



6 January 2014

**URGENT**

**Attention: All Sheriffs**

Dear Sheriff

**RE: CODE OF CONDUCT AND SERVICE LEVEL AGREEMENT**

Since the appointment of the new Board it has been one of our key objectives to ensure the Sheriffs fraternity is able to meet the challenges of our various stakeholders and more importantly members of the public.

To this end the SABFS identified the need to revise the current Code of Conduct that all Sheriffs subscribe to and to ensure that the principles espoused in our Constitution and other legislation is adhered to in particular the principles of Batho Pele.

The SABFS recently drafted a new Code of Conduct which has been simultaneously canvassed with the Sheriffs fraternal organisations through the Consultative Forum for support and endorsement. We are proud to announce that the Deputy Minister of Justice and Constitutional Development, the Honourable John Jeffery has approved the Code of Conduct for implementation to all Sheriffs. The Board hereby advises in terms of Section 16 (k) of the Sheriffs Act 90 of 1986 that this new Code of Conduct will become effective 1 March 2014.

Furthermore the Board has approved a Service Level Agreement coupled with the new Code of Conduct to be implemented simultaneously effective 1 March 2014. You are hereby requested in terms of the authority of the SABFS that each appointed Sheriff permanent or acting is required to complete and sign the Service Level Agreement. The deadline for completion and return of your signed and completed Service Level Agreements, to the office of the SABFS, is 14 February 2014.

You are kindly requested to email or fax your signed Service Level Agreement to:

Email: [bluthuli@sheriffs.org.za](mailto:bluthuli@sheriffs.org.za) or [fahemahm@sheriffs.org.za](mailto:fahemahm@sheriffs.org.za) or fax: 021 426 2598

88 Loop Street, Cape Town. PO Box 15223, Vlaeberg 8018  
Tel: 021 426 0577, Fax: 021 426 2598, E-mail: [contact@sheriffs.org.za](mailto:contact@sheriffs.org.za)  
[www.sheriffs.org.za](http://www.sheriffs.org.za)

South African Board for Sheriffs - Established Act 90 of 1986  
Charmaine Mabuza (Chairperson), Hlako Choma, Laura Best, Abel Mawela, Freda Moeletsi,  
Hishaam Mohamed, Humphrey Ntsikeni, Nicholas Nxumalo, Petro Roodt, Thaka Seboka, Thami Tembe

Once again the Board urges Sheriffs to fully complete the Service Level Agreement and familiarise yourself with the Code of Conduct. We believe all of these interventions by the SABFS is aimed at advancing the overall objective of the Sheriffs Act, but more importantly to realize the motto of the Board and the Sheriffs fraternity namely of "upholding the dignity of those we serve".

Kind regards

A handwritten signature in dark ink, appearing to read 'C Mabuza', with a stylized flourish at the end.

**Ms C Mabuza**  
**Chairperson**  
**South African Board for Sheriffs**



## SERVICE LEVEL AGREEMENT

made and entered into  
by and between

### THE SOUTH AFRICAN BOARD FOR SHERIFFS

(hereinafter referred to as "the Board")

on the one part  
and

Name of Sheriff: \_\_\_\_\_

The Sheriff for the District of \_\_\_\_\_

Physical Address: \_\_\_\_\_

\_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_

Tel Number - Work: \_\_\_\_\_ Home: \_\_\_\_\_ Fax: \_\_\_\_\_

Mobile 1: \_\_\_\_\_ Mobile 2: \_\_\_\_\_

Email 1: \_\_\_\_\_ Email 2: \_\_\_\_\_

Identity No: \_\_\_\_\_

(hereinafter referred to as "the Sheriff")

on the other part

(hereinafter jointly referred to as "the parties")

Date: \_\_\_\_\_

X

## **PREAMBLE**

**WHEREAS** the Minister of Justice and Constitutional Development (“the Minister”) has appointed the members of the South African Board for Sheriffs (“the Board”) in terms of section 9 of the Sheriffs Act No. 90 of 1986 (“the Act”);

**AND WHEREAS** the Minister has mandated the Board in terms of the Act to regulate the conduct of sheriffs in the execution of their duties;

**AND WHEREAS** the Board, having applied its mind to the precepts of the Act and the Constitution of the Republic of South Africa, Act No. 108 of 1996 (“the Constitution”);

