

Cryomate Sample Purchase and Services Agreement

Directed Donation

Cryomate, Inc. ("Cryomate") provides frozen semen specimen storage and related services. This Directed Donor Semen Services Agreement ("Agreement") applies to you, the intended recipient of semen specimens ("Client"), in connection with the use, storage, and handling of semen specimens provided by a known, directed donor (the "Donor"). Please read this agreement carefully.

1. SCOPE: This Agreement applies to Client's storage, release, and use of semen specimens ("Specimens") from a directed donor, as well as other related Cryomate services. This Agreement does not govern the selection or purchase of anonymous donor sperm through Cryomate's donor catalog.

2. SPECIMENS ORIGINATION: Client acknowledges that the Specimens covered by this Agreement are from a known, directed donor, and not selected from Cryomate's anonymous donor catalog.

Cryomate conducts infectious disease testing and eligibility determinations in accordance with U.S. Food and Drug Administration ("FDA") regulations for human cells, tissues, and cellular and tissue-based products (HCT/Ps) (21 CFR Part 1271) and applicable state laws.

Directed donors are tested for communicable diseases including, but not limited to, HIV, Hepatitis B, Hepatitis C, HTLV, Syphilis, Gonorrhea, and Chlamydia. Testing must be performed by laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA).

Cryomate determines donor eligibility based on screening and testing and documents whether a donor is "eligible" or "ineligible" under applicable law. A donor may be determined to be "ineligible" due to risk factors or positive test results; in such cases, the Specimens may still be used under a physician's authorization and in compliance with applicable FDA regulations.

Notwithstanding the above, Client acknowledges and agrees that if the directed donor tests positive for any communicable disease other than CMV IgG, the Specimens will be discarded, will not be stored, and cannot be used to proceed with treatment.

Client acknowledges that FDA regulations permit the use of semen specimens from an ineligible directed donor only when accompanied by appropriate warnings and documentation, and that the use of such specimens may carry additional risks.

The Client is solely responsible for all matters relating to the selection and use of the Donor, including but not limited to donor identity, health history, and the legality of the directed donation under applicable state and federal laws.

3. SPECIMEN QUALITY: Cryomate is committed to providing quality Specimens. Cryomate will process and evaluate Specimens submitted for storage to ensure they meet minimum technical criteria for cryopreservation. IUI specimens are processed and ready for intrauterine insemination; ICI specimens are ready for intracervical insemination.

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Cryomate makes no warranties as to the viability, motility, fertilization potential, or medical/genetic quality of any directed donor Specimens.

4. SPECIMEN STORAGE AND SERVICES: Client must pay in advance for all services and storage at Cryomate's then current rates as set forth in Section 8 (Terms and Fees). Client may request that Cryomate store Client's Specimens for a specified period (the "Initial Storage Period"). The Initial Storage Period shall be extended automatically for successive 12-month periods (each a "Renewal Period," and together with the Initial Storage Period, the "Storage Period") unless Client provides written notice and directions as described in the following paragraph.

Cryomate will use reasonable efforts to notify Client at least sixty (60) days in advance of an automatic renewal because of the expiration of the current Storage Period. More than thirty (30) days prior to an automatic renewal because of the expiration of the current Storage Period, Client must notify Cryomate whether Client wishes to extend or discontinue storage and, if Client does not wish to extend storage, retrieve Client's specimens. If Client does not timely notify Cryomate as to Client's wishes or, as applicable, either extend Client's storage contract or retrieve Client's specimens prior to the end of the storage period, storage will automatically renew and Cryomate will charge client for the Renewal Period pursuant to Cryomate's then effective policies and practices. Each Renewal Period shall be at Cryomate's then current rates.

Client may also purchase additional storage options at any time before the end of the current Storage Period.

Client acknowledges and agrees that Client's sole remedy for any loss, damage, or destruction of Specimens during storage shall be the liquidated damages described below in Section 13 (Limitation of Liability).

