION**

of  
the deed of alteration of the articles of association  
of  
**FUNCOM N.V.**,  
registered office at  
Katwijk, the Netherlands.

The undersigned:

John Roozeboom, Civil Law Notary in the city of Rijswijk,  
declares that the attached document is a fair but informal English  
translation of the abovementioned deed.

In this translation, prepared by our office, an attempt has been  
made to be as literal as possible.  
Inevitably, differences may occur in the translation, and if so, the  
Dutch text will by law govern.

Signed at Rijswijk, on January 31, 2018.



A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

JR/DI/530094571/II/ALTERATION OF ARTICLES OF ASSOCIATION  
(unofficial translation)

This day, the thirty-first of January two thousand and eighteen, before me,  
John Roozeboom, Civil Law Notary in the municipality of Rijswijk, personally  
appeared:

Diana Schreur, secretary, for the purposes hereof residing at 2281 AJ Rijswijk,  
Haagweg 175, born at The Hague on the eighteenth of November nineteen hundred  
and seventy-two.

The appearer declared:

- that the general meeting of shareholders of the public company **FUNCOM N.V.**,  
registered offices at Katwijk, place of business at Prins Mauritslaan 37-39, 1171 LP  
Badhoevedorp, registered with the commercial trade register under number  
28073705, hereinafter referred to as the "Company", which company was  
incorporated by deed executed on the twenty-ninth day of November nineteen  
hundred and ninety-six before C.E.M. van Steenderen, at that time Civil Law Notary  
in the city of Rijswijk and the Articles of Association of which company have been  
altered most recently by deed executed on the nineteenth of October two thousand  
sixteen before E.S. Voskamp, a civil law notary practising in Rijswijk, has passed a  
resolution to amend the Company's Articles of Association which is proposed by the  
Supervisory Board of the Company;

- that the person appearing was authorized by that resolution to arrange for the deed  
of amendment to the Articles of Association to be executed and to sign that deed;

./ - that the aforesaid resolution to amend the Articles of Association and the said  
authorization are evident from a document which is attached to this deed;

The person appearing hereby amends the Articles of Association of the aforesaid  
Company as follows:

Article 3 shall read:

The authorised capital of the Company is thirty million euro (EUR 30,000,000),  
divided into one hundred fifty million (150,000,000) shares of a nominal value of  
twenty eurocent (EUR 0.20) each.

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Furthermore, it was declared that after the said amendment the Company's Articles of Association are worded as follows:

**Name and seat.**

**Article 1.**

1.1 The name of the company is: **FUNCOM N.V.**

1.2 The company is established at Katwijk.

**Objects.**

**Article 2.**

The objects of the company shall be to develop, market and carry on business in digital games, such as massively multi player online games, online role playing games and related games on electronic devices of different kinds, to take and grant licenses and other industrial properly interests, assume commitments in the name of any enterprises with which it may be associated within a group of companies, to take financial interests in such enterprises and to take any other action, such as but not limited to the granting of securities or the undertaking of obligations on behalf of third parties, which in the broadest sense of the term, may be related or contribute to the aforesaid objects.

**Share capital.**

**Article 3.**

The authorised capital of the Company is thirty million euro (EUR 30,000,000), divided into one hundred fifty million (150,000,000) shares of a nominal value of twenty eurocent (EUR 0.20) each.

**Issue of shares.**

**Article 4.**

4.1 The supervisory board shall have the power to issue shares and to determine the terms and conditions of such issue if and in so far as the supervisory board has been designated by the general meeting of shareholders as the authorized body for this purpose. A designation as referred to above shall only take place for a specific period of no more than the period up to and including the first ordinary general meeting of shareholders which is held after three full calendar years have elapsed since said designation (the "Period") and may not be extended by more than the Period on each occasion.

