

EXHIBIT D**HOMEKEY+ GENERAL TERMS AND CONDITIONS****1. Effective Date, Term of Agreement, Timing, and Deadlines**

- A. This Agreement, when fully executed by the Department and the Grantee, is effective upon the date of the Department representative's signature on the STD 213, Standard Agreement (such date, the "**Start Date**").
- B. This Agreement shall terminate on the End Date identified in Section 2 of the STD 213 Standard Agreement form.
- C. Grantee will receive the disbursement of Program funds after satisfying all conditions precedent to such disbursement, as set forth under Exhibit B, Section 2 and, as necessary and applicable, under Exhibit E, Section 4 – Conditions Precedent to First Disbursement or Section 8 – Project Specific Terms and Conditions.
- D. Any expenses incurred prior to March 5, 2024, after the Expenditure Deadline for Capital Award, or after the Expenditure Deadline for Operating Award, respectively and as applicable, are not eligible for payment under the Program, unless an alternate arrangement is legally permissible and has been approved by the Department in advance and in writing.
- E. Program funds that have not been expended by the applicable Expenditure Deadlines shall revert to the Department in the absence of an alternate arrangement that has been approved by the Department in advance and in writing.

2. Termination for Cause

The Department may terminate this Agreement for cause at any time by giving at least fourteen (14) calendar days' advance written notice to the Grantee. Upon such termination, Grantee shall return any unexpended Program funds to the Department within thirty (30) calendar days of the date on the Department's written notice of termination, unless the Department has approved an alternate arrangement in advance and in writing, as provided below. Such termination will not limit any other remedies that may be available to the Department under this Agreement, at law, or in equity. Cause shall consist of Grantee's breach of, or failure to satisfy, any of the terms or conditions of this Agreement. Cause includes but is not limited to the following:

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- A. Grantee's failure to satisfy the Performance Milestones, conditions precedent to disbursement, or to expend the Award, as specified.
- B. Grantee's failure to timely satisfy each or any of the conditions set forth in these Homekey+ General Terms and Conditions, the Project-Specific Provisions and Special Terms and Conditions set forth at Exhibit E of this Agreement (including any one of the Performance Milestones), or the Conditional Award Letter.
- C. Grantee's violation of any of the Program Requirements.
- D. The Department's determination of the following:
 - 1) Any material fact or representation, made or furnished to the Department by the Grantee in connection with the Application or the Conditional Award Letter, shall have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue or misleading; or
 - 2) Grantee has concealed any material fact from the Department related to the Application or the Project.
- E. The Department's determination that the objectives and requirements of the Homekey+ Program cannot be met in accordance with applicable timeframes, as memorialized by this Agreement.

In the event of this or any other breach, violation, or default by the Grantee, the Department may give written notice to the Grantee to cure the breach, violation, or default. If the breach, violation, or default is not cured to the Department's satisfaction within a reasonable time, as determined by the Department in its sole and absolute discretion, then the Department may declare a default under this Agreement and seek any and all remedies that are available under this Agreement, at law, or in equity.

3. Cancellation

- A. It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of funds appropriated by the California Legislature to avoid Program and fiscal delays that would occur if this Agreement were executed after that determination was made.

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- B. The Department may cancel this Agreement, in whole or in part, if the California Legislature enacts any restrictions, limitations, or conditions that impact this Agreement or the funding of this Agreement; or cancellation is otherwise permitted under state contracting law.
- C. To cancel this Agreement pursuant to this paragraph, the Department shall give thirty (30) calendar days' advance written notice to the Grantee. The Grantee shall be required to return any unexpended portion of its Grant Award to the Department within thirty (30) calendar days from the date on the Department's written notice of cancellation, unless (i) the parties have agreed upon an alternate arrangement in advance and in writing; or (ii) an alternate arrangement is necessary for one or both parties to remain in compliance with other Department programs, regulations, and other applicable law.

4. Eligible Activities

The Award shall be applied to the Eligible Uses set forth at Exhibit A and described in greater detail at Exhibit E. Payment for any cost which is not authorized by this Agreement, or which cannot be adequately documented, shall be disallowed and must be reimbursed to the Department or its designee.

5. Performance Milestones

Grantee shall timely satisfy and complete all Performance Milestones, as identified at Exhibit E of this Standard Agreement.

