

HEDGIES LICENSE AGREEMENT

VERSION 1

The version of this Hedgies License Agreement (this “**Agreement**”) identified in the collection-level IPFS metadata of the “Hedgies by dYdX” and “Honorary Hedgies by dYdX” collections, as revised or modified from time to time in accordance with Section 23, is a legally binding agreement between dYdX (as defined below) and you (as defined below). This Agreement supplements dYdX’s Terms of Use, available at <https://dydx.exchange/terms> (the “**Terms**”) and Privacy Policy, available at <https://dydx.exchange/privacy>, to which you agree that you are bound and are a party.

1. Definitions.

- (a) “**Content**” means any art, designs, drawings, illustrations, images, vectors, audio, videos, 3D assets, template assets, other pictorial or graphic works, metadata or other content that are associated with an NFT, including 3D renderings of hedgehogs with various traits and textures but excluding Trademarks.
- (b) “**Control**” means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the entity’s affairs.
- (c) “**dYdX**” means dYdX Trading Inc. and any entity that Controls, is Controlled by, or is under common Control with dYdX Trading Inc.
- (d) “**dYdX Marks**” means all Trademarks that dYdX owns or has the right to license or sublicense, including “DYDX.”
- (e) “**Ethereum Persistent Fork**” means an Ethereum network and blockchain generally recognized in the blockchain industry as the mainnet and consensus blockchain of a persistent “contentious hardfork” from Ethereum, provided that such hardfork has or would reasonably be expected to have material value independent from Ethereum.
- (f) “**Hedgie**” means, collectively, (i) an NFT having the name “Hedgies by dYdX” or “Honorary Hedgies by dYdX,” the “HEDGIES” or “HHEDGIES” symbol and a URI identifying a JSON object that specifies the applicable Hedgie Metadata, including any other metadata specified in the JSON object; and (ii) the Hedgie Metadata.
- (g) “**Hedgie Metadata**” means, with respect to a Hedgie, the applicable Token ID and identification of the applicable Hedgie Content.
- (h) “**Hedgie Content**” means the Content underlying the applicable Hedgie.
- (i) “**NFT**” means an Ethereum-based, non-fungible token.
- (j) “**Own**” or “**Ownership**” means, with respect to an NFT, (i) controlling, or unilaterally being able to control, exclusively and lawfully the private key associated with the public Ethereum address holding the NFT, unless such control is subject to a contract contemplated in clause (ii); or (ii) lawfully and by way of an enforceable contract exclusively having the right to transfer, or direct the transfer of, the NFT to a public Ethereum address associated with a private key that is exclusively and lawfully controlled.
- (k) “**Trademarks**” means trademarks, service marks, brand names, certification marks, collective marks, d/b/a’s, trade names, corporate names, service names, symbols, logos, trade dress, packaging design, slogans, Internet domain names, uniform resource locators and other similar

identifiers of origin, in each case, whether or not registered, and any and all common law rights thereto, registrations and applications for registration thereof, and any goodwill associated therewith and symbolized thereby.

- (l) “**URF**” means Uniform Resource Identifier.
- (m) “**you**” or “**your**” means the person or entity who lawfully acquired one or more Hedgies from dYdX or another person or entity and does not include any person or entity who acquires a fractional interest in a Hedgie. If the creation of an Ethereum Persistent Fork results in the existence of copies of Hedgies at the same network addresses at which they were then held on Ethereum, the scope of the term “you” or “your” and all terms, conditions, rights and obligations in this Agreement will be deemed expanded to include each person or entity who Owns the copies of Hedgies on the Ethereum Persistent Fork. THE PARTIES ACKNOWLEDGE AND AGREE THAT, AS A RESULT OF AN ETHEREUM PERSISTENT FORK, THE AGGREGATE NUMBER OF HEDGIES MAY BE INCREASED.

