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**INFORMATION AND INSTRUCTIONS  
FOR  
COMMISSIONERS FOR OATHS**

**APPOINTMENTS OF  
COMMISSIONERS FOR OATHS  
OF THE NORTHWEST TERRITORIES**

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COMMISSIONERS FOR OATHS

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## A. GENERAL

### FOREWORD

Commissioners for Oaths have an important role to play in the proper completion of legal documents in the Northwest Territories.

The services of a Commissioner for Oaths are required for the completion of various documents. It is of the utmost importance that Commissioners comply with the statutory requirements respecting the administration of oaths and the taking of affidavits.

Every Commissioner may administer oaths and take and receive affidavits, statutory declarations and affirmations for use within the Northwest Territories for any court in the NWT or in a situation where NWT law allows the Commissioner for Oaths to act.

### TERMS OF APPOINTMENT

The Minister of Justice, under section 73 of the *Evidence Act*, appoints Commissioners for Oaths.

Section 76(1) of the *Evidence Act* says that appointments are for a three-year period. However, section 76(2) allows a commission to be limited in terms of area, duration or purpose, so not all appointments have to be for three years. By section 86, an appointment can be revoked at any time.

**Appointments made for three years expire at midnight on the last day of the third year from when they are made.** For example, an appointment made on June 20, 2000 will expire at midnight on June 19, 2003. An individual may apply to renew their appointment by sending a completed application, examination and fee to the Office of the Administrator.

**Section 138 of the *Criminal Code of Canada* makes it an offence to sign a document as being sworn or declared before you when it was not. The maximum penalty is imprisonment for two years.**

## B. DEFINITIONS

An **affidavit** is a sworn or written declaration made before a competent authority (like a Commissioner for Oaths)

An **affirmation** is a solemn declaration by a person who declines to take an oath

The **declarant** is the person who makes the declaration

A **declaration** is an open or formal announcement

The **deponent** is the person who is swearing to or affirming the truth of the contents of the documents

A **jurat** is the part of the document that is completed by the Commissioner for Oaths; it should include where, when and before whom it was sworn

An **oath** is a formal declaration or attestation in support of a pledge or promise

A **statutory declaration** is a solemn declaration made by a person unable to take an oath; it should be in the form and manner provided for by the *Evidence Act*

## AFFIDAVITS

An affidavit is a document containing a statement that is verified by an oath or by affirmation of the person making the statement.

**An affidavit must be authorized by either a statute or regulation.** This means that the statute or regulation says an affidavit should be used.

Affidavits are often used in court cases.

### Example of an Affidavit Verified by Oath

<u>Affidavit of Jane Doe</u>
I, Jane Doe, of the City of Yellowknife in the Northwest Territories, make an Oath and say:
1. That ...
2. That ...
3. That ...
_____ (Signature of Jane Doe)
Sworn before me at the City of Yellowknife, in the Northwest Territories, this ____ day of ____, 20__.
_____ (Commissioner's Signature) A Commissioner for Oaths in and for the Northwest Territories.
_____ (Commissioner's stamp or printed name) My commission expires on _____.

Example of an Affidavit Verified by Affirmation

Affidavit of Jane Doe

I, Jane Doe, of the City of Yellowknife in the Northwest Territories,  
solemnly affirm and declare:

1. That ...
2. That ...
3. That ...

\_\_\_\_\_  
(Signature of Jane Doe)

I certify that Jane Doe satisfied me that she was a person entitled to  
affirm.

Affirmed before me at the City of  
Yellowknife, in the Northwest  
Territories, this \_\_\_\_ day of \_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Commissioner's Signature)

A Commissioner for Oaths in and for the Northwest Territories.

\_\_\_\_\_  
(Commissioner's stamp or printed name)

My commission expires on \_\_\_\_\_.

## STATUTORY DECLARATIONS

A statutory declaration is a document containing a statement that is verified when the person making the statement solemnly declares that it is true.