6. Article XXXIV

Homekey+ provides Permanent Supportive Housing for persons (including Veterans and Youth) who are Homeless, Chronically Homeless, or At Risk of Homelessness, and who are living with a Behavioral Health Challenge. As such, Article XXXIV, section 1 of the California Constitution is not applicable to Homekey+ funded development, consistent with Health and Safety Code sections 37000-37002.

7. Appraisals

Grantee shall, at the request of the Department, provide an appraisal of any real property or any interest in real property that is acquired with the Award. Any such appraisal shall be prepared in a form, and by a qualified appraiser, acceptable to the Department.

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EXHIBIT D**8. Environmental Compliance**

Grantee shall provide a Phase I Environmental Site Assessment (“**ESA**”) for the Project, in conformance with ASTM Standard Practice E 1527, evaluating whether the Project is affected by any recognized environmental conditions. If the Phase I ESA discloses evidence of recognized environmental conditions and Grantee desires to proceed with the Project, the Grantee shall provide the Department with a Phase II report and any additional reports as required by the Department and in a form acceptable to the Department. Any remediation work shall be subject to Department approval. Grantee shall also provide an asbestos assessment and a lead-based paint report for the Department’s approval if the Project involves Rehabilitation or demolition of existing improvements.

Projects, including phased Projects, that satisfy the requirements HSC 50675.1.5, shall be exempt from the California Environmental Quality Act (CEQA) Projects under this section are considered a “use by right”, which are specifically exempt from CEQA (CA Public Resources Code section 21000 et seq.). (HSC 50675.1.5(e)(2)(A)). Moreover, HSC 50675.1.5(c) specifically exempts HCD actions taken to “provide financial assistance or insurance for the development and construction of Projects” from CEQA review. HCD encourages Eligible Applicants to fully engage with HCD’s technical assistance and to review the CEQA exemption set forth at HSC section 50675.1.5 and the provision for land use consistency and conformity set forth at HSC section 50675.1.3, subdivision (i).

Applicants should consult with their counsel for legal advice in construing application of the foregoing exemptions to their Project. It is entirely within an Applicant’s discretion to determine whether to use the statutory CEQA exemption, whether the exemption applies to the Applicant’s proposed activity, or whether some other mechanism applies and could be used to satisfy obligations under CEQA.

The exemption from CEQA pursuant to HSC 50675.1.5 does not exempt Projects from the National Environmental Policy Act (NEPA). Grantee must determine if NEPA applies to the Project and plan to receive the relevant clearances before the Project proceeds with the acquisition or physical activities, as applicable. is not responsible for determining which Projects require NEPA clearance.

9. Insurance

- A. Grantee shall obtain the insurance coverages identified in the NOFA. Grantee shall maintain such insurance coverages for the term of this Agreement and the

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term of the Affordability Covenant. Grantee shall name the State of California and the Department, as well as their respective appointees, officers, agents, and employees, as additional insureds on all such policies. Such policies shall provide for notice to the Department in the event of any lapse of coverage or insurance claim thereunder. Prior to disbursement of any Program funds, Grantee shall provide evidence satisfactory to the Department of its compliance with these insurance requirements.

- B. If Grantee is self-insured, in whole or in part, as to any of the required types and levels of coverage, the Grantee shall provide the Department with a written acknowledgment of its self-insured status prior to disbursement of any Program funds. If the Grantee abandons its self-insured status at any time after execution of this Agreement, the Grantee shall immediately notify the Department and shall promptly comply with the insurance coverage requirements under the Program.

10. Granted Funding Commitments

Grantee shall demonstrate its capacity to provide the development and operating funding commitments represented to the Department, as set forth in Exhibit E, Budget Detail. The Department reserves the right to request that Grantee provide additional documentary evidence of such capacity at any point.

11. Relocation

Grantee must comply with all applicable federal, state, and local relocation law. Pursuant to relocation law, a Grantee must have a relocation plan approved by the Department prior to proceeding with any phase of a Project or other activity that will result in the displacement of persons, businesses, or farm operations. To ensure that displaced persons and entities do not suffer a disproportionate impact as a result of Projects which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law. In addition, as a condition to disbursing the Award, Grantee must have either of the following:

- A. Department-approved relocation plan; or
- B. Department-issued Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement, which has been duly executed by the Grantee and approved by the Department.