## **NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

### **1. DEFINITIONS**

1.1 In this agreement:

1.1.1 unless the contents indicate otherwise, words importing the singular shall include the plural and vice-versa and words importing gender shall include all genders;

1.1.2 clause headings are used for the purposes of convenience only;

1.2 **“Board”** means the South African Board for Sheriffs, a regulatory statutory body, the members of which are appointed by the Minister for Justice and Constitutional Development, in terms of section 7 of the Sheriffs Act, 1986 (Act No 90 of 1986) (“the Act”) and having its registered offices currently situated at 4th Floor, Church Square, Corner Spin and Parliament Streets, Cape Town with telefax number: 021 462-2099;

1.3 **“the Minister”** means the Minister of Justice and Constitutional Development in the Republic of South Africa;

- 1.4 **"the parties"** mean both the Board and the sheriff concerned;
- 1.5 **"Sheriff"** means all sheriffs appointed in terms of section 2 of the Act including acting sheriffs;
- 1.6 **"Acting sheriff"** means a sheriff appointed in terms of section 2 of the Act to a specific area and who is temporarily assigned additional areas on a temporary basis;
- 1.7 **"business day"** means any day other than a Saturday, Sunday or an official South African public holiday;
- 1.8 **"ordinary day"** means all days including Saturdays, Sundays and South African public holidays;
- 1.9 **"Territory"** means the Republic of South Africa;
- 1.10 **"Person"** means legal persona and includes an individual, a collection of individuals and any sort of corporate body or governmental organisation;
- 1.11 **"The Act"** means the Sheriffs Act No. 90 of 1986;
- 1.12 **"the Constitution"** means Constitution of the Republic of South Africa, Act No. 108 of 1996;

## **2. APPOINTMENT**

- 2.1 It is recorded that the sheriff has been appointed by the Minister to act as a sheriff for a particular district more fully set out in his letter of appointment.
- 2.2 The sheriff recognises the authority of the Board to conduct and manage the manner in which sheriffs in South Africa conduct and execute their services.

### **3. CODE OF CONDUCT**

The sheriff acknowledges the applicability of the Code of Conduct framed by the Board in terms of section 16(k) of the Act which regulates the manner in which the sheriff shall conduct his or her services.

### **4. ROLE OF THE BOARD**

- 4.1 By signature hereto the sheriff acknowledges that the Board plays an important role in regulating the affairs of the Sheriffs' profession.
- 4.2 The sheriff accepts that the Board regulates the following areas:
  - 4.2.1 oversight of the establishment and management of trust accounts;
  - 4.2.2 receiving and investigation of complaints and report back to third parties;
  - 4.2.3 establishment of whether each sheriff has taken out indemnity insurance;
  - 4.2.4 appointment of service providers who will provide approved training courses and skills enhancement of sheriffs;
  - 4.2.5 ensuring that sheriffs keep proper records of their activities and transactions they undertake;
  - 4.2.6 discipline of sheriffs;
  - 4.2.7 any other functions related to the above; and
  - 4.2.8 payment, collection of levies annually before the prescribed date and payment of interest on the trust account to the Fidelity Fund and investment of levies; and
  - 4.2.9 recovering of funds misappropriated from the trust accounts of sheriffs.



- 4.3 By signature hereto the sheriff undertakes to co-operate with the Board in the performance of its functions and especially agrees to pay levies to the Board timeously and in full.

## **5. COMPLIANCE WITH NATIONAL LEGISLATION**

- 5.1 By endorsing the Code of Conduct the sheriff is required to comply with all national legislation.

## **6. CONSTITUTION**

- 6.1 The sheriff acknowledges that as part of a constitutional democracy, each person in South Africa has the right to dignity and respect as more fully set out in section 10 of the Constitution.
- 6.2 The sheriff undertakes that whenever he or she is executing his or her functions in terms of the Act, he or she shall do so with the full recognition of all persons' right to human dignity and respect as more fully set out at section 10 of the Constitution.

