

## **SMITE® CUTESY AVATAR CHEST SUBMISSION PROGRAM TERMS AND CONDITIONS**

Last updated May 28, 2019

Please read the following program rules carefully before participating in the SMITE® Cutesy Avatar Chest Submission Program (the “Program”). This SMITE® Cutesy Avatar Chest Submission Program Terms and Conditions (the “Program Terms”) is between you as a participant in the Program and Hi-Rez Studios, Inc. (“Hi-Rez”). The terms for this Program consist of both: (i) the Program Terms; and (ii) the Program blog post available at <<http://www.smitegame.com/news/cutesy-avatar-submission>> (the “Program Page”); collectively, the Program Page and Program Terms are defined herein as the “Program Agreement”), incorporated herein by reference. **By participating in the Program, you confirm that you have read and agree to be bound by the Program Agreement.**

**If you are under the age of 18 or under the legal age of majority in your jurisdiction of residence (a “Minor”) as of the time and date of your participation in the Program, you must have your parent or legal guardian also agree to the Program Agreement on your behalf.**

PARTICIPATION IN THE PROGRAM CONSTITUTES YOUR, OR IF YOU ARE A MINOR, THEN YOU AND YOUR PARENT OR LEGAL GUARDIAN’S AGREEMENT WITH, AND ACCEPTANCE OF, THE PROGRAM AGREEMENT IN FULL.

1) **Eligibility.**

- (A) This Program is only open to individuals who are at least 13 years of age.
- (B) You must have a SMITE® account in good standing in order to participate.
- (C) You must be in compliance with all policies, terms, and conditions which may apply to you in your interactions with Hi-Rez and other members of the community as found at Hi-Rez’s legal website (<http://hirezstudios.com/legal>) in order to participate.
- (D) Employees, officers, directors, and other personnel of Hi-Rez and its respective affiliates and subsidiaries, and the immediate family members of each of the foregoing, are ineligible to participate in the Program.
- (E) Notwithstanding anything to the contrary herein, participation in the Program is void where prohibited, including in territories subject to sanctions administered and enforced by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury.

2) **Submission Process.** You may submit your Submission to the Program via the submission process designated by Hi-Rez in writing on the Program Page. No other method of submission will be accepted. You may submit multiple Submissions. In order to be considered for potential implementation in-game, a Submission must be in compliance with the Program Agreement and other instructions provided by Hi-Rez, including without limitation receipt by Hi-Rez prior to the deadline set forth at the Program Page.

3) **Submission Selection and Program Content.** Hi-Rez may select, in its sole discretion, certain Submissions for potential implementation in-game. Without limiting the foregoing, Hi-Rez will reject any Submissions which:

- (A) deviate from any required theme or otherwise fail to meet any specifications set forth on the Program Page;
- (B) contain any inappropriate content (as determined by Hi-Rez in its sole discretion); or
- (C) have an incomplete or inaccurate application.

Hi-Rez has no obligation to select your Submission, or any Submissions, and may choose multiple Submissions from the same applicant.

As a condition of being awarded any Program Content (as defined on the Program Page), you (or if you are a Minor, then you and your parent or legal guardian) may be required to execute and deliver to Hi-Rez an additional agreement, which includes an acceptance of these rules and a release of liability.

In the event that Hi-Rez selects your Submission for potential implementation in the game, Hi-Rez will contact you using the contact information designated by you in your Submission application with additional instructions which may include additional requests for information or documents for completion. Following completion of such instructions and documents, you will receive the Program Content. You may not sell or otherwise use the Program Content for any commercial purpose.

Hi-Rez may modify in its sole discretion the Submission for in-game implementation. Timing for the delivery of any Program Content is subject to Hi-Rez's discretion. No substitutions or exchanges (including for cash) of any Content will be permitted, except that Hi-Rez reserves the right to substitute Content of equal or greater value. All Content is awarded "AS IS" and WITHOUT WARRANTY OF ANY KIND, express or implied, (including, without limitation, any implied warranty of merchantability or fitness for a particular purpose). Awarding of Content is subject to verification of eligibility, compliance with these terms, and any other applicable terms and conditions in Hi-Rez's sole discretion.