Cryomate will hold newly ordered Specimens as an "open order." Specimens that are not retrieved or enrolled in long-term storage within the open order period as specified on the website will be automatically enrolled in a twelve (12) month Initial Storage Period and the Client billed pursuant to Cryomate's then effective policies and practices at Cryomate's then current storage rates and said storage will automatically renew for successive twelve (12) month Renewal Periods pursuant to the terms and conditions of the above paragraph.

5. RELEASE OF SPECIMENS: Prior to any retrieval of Specimens, Client's healthcare provider must complete and submit to Cryomate an Authorization for Release of Samples form. Each authorization form is valid for two (2) years. The authorization includes the names of the person(s) to whom the Specimens can be released including to Client, Client's healthcare provider, or other storage facility. A new authorization form must be completed and submitted if Client changes Client's healthcare providers.

Alternatively, if Client is planning an at-home insemination (AHI) procedure and not engaging the services

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of a healthcare provider in her insemination procedure (unless AHI is otherwise prohibited by a State regulatory authority), Client must complete and submit to Authorization for Release of Samples for At-Home Insemination form.

Subject to the limitations set forth in Section 6 (Changes Restricting or Preventing Specimen Release) below, Cryomate will only release Specimens to the person(s) designated in the Authorization for Release of Semen Sample form at the address(es) stated in the authorization. Cryomate will, at the Client's cost, ship Specimens on Client's behalf via a commercial shipping service to the location for shipment. Specimens will be deemed to be delivered to Client when Specimens arrive at the location for shipment. Client accepts full responsibility for, and risk of loss to, the Specimens when and after the shipment is delivered to the location for shipment. Cryomate is not responsible for any delay related to the shipment of Specimens and Client is responsible for all damages or loss of the shipment after it is delivered to the location for shipment.

Alternatively, Client may choose to pick up Client's specimens at designated Cryomate locations, if Client's healthcare approves such in the Authorization for Release of Samples form. Client must arrange for such pick-ups in advance and prepay to Cryomate a refundable late tank return/loss deposit in the amount determined by Cryomate's then current rates. Client's purchased specimens will be placed in dry shipper tanks with handling instructions. Client is responsible for returning the tank, undamaged, to Cryomate within the number of days specified in the instructions from the date of pick-up. Client accepts full responsibility for, and risk of loss to, the tank once it is picked up and accepts all financial responsibility for unreturned, damaged and/or lost tank(s), including without limitation forfeiture of the late tank return/loss deposit for late, damaged, lost, or stolen tank(s). A tank will be considered late or lost if it is not returned to Cryomate within the number of days specified in the instructions.

6. CHANGES RESTRICTING OR PREVENTING SPECIMEN RELEASE: Legal changes to donor screening requirements, withdrawal of consent by the donor under certain circumstances or under the laws of applicable states, the U.S. or other countries, may restrict or prohibit the release of Specimens. Under such circumstances, Cryomate may not release the Specimens or may be prohibited from releasing the Specimens. Client agrees and accepts the risk that the Specimens may be restricted or prohibited from release due to changes in legal requirements or donor screening requirements.

8. TERMS AND FEES: Payment for Specimens, Specimen storage and other services must be made at the time of order. Cryomate accepts payment by major credit cards or check (Cryomate does not accept cash). However, a check must be received, and the funds must be cleared, at least one (1) week before an order is fulfilled. If Client pays by credit card, Client hereby acknowledges that Client is authorized to use the credit card and Client authorizes Cryomate to charge the credit card for service and storage fees due including for automatic Renewal Periods as specified in Section 4 (Specimen Storage and Services) to the extent permitted by law.

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In the event Client fails to pay outstanding balances for more than thirty (30) days, Cryomate has the right, but not the obligation, to terminate this Agreement in accordance with Section 19 (Termination).

9. **PRIVACY AND NOTICES:** Please review the Privacy Policy on www.cryomate.com to understand Cryomate's practices.

