End User License Agreement

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Age of Conan UnCHAINED

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- exploit the Game or any element thereof, including without limitation the Software, for any commercial purpose, including without limitation use at a cyber cafe, computer gaming center, restaurant, bar or any other location-based site without the express written consent of Funcom, such consent to be given at its sole discretion;

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- facilitate, create or maintain any unauthorized connection to the Game or the Service, including without limitation, any connection to any unauthorized server that emulates or attempts to emulate the Service. All connections to the Game and/or the Service, whether created by the Software or by other tools and utilities, may only be made through methods and means expressly approved by Funcom. Under no circumstances may You connect or create tools that allow You or others to connect, to the Game’s proprietary interface other than those expressly provided by Funcom for public use;

- fail at any time to comply with the Terms & Conditions; or

- enable any third party, including any person who is not at least 18 and of the age of majority in that person’s place of residence, to use or otherwise have access to the Game.

c. As a condition precedent to any licenses being granted to You under this Agreement, (i) You must be 18 years of age or older; and (ii) You must be at least of the age of majority in your state. If You are 18 years of age or older but not of the age of majority in your state, you must first obtain all necessary parental consent to enter into and be bound by this Agreement and the Terms & Conditions.

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ADVISORS ARISING FROM, OUT OF OR OTHERWISE RELATING TO YOUR USE OF THE GAME, OR ANY ELEMENT THEREOF OR YOUR BREACH OF ANY DUTY OR OBLIGATION UNDER THIS AGREEMENT OR THE TERMS & CONDITIONS.

Equitable Relief; Attorneys Fees. You hereby acknowledge and agree that (i) Funcom would be irreparably damaged if the terms of this Agreement or the Terms & Conditions were not specifically enforced; and (ii) in addition to such other remedies available to it at law, in equity or otherwise, Funcom is hereby entitled, without providing bond, other security, or proof of damages, to seek temporary restraining orders and permanent injunctive relieve against your anticipated or continued breach of your duties and obligations as contemplated under this Agreement or the Terms & Conditions. In the event any litigation or other action is brought by either party in connection with this Agreement, the prevailing party in such litigation shall be entitled to recover from the other party all the costs, attorneys’ fees and other expenses reasonably incurred by such prevailing party in such litigation or action.

Amendment. Funcom, at its sole and absolute discretion, from time to time and at any time, may change, modify, add to, supplement or delete any of the terms and conditions of this Agreement, the Terms & Conditions or the Privacy Policy when Funcom upgrades the Software or as may otherwise be contemplated herein or therein, effective upon prior notice to be delivered as follows: (i) Funcom will post any such changes to this Agreement, the Terms & Conditions or the Privacy Policy at: http://www.ageofconan.com, or (ii) in the alternative, Funcom may provide such other notice as it, in its sole discretion, may choose. If any future changes to this Agreement or the Terms & Conditions or the Privacy Policy are unacceptable to You or cause You to no longer be in compliance with this Agreement or the Terms & Conditions or the Privacy Policy, You may terminate this Agreement in accordance with Section 7. Your installation and use of any updates or modifications to the Software or Your continued use of the Game following notice of changes to this Agreement or the Terms & Conditions or the Privacy Policy will demonstrate Your acceptance of any and all such changes. Funcom may change, modify, suspend, or discontinue any aspect of the Game at any time. Funcom may also impose limits on certain features or restrict Your access to parts or all of the Game without notice or liability. You have no interest, monetary or otherwise, in any feature or content contained in the Game.