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EXHIBIT D**12. One-for-One Replacement of Assisted Units**

One-for-one replacement of Assisted Units is permissible if approved in advance by the Department per Section 300 of the NOFA, after the Department's determination, in its sole and absolute discretion, that such replacement will not reduce the inventory of Units that are already available at affordable rents to households that are at or under 30 percent AML.

13. Site Control

Unless and except as otherwise expressly approved in writing by the Department or provided at Exhibit E to this Agreement, the Grantee shall have control of the property identified in the Application as the Project site at all times, and such control shall not be contingent on the approval of any other party. The status and nature of the Grantee's title and interest in the property must be acceptable to the Department. Site control may be evidenced by one of the following:

- A. Fee title.
- B. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with, and satisfaction of, all Program objectives and requirements, including, without limitation, those set forth in this Agreement. If the Grantee's interest in the property is a leasehold, and the lessee and the lessor are affiliated or related parties, then the Department may require both the lessee and the lessor to execute this Agreement.
- C. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency.
- D. A sales contract, or other enforceable agreement for the acquisition of the property. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).
- E. A letter of intent, executed by a sufficiently authorized signatory of the Grantee, that expressly represents to the Department, without condition or reservation, that, upon successful Application, the Grantee shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the

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Award. The letter of intent must also be duly acknowledged by the party selling or otherwise conveying an interest in the subject property to the Grantee. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).

- F. Other evidence of site control that gives the Department assurance (equivalent to A-E above) that the Grantee will be able to complete the Project in a timely manner and in accordance with the Program's objectives and requirements, including, without limitation, those set forth or referenced in this Agreement.

14. Adaptability and Accessibility

The Project shall comply with all applicable federal, state and local laws regarding adaptability and accessibility, including, without limitation, the requirements set forth in the Homekey+ NOFA Section 508.

15. Title Status and Reports

Grantee shall provide a current title report for the real property on which the Project is located. If Grantee's interest in the property is leasehold, then Grantee shall provide a current title report for the leasehold interest and the fee interest. For tribal trust land, Grantee shall provide a TSR or an attorney's opinion regarding chain of title and current title status. As set forth and specified at Exhibit B of this Agreement, Grantee shall provide such title report or documentation of title status prior to disbursement of any Homekey+ Grant funds.

16. Title Insurance

Grantee shall provide evidence of title insurance and an ALTA As-Built Survey that are acceptable to the Department. The condition of title, the insurer, the liability amount, the form of policy, and the endorsements shall be subject to Department approval. The policy shall insure that Grantee holds good and marketable title (fee simple or leasehold).

17. Property Management Plan

Grantee shall submit a property management plan to the Department for its review and approval. Such management plan shall be consistent with any representations made in the Application, and it shall meet all Program Requirements.

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EXHIBIT D**18. Supportive Services Plan**

Grantee shall submit a Supportive Services plan to the Department for its review and approval. Such Supportive Services plan shall be consistent with any representations made in the Application, and it shall meet all Program Requirements (e.g., provide for delivery of housing stability services and benefits).

19. Nondiscrimination

Grantee shall adopt a written nondiscrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Program funds.

Statutes and regulations prohibiting discrimination are incorporated by reference and made applicable to this Agreement and include, without limitation, the following:

- A. Civil Rights Act of 1964. Title VI of the Civil Rights Act of 1964, prohibiting recipients of federal financial assistance from excluding from a program or activity, or denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 CFR Part 22; Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 CFR Part 22;
- B. The Fair Housing Act. The Civil Rights Act of 1964 (42 U.S.C § 2000a, et seq.), and the Fair Housing Act (42 U.S.C. § 3601, et seq.), according to 42 U.S.C. § 5306, et seq. and in compliance with California statute (GC sections 65583, et seq.) prohibiting discrimination in housing transactions, including renting, selling, financing based on race, color, religion, national origin, sex, familial status, or disability;