10. **INDEMNIFICATION:** Client agrees to indemnify, defend and hold harmless Cryomate and its affiliates, and each of their shareholders, directors, officers, employees, agents, representatives, contractors, vendors, healthcare providers, successors and assigns, from and against any and all claims, losses, damages, liabilities, demands, offsets, causes of action and expenses, including attorneys' and experts' fees, arising out of or related to any third party action, proceeding, or dispute arising out of, or related to, this Agreement or any transactions pursuant to this Agreement, including without limitation claims by partners, spouses, intended parents, or gestational carriers regarding ownership, use, or control of Specimens, claims regarding custody, support, inheritance, or parental rights of a donor-conceived child, claims resulting from Client's failure to comply with the terms and conditions of this Agreement or claims related to misuse or unauthorized transfer of Specimens. For the avoidance of and doubt but without limiting the foregoing, Client's designated authorized recipient or any other person who uses Specimens that Client purchases hereunder shall be considered a third party pursuant to this Section 10 (Indemnification). Cryomate shall promptly notify Client in writing of any such third party action and Client agrees to immediately assume full defense and responsibility for all costs associated with such matter, including but not limited to attorneys' and experts' fees in connection therewith; provided, however, that Client shall not settle any such action without the prior written consent of Cryomate, which consent shall not be unreasonably withheld. Furthermore, with respect to claims whereby Cryomate is ordered by a court with judicial authority to hold Specimens, Cryomate's indemnification right shall include the payment of all storage fees resulting from the court ordered hold, as well as fees associated with any time expended by employees or agents of Cryomate regarding such court action.

11. **DEATH OF CLIENT:** In the event of Client's death, Cryomate, subject to the provisions of this Section 11 (Death of Client), will (and Client hereby instructs Cryomate to) release Client's Specimens to such person, if any, that Client has designated as the person to receive such Specimens upon Client's death (the "Beneficiary"). The release of Specimens to such Beneficiary shall be subject to satisfaction of each of the following: (a) receipt by Cryomate of the Client's designation and such other valid documents (satisfactory in all respects to Cryomate in its sole discretion) as Cryomate determines to be necessary to provide appropriate proof of Client's death and Client's valid designation of the Beneficiary; (b) in order to claim Client's Specimens, the Beneficiary must contact Cryomate and enter into a new, then current Donor Semen Services Agreement; and (c) Client's account must be in good standing with no unpaid fees. Until Cryomate receives notice of Client's death, this Section 11 shall not be applicable, and the remaining provisions of this Agreement shall continue to apply, including without limitation, the obligation to pay all fees hereunder. If, within thirty (30) days of Cryomate's becoming aware of Client's death, Cryomate has

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not received the documents required by clauses (a) and (b) above, then this Agreement shall terminate pursuant to Section 19(c) (Termination) and Cryomate may discard or otherwise dispose of Client's Specimens. Cryomate shall have no obligation to seek or find Client's Beneficiary regardless of whether Cryomate has knowledge of Client's death.

12. NO WARRANTIES: ALL CRYOMATE PRODUCTS AND SERVICES (INCLUDING, WITHOUT LIMITATION, SPECIMENS AND THE COLLECTION, PROCESSING, TESTING, STORING, FREEZING, THAWING, AND SHIPPING OF SPECIMENS) ARE PROVIDED "AS IS" WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING (BUT NOT LIMITED TO) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. FURTHER, CLIENT ACKNOWLEDGES AND AGREES TO THE FOLLOWING SPECIFIC DISCLOSURES:

CRYOMATE DOES NOT WARRANT THAT SPECIMENS ARE FREE OF GENETIC DEFECTS OR DISEASES, THAT A PREGNANCY WILL RESULT FROM THE USE OF A SPECIMEN, OR THAT A CHILD BORN USING A SPECIMEN WILL BE FREE OF DISEASE OR MENTAL DEFECTS.