## **7. COMPLIANCE WITH SECTIONS 22 AND 23 OF THE ACT**

- 7.1 The sheriff undertakes to ensure that all funds received by him or her on behalf of others shall be kept in a separate trust account, properly referenced and held with a banking institution, into which account the sheriff shall deposit all monies held or received by him or her on account of any other person.
- 7.2 In this regard the sheriff confirms that he has read Chapter 3 of the Act in particular section 22 dealing with the payment of monies into trust, section 23 dealing with bookkeeping and auditing, section 27 dealing with how the Fidelity Fund is utilised and section 30 dealing with Fidelity Fund Certificates.

- 7.3 The sheriff acknowledges training opportunities offered by the Board in the management of his or her trust account and acknowledges the right of the Board to discipline the sheriff concerned in the event of any wrongdoing.

## **8. COMPLIANCE WITH CHAPTER 4 OF THE ACT**

- 8.1 The sheriff acknowledges training opportunities offered by the Board in terms of Chapter 4 of the Act dealing with the proper conduct expected of a sheriff and in particular warrants that he or she has read section 43, has received training in all matters concerning complaints against sheriffs and undertakes to comply with section 43 and generally Chapter 4 of the Act when executing his or her services.
- 8.2 The sheriff further undertakes to ensure that all deputy sheriffs appointed by him or her in terms of the Act receive adequate training and complies with the precepts of the Act, especially Chapters 3 and 4.

## **9. FIDUCIARY DUTY**

- 9.1 The sheriff acknowledges that his or her occupation of the office of sheriff is a fiduciary position and he or she accordingly stands in a fiduciary relationship with the relevant courts which he or she serves, the attorneys' profession which utilises his services, the State and members of the public.

## **10. REMUNERATIVE WORK OUTSIDE OF THE OFFICE OF THE SHERIFF**

- 10.1 The sheriff undertakes not to perform any remunerative work outside of the office of the sheriff without the approval in writing from the Minister.
- 10.2 The sheriff undertakes to disclose to the Minister all relevant and material information for consideration.



## **11. MATERIAL CHANGES**

The sheriff undertakes to advise the Board in the event of any material changes to his circumstances.

## **12. RETURNS OF SERVICE**

12.1 The sheriff acknowledges that all returns of service shall be in accordance with annexure "B" hereto.

## **13. SERVICE AND EXECUTION**

- 13.1 Sheriffs are required to only serve process within their jurisdictions, which jurisdictions are more fully set out in their letters of appointment.
- 13.2 Only under exceptional circumstances and with the written authority of the Board, a sheriff may execute and service process in another sheriff's jurisdiction.
- 13.3 In service and executing process, the sheriff must take all steps to avoid any delays.
- 13.4 The sheriff must comply with the provisions of rule 8(4) of the Magistrate's Court rules or rule 4 of the Supreme Court rules, as the case may be.
- 13.5 When executing his or her functions, the sheriff is required to comply with section 10 of the Constitution which relates to basic human right to human dignity and respect.

## **14. PROFESSIONALISM**

- 14.1 When executing his or her duties as a sheriff, the sheriff must ensure that he or she maintains a high standard of professional ethics, provides his or her services impartially, fairly, equitably without fear and favour and most importantly, without bias.
- 14.2 The sheriff undertakes to respond to his or her clients' needs and to render the services in a fully accountable manner.
- 14.3 To do so the sheriff recognises the need for adequate record-keeping and to make these records available upon request by the Board in the event of any complaints.
- 14.4 The sheriff shall ensure that he or she has the basic minimum requirements necessary for running a professional office.
- 14.5 The sheriff shall ensure the safe keeping of all assets entrusted to him and shall ensure that these assets are kept in a good condition.

## **15. CHARGES**

- 15.1 The sheriff shall not overcharge for any services and shall ensure that all his or her charges are in accordance with the applicable tariff.

## **16. PAYMENTS TO THE BOARD**

- 16.1 The sheriff acknowledges that in terms of the Act certain levies are payable by him or her to the Board.
- 16.2 The sheriff undertakes to pay all amounts due to the Board promptly to avoid the payment of penalty on any late payments.

## **17. TRAINING**

- 17.1 The sheriff undertakes to attend any training required by the Board for the purposes of enhancing the performance of the sheriff and to ensure that his or her deputy sheriffs undertake such training where needed.
- 17.2 The sheriff undertakes to participate in the affairs of the Board in so far as this may be necessary including the provision of training.