2. Minting Hedgies.

- (a) Subject to Section 2(c), starting at 15:00 UTC on February 1, 2022 (“**Minting Start Time**”), two thousand one hundred forty-two (2,142) Hedgies will be available to be minted (“**Mint**”) at <https://hedgies.wtf> in accordance with the following:
 - (i) during the initial twenty-four (24) hours after the Minting Start Time (the “**24-Hour Period**”), all Ethereum network addresses that have voted on any dYdX Improvement Proposal prior to 15:00 UTC on January 18, 2022 (“**Governance Voters**”) will each be eligible to Mint one (1) Hedgie until eight hundred five (805) Hedgies have been Minted;
 - (ii) after the 24-Hour Period and before ninety-six (96) hours after the Minting Start Time (the “**Intermediate Period**”), Governance Voters and all Ethereum network addresses that have had at least one buy or sell order filled on the dYdX perpetuals protocol between 15:00 UTC on December 21, 2021 and 15:00 UTC on January 18, 2022 will each be eligible to Mint one (1) Hedgie until all two thousand one hundred forty-two (2,142) Hedgies have been Minted; and
 - (iii) after the Intermediate Period, any Ethereum network address will be eligible to Mint one (1) Hedgie until all two thousand one hundred forty-two (2,142) Hedgies have been Minted.
- (b) If you Mint a Hedgie, then a random Hedgie will be transferred to the Ethereum network address used to Mint such Hedgie. You are responsible for all Ethereum gas costs associated with Minting such Hedgie.
- (c) Each person or entity may Mint only one (1) Hedgie, regardless of the number of Ethereum network addresses that such person or entity directly or indirectly controls.

3. License to Hedgie Content.

- (a) Subject to the terms and conditions of this Agreement, with respect to any Hedgie that you Own, dYdX hereby grants you an irrevocable (during your Ownership of such Hedgie), worldwide, fully paid up, non-exclusive, sublicensable (through multiple tiers, subject to Section 3(b)), non-assignable (except as set forth in Section 5) (i) license to publish, display, reproduce, copy, modify, improve, create derivative works of, enhance and otherwise exploit the applicable Hedgie Content and (ii) sublicense to display the dYdX Marks depicted in the original version of such Hedgie Content, in the same manner and format as depicted in such original version, in copies or derivative works of such Hedgie Content, but not on a standalone basis or otherwise separately from such copies or derivative works (collectively, the foregoing (i) and (ii), the “**Hedgie Content License**”).

- (b) In order to be valid, any sublicense granted in the Hedgie Content or the dYdX Marks must (i) include terms and conditions no less restrictive than those set forth in this Agreement and (ii) state that the sublicense is subject to the termination of this Agreement.

4. dYdX Marks.

- (a) You will not at anytime, anywhere in the world, directly or indirectly: (i) file any application to register any intellectual property rights embodied in the dYdX Marks or otherwise claim ownership of any intellectual property rights embodied in the dYdX Marks; (ii) register or attempt to register in any jurisdiction any Trademark that is similar to any of the dYdX Marks or which would reasonably be expected to result in dilution of any of the dYdX Marks; (iii) combine any of the dYdX Marks with any other Trademarks, or (iv) challenge or contest the validity of any of the dYdX Marks.
- (b) You agree to maintain and preserve the quality of the dYdX Marks and the goodwill and good reputation associated with the dYdX Marks, and use the dYdX Marks in accordance with dYdX's trademark usage guidelines that it may publish or provide from time to time. You will not, by any act or omission, (i) alter any dYdX Marks without the prior written consent of dYdX; or (ii) use or permit use of the dYdX Marks in any manner that tarnishes, degrades, disparages or reflects adversely on dYdX or its business or reputation, or that would be detrimental to the dYdX Marks. You will abide by any requests by dYdX regarding the use of the dYdX Marks if dYdX determines that such use does not comply with dYdX's quality control standards.

- 5. Transfers of Hedgies.** You may sell, transfer, assign, trade, donate, give away or otherwise dispose of all (and not less than all) of your right, title and interest in and to your Hedgie, including the applicable Hedgie Content License ("**Transfer**"). If any recipient of a Hedgie asserts, whether in connection with a dispute or otherwise, that such recipient is not subject to this Agreement, then the Transfer to such recipient will be void ab initio and you will continue to be the Owner of such Hedgie.