- 4.2 If a designation as referred to in the first paragraph is not in force, the general meeting of shareholders shall have the power, upon the proposal of and on the terms and conditions set by the supervisory board to resolve to issue shares.
- 4.3 In the event of an issue of shares, shareholders shall have a pre-emptive right in proportion to the number of shares which they own, notwithstanding the provisions of the law. In respect of the issue of shares there shall be no pre-emptive right to shares issued to employees of the company or of a group company. The supervisory board shall have the power to limit or debar the pre-emptive right accruing to shareholders, if and in so far as the supervisory board has also been designated by the general meeting of shareholders for this purpose as the authorized body for the period of such designation. The provisions in the second sentence of the first paragraph shall equally apply.
- 4.4 If a designation as referred to in the third paragraph is not in force, the general meeting of shareholders shall have the power, upon the proposal of the supervisory board to limit or debar the pre-emptive right accruing to shareholders.
- 4.5 A resolution of the general meeting of shareholders to limit or exclude pre-emptive rights or to designate the supervisory board as authorized to resolve upon limiting or excluding of pre-emptive rights requires a majority of at least two-thirds of the votes.
- 4.6 Without prejudice to what has been provided in section 80, paragraph 2, Civil Code:2, shares shall at no time be issued below par.
- 4.7 Shares shall be issued only against payment in full.
- 4.8 Payment must be made in cash to the extent that no other contribution has been agreed upon. If the company so allows, payment in cash can be made in a foreign currency.

In the event of payment in a foreign currency the obligation to pay is for the amount which can be freely exchanged into Dutch currency. The decisive factor is the rate of exchange on the day of payment, or as the case may be after application of the next sentence, on the day mentioned therein. The company can require payment at the rate of exchange on a certain day

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within two months prior to the last day when payment shall have to be made, provided the shares or depositary receipts for shares after having been issued shall immediately be incorporated in the price list of an exchange abroad.

- 4.9. This article shall equally apply to the granting of rights to take shares, but shall not apply to the issue of shares to someone who exercises a previously acquired right to take shares.

**Repurchase of shares.**

**Article 5.**

- 5.1. The company may acquire, for valuable considerations, shares in its own share capital if and in so far as:
- a. its equity less the purchase price of these shares is not less than the aggregate amount of the paid up and called up capital and the reserves which must be maintained pursuant to the law;
  - b. the par value of the shares in its capital which the company acquires, holds or holds in pledge, or which are held by a subsidiary company, amounts to no more than one-tenth of the issued share capital; and
  - c. the general meeting of shareholders has authorized the managing board to acquire such shares, which authorization may be given for no more than eighteen months on each occasion,
- notwithstanding the further statutory provisions.
- 5.2. The company may, without being authorized thereto by the general meeting of shareholders and notwithstanding to what is provided in paragraph 1 under a and b, acquire shares in its own share capital in order to transfer those shares to the employees of the company or a group company under a scheme applicable to such employees.
- 5.3. Shares thus acquired may again be disposed of. The company shall not acquire shares in its own share capital as referred to in paragraph 1 – if an authorization as referred to in such paragraph is in force – or as referred to in paragraph 2 without the prior approval of the supervisory board. The company shall also not dispose of shares in its own share capital – with the exception of shares in the company's own share capital acquired pursuant to paragraph 2 – without the prior approval of the supervisory board.

If depositary receipts for shares in the company have been issued, such depositary receipts shall for the application of the provisions of this paragraph and the preceding paragraph be treated as shares.

- 5.4. In the general meeting no votes may be cast in respect of (a) share(s) held by the company or a subsidiary company; no votes may be cast in respect of a share the depositary receipt for which is held by the company or a subsidiary company.

Shares in respect of which voting rights may not be exercised by law or by the articles of association shall not be taken into account, when determining to what extent the shareholders cast votes, to what extent they are present or represented or to what extent the share capital is provided or represented.

- 5.5. Upon the proposal of the supervisory board the general meeting of shareholders shall have the power to decide to cancel shares acquired by the company from its own share capital.

**Shares, Share certificates, Share register.**

**Article 6.**

Shares shall be in the form of an entry in the share register without issue of a share certificate.

**Article 7.**

- 7.1. A register shall be kept by or on behalf of the company, which register shall be regularly updated and, at the discretion of the managing board, which register may, in whole or in part, be kept in more than one copy and at more than one place.

A part of the register may be kept abroad in order to meet requirements set out by foreign statutory provisions or provisions of the foreign exchange.

- 7.2. Each shareholder's name, his address and such further data as the managing board deems desirable, whether at the request of a shareholder or not, shall be entered in the register.
- 7.3. The form and the contents of the share register shall be determined by the managing board with due regard to the provisions of paragraphs 1 and 2 of this article.