## **18. CO-OPERATION**

- 18.1 The sheriff undertakes to co-operate with any inspectors or investigators appointed by the Board into any complaints and further undertakes not to obstruct such inspectors or investigators and to make available any and all records required to be kept in terms of the Act.
- 18.2 The sheriff acknowledges that the failure to keep all records is in itself an offence in terms of the Act.

## **19. SIGNATURE**

The sheriff undertakes to sign this service level agreement and further acknowledges that the Code of Conduct applicable to sheriffs and issued in terms of section 6(k) by the Board is annexed hereto as annexure "A" and that annexure "B" further regulates the manner in which the sheriff shall execute his or her duties herein.

Signed at \_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
**SHERIFF**

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

Signed at CAPE TOWN on this the 6 day of JANUARY 2014



\_\_\_\_\_  
Duly authorised to sign obo the SABFS

Chairperson of the South African Board for Sheriffs (SABFS)

AS WITNESSES:

*Hossain Kayee*

1. \_\_\_\_\_



2. \_\_\_\_\_



## ANNEXURE "A"

# CODE OF CONDUCT FOR SHERIFFS

ISSUED IN TERMS OF SECTION 16(k) OF THE SHERIFFS ACT, 1986 (ACT NO. 90 OF 1986)

### INTRODUCTION

Sheriffs are an integral part of the justice system generally in South Africa. As the Judicial Officer of the Court, each sheriff is responsible for the effective service or execution of any court processes. This Code of Conduct seeks to regulate the manner in which sheriffs perform these functions to ensure that all sheriffs are aware of their role within the justice system within South Africa, the role of the Board and the Minister of Justice and Constitutional Development.

### 1. DEFINITIONS

In this Code of Conduct a word or expression to which a meaning has been assigned in the Act bears the meaning so assigned to it, unless the context otherwise indicates-

"the Act" means the Sheriffs Act, 1986 (Act No. 90 of 1986);

"the Board" means the South African Board for Sheriffs established by section 7 of the Act; and

"sheriff" for the purposes of this Code includes a deputy sheriff appointed by a sheriff or acting sheriff and an acting sheriff.

"Minister" means the Minister of Justice and Constitutional Development.

### 2. DIGNITY & RESPECT

2.1 When performing the function as a sheriff or deputy sheriff, sheriffs acknowledge that they are a part of a constitutional democracy.





- 2.2 Section 10 of the Constitution of South Africa, Act No. 108 of 1996 records specifically that each citizen has inherent dignity and the right to have their dignity respected and protected.
- 2.3 As such all sheriffs are obliged to respect the rights of the citizens of South Africa when performing their functions.
- 2.4 As such by signature hereto each sheriff undertakes to respect the dignity of all those persons whom the sheriff serves. A sheriff must perform his or her function fairly and impartially.

### **3. COMPLIANCE WITH NATIONAL LEGISLATION**

- 3.1 Sheriffs are regulated by the Act and the Regulations thereto.
- 3.2 Sheriffs undertake to comply with the precepts of the Act.
- 3.3 Sheriffs further undertake to comply with all national legislation in the performance of their duties.

### **4. JURISDICTION**

A sheriff undertakes to serve processes within the area of jurisdiction for which he has been appointed and may only serve processes outside of his/her jurisdiction when specially permitted to by the Minister.

### **5. CONFLICT OF INTEREST**

- 5.1 A sheriff must refrain from performing any act as sheriff in a matter in which he or she has a direct or indirect interest.
- 5.2 A sheriff may not have an interest in the suit or have a relationship with a party to a suit.

- 5.3 A sheriff may not place himself or herself in a position that may lead to a potential conflict of interest.
- 5.4 A sheriff must report a potential conflict of interest to the Board.