6. Termination; Enforcement.

- (a) Upon a Transfer, (i) all of your right, title and interest in and to your Hedgie and your Hedgie Content License will immediately and automatically be transferred to the recipient of such Hedgie, and such recipient will be bound by and subject to the then-current version of this Agreement; (ii) any rights you have in the Hedgie Content and dYdX Marks will immediately and automatically terminate and be revoked; and (iii) you will have no further right, title or interest in and to such Hedgie Content and dYdX Marks.
- (b) Without limiting the foregoing, this Agreement will immediately and automatically terminate, with all rights returning to dYdX, if (i) you breach Sections 2(c), 4, 7 or 9 of this Agreement; (ii) you engage in any unlawful practice or activity related to Hedgies with Hedgie Content that includes any dYdX Marks; or (iii) you or your directors, officers, employees, agents, affiliates or representatives, as applicable, are or become owned or controlled by a person or entity that (A) is the subject of any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control ("**Sanctions**"), or (B) is located, organized or resident in a country or territory that is the subject of Sanctions. If the Hedgie Content License or this Agreement terminates, you will discontinue all use and display of the Hedgie Content and dYdX Marks.
- (c) Upon the termination of the Hedgie Content License or this Agreement, if dYdX hosts any of the Hedgie Content, then dYdX may disable your access to the applicable Hedgie Content (or request that a third party hosting any of the Hedgie Content disable your access to the applicable Hedgie Content) or deny access to any benefits, services or goods associated with Hedgies, and you will immediately delete, remove or otherwise destroy any backup or single digital copy of the applicable Hedgie Content.

- (d) You agree that dYdX will have the right to audit your use and other exploitation of the dYdX Marks, and you will cooperate with all requests by dYdX related to the enforcement of its rights therein or under this Agreement (including any request that may require you to reveal your identity to dYdX).

7. Restrictions.

- (a) You will not, and will not permit any third party to, do or attempt to do, any of the following without dYdX's express prior written consent in each case:
 - (i) use any Hedgie with Hedgie Content that includes any dYdX Marks (A) in connection with defamatory or dishonest statements about dYdX or any other use that otherwise is reasonably likely to damage the goodwill, value or reputation of dYdX, or (B) in a manner that represents or implies that dYdX endorses or supports your or anyone else's exercise of rights using the Hedgie Content License;
 - (ii) use any Hedgie with Hedgie Content that includes any dYdX Marks in connection with images, videos or other forms of media that depict hatred, intolerance, violence, cruelty or anything else that could reasonably be found to constitute hate speech or otherwise infringe upon the rights of others; or
 - (iii) attempt to trademark, copyright or otherwise acquire additional intellectual property rights in or to any Hedgie Content or dYdX Marks.
- (b) You represent, warrant and covenant to dYdX that you and, to your knowledge, your directors, officers, employees, agents, affiliates or representatives, as applicable, are not, or are not owned or controlled by, a person or entity that (A) is the subject of any Sanctions or (B) is located, organized or resident in a country or territory that is the subject of Sanctions.

- 8. Royalties.** You acknowledge and agree that 2.5% of the gross amount (excluding any fees and taxes) of each Transfer of a Hedgie will be paid to contractors of dYdX who designed the Hedgie Content.

- 9. Indemnification.** You will defend, indemnify, and hold harmless dYdX and its respective stockholders, members, directors, officers, managers, employees, attorneys, agents, representatives, suppliers and contractors (collectively, "*Indemnified Parties*") from any claim, demand, lawsuit, action, proceeding, investigation, liability, damage, loss, cost or expense, including reasonable attorneys' fees, arising out of or relating to (a) your use or other exploitation of, or conduct in connection with, the Hedgies (including Ownership thereof), the Hedgie Content or dYdX Marks, or (b) your violation of this Agreement.

- 10. Disclosures; Disclaimers.** Transactions in NFTs, including dYdX's transfers and subsequent Transfers of Hedgies and in many cases listings, offers, bids, acceptances and other operations involving Hedgies utilize experimental smart contracts and blockchain technologies, including NFTs, cryptocurrencies, wallets and consensus algorithms. You acknowledge and agree that such technologies are experimental, speculative and inherently risky, and may be subject to bugs, malfunctions, timing errors, hacking and theft or changes to the network rules of the Ethereum blockchain (including an Ethereum Persistent Fork), which can adversely affect the smart contracts and may expose you to a risk of total loss, forfeiture of your digital currency or NTFs (including Hedgies), or lost opportunities to buy or Transfer NFTs (including Hedgies). dYdX is a developer of software. dYdX does not operate the Hedgies or any aspect of transfers, including Transfers, thereof and, therefore, has no oversight, involvement or control concerning your transactions in Hedgies. All transactions between users of dYdX-developed software are executed peer-to-peer directly between the users' Ethereum addresses through a smart contract. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, DYDX