A statutory declaration is made pursuant to the *Canada Evidence Act*. It is used in situations where statutes and regulations do not mention or do not allow the use of an affidavit.

Statutory declarations are often used in court cases.

### Example of a Statutory Declaration

<p><u>Declaration of John Doe</u></p> <p>I, John Doe, of the City of Yellowknife, in the Northwest Territories, do solemnly declare as follows:</p> <ol style="list-style-type: none"><li>1.</li><li>2.</li><li>3.</li></ol> <p>and I make this solemn declaration consciously believing it to be the true and knowing that it is of the same force and effect as if made under oath.</p> <p style="text-align: right;">_____ (Signature of John Doe)</p> <p>Declared before me at the City of Yellowknife, in the Northwest Territories, this ____ day of ____, 20__.</p> <p>_____ (Commissioner's Signature) A Commissioner for Oaths in and for the Northwest Territories.</p> <p>_____ (Commissioner's stamp or printed name) My commission expires on _____.</p>
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## JURATS

The jurat is the part of the oath, affirmation or declaration that must be completed by the Commissioner for Oaths.

A jurat should include:

- The date of swearing, affirming or declaring;
- The place where the document was sworn, affirmed or declared (this proves that the commissioner was acting within his/her jurisdiction – the NWT);
- The name of the Commissioner before whom the document was sworn, affirmed or declared.

The jurat should also state whether the person swore an oath, affirmed or declared that the document was true.

- In the case of an oath, the it should include the words “**Sworn before me**”
- In the case of an affirmation, it should include the words “**Affirmed before me**”
- In the case of a declaration, it should include the words “**Declared before me**”

## **C. HOW TO ADMINISTER AN AFFIDAVIT OR STATUTORY DECLARATION**

Affidavits and statutory declarations are used for the purpose of establishing legal rights or authenticating documents.

A person administering an oath, affirmation or solemn declaration may be called into court to establish that it was properly administered. If the proper procedure is not followed, the document might not be legally valid. As a result, **it is imperative to follow the proper procedure in all occasions.**

It is also important to satisfy yourself that the person swearing the affidavit or statutory declaration understands their duty to tell the truth.

## AFFIDAVITS

The manner of administering an oath for an affidavit can be found in sections 21(a), 21(b) and section 22 of the NWT *Evidence Act*.

### A) SWORN USING AN OATH

#### Process of Swearing an Affidavit Using an Oath

- Make sure the wording in the introduction of the affidavit states, **“make an oath and say”**.
- Establish the identity of the person. If you do not personally know the person, ask if they are the one named in the affidavit and ask for identification (driver’s license, etc.).
- Have the person read the affidavit. If the affidavit is already signed, ask the person to sign it again in front of you.
- Hand the person a bible or a New Testament (Old Testament if the person is of the Jewish faith).
- Address the person as follows:  
**“Do you swear that the contents of this your affidavit are true, so help you God?”**
- The person responds, **“I do”**.
- You must then complete the jurat (see pages 8, 11-15).

## B) BY AFFIRMATION

An affirmation is to be used if the person objects to being sworn. The person must state the reasons for not wanting to be sworn and they must be one of the following:

- (a) Conscientious scruples;
- (b) Religious belief;
- (c) Taking an oath would have no effect on his/her conscience.

The manner of administering an affirmation for an affidavit can be found in section 23(3) of the NWT *Evidence Act*.

By section 23(4) of the NWT *Evidence Act*, an affirmation has the same force and effect as swearing an oath.

### Process of Affirming an Affidavit

- Make sure that the introduction of the affidavit states, **“solemnly affirm and declare”**.
- Establish the identity of the person. If you do not personally know the person, ask if they are the one named in the affidavit and ask for identification (driver’s license, etc.).
- Have the person read the affidavit. If the affidavit is already signed, ask the person to sign it again in front of you.
- Address the person as follows:  
**“Do you solemnly affirm and declare that the contents of your affidavit are true?”**
- The person responds by saying, **“I do”**.
- You must certify that the person satisfied you that he or she was entitled to affirm by inserting the following:  
**“I certify that \_\_\_\_\_ satisfied me that he/she was a person entitled to affirm.”**
- You must then complete the jurat.