INFECTIOUS DISEASE SCREENING REDUCES THE RISK OF TRANSMITTING INHERITED AND INFECTIOUS DISEASES BUT DOES NOT ELIMINATE THE POSSIBILITY.

INFECTIOUS DISEASE SCREENING PERFORMED BY CRYOMATE REDUCES BUT DOES NOT ELIMINATE THE RISK OF DISEASE TRANSMISSION, AND THAT ELIGIBILITY DETERMINATION IS MADE BASED ON COMPLIANCE WITH APPLICABLE LEGAL AND REGULATORY STANDARDS.

13. LIMITATION OF LIABILITY:

Acknowledgment of Risks and Release of Liability: Client has been advised and understands that there are inherent risks in the collection, testing, processing, freezing, storage, shipping, thawing, and use of semen, including but not limited to damage to the sperm, reduced capacity for fertilization, and reduced life span of the sperm after thawing. Cryomate does not guarantee against any possible loss, degradation, spoilage, contamination, or the like of any portion or all of the Specimen(s) for any reason, including but without limitation, as a result of Cryomate's negligent acts or omissions or as a result of circumstances beyond Cryomate's control (including but not limited to fire, power outage, natural disaster, terrorist attack, or act of war). Client agrees that except as set forth in "Liquidated Damages" below, Client shall not be entitled to any form of damages, compensation, recovery, or reimbursement and hereby releases Cryomate from all liability in connection with any loss, damage, or destruction of a Specimen due to the risks described in this paragraph or otherwise.

Liquidated Damages: The parties stipulate and agree that it would be impracticable and extremely difficult to fix actual damages for the loss, injury, damage, or destruction of Specimens stored under this Agreement. In accordance with all laws that may be applicable, the parties hereby agree that in the event of the loss, injury, damage, or destruction of the Specimen(s) caused by Cryomate's negligence or failure

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to exercise reasonable care in providing storage of the Specimens, liquidated damages shall be the amount of fees paid to Cryomate for such Specimen(s) purchased and the total amount of storage fees paid by Client for the storage period (i.e., the Initial Storage Period or a Renewal Period as the case may be) in which such alleged loss, injury, damage, or destruction occurred. The parties stipulate and agree that this declared value is a limit of liability in accordance with applicable law.

Release of Cryomate and Related Parties: Except as expressly provided above under “Liquidated Damages,” Client expressly releases Cryomate, its shareholders, directors, officers, employees, agents, representatives, contractors, vendors, healthcare providers, parent companies, subsidiaries, affiliates, successors, and assigns (the “Cryomate Affiliates”) to the fullest extent permitted by law from any claims, losses, damage, expenses, liabilities, demands, offsets, causes of action, and attorneys’ fees which Client may have arising out of or in any way relating to this Agreement, including but not limited to the collection, processing, testing, freezing, thawing, sale, purchase, storage, shipping, release, loss, damage, or destruction of the Specimens.

Acknowledgments Regarding the Releases: Client acknowledges that by the releases in Section 12 (No Warranties) and this Section 13 (Limitation of Liability) Client gives up any right Client might otherwise have, now or in the future, to sue or otherwise seek money damages or other relief against Cryomate and the Cryomate Affiliates for any reason relating to this Agreement, including without limitation, the collection, testing, processing, freezing, storage, shipping, thawing, sale, purchase of any services, release, loss, damage, or destruction of the Specimen(s) or otherwise in connection with services provided by Cryomate pursuant to this Agreement. Client acknowledges that Client is aware of, or by this provision, is being made aware of the provisions of any applicable laws, including if applicable California Civil Code Section 1542, and that Client hereby expressly waives and forever gives up the protections of said applicable laws, including if applicable provisions of California Civil Code Section 1542, which section provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

14. CONFIDENTIALITY OF INFORMATION: Cryomate agrees to use reasonable efforts to maintain the confidentiality of information provided by Client. This provision shall not restrict disclosure required by law, requested and required by any government agency or public authority, inadvertent disclosures due to the unintentional release of information, disclosures resulting from media attention, disclosures made by individuals, whether or not employed by Cryomate, disclosures of information by computer hackers or any other type of intruder acting without company authorization, releases of information to the hospital, laboratory, or any healthcare provider requesting information for the claimed purpose of providing service to Client, disclosures to professional consultants or advisors to Cryomate, or disclosures as part of a potential or actual sale, transfer, or assignment of any or all rights or obligations of Cryomate under this

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Agreement (in accordance with Section 9).