PROVIDES AND MAKES AVAILABLE HEDGIES ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND DYDX EXPRESSLY DISCLAIMS, AND YOU HEREBY WAIVE, ANY REPRESENTATIONS, CONDITIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, LEGAL, STATUTORY OR OTHERWISE, OR ARISING FROM STATUTE, OTHERWISE IN LAW, COURSE OF DEALING OR USAGE OF TRADE, INCLUDING THE IMPLIED OR LEGAL WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, SECURITY, AVAILABILITY, RELIABILITY, ACCURACY, QUIET ENJOYMENT AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. YOU ARE SOLELY RESPONSIBLE FOR DETERMINING THE APPROPRIATENESS OF HEDGIES AND ASSUME ANY RISKS ASSOCIATED WITH YOUR EXERCISE OF THE HEDGIE CONTENT LICENSE.

11. Exclusion of Consequential and Related Damages. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT AND UNDER NO LEGAL THEORY, WHETHER IN TORT (INCLUDING NEGLIGENCE), CIVIL LIABILITY, STATUTE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY WILL DYDX OR ITS STOCKHOLDERS, MEMBERS, DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, ATTORNEYS, AGENTS, REPRESENTATIVES, SUPPLIERS OR CONTRACTORS BE LIABLE, FOR (A) INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, OR SIMILAR HARM OF ANY TYPE OR KIND (INCLUDING LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE, AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES) OR (B) ANY AGGREGATE LIABILITY EXCEEDING THE AMOUNT (AS CONVERTED TO U.S. DOLLARS AT THE TIME OF MINTING) PAID BY YOU TO DYDX TO MINT THE HEDGIE THAT GAVE RISE TO THE CLAIM FOR LIABILITY, IN EACH CASE, ARISING OUT OF OR IN CONNECTION WITH (I) THIS AGREEMENT OR (II) THE USE, INABILITY TO USE OR ACCESS, OR INABILITY TO OTHERWISE BENEFIT FROM HEDGIES (INCLUDING THE APPLICABLE HEDGIE CONTENT).

12. Dispute Resolution and Arbitration.

- (a) *Please read the following section carefully because it requires you to arbitrate certain disputes and claims with dYdX and limits how you can seek relief from dYdX. Also, arbitration precludes you from suing in court or having a jury trial.*
- (b) *You and dYdX agree that any dispute arising out of or related to this Agreement is personal to you and dYdX and that any dispute will be resolved solely through individual action, and will not be brought as a class arbitration, class action or any other type of representative proceeding.*
- (c) Except for small claims disputes in which you or dYdX seeks to bring an individual action in small claims court located in the county of your billing address, disputes in which dYdX seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property or claims related to the enforcement or validity of dYdX’s intellectual property rights (collectively, “**Excluded Claims**”), you and dYdX waive your rights to a jury trial and to have any dispute arising out of or related to this Agreement resolved in court. Instead, for any dispute or claim that you have against dYdX or relating in any way to this Agreement, the Hedgies, any Hedgie Content, the dYdX Marks or the Hedgie Content License (other than Excluded Claims), you agree (1) that any such dispute or claim must be resolved pursuant to the below provisions of this Section 12, and (2) to first contact dYdX and attempt to resolve the claim informally by sending a written notice of your claim (“**Notice**”) to dYdX by email at legal@dydx.exchange. The Notice must (i) include your name, residence address, email address and telephone number; (ii) describe the nature and basis of the claim; and (iii) set forth the specific relief sought. dYdX’s notice to you will be similar in form to that

described above. If you and dYdX cannot reach an agreement to resolve the claim within thirty (30) days after such Notice is received, then either party may submit the dispute to binding arbitration administered by JAMS or, under the limited circumstances set forth above, in court. All disputes submitted to JAMS will be resolved through confidential, binding arbitration before one arbitrator. Arbitration proceedings will be held in San Francisco, California, under the JAMS Streamlined Arbitration Rules and Procedures (“**JAMS Rules**”). The most recent version of the JAMS Rules is available on the JAMS website and is hereby incorporated by reference. You either acknowledge and agree that you have read and understand the JAMS Rules or waive your opportunity to read the JAMS Rules and waive any claim that the JAMS Rules are unfair or should not apply for any reason.