## STATUTORY DECLARATIONS

Process of Solemnly Declaring a Statutory Declaration

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- Establish the identity of the person. If you do not personally know the person, ask if they are the one named in the affidavit and ask for identification (driver's license, etc.).
- Have the person read the affidavit. If the affidavit is already signed, ask the person to sign it again in front of you.
- Hand the person a bible or a New Testament (Old Testament if the person is of the Jewish faith).
- Address the person as follows:  
**"Do you make this solemn declaration conscientiously believing it to be true and know that it is of the same force and effect as if made under oath?"**
- The person responds, "I do".
- You must then complete the jurat.

## **D. THE PROPER COMPLETION OF JURATS**

The jurat is the part of a document that is completed by the Commissioner for Oaths.

**AFFIDAVITS**

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**A) SWORN USING AN OATH**

Example of a Jurat for an Affidavit by Oath

<p><b>Sworn</b> before me at the <b>City/Community/Hamlet/Town of</b> _____ in the Northwest Territories this ____ day of ____, 20__.</p> <p>_____ (<b>Signature</b> of Commissioner for Oaths) A Commissioner for Oaths <b>in and for</b> the Northwest Territories</p> <p>_____ (<b>Name</b> must be <b>printed</b> or stamped above)</p> <p>My Commission expires _____</p>
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**B) BY AFFIRMATION**

Example of a Jurat for an Affidavit by Affirmation

<p><b>Affirmed</b> before me at the <b>City/Community/Hamlet/Town of</b> _____ in the Northwest Territories this ____ day of ____, 20__.</p> <p>_____ (<b>Signature</b> of the Commissioner for Oaths) A Commissioner for Oaths <b>in and for</b> the Northwest Territories</p> <p>_____ (<b>Name</b> must be <b>printed</b> or stamped above)</p> <p>My Commission expires _____</p>
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**STATUTORY DECLARATION**

Example of a Jurat for a Statutory Declaration

**Declared** before me at the **City/Community/Hamlet/Town of**  
\_\_\_\_\_ in the Northwest Territories this \_\_\_\_ day of \_\_\_\_,  
20\_\_.

I certify that Jane Doe satisfied me that she was a person  
entitled to affirm.

\_\_\_\_\_  
(**Signature** of Commissioner for Oaths)

A Commissioner for Oaths **in and for** the Northwest Territories

\_\_\_\_\_  
(**Name** must be **printed** or stamped above)

My Commission expires \_\_\_\_\_

## **SPECIAL CIRCUMSTANCES**

### **A) WHERE THE INDIVIDUAL SWEARING IS BLIND OR ILLITERATE**

If the person making the affidavit or statutory declaration is blind or illiterate, you must (in

addition to the normal procedure of swearing, declaring or affirming):

- Read the document, or ask someone else to read the document;
- Ask the person if he/she understood what was read to him or her; and
- Amend the jurat in a manner similar to the example below.

Example of Amended Jurat for an Individual who is Blind or Illiterate

<p>As _____ is blind/Illiterate (Name of dependant or declarant)</p> <p>(a) This affidavit/statutory declaration was read to him/her in my presence,</p> <p>(b) She/He seemed to understand it, and</p> <p>(c) She/He made his/her signature (or mark) in my presence.</p>
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**B) WHERE THE INDIVIDUAL SWEARING IS HEARING OR SPEECH IMPAIRED BUT CAPABLE OF READING**

If the individual swearing the document is hearing or speech impaired but capable of reading, the Commissioner for Oaths should (in addition to the normal procedure of swearing, declaring or affirming):



- Ask the individual to read the document;
- Ask the person if he/she understood what they read; and
- Amend the jurat in a manner similar to the example below.