**Article 8.**

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- 8.1. Upon request a shareholder shall be given free of charge a declaration of what is stated in the register with regard to the shares registered in his name, which declaration may be signed by one of the specially authorized persons to be appointed by the managing board for this purpose.
- 8.2. The provisions of article 7 and 8 shall equally apply to those who hold a right of usufruct or of pledge on one or more registered shares, with the proviso that the other data required by law must be entered in the register.

**Transfer of shares.**

**Article 9.**

- 9.1. The transfer of a registered share shall be effected either by service upon the company of the instrument of transfer or by written acknowledgement of the transfer by the company, subject however to the provisions of the following paragraphs of this article.
- 9.2. The provisions of the foregoing paragraphs of this article shall equally apply to the allotment of registered shares in the event of a judicial partition of any community of property or interests, the transfer of a registered share as a consequence of a judgment execution and the creation of limited rights in rem on a registered share.

**Managing board.**

**Article 10.**

- 10.1. The company shall be managed by a managing board consisting of one or more managing directors under the supervision of the supervisory board. The number of members of the managing board shall be resolved by the general meeting of shareholders upon the proposal of the supervisory board. The members of the managing board shall be appointed by the shareholders meeting.
- A managing director is appointed for the period up to and including the first ordinary general meeting of shareholders which is held after three full calendar years have elapsed since the day as per which he was appointed. A retired managing director may immediately be re-elected.
- 10.2. Managing directors shall be appointed and revoked by the general meeting of shareholders upon the proposal of the supervisory board for each vacancy to be filled.

- 10.3. Without prejudice to the provisions of article 25, paragraph 2, a proposal to make one or more appointments to the managing board may be placed on the agenda of a general meeting of shareholders by the supervisory board.
- 10.4. The company has a policy regarding the compensation of the managing board. The policy will be adopted by the general meeting of shareholders upon the proposal of the supervisory board.
- 10.5. The supervisory board shall determine the compensation of the individual managing directors, within the scope of the compensation policy referred to in the previous paragraph. The supervisory board will submit for approval by the general meeting of shareholders a proposal regarding the compensation in the form of shares or rights to acquire shares. This proposal sets forth at least how many shares or rights to acquire shares may be awarded to the managing board and which criteria apply to an award or a modification.

**Article 11.**

- 11.1. The general meeting of shareholders shall be entitled to suspend or dismiss one or more managing directors.
- 11.2. The managing directors can be jointly or individually suspended by the supervisory board. After suspension a general meeting of shareholders shall be convened within three months, at which meeting it shall be decided whether the suspension shall be cancelled or maintained.  
The person involved shall be given the opportunity to account for his actions at that meeting.

**Representation.**

**Article 12.**

- 12.1. The entire managing board as well as each managing director may represent the company.
- 12.2. The managing board shall have power to perform legal acts as specified in section 2:94, paragraph 1, Civil Code in so far as such power is not expressly excluded or limited by any provision of these articles or by any resolution of the supervisory board.

**Article 13.**

- 13.1. The supervisory board shall appoint one of the managing directors as

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chairman of the managing board.

13.2. Resolutions of the managing board shall be passed by simple majority of votes. In the event of a tie of votes the chairman of the managing board shall have a casting vote.

13.3. A director shall not participate in the deliberations and decision-making on any matter in respect of which his direct or indirect personal interests conflict with those of the company and the business carried on by the company. If no board resolution can be passed as a result of this, the supervisory board shall pass the board resolution.

**Article 14.**

14.1. Without prejudice to provisions made elsewhere in these articles, the managing board shall require the prior express approval:

- (i) from the supervisory board for decisions relating to:
  - 1. the formation of subsidiaries, acquisition or sale of any participation, and conclusion of any cooperation and participation agreement;
  - 2. all pluriannual plans of the company and the budget for the first coming year, covering the following matters:
    - investment policy;
    - policy regarding research and development, as well as commercial policy and objectives;
    - general financial policy;
    - policy regarding personnel;
  - 3. all acts, decisions or operations covered by the above list and constituting a significant change with respect to decisions already adopted by the supervisory board or not provided for in the above list and as specifically laid down by the supervisory board by resolution passed by it to that effect;
- (ii) from the general meeting of shareholders with respect to resolutions: regarding a significant change in the identity or nature of the company or the enterprise, including in any event (a) transferring the enterprise or practically the entire enterprise to a third party, (b) entering into or cancelling any long-term cooperation between the company or a

subsidiary (“*dochtermaatschappij*”) and any other legal person or company or as a fully liable general partner of a limited partnership or a general partnership, provided that such cooperation or the cancellation thereof is of essential importance to the company, and (c) the company or a subsidiary (“*dochtermaatschappij*”) acquiring or disposing of a participating interest in the capital of a company with a value of at least one-third of the company’s total assets according to the consolidated balance sheet and notes thereto in the most recently adopted annual accounts of the company;

the absence of the approval provided for above may not be raised by or against third parties.

- 14.2. The managing board shall require the approval of the general meeting of shareholders or the supervisory board according to the law and the provisions of these articles as well as such resolutions as are clearly defined by a resolution of the general meeting of shareholders or the supervisory board to that effect.

**Article 15.**

In the event of the absence or inability to act of one or more managing directors the remaining managing directors or managing director shall temporarily be responsible for the entire management. In the event of the absence or inability to act of all managing directors, one or more persons appointed by the supervisory board for this purpose at any time shall be temporarily responsible for the management.

**Supervisory board.**

**Article 16.**

- 16.1. The supervisory board shall be responsible for supervising the policy pursued by the managing board and the general course of affairs of the company and the business enterprise which it operates. The supervisory board shall assist the managing board with advice relating to the general policy aspects connected with the activities of the company. In fulfilling their duties the supervisory directors shall serve the interests of the company and the business enterprise which it operates.
- 16.2. The managing board shall provide the supervisory board in good time with all relevant information as well as the information the supervisory board

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requests, in connection with the exercise of its duties.

- 16.3. At least once per year the managing board shall inform the supervisory board in writing of the main features of the strategic policy, the general and financial risks and the management and control systems of the company. The managing board shall then submit to the supervisory board for approval:
- a. the operational and financial objectives of the company;
  - b. the strategy designed to achieve the objectives; and
  - c. the parameters to be applied in relation to the strategy, *inter alia*, regarding financial ratios.

**Article 17.**

- 17.1. The supervisory board shall consist of one or more members, to be appointed by the general meeting of shareholders on proposal of the of shareholders. The number of supervisory directors shall be determined by the general meeting of shareholders.
- 17.2. Without prejudice to the provisions of article 25, paragraph 2, a proposal to make one or more appointments to the supervisory board may be placed on the agenda of the general meeting of shareholders by the supervisory board.
- 17.3. The general meeting of shareholders shall appoint a chairman and a vice-chairman of the supervisory board.

**Article 18.**

- 18.1. The supervisory board may appoint one or more of its members as delegate supervisory director in charge of supervising the managing board on a regular basis. They shall report their findings to the supervisory board. The offices of chairman of the supervisory board and delegate supervisory director are compatible.
- 18.2. With due observance of these articles of association, the supervisory board may adopt rules regulating the division of its duties among its various supervisory directors.
- 18.3. The supervisory board may decide that one or more of its members shall have access to all premises of the company and shall be authorized to examine all books, correspondence and other records and to be fully informed of all actions which have taken place, or may decide that one or

more of its supervisory directors shall be authorized to exercise a portion of such powers.

- 18.4. At the expense of the company, the supervisory board may obtain such advice from experts as the supervisory board deems desirable for the proper fulfillment of its duties.

**Article 19.**

- 19.1. A supervisory director is appointed for the period up to and including the first ordinary general meeting of shareholders which is held after two full calendar years have elapsed since the day as per which he was appointed. A retired supervisory director may immediately be re-elected.
- 19.2. The supervisory board may establish a rotation scheme.
- 19.3. The supervisory directors may be suspended or dismissed by the general meeting of shareholders. The supervisory board may make a proposal to the general meeting of shareholders for the suspension or dismissal of one or more of its supervisory directors.