4) **Grant of License.** Subject to the terms included herein, Hi-Rez hereby grants you the limited revocable, non-exclusive, non-transferrable, non-sublicensable license to create derivative artwork of SMITE® characters, art, images, and other SMITE® visual materials solely for the purpose of submission to the Program. No other rights (whether express or implied) have been granted herein other than the foregoing limited license as expressly set forth herein, and Hi-Rez hereby expressly reserves all Intellectual Property Rights (as defined below) in and to the SMITE® property. You agree that all Intellectual Property Rights in and to your Submission shall vest exclusively in Hi-Rez and you shall neither acquire or claim any Intellectual Property Rights in the Submission.

5) **Submission Rights.**

(A) By participating in the Program, and in consideration of the foregoing license grant and the opportunity to be considered in the Program, you agree that all work created by you pursuant to the limited license set forth herein (each such work, a "Submission") shall be the exclusive property of Hi-Rez and shall, to the fullest extent permitted by applicable law, be deemed to be works made for hire for the benefit of Hi-Rez within the meaning of Title 17 of the United States Code. Regardless of whether such Submission is a works made for hire, you agree that the Submission shall be the sole and exclusive property of Hi-Rez and that Hi-Rez may use the Submission without attribution. You agree to assign, and do hereby assign, to Hi-Rez all right, title, or interest in or to such Submission including all worldwide patent rights (including patent applications and disclosures), copyright rights, mask work rights, trade secret rights, know-how, and any and all other intellectual property or proprietary rights (collectively, "Intellectual Property Rights") therein. At Hi-Rez's request and expense, you shall assist and cooperate with Hi-Rez in all respects and shall take such further actions reasonably requested by Hi-Rez to enable Hi-Rez to acquire, transfer, maintain, perfect, and enforce its Intellectual Property Rights and other legal protections for the Submission. You hereby appoint the officers of Hi-Rez as your attorney-in-fact to execute documents on your behalf for this limited purpose. To the fullest extent permitted by applicable law, you also (i) waive and agree never to assert any and all Moral Rights (as defined below) that you may have in or with respect to any Submission, whether now or in the future, and (ii) agree to assign, and do hereby assign, to Hi-Rez, any waivers granted to you during and after the term of this Agreement, of any such Moral Rights. "Moral Rights" mean any rights to claim authorship of a work, to object to or prevent the modification or destruction of a work, to withdraw from circulation or control the publication or distribution of a work, and any similar right, existing under judicial or statutory

law of any country in the world, or under any treaty, regardless of whether or not such right is called or generally referred to as a moral right.

- (B) By participating in the Program, and in consideration of your being allowed to participate in the Program, you also hereby grant to Hi-Rez the perpetual, irrevocable, worldwide, non-exclusive, royalty-free, sublicensable (through multiple tiers), and transferable license and right to use your name, alias, picture, likeness, voice, biography, statement, and/or any and all other personal indicia, identifying characteristics, or information supplied by you (collectively, the “Authorized Content”) in connection with the Program or your Submission without further compensation, consideration, or notice to you or any third party in any media, form, format, or embodiment, whether now known or hereinafter developed.
- (C) As set forth above, your Submission shall be the sole and exclusive property of Hi-Rez. Without limiting the foregoing, you acknowledge that your Submission may have similarities or commonalities with materials developed by Hi-Rez or its affiliates now or in the future. You understand that your Submission is not shared on a confidential basis with Hi-Rez and that you will not be entitled to any payment or other additional compensation due to such similarities or commonalities other than the consideration expressly set forth in the Program Agreement.

