

GENERAL TERMS AND CONDITIONS OF CheapServers.us SERVICE

Please read these Terms carefully, as they set out our and your legal rights and obligations in relation to our services.

You should print a copy of these Terms for future reference. We will not file a copy specifically in relation to you, and they may not be accessible on our Website in future.

These Terms are available in the English language only.

If you have any questions or complaints about these Terms or our Services, please contact us by writing to London, Essex, 450 Lodge Avenue, RM9 4QS, or by email to legal@cheapservers.us

AGREEMENT:

1. Definitions and interpretation

1.1 In the Agreement:

"Agreement" means the agreement between the Company and the Customer incorporating these Terms and any amendments to it from time to time;

"Charges" means the amounts payable by the Customer to the Company under or in relation to the Agreement;

"Company" means *Ultimate Seo Services*, a limited company incorporated in England and Wales with registration number 09245424 having its registered office at 450 Lodge Avenue, Essex, London, RM9 4QS;

"Confidential Information" means:

- (a) any information supplied (whether supplied in writing, orally or otherwise) by one party to the other party marked as "confidential", described as "confidential" or reasonably understood to be confidential;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** will be construed accordingly);

"Customer" means the customer for Services under the Agreement specified in the relevant Registration or Order Form;

"Effective Date" means the date when the Agreement comes into force in accordance with Clause [2.3];

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or

problems with the internet or a part of the internet, hacker attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Hosted Materials" means all websites, web applications, software, information, data, databases and other works and materials stored, transmitted, published or processed using the Services;

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the "intellectual property rights" referred to above include copyright and related rights, moral rights, database rights, confidential information, trade secrets, know-how, business names, trade names, domain names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Personal Data" has the meaning given to it in the Data Protection Act 1998;

"Prohibited Content" means:

- (a) material which breaches any applicable laws, regulations or legally binding codes, or infringes any third party Intellectual Property Rights or other third party rights, or may give rise to any form of legal action against the Company or the Customer or any third party;
- (b) pornographic or lewd material;
- (c) messages or communications which are offensive, abusive, indecent or obscene, are likely to cause annoyance, inconvenience or anxiety to another internet user, or constitute spam or bulk unsolicited mail;
- (d) any material that could constitute or encourage an offense or which infringes any patent, trademark, design rights, copyright or other proprietary rights or other similar rights of any person who may be at variance under the laws of any jurisdiction;

"Registration Form" means the form on the Company's website enabling users to sign up as Customers;

"Resources" means the resources specified on each service;

"Services" means the services provided under the Agreement, which may include shared hosting, reseller hosting, virtual private servers(vps), dedicated servers, email services, domain name services, SSL certificates, as specified on the Registration Form;

"Start Date" means the date specified as such on the Registration Form;

"Term" means the term of the Agreement;

"Year" means a period of 365 days (or 366 days if there is a 29 February during the relevant period) starting on the Effective Date or on any anniversary of the Effective Date.

- 1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:
 - (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time;
 - (b) any subordinate legislation made under that statute or statutory provision.
- 1.3 The Clause headings do not affect the interpretation of the Agreement.
- 1.4 The ejusdem generis rule is not intended to be used in the interpretation of the Agreement; it follows that a general concept or category utilised in the Agreement will not be limited by any specific examples or instances utilised in relation to such a concept or category.

2. The Agreement

- 2.1 In order to apply to become a Customer, the applicant must complete order one of the services provided and submit the Registration Form.
- 2.2 If the applicant makes any input errors during the order process, these may be identified and corrected by the applicant before the Registration Form is submitted to Ultimate Seo Services Ltd or later from the Customers control panel.
- 2.3 This Agreement will come into force if and when the Company sends to the Customer an acceptance email, following the submission of a completed Registration Form by the Customer.
- 2.4 This Agreement will continue in force indefinitely, unless and until terminated in accordance with Clause [20].

3. Implementation and transition

- 3.1 The Company will make available the Services on within 72 hours after receiving payment for the Customer.
- 3.2 At the request of the Customer, the Company will:
 - (a) where the Company holds any Customer website(s) on its development servers, transfer such website(s) from its development servers; or
 - (b) use reasonable endeavours to assist with the transition of any Customer website(s) from any third party host.