**Article 20.**

- 20.1. The supervisory board may pass resolutions by simple majority of the votes of the members in office.
- Each supervisory director has the right to cast one vote. In case of a tie the vote of chairman shall decide. In case of absence a supervisory director may issue a proxy, however, only to another supervisory director.
- A supervisory director may not take part in deliberations and the adopting of resolutions if he has a direct or indirect personal interest in them which conflicts with the interests of the company and its business. If a resolution cannot be adopted as a result, the resolution must be adopted by the general meeting of shareholders.
- The supervisory board may pass resolutions in writing without holding a meeting provided that the proposals for such resolutions have been communicated in writing to all supervisory directors and no supervisory director is opposed to this method of passing a resolution.
- 20.2. The managing directors shall attend meetings of the supervisory board at the latter's request.
- 20.3. Meetings of the supervisory board shall be convened by the chairman of the

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supervisory board, either on request of two or more supervisory directors or on request of the managing board, or by the supervisory directors requesting the meeting to be held.

- 20.4. The supervisory board shall draw up standing orders regulating inter alia the manner of convening board meetings and the internal procedure at such meetings. These meetings may be held by telephone as well as by video or by equivalent means or communications.
- 20.5. If one or more supervisory directors are absent or unable to act, the remaining supervisory director or Supervisory Directors will be charged temporarily with the supervision of the company. If all the supervisory directors are absent or unable to act, a person to be appointed by the general meeting of shareholders for an indefinite period for this purpose will be charged temporarily with the supervision of the company.

**Article 21.**

The general meeting of shareholders determines the compensation to the members of the supervisory board or to one or more of its members. The supervisory board members shall be reimbursed for their expenses.

**General meeting of shareholders.**

**Article 22.**

- 22.1. The ordinary general meeting of shareholders shall be held each year within six months after the close of the financial year.
- 22.2. At this general meeting shall be dealt with:
- a. the written report of the managing board on the course of business of the company during the past financial year, and the report of the supervisory board;
  - b. adoption of the annual accounts and the declaration of dividend in the manner laid down in article 33;
  - c. granting of discharge to the members of the managing board for their management during the past financial year and to the members of the supervisory board for their supervision on such management;
  - d. filling vacancies on the managing board;
  - e. filling vacancies on the supervisory board;
  - f. the proposals placed on the agenda by the managing board or by the

supervisory board, together with proposals made by shareholders in accordance with the provisions of these articles.

**Article 23.**

- 23.1. Extraordinary general meetings of shareholders shall be held as often as deemed necessary by the supervisory board and shall be held if one or more shareholders and other persons entitled to attend the meetings of shareholders jointly representing at least one-tenth of the issued share capital make a written request to that effect to the managing board or supervisory board, specifying in detail the business to be dealt with.
- 23.2. If the managing board or supervisory board fail to comply with a request under paragraph 1 above in such manner that the general meeting of shareholders can be held within six weeks after the request, the persons making the request may be authorized by the President of the Court within whose jurisdiction the company is established to convene the meeting themselves.

**Article 24.**

- 24.1. General meetings of shareholders shall be held at its place of establishment and at Amsterdam, Haarlemmermeer (Schiphol Airport), Rotterdam, Badhoevedorp or The Hague.
- 24.2. The notice convening a general meeting of shareholders shall be published electronically and shall be permanently and directly accessible until the general meeting of shareholders.
- 24.3. The notice convening the meeting shall be issued by the managing board, by the supervisory board or by those who according to the law or these articles are entitled thereto.
- 24.4. The notice convening a general meeting of shareholders shall contain inter alia:
- a. the agenda stating the business to be transacted;
  - b. the location and time of the general meeting of shareholders;
  - c. the procedure for participating in the general meeting by written proxy;
  - d. the procedure for participating in the general meeting of shareholders and the company's website address;
  - e. the registration date within the meaning of article 27.2 and the manner

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in which persons entitled to vote and attend meetings can register and the manner in which they can exercise their rights.

**Article 25.**

- 25.1 The notice convening the meeting referred to in the foregoing article shall be issued no later than on the forty-second day prior to the meeting.
- 25.2. The agenda shall contain such business as may be placed thereon by the person(s) entitled to convene the meeting, and furthermore such business as has been requested of the managing board by one or more holders of shares or of depositary receipts for shares issued with the concurrence of the company at least sixty days prior to the date of the meeting in accordance with the law.
- Resolutions shall not be passed in the meeting on business other than that on the agenda.