16. ADDITIONAL REPRESENTATIONS AND AGREEMENTS: Client hereby represents to Cryomate that Client is over the age of eighteen (18) and that Client is purchasing Cryomate's products and services for Client's personal use and not for sale, other commercial purposes, or genetic testing. Client understands that all genetic testing of Specimens must be coordinated by and/or authorized by Cryomate prior to testing. Client acknowledges and agrees that Client is the sole owner of any Specimens purchased from Cryomate. Client represents that Client's Authorization (defined in Section 5, Release of Specimens) is accurate and that Client has consulted with the healthcare provider who signed the Authorization regarding Client's use of Specimens, or another healthcare provider of Client's choosing, if Client has elected at-home insemination.

Client acknowledges and agrees that neither Cryomate nor the directed donor has any legal or other obligations with respect to children born using Specimens.

Client is responsible for maintaining the confidentiality of Client's account and password, and Client agrees to accept responsibility for all activities that occur under Client's account or password. Client is also responsible for notifying Cryomate in writing in accordance of any changes to Client's account profile, including, without limitation, Client's address, phone number, and email address.

Cryomate and its affiliates reserve the right to refuse service, terminate accounts, remove or edit content, or cancel orders at its sole discretion.

17. BINDING ARBITRATION: All disputes that arise under this Agreement shall be settled by binding and confidential arbitration administered by the American Arbitration Association in accordance with its applicable Arbitration Rules. YOU UNDERSTAND THAT WITHOUT THIS PROVISION YOU MAY HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL, WHICH RIGHT YOU ARE WAIVING BY THIS BINDING ARBITRATION PROVISION. Arbitration proceedings must be initiated within one (1) year after the dispute arose. The arbitration shall take place in the United States, Indianapolis, Indiana. A Party may request a court sitting in the United States, Indianapolis, Indiana to compel binding arbitration pursuant to this agreement and/or to render a judgment on the award issued by the arbitrator(s). Binding arbitration shall be conducted by an arbitrator with appropriate experience and training and the Parties may object to any individual who is or has been employed by or affiliated with a competing organization or entity. The parties agree that arbitration shall be limited solely to the dispute existing between the specific Parties and no arbitration shall occur on a class-action basis or be joined with any other proceeding. This binding arbitration agreement does not prevent a Party from seeking emergency injunctive relief in a court sitting in the United States, Indianapolis, Indiana, related to any claim in which injunctive relief is legally or equitably appropriate. Any decision or award because of any such arbitration shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees between the Parties.

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18. GENERAL PROVISIONS:

Governing Law: This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Indiana that are applicable to agreements entered into entirely between Indiana residents and to be performed entirely within Indiana, without reference to conflict of law principles. Exclusive jurisdiction and venue for resolving all disputes shall be in a court sitting in the United States, Indianapolis, Indiana.

Compliance with Other Laws: Cryomate makes no representation that its products or services are appropriate for use outside of the United States. Individuals who choose to purchase or use its products or services in other locations do so on their own initiative and are responsible for compliance with local laws, if applicable.

Severability: If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions. To the extent possible, any such unlawful, void, or unenforceable provision shall be modified to make it valid and shall be enforced as modified. This Agreement shall otherwise remain in full force and effect.

Force Majeure: Cryomate shall not be liable for any failure to fulfill its obligations hereunder due to causes beyond its reasonable control, including but not limited to acts of God, acts of government or military authority, shortages of supplies, telecommunications failures, natural disasters, labor disturbances, or wars.