4. Shared hosting

- 4.1 This Clause [4] applies where the Company agrees to make available to the Customer shared hosting.
- 4.2 The Company will make available to the Customer hosting capacity on a shared server meeting the specification set out on the Order Form.
- 4.3 The Company will make available to the Customer the ability to access, update or amend the Hosted Materials by FTP/cPanel or similar means.
- 4.4 For the avoidance of doubt, the Customer will have administration rights only on his account and the Company may refuse any request to change the configuration of a shared server at its sole discretion.
- 4.5 Charges payable in respect of shared hosting will be as specified on the Order Form / as agreed between the Company and the Customer.

5. Reseller hosting

- 5.1 This Clause [5] applies where the Company agrees to make available to the Customer reseller hosting.
- 5.2 The Company will make available to the Customer hosting capacity on a shared server meeting the specification set out on the Order Form.
- 5.3 The Company will make available to the Customer the ability to access, update or amend the Hosted Materials by FTP/cPanel or similar means.
- 5.4 The Company will make available to the Customer the ability to create, modify, terminate and sell shared hosting resources by WHM/cPanel or similar means.
- 5.5 The Company is not responsible for damages caused to Customers under our Resellers.
- 5.6 For the avoidance of doubt, the Customer will have administration rights only on his account and his sub(reselled accounts) and the Company may refuse any request to change the configuration of a shared server at its sole discretion.
- 5.7 Charges payable in respect of reseller hosting will be as specified on the Order Form / as agreed between the Company and the Customer.

6. Virtual Private Servers (VPS)

- 6.1 This Clause [6] applies where the Company agrees to make available to the Customer a virtual private server (vps).
- 6.2 The Company will make available for the exclusive use of the Customer a virtual private server meeting the specification set out on the Order/Registration

Form, and will grant to the Customer administration rights with respect to that server.

- 6.3 The Customer acknowledges that the Company will not provide support in connection with the administration of any virtual private server, and the Customer warrants that it has all necessary expertise to configure, manage and keep the virtual private server secure at all times.
- 6.4 The Customer will not configure, or allow any other person to configure, a virtual private server in any way contrary to the guidelines published on the Company website from time to time.
- 6.5 The Company may from time to time require that the Customer apply software upgrades to the virtual private server.
- 6.6 For the avoidance of doubt, virtual private servers made available under the Agreement will remain the property of the Company at all times.
- 6.7 Charges payable in respect of virtual private servers will be as specified on the Order Form / as agreed between the Company and the Customer.

7. Dedicated Servers

- 7.1 This Clause [7] applies where the Company agrees to make available to the Customer a dedicated server.
- 7.2 The Company will make available for the exclusive use of the Customer a dedicated server meeting the specification set out on the Order/Registration Form, and will grant to the Customer administration rights with respect to that server.
- 7.3 The Customer acknowledges that the Company will not provide support in connection with the administration of any dedicated server, and the Customer warrants that it has all necessary expertise to configure, manage and keep the dedicated server secure at all times.
- 7.4 The Customer will not configure, or allow any other person to configure, a dedicated server in any way contrary to the guidelines published on the Company website from time to time.
- 7.5 The Company may from time to time require that the Customer apply software upgrades to the dedicated server.
- 7.6 For the avoidance of doubt, dedicated servers made available under the Agreement will remain the property of the Company at all times.
- 7.7 Charges payable in respect of dedicated servers will be as specified on the Order Form / as agreed between the Company and the Customer.

8. Email services

- 8.1 This Clause [8] applies where the Company agrees to provide to the Customer

email transmission, storage and/or management services.

- 8.2 The Company will provide POP3/IMAP/SMTP and webmail email services to the Customer.
- 8.3 All mailboxes will be protected by anti-spam and anti-virus software.
- 8.4 If the Customer or a mailbox exceeds the relevant storage limit set out on the Order Form / notified by the Company to the Customer from time to time, the Company may delete stored emails to bring the Customer or mailbox within the storage limit.
- 8.5 The Company has zero tolerance to spam. If the Customer use our email servers for spam messages over the internet, the Customer will be charged a minimum of 150GBP and his account will be terminated immediately. Spamming from our email servers will put us on the blacklist of many anti-spam filters worldwide. This type of damage not only affects the Company, but also all our customers. It takes many hours to set our email server in a different PC and various host names. If the Customer use our servers for spam, the Customer agree to pay the full amount of charging to cover the hours required to determine and solve all damages.
- 8.6 Charges payable in respect of email services will be as specified on the Order Form / as agreed between the Company and the Customer.