**Article 26.**

- 26.1. General meetings of shareholders shall be presided over by the chairman of the supervisory board or in his absence by the vice-chairman of the supervisory board. In case of absence of the chairman and the vice-chairman of the supervisory board the meeting shall be presided by any other person nominated by the supervisory board.
- 26.2. Minutes shall be kept of the business transacted at a general meeting of shareholders, which minutes shall be drawn up and signed by the chairman and by a person appointed by him immediately after the opening of the meeting.

**Article 27.**

- 27.1. All holders of shares or of depositary receipts for shares issued with the concurrence of the company and other persons entitled to attend meetings are entitled to attend the general meetings of shareholders, to address the general meeting of shareholders and to vote.
- Insofar as regulations do not apply the chairman may regulate the time for those who may speak if he considers this to be desirable with a view to the orderly conduct of the meeting.
- 27.2. Persons entitled to vote and to attend meetings are those persons who on the twenty-eighth day prior to the meeting (the day of registration) have

these rights and are registered as having these rights in a registry designated by the management board, regardless of who owns the shares, or is holder of depositary receipts for shares issued with the concurrence of the company, at the time the general meeting of shareholders is held.

**Article 28.**

28.1. Shareholders and other persons entitled to attend meetings of shareholders may be represented by proxies with written authority to be shown for admittance to a meeting.

The requirement of written authorisation of the proxy is met if the proxy is recorded electronically. A shareholder is allowed to notify the company of the proxy electronically.

28.2. All matters regarding the admittance to the general meeting, the exercise of voting rights and the result of votings, as well as any other matters regarding the affairs at the general meeting shall be decided upon by the chairman of that meeting, with due observance of the provisions of section 13, Civil Code:2.

**Article 29.**

29.1. Unless otherwise stated in these articles, resolutions shall be adopted by simple majority of votes of the shareholders. Blank and invalid votes shall not be counted. The chairman shall decide on the method of voting.

29.2. In case of an equality of the votes cast the relevant proposal shall be deemed to have been rejected.

29.3 The managing board of the company shall make notes of the resolutions passed. In respect of each resolution the company shall note:

- a. the number of shares in respect of which valid votes are cast;
- b. the percentage of issued capital represented by the number of shares referred to under a;
- c. the total number of votes validly cast;
- d. the number of votes cast for and against the resolution and the number of abstentions.

**Article 30.**

At the general meeting of shareholders each share shall confer the right to cast one vote.

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**Annual accounts, report of the board of management and distributions.**

**Article 31.**

- 31.1. The financial year shall run from the first day of January up to and including the thirty-first day of December.
- 31.2. Each year the managing board shall cause annual accounts to be drawn up, consisting of a balance sheet as at the close of the preceding financial year and a profit and loss account in respect of the preceding financial year with the explanatory notes thereto.
- 31.3. The managing board shall be bound to draw up the aforesaid annual accounts in accordance with established principles of business management.

**Article 32.**

- 32.1. The supervisory board shall cause the annual accounts to be examined by one or more registered accountant(s) designated for the purposes by the general meeting of shareholders or other experts designated for the purpose in accordance with section 393, Civil Code: 2, and shall report to the general meeting of shareholders on the annual accounts, notwithstanding the provisions of the law.
- 32.2. Copies of the annual accounts which have been made up, of the report of the supervisory board, of the report of the managing board and of the information to be added pursuant to the law shall be deposited for inspection by shareholders and other persons entitled to attend meetings of shareholders, at the office of the company as from the date of serving the notice convening the general meeting of shareholders at which meeting those items shall be discussed, until the close thereof.

**Profit and loss.**

**Article 33.**

- 33.1 Distribution of profits pursuant to this article shall be made following approval of the annual accounts which show that the distribution is legally permitted.
- 33.2. Upon proposal of the managing board, the supervisory board shall determine what portion of the profit shall be retained by way of reserve, having regard to the legal provisions relating to obligatory reserves.
- 33.3. The portion of the profit that remains after application of paragraph 2, shall

be at the disposal of the general meeting of shareholders.

- 33.4. The general meeting of shareholders is empowered either to distribute the profits in cash or in kind or to withhold distribution of the said portion of the profit in whole or in part.