Example of Jurat where the Person Swearing is Hearing or Speech Impaired

**Sworn/Affirmed/Declared** before me at the  
**City/Community/Hamlet/Town of \_\_\_\_\_** in the  
Northwest Territories this \_\_\_\_ day of \_\_\_\_, 20\_\_.

by the above named \_\_\_\_\_, who  
(name of deponent/declarant)

being hearing/speech impaired but capable of reading, read  
over the above written instrument and when he/she  
appeared perfectly to understand it, signed his/her name in  
my presence.

**C) WHERE THE INDIVIDUAL SWEARING IS HEARING OR SPEECH IMPAIRED  
AND INCAPABLE OF READING**

In the case of an individual who is hearing or speech impaired and incapable of reading:

1. A person competent to interpret the contents of the affidavit or statutory declaration in a sign language that is known to both the impaired individual and the interpreter must

be sworn using the following oath:

**“Do you swear that you well understand \_\_\_\_\_ (the type of sign language), that you will well and truly interpret the contents of this affidavit/statutory declaration to \_\_\_\_\_ (name of person) and that you will well and truly interpret to him/her the oath/affirmation/solemn declaration about to be administered to him/her, so help you god.”**

**Note:** In the case of an affirmation or solemn declaration, **“so help you god”** is **omitted**.

2. The Commissioner for Oaths then administers the oath, affirmation or declaration in English, and the interpreter repeats it in sign language to the individual swearing the document.
3. The individual should then say “I do” using sign language and the interpreter should translate this to the Commissioner for Oaths.
4. The jurat must be amended by the Commissioner for Oaths.

Example of Amended Jurat where the Individual Swearing is Hearing or Speech Impaired and Incapable of Reading

<p><b>Sworn/Affirmed/Declared</b> before me at the <b>City/Community/Hamlet/Town of _____</b> in the Northwest Territories this ____ day of ____, 20__.</p>
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through the interpretation of \_\_\_\_\_  
(Name of Interpreter)  
of the city/community/hamlet/town of \_\_\_\_\_  
(residence of interpreter)  
in the province/territory of \_\_\_\_\_ ,  
(residence of interpreter)  
said \_\_\_\_\_ having been first sworn truly and  
(name of interpreter)  
faithfully to interpret the contents of this  
affidavit/affirmation/declaration to the deponent/declarant, and  
truly and faithfully, to interpret the oath/affirmation/declaration  
about to be administered to them.

**D) WHERE THE INDIVIDUAL SWEARING IS VERY YOUNG OR OLD IN AGE**

If the person making the affidavit or statutory declaration is very young or very old, their ability to understand the significance of their oath, affirmation or declaration may be at issue. In these cases, the Commissioner for Oaths must:

- Read the document, or ask someone else to read the document;

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- Ask the person if he/she understood what was read to him or her; and
- Amend the jurat in a manner similar to the example below.

Example of Amended Jurat when the Capacity of the Individual Swearing is an Issue

As \_\_\_\_\_ is \_\_\_\_\_ years of age,  
(Name of deponent or declarant)

This affidavit was read to them in my presence;

I have satisfied myself that \_\_\_\_\_  
(Name of deponent or declarant)

understands the nature of oath and the duty of speaking the truth.

**E) WHERE THE INDIVIDUAL SWEARING ONLY SPEAKS A FOREIGN LANGUAGE**

If the person making the affidavit or statutory declaration does not understand English:

1. A person competent to interpret the contents of the affidavit or statutory declaration

must be sworn using the following oath:

**“Do you swear that you well understand \_\_\_\_\_ (the language of the person), that you will well and truly interpret the contents of this affidavit/statutory declaration to \_\_\_\_\_ (name of person) and that you will well and truly interpret to him/her the oath/affirmation/solemn declaration about to be administered to him/her, so help you god.”**

**Note:** In the case of an affirmation or solemn declaration, **“so help you god”** is **omitted**.

2. The Commissioner for Oaths then administers the oath, affirmation or declaration in English, and the interpreter repeats it to the individual swearing the document in the language that the individual speaks.
3. The individual should then say “I do” in that language. The interpreter should translate this to the Commissioner for Oaths.
4. The jurat must be amended by the Commissioner for Oaths.