9. Domain name registration

- 9.1 Subject to the payment of the applicable Charges in advance, the Company will attempt to register domain names that the Customer orders using the interface on the the Company website, but does not warrant that it will be able to do so. Domain name orders will be subject to the provisions of this Clause [9].
- 9.2 Charges in respect of domain name registrations are non-refundable.
- 9.3 Domain name registrations will be subject to periodic renewal fees and transfer fees as stated on the the Company website from time to time.
- 9.4 The Customer warrants that the information submitted for the purposes of a domain name registration is current, accurate and complete, that it has the legal right to apply for and use the domain name, and that its use of the domain name will not infringe any person's Intellectual Property Rights or other legal rights.
- 9.5 The Customer undertakes to keep the information required for the purposes of a domain name registration up-to-date (which changes may be subject to additional Charges).
- 9.6 The Customer acknowledges that certain information submitted for the purposes of a domain name registration will be published on the internet via "WHOIS" services.

- 9.7 The Company may reject in its sole discretion any request to register a particular domain name.
- 9.8 The Company will not offer any advice in relation to any actual or potential domain name dispute, and will have no liability in respect of the suspension or loss of a domain name by the Customer as a result of any domain name arbitration procedure or court proceedings.
- 9.9 The Company will have no responsibility for the Customer's use or retention of a domain name once registered, and it will be the Customer's responsibility to ensure that domain names are renewed and that applicable renewal charges are paid.
- 9.10 The Customer acknowledges that domain names will be subject to the rules and policies from time to time of the relevant registry or registration authority, and the Customer agrees to abide by all such rules and policies.
- 9.11 The Customer agrees to the terms of the applicable domain name registration agreement.
- 9.12 Charges payable in respect of domain name services will be as specified on the Order Form / as agreed between the Company and the Customer.

10. SSL certificates

- 10.1 Subject to the payment of the applicable Charges in advance, the Company will attempt to obtain SSL certificates that the Customer orders using the interface on the Company's website. SSL certificate orders will be subject to the provisions of this Clause [10].
- 10.2 Charges in respect of SSL certificates are non-refundable.
- 10.3 SSL certificates will be subject to periodic fees as stated on the Company website from time to time.
- 10.4 The Customer warrants that the information submitted for the purposes of an SSL certificate is current, accurate and complete.
- 10.5 The Customer undertakes to keep the information required for the purposes of an SSL certificate up-to-date.
- 10.6 The Customer agrees to the terms of the applicable SSL subscription agreement.
- 10.7 Charges payable in respect of SSL certificates will be [as specified on the Registration Form / as agreed between the Company and the Customer].]

11. Support

- 11.1 The Company will make available, 24/7/365 a support ticket helpdesk facility for the purpose of providing support to the Customer (and the Company's other customers). The Company will use reasonable endeavours to respond to requests for support within 24 h.

- 11.2 The Customer must make all requests for support Services through the helpdesk.
- 11.3 The Company will use reasonable endeavours to resolve issues raised by the Customer promptly.
- 11.4 The Customer agrees to not demand responsibility from the Company of any data loss that can occur while the Customer use our services. We do everything possible to ensure that customer data is protected through the establishment of spare servers, although data loss is not our responsibility. The Customer agrees to keep backup copies of his website and files at any time. If a data loss, the Customer will not require responsibility from the Company and will have overall responsibility for the fact that he has no backup of his personal computer or third party service.
- 11.5 Charges payable in respect of support services will be as specified on the Order Form / as agreed between the Company and the Customer.

12. Services: general provisions

- 12.1 The Customer's utilisation of Resources must not exceed the limits set out on the Order Form. If the Customer's utilisation of Resources exceeds those limits, the parties will endeavour to agree a variation to the Agreement. If the parties cannot agree such a variation within a reasonable period (being not more than 7 days following notice from the Company to the Customer requesting such variation, and Resource utilisation continues to exceed those limits, the Customer will be deemed to be in material breach of the Agreement for the purposes of Clause [20].
- 11.2 The Company may suspend some or all of the Services in order to carry out scheduled or emergency maintenance or repairs. Subject to this, the Company will use its best endeavours to maintain the Services at the availability level specified on the Order Form.

12. Customer Responsibilities

- 12.1 The Customer will provide the Company with all co-operation, information and documentation reasonably required for the provision of the Services, and the Customer will be responsible for procuring any third party co-operation reasonably required for the provision of the Services.
- 12.2 The Customer will be responsible for obtaining suitable licences of third party software (such as email client software) which are required for the full use of the Services.
- 12.3 It is the Customer's responsibility to keep any passwords relating to the Services confidential, and to change such passwords on a regular basis. The Customer will

notify the Company immediately if it becomes aware that a password relating to the Services is or may have been compromised or misused.