## **6. ROLE OF BOARD**

- 6.1 The sheriff acknowledges that the Board appointed to maintain the esteem, enhancement of the status of and the improvement of the standard of training and functions performed by sheriffs, further the sheriff acknowledges that the Board is the regulatory authority for all sheriffs in South Africa, appointed in terms of section 2(1) of the Act and is subject to that authority and regulation.
- 6.2 The sheriff acknowledges that the South African Board for Sheriffs plays an important role in regulating the affairs of the sheriffs' profession.
- 6.3 The sheriff accepts that the Board regulates the following areas:
- 6.3.1 oversight of the establishment and management of trust accounts;
  - 6.3.2 receiving and investigation of complaints and report back to relevant third parties;
  - 6.3.3 establishment of whether each sheriff has taken out adequate indemnity insurance;
  - 6.3.4 appointment of service providers who will provide approved training courses and skills enhancement of sheriffs;
  - 6.3.5 ensuring that sheriffs keep proper records of their activities and transactions they undertake;
  - 6.3.6 discipline of sheriffs;



- 6.3.7 any other functions related to the above;
- 6.3.8 payment, collection of levies annually before the prescribed date and payment of interest on the trust account to the Fidelity Fund and investment of levies; and
- 6.3.9 recovering of funds misappropriated from the trust accounts of sheriffs.
- 6.4 The sheriff undertakes to co-operate with the Board in the performance of its functions.
- 6.5 The sheriff agrees to pay levies to the Board timeously and in full.
- 6.6 A sheriff must co-operate with the Board in the performance of its functions.
- 6.7 A sheriff may only communicate with the media through the Board.

## **7. OTHER REMUNERATIVE WORK**

- 7.1 A sheriff must ensure that his or her financial affairs are conducted in a responsible manner and do not compromise his or her office or that of the Board.
- 7.2 A sheriff who has permission from the Minister to undertake a business or other remunerative work must conduct such business or other remunerative work in a manner that will not result in the business or such other remunerative work being associated with the office of the sheriff.

## **8. CORRESPONDENCE**

- 8.1 A sheriff must reply to and be efficient in responding to all correspondence received, other than court processes.
- 8.2 A sheriff must serve and correspond with members of the public in the official language in which he or she is addressed.

## **9. TRUST MONIES**

- 9.1 A sheriff undertakes to promptly pay into trust any monies obtained on behalf of others and to fully account for such funds.
- 9.2 A sheriff must without delay pay out trust monies.
- 9.3 A sheriff must deal with trust monies honestly, in good faith and with the utmost care and ensure that the funds are received by the correct person.

## **10. FIT AND PROPER PERSON**

- 10.1 The sheriff acknowledges that he or she is a fit and proper person to be appointed to the office of the sheriff and to hold that office.
- 10.2 The sheriff acknowledges that appointment as a sheriff is a fiduciary position which creates fiduciary obligations between the sheriff, the courts, the legal profession and members of the public, all of whom are served by the sheriff.
- 10.3 No sheriff may continue to hold office if such a sheriff is inter alia an un-rehabilitated insolvent, has any unsatisfied civil judgments and whose financial position is such that it will potentially place that sheriff in a compromising position viz-a-viz his or her creditors. Further no sheriff may appoint a deputy sheriff who is an un-rehabilitated insolvent.
- 10.4 The sheriff undertakes to properly assess any person before the sheriff appoints that person as a deputy sheriff, to ensure that the deputy sheriff is likewise a fit and proper person.
- 10.5 The sheriff undertakes to ensure that his or her financial affairs are conducted in a responsible manner and do not compromise his or her office or that of the Board. Further the sheriff shall continue to remain a fit and proper person to hold that office.



- 10.6 The sheriff acknowledges that the administration of justice generally is brought into disrepute whenever the sheriff has an interest in the suit or is related to a party in the suit.

## **11. ADMINISTRATIVE FUNCTION**

A sheriff undertakes to keep proper records and copies of any documents for a minimum period of 3 (three) years to enable Board to exercise its powers herein, to ensure that the Board is able to comply with its administrative functions.

## **12. PERFORMANCE**

- 12.1 A sheriff may serve or execute process only within the area of jurisdiction or the portion of an area of jurisdiction for which he or she has been appointed.
- 12.2 A sheriff entrusted with the service or execution of a process shall act without avoidable delay in accordance with the provisions of rule 8(4) of the Magistrate's Court Rules or rule 4(6)(a) of the Supreme Court Rules:

*"provided that any process, requiring urgent attention shall be dealt with forthwith."*

- 12.3 A sheriff shall refrain from performing any act as sheriff in any matter in which he or she has a direct or indirect interest.
- 12.4 A sheriff shall at all times act in an impartial, unbiased and fair manner and with discretion towards all parties and shall ensure, as far as it is possible for him or her to do so.
- 12.5 A sheriff shall when he or she vacates his or her office shall ensure that a proper handover of all documents, processes and accounting records to the incoming sheriff. These shall be in both hard copies and electronic versions where possible. Such a handover shall be conducted in the presence of a Court Manager alternatively a designated official by the Department of Justice.