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- C. Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) prohibiting recipients of federal funds from discrimination against persons with disability; Executive Order 11063 prohibiting discrimination in disposition of properties owned or financed with federal funds, as amended by Executive Order 12259; and Executive Order 11246 regarding fair employment, as amended by Executive Orders 11375, 11478 and 12086; and regulations of the U.S. Department of Housing and Urban Development (“HUD”).heretofore issued or to be issued to implement these authorities relating to civil rights;
- D. The Age Discrimination Act of 1975.; The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) prohibiting age-based discrimination in federally funded activities;
- E. Americans with Disabilities Act of 1990. Americans With Disabilities Act of 1990 as amended (42 U.S.C. § 12101 et seq.) prohibiting all public discrimination against persons with disabilities. The State of California nondiscrimination statutes, regulations, and standards set forth and identified in the NOFA and at [Exhibit C](#) of this Agreement.

20. Affirmative Fair Housing Marketing Plan and Fair Housing Compliance

Grantee shall develop and implement an affirmative fair housing marketing plan that is satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for Interim Housing or Permanent Housing. Grantee is encouraged to refer to the guidelines for Affirmative Fair Housing Marketing Plans issued by HUD. Grantee shall comply with all applicable state and federal fair housing laws.

21. Grantee Acknowledgment of the Pet Friendly Housing Act of 2017

By executing this Agreement, Grantee acknowledges that the Pet Friendly Housing Act of 2017 (HSC section 50466) requires each housing development, if it is financed on or after January 1, 2018, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident’s dwelling unit, subject to applicable state laws and local governmental ordinances related to public health, animal control, and animal anticruelty.

22. Final Certificate of Occupancy

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Grantee shall provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

23. Occupancy

The Assisted Units shall be in decent, safe, and sanitary condition at the time of their occupancy and shall be occupied by the Target Population, except where otherwise allowed for Veteran-serving Units. In addition, the Grantee shall certify, upon occupancy, that it will employ the core components of Housing First (as set forth at WIC section 8255) as part of its property management plan and Supportive Services plan.

24. Tenant Selection

Referrals to Assisted Units shall be made through the local Coordinated Entry System (“CES”), or another comparable prioritization system based on greatest need shall be used. All referral protocols for Assisted Units shall be developed in collaboration with the local Continuum of Care and implemented consistent with the Program Requirements.

25. Participation in Statewide HDIS/HMIS

Grantee shall support Continuum of Care participation in the statewide Homeless Data Integration System (“HDIS”). As required by and in accordance with state and federal law (including all applicable privacy law), Grantee shall further disclose relevant data to the local Homeless Management Information System (“HMIS”) and comparable data collection systems.

26. Affordability Covenant

- A. An Affordability Covenant shall be recorded against the Project real property in accordance with Section 208 of the NOFA and this Agreement.
- B. The Eligible Applicant shall prepare and cause a 55-year Affordability Covenant to be recorded against the Project real property except in the event that the Permanent Housing Project is located on tribal trust land, in which case a 50-year Affordability Covenant shall be recorded against the Project real property.
- C. The Affordability Covenant shall require integration of the Target Population within all entrances, common areas, and buildings that comprise the Project.

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- D. The Affordability Covenant shall include occupancy and rent restrictions that maintain the Project's accessibility to the Target Population over the full term of the Affordability Covenant.
- E. All Affordability Covenants are subject to the advance written approval of the Department, and shall be acceptable to the Department in form, substance, and priority. Deadlines for submission and/or approval are set forth at Exhibit E of this Agreement.

27. Restrictions on Sales, Transfers, and Encumbrances

Grantee shall not, for the duration of this Agreement, sell, assign, transfer, or convey the Project, or any interest therein or portion thereof, without the express prior written approval of the Department.

The Grantee who garnered the experience points at the Application stage must be the entity who controls the owner of the Project, through close of escrow, and into management and operation of the Project.

28. Retention, Inspection, and Audit of Records

- A. Grantee is responsible for maintaining records which fully disclose the activities funded by the Program. Grantee shall retain all records for a period of five (5) years after the expiration of this Agreement, unless a longer retention period is stipulated. If any litigation, claim, negotiation, audit, monitoring, inspection or other action commences during this required retention period, all records must be retained until a full and final resolution of the action.
- B. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Project. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The audit shall be performed by a qualified state, local, independent, or Department auditor.