**Article 34.**

- 34.1. Upon the proposal of the supervisory board the general meeting of shareholders shall be entitled to resolve to make distributions charged to the share premium reserve or charged to the other reserves shown in the annual accounts not prescribed by the law, with due observance of the provisions of paragraph 2.
- 34.2. The supervisory board shall be entitled to resolve that distributions, the amount of which distributions has been resolved upon by the general meeting of shareholders, to shareholders may be made in full or partially in the form of the issue of shares in the share capital of the company. The distribution to a shareholder according to the preceding sentence shall be made to a shareholder in cash or in the form of shares in the share capital of the company, or partially in cash and partially in the form of shares in the share capital of the company, such, if the supervisory board so resolves, at the option of the shareholders.

**Article 35.**

At its own discretion and subject to section 105, paragraph 4, Civil Code: 2, the managing board may resolve to distribute one or more interim dividends on the shares before the annual accounts for any financial year have been approved and adopted at a general meeting of shareholders.

**Article 36.**

- 36.1 Distributions shall be payable as from a date to be determined by the general meeting of shareholders.
- 36.2. The person entitled to a distribution on registered shares shall be the person in whose name the share is registered at the date of distribution.
- 36.3. Notice of distributions and of the dates and places referred to in the preceding paragraphs of this article shall at least be published in a national daily newspaper and abroad in at least one daily newspaper appearing in each of those countries other than the United States, where the shares, on

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the application of the company, have been admitted for official quotation, and further in such manner as the managing board may deem desirable.

- 36.4. In the case of a distribution under article 34, paragraph 2, any shares in the company not claimed within a period to be determined by the supervisory board shall be sold for the account of the persons entitled to the distribution who failed to claim the shares. The period and manner of sale to be determined by the supervisory board, as mentioned in the preceding sentence, shall be notified according to paragraph 3. The net proceeds of such sale shall thereafter be held at the disposal of the above persons in proportion to their entitlement; distributions that have not been collected within five years after the initial distributions in shares have become due and payable shall revert to the Company.

**Alterations to articles of association, winding up, liquidations.**

**Article 37.**

- 37.1. A resolution to alter the articles of association or to wind up the company shall be valid only provided that:
- a. the proposal to such a resolution has been proposed to the general meeting of shareholders by the supervisory board;
  - b. the full proposals have been deposited for inspection by shareholders and other persons entitled to attend meetings of shareholders, at the office of the company as from the day on which the notice is served until the close of that meeting;
  - c. the proposal to such a resolution has been approved by a majority of at least two-thirds of the votes cast in a meeting.
- 37.2. A resolution to amend the articles of association by which the rights conferred on holders of shares of a specific class as such are changed shall require the approval of the relevant class meeting.

**Article 38.**

- 38.1. If the company is wound up, the liquidation shall be carried out by the managing board or any person designated for that purpose by the general meeting of shareholders, under the supervision of the supervisory board.
- 38.2. In passing a resolution to wind up the company, the general meeting of shareholders shall upon the proposal of the supervisory board set the

remuneration payable to the liquidators and to those responsible for supervising the liquidation.

- 38.3. The liquidation shall take place with due observance of the provisions of the law.
- 38.4. After the liquidation has ended, the books and records of the company shall remain in the custody of the person designated for that purpose by the liquidators during a seven-year period.

**Article 39**

What is left of the company's assets after all creditors have been satisfied shall be divided amongst the shareholders pro rata to their respective holdings of shares.

The person appearing also declared the following:

The issued and paid-up capital currently amounts to eleven million five hundred eighty-six thousand one hundred four euro and forty eurocent (EUR 11,586,104.40), divided into fifty-seven million nine hundred thirty thousand five hundred twenty-two (57,930,522) shares, numbered 1 to 57,930,522, with a par value of twenty eurocent (EUR 0.20) each.

**Closing statement.**

This deed, drawn up in one original copy, was executed in Rijswijk on the date first before written.

After the substance of this deed had been stated and the content thereof had been explained to the person appearing, that person declared to have taken cognizance of this deed and not to require this deed to be read out in full.

Subsequently, after a reading in part in accordance with the law, this deed was signed by the person appearing, who is known to me, and by me, Notary, at sixteen hours and forty minutes.