13. Acceptable Use

13.1 The Customer must not use any of the Services:

- (a) to host, store, send, relay or process any Prohibited Content;
- (b) for any purpose which is unlawful, fraudulent, or infringes any third party rights;
- (c) in any way which may put the Company in breach of a contractual or other obligation owed by the Company to any internet service provider.

13.2 The Customer acknowledges that the Company does not purport to monitor the content of Hosted Materials or the use of the Services.

13.3 Where the Company reasonably suspects that there has been a breach of the provisions of this Clause [13], the Company may:

- (a) delete or amend the relevant Hosted Materials; or
- (b) suspend any or all of the Services and/or the Customer's access to any or all Services while it investigates the matter.

13.4 Any breach by the Customer of this Clause [13] will be deemed to be a material breach of the Agreement for the purposes of Clause [20].

14. Charges and payment

14.1 The Company will issue invoices for the Charges to the Customer 10 days before the relevant dates set out on the Order Form.

14.2 The Customer will pay the Charges to the Company on or before the dates set out on the Order Form.

14.3 All Charges stated in or in relation to the Agreement are stated inclusive of VAT, unless the context requires otherwise.

14.4 Charges must be paid by bank transfer, credit or debit card or by PayPal (using such payment details as are notified by the Company to the Customer from time to time).

14.5 If the Customer does not pay any amount properly due to the Company under or in connection with the Agreement, the Company will:

- (a) suspend all overdue services 1 day after the due period.
- (b) terminate all overdue services 7 days after the due period.

15. Warranties

- 15.1 The Customer warrants to the Company that it has the legal right and authority to enter into and perform its obligations under the Agreement.
- 15.2 The Company warrants to the Customer:
- (a) that it has the legal right and authority to enter into and perform its obligations under the Agreement
 - (b) that it will perform its obligations under the Agreement with reasonable care and skill.
- 15.3 All of the parties' liabilities and obligations in respect of the subject matter of the Agreement are expressly set out in the terms of the Agreement. To the maximum extent permitted by applicable law, no other terms concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.

16. Indemnity

- 16.1. The Customer agrees to indemnify, defend and maintain safe host, its directors, officers, employees and agents, and to protect from any action against the same attention to every requirements, demand, cause of action, debt or liability, including reasonable attorneys' fees to the extent that such action is based on the assertion that: If true would constitute a breach of any consumer representations, warranties or agreements bellow; results from the negligence or willfull misconduct by the customer; or of user data to be probided by the customer below or other material on a web site violates the right of third parties, including without limitation, rights of publicity, rights of privacy, patents, copyrights, trademarks, trade secrets and / or licenses.
- 16.2 The Company agrees to to indemnify, defend and harmless the Customer, its directors, officers, employees and agents, search, cause of action, debt or liability, including reasonable attorneys' fees, to the extent that such action arises from gross negligence or willful misconduct of the host.

17. Limitations and exclusions of liability

- 17.1 Nothing in the Agreement will:
- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
 - (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
 - (c) limit any liability of a party in any way that is not permitted under applicable law; or

- (d) exclude any liability of a party that may not be excluded under applicable law.
- 17.2 The limitations and exclusions of liability set out in this Clause [17] and elsewhere in the Agreement:
- (a) are subject to Clause [17.1];
 - (b) govern all liabilities arising under the Agreement [or any collateral contract] or in relation to the subject matter of the Agreement [or any collateral contract], including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty;
- 17.3 The Company will not be liable in respect of any loss of profits, income, revenue, use, production or anticipated savings.
- 17.4 The Company will not be liable for any loss of business, contracts or commercial opportunities.
- 17.5 The Company will not be liable for any loss of or damage to goodwill or reputation.
- 17.6 The Company will not be liable in respect of any loss or corruption of any data, database or software.
- 17.7 The Company will not be liable in respect of any special, indirect or consequential loss or damage.
- 17.8 The Company will not be liable for any losses arising out of a Force Majeure Event.

18. Data protection

- 18.1 The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Company under the Agreement, and that the processing of that Personal Data by the Company for the purposes of and in accordance with the terms of the Agreement will not breach any applicable laws including the Data Protection Act 1998.
- 18.2 The Company warrants that:
- (a) it will act only on instructions from the Customer in relation to the processing of any Personal Data performed by the Company on behalf of the Customer;
 - (b) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Personal Data and against loss or corruption of Personal Data processed by the Company on behalf of the Customer.