Example of Jurat when the Individual Swearing does not Speak English

<p><b>Sworn/Affirmed/Declared</b> before me at the <b>City/Community/Hamlet/Town of _____</b> in the Northwest Territories this ____ day of ____, 20__.</p>
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**through the interpretation of \_\_\_\_\_**  
(Name of Interpreter)  
**of the city/community/hamlet/town of \_\_\_\_\_**  
(residence of interpreter)  
**in the province/territory of \_\_\_\_\_ ,**  
(residence of interpreter)  
**said \_\_\_\_\_ having been first sworn truly and**  
(name of interpreter)  
**faithfully to interpret the contents of this**  
**affidavit/affirmation/declaration to the deponent/declarant, and**  
**truly and faithfully, to interpret the oath/affirmation/declaration**  
**about to be administered to them.**

## **ALTERATIONS**

If there are any alterations, cross-outs or erasures on an affidavit or statutory declaration (including the jurat) the Commissioner for Oaths must:

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- Place a check mark at the beginning and end of each change;
- Have the deponent or declarant initial on either side of each change. If the individual has already initialed, the Commissioner for Oaths should have the individual do it again in their presence.

Example of Alteration Made on John Doe's Affidavit

*J.D.* ✓ forth day of February ✓ *J.D.*  
I did on the ~~fifth day of January~~, 2000

**RESWEARING, REAFFIRMING OR REDECLARING**

An affidavit may require reswearing, reaffirming or redeclaring, although this is rare. Any affidavit can be resworn as long as it has not been used, but a second jurat must be

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completed. This second jurat must have the word “resworn”, ”reaffirmed” or “redeclared”:

Example of Resworn/Reaffirmed/Redeclared Jurat

**Resworn/reaffirmed/redeclared** before me at the  
**City/Community/Hamlet/Town of \_\_\_\_\_** in the  
Northwest Territories this \_\_\_\_ day of \_\_\_\_\_, **20\_\_**.

## **EXHIBITS**

Often, an affidavit will contain other documents or copies of documents that are attached as exhibits.



When there are exhibits, each should be marked as follows:

Example of a Marked Exhibit

“This is exhibit (A, B, #1, #2 etc.), referred to in the affidavit/statutory declaration of \_\_\_\_\_ sworn/affirmed/declared  
(Name of deponent or declarant)  
before me this \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Commissioner for Oaths)  
A Commissioner for Oaths in and for the Northwest Territories

Whenever possible, this should be on a blank part of the exhibit or on the back of it.

**TWO OR MORE DEPENDENTS OR DECLARANTS**

In the case where an affidavit or statutory declaration is being sworn by more than one individual, the word “severally” should be placed at the beginning of the jurat:

Example of Jurat when there are Two or More Individuals Swearing

**Severally sworn/affirmed/declared** before me at the  
**City/Community/Hamlet/Town of \_\_\_\_\_** in the  
Northwest Territories this \_\_\_\_ day of \_\_\_\_, 20\_\_.

**WHAT MUST BE INCLUDED IN THE JURAT**

You **must** sign the document and legibly print or stamp your name as well as the complete date your appointment expires. Also, be sure to write “Commissioner for Oaths in and for the NWT”.

The expiry date is always one day before and three years after the date your certificate was issued.

**Remember that section 78(2) of the NWT *Evidence Act* makes it an offence to omit the expiry of your commission. A guilty individual can be fined.**

**E. DOCUMENTS FOR USE OUTSIDE THE NORTHWEST TERRITORIES**

When an affidavit or statutory declaration is to be used outside the Northwest Territories it must be administered by a Notary Public.

A Commissioner for Oaths cannot swear an oath for use outside the Northwest Territories by section 75 of the NWT *Evidence Act*.

## **F. CERTIFYING TRUE COPIES OF DOCUMENTS**

A Commissioner for Oaths cannot certify true copies of documents. Only a notary public has this power.