GOVERNING LAW; JURISDICTION. Except as expressly provided otherwise, this Agreement shall be governed by, and construed under, the Laws of the United States of America and the laws of the State of New York, without regard to choice of law principles. Any arbitration proceeding under this Agreement or the Terms & Conditions shall be conducted in New York City, New York, United States of America. Any Dispute not subject to arbitration, or where no election to arbitrate has been made, shall be decided by a court of competent jurisdiction within the New York City, New York, United States of America, and you and Funcom hereby irrevocably consent to the exclusive personal jurisdiction of that court. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. For our customers who purchased a license to the Game in, and are a resident of, Canada, Australia, Singapore, New Zealand or outside the United States, other laws may apply if You choose not to agree to arbitrate as set forth above, and in such an event, shall affect this Agreement only to the extent required by such jurisdiction.
Severability. You and Funcom Sales agree that if any part of this Agreement or the Terms & Conditions or the Privacy Policy is found to be illegal or unenforceable that part shall be severed and the remainder of the Agreement shall be given full force and effect. If Section 15b is found to be illegal or unenforceable then neither you nor Funcom will elect to arbitrate any Dispute falling within that portion of Section 15b found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the State of New York, United States of America, and you and Funcom agree to submit to the personal jurisdiction of that court.

Dispute Resolution.

Informal Negotiations. To expedite resolution and control the cost of any dispute, controversy or claim related to this Agreement (“Dispute”), You and Funcom agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least 30 days before initiating any arbitration or court proceeding. Such informal negotiations shall commence upon written notice from one person to the other. Funcom will send its notice to Your billing address and email You a copy to the email address You have provided to us. You will send your notice to Funcom, c/o Funcom Legal – Kirkegata 15, Oslo Norway, N0253

Binding Arbitration and Exceptions. If You and Funcom are unable to resolve a Dispute through informal negotiations, either You or Funcom may elect to have the Dispute (except those Disputes expressly excluded below) finally and exclusively resolved by binding arbitration. Any election to arbitrate by one party shall be final and binding on the other. YOU UNDERSTAND THAT ABSENT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) and, where appropriate, the AAA’s Supplementary Procedures for Consumer Related Disputes (“AAA Consumer Rules”), both of which are available at the AAA website www.adr.org. The determination of whether a Dispute is subject to arbitration shall be governed by the Federal Arbitration Act and determined by a court rather than an arbitrator. Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA Rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined by the arbitrator to be excessive, Funcom will pay all arbitration fees and expenses. The arbitration may be conducted in person, through the submission of documents, by phone or online. The arbitrator will make a decision in writing, but need not provide a statement of reasons unless requested by a party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except as otherwise provided in this Agreement, You and Funcom may litigate in court to compel arbitration, stay proceeding pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator. Notwithstanding the preceding, You and Funcom agree that the following Disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (1) any Disputes seeking to enforce or protect, or concerning the validity of, any of your or Funcom’s (or its affiliates or licensee’s) intellectual property rights; (2) any Dispute related to, or arising from, allegations of theft, piracy, invasion of privacy or unauthorized use; and (3) any claim for injunctive relief. For such Disputes as listed in 15b (1),(2) and (3), Funcom Sales may at its sole discretion have the Dispute tried by a court in Your jurisdiction to obtain a judgment enforceable in your jurisdiction.
Restrictions. You and Funcom agree that any arbitration under this Agreement shall be limited to the Dispute between Funcom and You individually. To the full extent permitted by law, (i) no arbitration shall be joined with any other; (ii) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (iii) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.

Process. Process may be served on either party in the manner authorized by applicable law or court rule. In any action to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys’ fees, costs and other expenses.

Execution In order to execute this agreement, you must click “I Accept” for this Agreement, the Terms & Conditions and the Privacy Policy.

Entire Agreement. This Agreement constitutes the complete and exclusive agreement between Funcom and You with respect to the subject matter thereof, and supersedes all prior or contemporaneous oral or written communications, proposals, representations, understandings, or agreements not specifically incorporated herein. To the extent that the provisions of this Agreement conflict with the provisions of the Terms & Conditions, the conflicting provisions in the Terms & Conditions shall govern.

I hereby acknowledge and agree that (i) that I have read and understand the foregoing Agreement, the Terms & Conditions and the Privacy Policy; (ii) I am at least 18 years if age AND if I am not at least of the age of majority in my state have obtained all necessary parental consent to enter into and be bound by this Agreement and Terms & Conditions; and (iii) I agree that by clicking “I Accept” or installing the Software I am acknowledging my agreement to be bound by the terms and conditions of this Agreement, the Terms & Conditions and to have accepted the Privacy Policy.

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