6) **Warranty and Indemnification.** By participating in the Program:

- (A) You represent and warrant that, except for the elements provided by Hi-Rez on which your Submission is based as a derivative work or elements from the public domain incorporated by you in your Submission, the Submission is your wholly original work;
- (B) You represent and warrant that no portion of your Submission, its use or distribution, will violate any copyright, trade secret, or other proprietary or confidential information right of any third party;
- (C) You represent and warrant that you have the legal right and permissions to grant the licenses and rights to Hi-Rez set forth herein.

Additionally, you shall indemnify and hold Hi-Rez harmless against all claims, costs, liabilities, and losses, including reasonable attorneys’ fees, arising from claims of infringement of copyright, trademark and other proprietary rights, and claims or actions based upon or arising out of damage or injury to persons or property or based upon any violation of law.

7) **General Release.** BY PARTICIPATING IN THE PROGRAM, YOU RELEASE HI-REZ AND ITS PARTICIPATING SPONSORS AND PARTNERS, AND ANY OF THEIR RESPECTIVE PARENT COMPANIES, SUBSIDIARIES, AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENCIES (COLLECTIVELY, THE “RELEASED PARTIES”) FROM ANY LIABILITY WHATSOEVER, AND WAIVE ANY AND ALL CAUSES OF ACTION, RELATED TO ANY CLAIMS, COSTS, INJURIES, LOSSES, OR DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THE PROGRAM OR DELIVERY, INCORRECT DELIVERY, ACCEPTANCE, POSSESSION, USE OF OR INABILITY TO USE ANY PROGRAM CONTENT (INCLUDING, WITHOUT LIMITATION, CLAIMS, COSTS, INJURIES, LOSSES, AND DAMAGES RELATED TO PERSONAL INJURIES, DEATH, DAMAGE TO OR DESTRUCTION OF PROPERTY, RIGHTS OF PUBLICITY OR PRIVACY, DEFAMATION, OR PORTRAYAL IN A FALSE LIGHT, WHETHER INTENTIONAL OR UNINTENTIONAL), WHETHER UNDER A THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, OR OTHER THEORY.

8) **Applicable Agreements and Privacy Policies.** By participating in the Program, (a) you agree to be bound by to comply with Hi-Rez’s terms of service, end user license agreement, and any other applicable terms of service or policies, including those found on Hi-Rez’s legal website at <<http://hirezstudios.com/legal>>; (b) you represent and

warrant that you have read and understood Hi-Rez's privacy policy, which can be viewed at <http://hirezstudios.com/legal> and understand how Hi-Rez intends to use your information as outlined in such policy.

9) **Translations.** Any non-English translated versions of the Program Agreement, or portions of the Program Agreement, are provided for convenience. In the event of any conflict between the non-English translated version and the English version, then the English version will control.

10) **Miscellaneous.** The Program Agreement will be governed, construed, and interpreted under the laws of the State of Georgia, United States of America. The Program is an opportunity for your Submission to be considered for in-game implementation and shall not be construed to be an offer of employment. You agree to be bound by these terms and by the decisions of Hi-Rez, each of which is final and binding in all respects. Hi-Rez reserves the right to change these terms at any time, in its sole discretion at any time and for any reason. Hi-Rez also reserves the right to suspend or cancel the Program or your participation in the Program at any time and for any reason, including without limitation in the event viruses, bugs, unauthorized human intervention, or other causes beyond Hi-Rez's control affect the administration, security, or proper performance or operation of the Program or Hi-Rez otherwise becomes (as determined in its sole discretion) incapable of running the Program as planned. Hi-Rez reserves the right to lock out persons whose eligibility is in question or who have been disqualified or are otherwise ineligible to enter the Program. The invalidity or unenforceability of any provision of these terms will not affect the validity or enforceability of any other provision. In the event that any provision of these terms is determined to be invalid or otherwise unenforceable or illegal, the other provisions will remain in effect and will be construed in accordance with their terms as if the invalid or illegal provision were not contained therein. Hi-Rez's failure to enforce any term of these terms will not constitute a waiver of that provision.