- (d) You and dYdX agree that this Agreement affects interstate commerce and that the enforceability of this Section 12 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (the “**FAA**”), to the maximum extent permitted by applicable law. As limited by the FAA, this Agreement and the JAMS Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court, including the power to determine the question of arbitrability. The arbitrator may conduct only an individual arbitration and may not consolidate more than one individual’s claims, preside over any type of class or representative proceeding, or preside over any proceeding involving more than one individual.
- (e) The arbitrator, dYdX and you will maintain the confidentiality of any arbitration proceedings, judgments and awards, including all information gathered, prepared and presented for purposes of the arbitration or related to the dispute(s) therein. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.
- (f) You and dYdX agree that for any arbitration you initiate, you will pay the filing fee and all other JAMS fees and costs. For any arbitration initiated by dYdX, dYdX will pay all JAMS fees and costs. You and dYdX agree that the state or federal courts of the State of California and the United States sitting in San Francisco, California have exclusive jurisdiction over the enforcement of an arbitration award.
- (g) Any claim arising out of or related to this Agreement must be filed within one year after such claim arose; otherwise, the claim is permanently barred, which means that you and dYdX will not have the right to assert the claim.

- 13. Governing Law.** The interpretation and enforcement of this Agreement, and any dispute related to this Agreement, the Hedgies, any Hedgie Content, the dYdX Marks or the Hedgie Content License, will be governed by and construed and enforced under the laws of the State of California, as applicable, without regard to conflict of law rules or principles (whether of the State of California or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. You agree that dYdX may initiate a proceeding related to the enforcement or validity of dYdX’s intellectual property rights in any court having jurisdiction. For any other proceeding that is not subject to arbitration under this Agreement, the state and federal courts located in San Francisco, California will have exclusive jurisdiction. You waive any objection to venue in any such courts.
- 14. Severability.** If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon

such determination that any term or other provision is invalid, illegal or unenforceable, dYdX will in good faith modify this Agreement so as to effect the original intent of this Agreement as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

- 15. Entire Agreement.** This Agreement and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.
- 16. Assignment.** dYdX may assign this Agreement or assign, subcontract, delegate, license or sublicense any or all of its rights and obligations hereunder. This Agreement (including the Hedgie Content License) is personal to you and shall not be assigned or transferred by you; provided, however, that upon a Transfer, this Agreement will be assigned from the transferor of the Hedgie to the transferee of the Hedgie, if any, and the surviving provisions described in Section 24 will continue in full force and effect as between you and dYdX. Any attempted assignment or transfer in violation of this Section 16 will be null and void.
- 17. Interpretation.** Unless the context expressly otherwise requires, for purposes of this Agreement, (a) wherever the word “include,” “includes” or “including” is used in this Agreement, it will be deemed to be followed by the words “without limitation”; and (b) the word “or” will not be exclusive. Headings of sections are for convenience only and will not be used to limit or construe such sections.
- 18. Communications.** You consent to receive all communications, agreements, documents, receipts, notices and disclosures (collectively, “**Communications**”) that dYdX provides in connection with this Agreement electronically. You agree that dYdX may provide Communications to you by posting them on the Site (as defined in the Terms) or by emailing them to you at the email address you provide in connection with using the Services (as defined in the Terms), if any. You should maintain copies of Communications by printing a paper copy or saving an electronic copy. You may also contact dYdX with questions or complaints at legal@dydx.exchange.
- 19. No Equitable Remedies.** You will not be entitled by reason of any breach of this Agreement, and you will not seek, any equitable relief, whether injunctive or otherwise.
- 20. Other Remedies.** Any right or remedy of dYdX set forth in this Agreement is in addition to, and not in lieu of, any other right or remedy whether described in this Agreement, under applicable law, at law, or in equity. The failure or delay of dYdX in exercising any right, power or privilege under this Agreement will not operate as a waiver thereof.
- 21. No Third-Party Beneficiaries.** You agree that, except as otherwise expressly provided in this Agreement, there will be no third-party beneficiaries to the Agreement other than the Indemnified Parties.
- 22. Conflicts.** In the event of a conflict between this Agreement and the Terms, the terms of this Agreement will govern to the extent of such conflict. For the avoidance of doubt, Sections 9 through 13 of this Agreement will be deemed to supplement rather than conflict with the Terms.
- 23. Modifications.** dYdX may revise or modify Section 18 at any time or any other provision to the extent required by law or court order.
- 24. Surviving Terms.** Sections 6, 9 through 24 and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination, expiration or assignment of this Agreement, will survive any expiration, termination or assignment of this Agreement.