Amendment: Cryomate reserves the right to modify and update this Agreement at any time. Any modifications or updates will be posted on Cryomate's website at www.Cryomate.com. Cryomate will provide Client with notice of any such modifications or updates, and they will become effective immediately upon provision of such notice. Client's continued use of Cryomate's services, website, and the services available through the website after any modifications or updates shall be deemed Client's acceptance of such modifications or updates.

Assignment: This Agreement may be assigned by Cryomate to any entity providing a similar service, whether as part of a sale, transfer, or assignment of all or part of Cryomate's business, or for other reasons. Client may not assign this Agreement without Cryomate's written consent.

Entire Agreement: This Agreement contains the entire understanding and agreement of the parties relating to the matters set forth herein. All prior negotiations and understandings relating to the matters set forth herein are integrated into and superseded by this Agreement. This Agreement may only be modified or amended in accordance with the terms set forth herein or by a written document signed by Client and an authorized representative of Cryomate.

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Electronic Delivery: Facsimile, scanned, and/or emailed copies of manually executed, electronically executed, or electronically accepted signature pages to this Agreement will be fully binding and enforceable without the need for delivery of the original manually executed signature page.

19. TERMINATION Notwithstanding any other provisions herein, this Agreement shall terminate immediately without further notice if:

- (a) either party delivers thirty (30) days prior written notice of termination to the other party,
- (b) either party breaches (including, without limitation, for nonpayment of fees) this Agreement and fails to cure the breach within ten (10) days of notification from the other party of the breach, or
- (c) as set forth in Section 11 (Death of Client) above.

Upon the termination of this Agreement for any reason, all obligations of Cryobank for storage of Client's Specimens shall immediately cease. *Client's Specimens shall be deemed "abandoned"* if Client fails to pay outstanding fees within thirty (30) days of the termination of this Agreement in which case Cryobank has the right, but not the obligation, at its sole discretion, to:

- (I) repossess the Specimens remaining in storage (in which case, both parties agree that Cryobank's repossession will be considered as payment in full for all outstanding fees),
- (II) continue to store the Specimens and seek payment, directly or through a collection agency, from Client for all then outstanding fees plus any additional fees that accrue during the additional storage period, or
- (III) dispose of the Specimens remaining in storage. There shall be no refund of any fees upon termination of this Agreement.

Notwithstanding the foregoing, if this Agreement is terminated pursuant to Section 19(b) above for an uncured breach by Cryobank, then:

- (1) Cryobank will provide to Client a pro-rata refund of unused storage fees, and
- (2) Cryobank will release Client's Specimens to Client, Client's healthcare provider, or another storage facility as designated by Client in written instructions, provided Cryobank receives such written instructions within thirty (30) days from the date of termination. If Cryobank does not receive such instructions referred to in clause (2), it shall have the rights to repossess or dispose of the Specimens as described in Subsections 19(I) and 19(III) above. Sections 1, 5-12, and 15-18 of this Agreement shall survive its termination for any reason.

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Client Full Name (Printed)	Date of Birth (MM/DD/YYYY)
Client Signature	Date (MM/DD/YYYY)
Client Email Address	Client Telephone Number

If Applicable, complete below with **Partner's Details**:

Partner Full Name (Printed)	Date of Birth (MM/DD/YYYY)
Partner Signature	Date (MM/DD/YYYY)
Partner Email Address	Partner Telephone Number

You are required to use your Specimens with a healthcare provider.

Please note in all cases, including at home insemination, you must have your physician complete our **Authorization for Release of Semen Samples** Form.

For your confidentiality, the best way for us to contact you is by:

☐ U.S. Mail
 ☐ Email
 ☐ Other _____

This document must be completed in the Client's online account or may be e-mailed, mailed, or faxed to:

- lab@cryomate.com
- Cryomate offices: 320 N Meridian Street, Suite 606, Indianapolis, IN, 46204

www.cryomate.com



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