19. Confidentiality

- 19.1 Each party will keep confidential the Confidential Information of the other party, and will not disclose that Confidential Information except as expressly permitted by this Clause [19].
- 19.2 Each party will protect the confidentiality of the Confidential Information of the other party using at least reasonable security measures.
- 19.3 The Confidential Information of a party may be disclosed by the other party to its employees and professional advisers, provided that each recipient is legally bound to protect the confidentiality of the Confidential Information.
- 19.4 These obligations of confidentiality will not apply to Confidential Information that:
- (a) has been published or is known to the public (other than as a result of a breach of the Agreement);
 - (b) is known to the receiving party, and can be shown by the receiving party to have been known to it, before disclosure by the other party;
 - (c) is required to be disclosed by law, or by an order (binding upon the relevant party) of a competent governmental authority, regulatory body or stock exchange.

20. Termination

- 20.1 Either party may terminate the Agreement at any time by giving at least 30 days' written notice to the other party expiring at any time after the end of the Minimum Term.
- 20.2 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:
- (a) commits any material breach of any term of the Agreement;
 - (i) the breach is not remediable;
 - (ii) the breach is remediable, but the other party fails to remedy the breach within 7 days of receipt of a written notice requiring it to do so;
 - (b) fails to pay any amount due under the Agreement in full and on time.
- 20.3 Either party may terminate the Agreement immediately by giving written notice to the other party if:
- (a) the other party:
 - (i) is dissolved;

- (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent;
 - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement);
 - (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

21. Effects of termination

- 21.1 Upon termination all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses [1, 14.5, 16, 17, 19.1 to 19.4, 21 and 22.3 to 22.12].
- 21.2 Termination of the Agreement will not affect either party's accrued rights (including accrued rights to be paid) as at the date of termination.
- 21.3 If the Agreement is terminated under Clause [20.1], or by the Customer under Clause [20.2] or [20.3] (but not in any other case):
 - (a) the Company will promptly provide to the Customer an electronic copy of the Hosted Materials;
 - (b) the Company will provide such assistance as is reasonably requested by the Customer to transfer the hosting of the Hosted Materials to the Customer or another service provider, subject to payment of the Company's reasonable expenses; and
 - (c) the Customer will be entitled to a refund of any Charges paid by the Customer to the Company in respect of any Services which were to be performed after the date of effective termination, and will be released from any obligation to pay such Charges to the Company (such amount to be calculated by the Company using any reasonable methodology).]
- 21.4 Save as provided in Clause [21.3(c)], the Customer will not be entitled to any refund of Charges on termination, and will not be released from any obligation to pay Charges to the Company.

22. General

22.1 Any notice given under the Agreement must be in writing (whether or not described as "written notice" in the Agreement) and must be delivered personally, sent by pre-paid first class post, or email, for the attention of the relevant person, and to the relevant address, or legal@cheapservers.us given below in the case of the Company or specified on the Order Form in the case of the Customer (or as notified by one party to the other in accordance with this Clause).

The Company
450 Lodge Avenue, Essex, London, RM9 4QS, legal@cheapservers.us

22.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):

- (a) where the notice is delivered personally, at the time of delivery;
- (b) where the notice is sent by first class post, 48 hours after posting; and
- (c) where the notice is sent by email, at the time of the transmission (providing the sending party retains written evidence of the transmission).

22.3 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.

22.4 If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).

22.5 Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.

22.6 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

22.7 The Company may freely assign its rights and obligations under the Agreement without the Customer's consent. Save as expressly provided in this Clause or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any rights or obligations under the Agreement.

22.8 The Company may subcontract any of its obligations under the Agreement to any third party.

22.9 Each party agrees to execute (and arrange for the execution of) any documents and do (and arrange for the doing of) any things reasonably within that party's power, which are necessary to enable the parties to exercise their rights and fulfil

their obligations under the Agreement.

22.10 The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.

22.11 The Agreement constitutes the entire agreement and understanding of the parties in relation to the subject matter of the Agreement, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of the Agreement. Subject to Clause [17.1], each party acknowledges that no representations or promises not expressly contained in the Agreement have been made by or on behalf of the other party.

22.12 The Agreement will be governed by and construed in accordance with the laws of [England and Wales]; and the courts of [England] will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

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