### **13. CHARGES**

A sheriff shall ensure that his or her charges are in accordance with the applicable tariff.

### **14. GENERAL**

14.1 A sheriff may not act in a way that will bring the good name and esteem of the office of the sheriff in particular, and the administration of justice in general, into disrepute.

14.2 A sheriff may not accept a favour or gift, which may influence him or her in the execution of his or her duties, or which in the opinion of a reasonable person, may so influence him or her.

14.3 A sheriff may not use for personal gain or for the personal gain of third parties confidential information which he or she has obtained by virtue of his or her position and may also not divulge such confidential information.

### **15. NON-COMPLIANCE**

Failure to comply with this Code constitutes improper conduct in terms of section 43(1)(d) of the Act and Chapter IV of the Act will apply to such improper conduct.



## **ANNEXURE "B"**

# **RETURNS OF SERVICE**

A sheriff's return of service must be made on an A4 sized paper in the official language in which the process was made out and shall contain all the relevant details pertaining to the parties in particular:

- 1.1 the case number;
- 1.2 the court district;
- 1.3 the address at which service or execution took place;
- 1.4 the date and time of such service or execution as well as the dates and times of any attempted service and the reasons for non-service or non-execution;
- 1.5 the manner in which service was made;
- 1.6 the charges for such service, which charges shall be in accordance with the applicable tariff; and
- 1.7 be signed by the sheriff and/or deputy sheriff.



# SERVICE CHARTER



## Sheriffs pledge to.....

- 1** Maintain the high standards of honesty, integrity and bona fides;
- 2** Execute their duties as sheriff effectively, efficiently and with full respect for the basic human right to human dignity and respect as enshrined in section 10 of the Constitution of South Africa;
- 3** Report timeously on all activities in the execution of their duties as sheriff and provide the public with access to full and correct information about any of the process they have a right to receive;
- 4** Account for all monies received on behalf of others honestly, accurately and punctually;
- 5** Pay all monies received on behalf of third parties into a trust account;
- 6** Maintain the confidentiality, dignity and privacy about the affairs of the public in so far as this is possible;
- 7** Acknowledge that the Board plays a vital role in the Sheriffs' profession and undertake to co-operate with the Board on all things;
- 8** Undertake to co-operate with the Board in the performance of its functions and especially agrees to pay levies to the Board timeously and in full;
- 9** As a sheriff, recognise that members of the public rely on any undertakings made by me, and I pledge to honour any such undertakings;
- 10** As the sheriff, acknowledge that members of the public rely on the advice given by me to them;
- 11** Undertake to conduct myself impartially and to give the members of the public unbiased report back on matters I have handled;
- 12** Undertake to only charge fees in accordance with the applicable legislative tariff;
- 13** Undertake to carry out all my work competently, punctually and professionally;
- 14** Undertake to report comprehensively to my clients and to take pride in my profession;
- 15** Undertake not to do anything which may bring the sheriffs' profession into disrepute;
- 16** Undertake to participate fully in all efforts to improve the civil justice system and any initiatives by the Minister of Justice and Constitutional Development to transform the civil justice system; and
- 17** I dedicate myself to working hard to meet the challenges of my office and strive to, at all times, do my best to meet the interests of justice.

*If you are uncertain of your rights or you have a complaint, contact the South African Board for Sheriffs*

#### CONTACT INFORMATION:

**Address:**  
The Executive Manager  
South African Board for Sheriffs  
88 Loop Street, Cape Town 8000  
PO Box 15223, Vlaeberg 8018

**Tel:** 021 426 0577  
**Fax:** 021 426 2598  
**Email:** [contact@sheriffs.org.za](mailto:contact@sheriffs.org.za)  
**Web:** [www.sheriffs.org.za](http://www.sheriffs.org.za)

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