Where an independent auditor is engaged, the audit services agreement shall include a clause which permits the Department to have access to the independent auditor's relevant papers, records, and work product.

- C. If there are audit findings, the Grantee shall submit a detailed response to the Department for each audit finding. The Department will review the response. If the Department determines, in its sole and absolute discretion, that the response

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is satisfactory, the Department will conclude the audit process and notify the Grantee in writing. If the Department determines, in its sole and absolute discretion, that the response is not satisfactory, the Department will contact the Grantee, in writing, and explain the action required to cure any audit deficiencies. Such action could include the repayment of ineligible costs or other remediation.

- D. If so directed by the Department upon the termination or expiration of this Agreement, the Grantee shall deliver all records, accounts, documentation, and other materials that are relevant to this Agreement to the Department as depository.

29. Site Inspection

The Department reserves the right, upon reasonable notice, to inspect the Project to determine whether it meets the Program Requirements. If the Department reasonably determines that the site does not meet Program Requirements, the Department reserves the right to rescind the Award. Nothing in this paragraph is intended to create or imply any obligation of the Department to inspect the Project.

30. Compliance with State and Federal Laws, Rules, Guidelines, and Regulations

Grantee, its agencies or instrumentalities, contractors, sub-grantees, and subrecipients shall comply with all local, state, and federal laws, statutes, and regulations, as well as policies and guidelines established by the Department for the administration of the Program.

31. Updated Information

If there is any change in the information that has been provided to the Department, Grantee shall promptly provide the Department with updated documentation (e.g., updated sources and uses). All changes shall be subject to Department approval. In addition, Grantee shall promptly notify the Department, in writing, of any changes in Grantee(s) or Co-Applicant organization, authorization, or capacity.

32. Survival of Obligations

The obligations of the Grantee, as set forth in this Agreement, shall survive the termination or expiration of this Agreement.

33. Litigation

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Grantee shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement, the Project, or the Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement, the Program Requirements, the interests of the Department, and the objectives of the Program.

34. Entire Agreement; Severability

This Agreement constitutes the entire agreement between the Grantee and the Department. All prior representations, statements, negotiations, and undertakings with regard to the subject matter hereof are superseded hereby. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

35. Modification or Waiver under AB 1010

The Department reserves the right to waive or modify any requirement under this Agreement, or any Program Requirement, as authorized by and in accordance with HSC section 50406, subdivision (p).

36. Waivers

No waiver of any breach, violation, or default under this Agreement shall be held to be a waiver of any other or subsequent breach or violation thereof or default thereunder. The Department's failure, at any time, to enforce the provisions of this Agreement or to require the Grantee's performance under this Agreement shall in no way be construed as a waiver of such provisions or performance, and it shall not affect the validity of this Agreement or the Department's right to enforce this Agreement.

37. Disputes

In the event of any conflict between this Agreement and any Grantee documents or side agreements, this Agreement and the Program Requirements shall prevail, are applicable, and shall be enforceable by the Department even if the Department provided review or approval of such documents and side agreements.

38. Consent

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The parties agree that wherever the consent or approval of the Department or Grantee is required under this Agreement, such consent or approval shall not be unreasonably withheld, conditioned, or delayed, unless the same is specified as being in that party's sole and absolute discretion, or other words of similar import.

39. Grantee Liability

Grantee shall remain liable, and in the case of multiple Grantees, each Grantee shall remain jointly and severally liable, to the Department for performance under this Agreement and compliance with all Program Requirements regardless of any Department-approved transfer or assignment of interest, or of any designation of a third party for the undertaking of all or any part of the Scope of Work.

40. Defense and Indemnification

Grantee agrees to defend, indemnify, and hold harmless the Department, and its appointees, agents, employees, and officers, from any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees), which may arise in connection with Grantee's use of the Program funds and performance under this Agreement. If any attorney, including the California Attorney General, is engaged by the Department to enforce, construe, or defend any provision of this paragraph, with or without the filing of any legal action or proceeding, Grantee shall, individually or jointly, pay to the Department, immediately upon demand, the amount of all attorneys' fees and costs incurred by the Department in connection therewith.

41. Time Is of the Essence

Time is of the essence under this Agreement, and in the performance of every term, covenant, and obligation contained herein.

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