## **G. SITUATIONS WHERE THE INDIVIDUAL SWEARING IS ABSENT**

Under no circumstances may a document be sworn when the individual swearing it is not present.

## **H. RELEVANT SECTIONS OF THE NWT *EVIDENCE ACT***

- **Section 1** gives definitions of words used in the Act
- **Sections 20-23** give procedural details regarding oaths and affirmations
- **Sections 65-71** give information regarding oaths, affidavits, affirmations and statutory declarations and their role in court proceedings
- **Sections 73-78** give information about Commissioners for Oaths
- **Sections 79-85** give information about Notaries Public
- **Section 86** gives information about the revocation of appointments

## **I. PERSONS WHO BY VIRTUE OF THEIR OFFICE CAN ADMINISTER OATHS, AFFIDAVITS, AFFIRMATIONS OR STATUTORY DECLARATIONS FOR USE IN THE NORTHWEST TERRITORIES.**

Section 65(1) of the Northwest Territories *Evidence Act* allows the following groups to administer oaths, affidavits, affirmation or statutory declarations:

- (a) a judge of the Supreme Court, territorial judge or justice of the peace in the Northwest Territories within his or her jurisdiction;
- (b) the clerk or deputy clerk of the Court;
- (c) a commissioner for taking oaths within the Territories;
- (d) a notary public appointed for the Territories;
- (e) a barrister or solicitor duly admitted and entitled to practise as such in the Territories;
- (f) a sheriff; or
- (g) a member of the Royal Canadian Mounted Police.

## J. HOW TO APPLY

- Request the Commissioner for Oaths instruction booklet, application and examination from our office.
- Read the relevant parts of the Northwest Territories *Evidence Act*, which can be obtained online at [www.justice.gob.nt.ca/pdf/ACTS/Evidence.pdf](http://www.justice.gob.nt.ca/pdf/ACTS/Evidence.pdf) or from Canarctic Graphics.
- Complete the Commissioner for Oaths application and examination.
- You must answer every question correctly in order for your application to be accepted.

### RETURN TO OUR OFFICE:

- The completed application and examination.
- A cheque or money order, for \$50.00, payable to the *Government of the Northwest Territories*. Be sure it is filled out correctly.
- It takes from 3 to 5 weeks for applications to be processed.

**IF YOUR APPLICATION IS APPROVED:**

- Our office will send your Certificate of Appointment to your place of work.

**EXPIRY DATE:**

- Your appointment will expire three years and one day before the appointment date shown on your certificate.
- To renew your appointment, you must send a completed application, examination and fee of \$50.00 to our office.
- You are responsible for renewing your appointment before it expires. You will not receive a renewal notice.

**K. CHANGE OF NAME**

If you change your name, you may elect to:

1. Keep your signature the same as it was before your name change. In this case, your appointment will not have to be altered.
2. Change your signature so it is the same as your new name. In this case, you will need to notify the Administrator of the Commissioner for Oaths/Notary Public Program so a new appointment can be issued. You must mail or fax the Administrator a copy of:
  - A document that shows proof of a change in name (e.g. marriage license);
  - Your current Commissioner for Oaths appointment certificate; and
  - A letter that clearly states that you wish to change the name on your appointment certificate.

**L. INDIVIDUALS LEAVING THE NORTHWEST TERRITORIES**

If you are leaving the Northwest Territories permanently, you have two options:

1. You may keep your appointment. In this case, please give the Office of the Administrator your new mailing address and employment information.

2. You may ask our office to revoke your appointment. In this case, please notify the Office of the Administrator so the official records can be up-to-date.

## **M. CHANGE OF EMPLOYMENT OR ADDRESS**

In order to keep the official records current, changes in employment or address during the period that an appointment is held must be reported to:

### **Postal Address**

Legal Registries  
Department of Justice  
Government of the Northwest  
Territories  
PO Box 1320  
Yellowknife NT X1A 2L9  
Canada

**Phone:** (867) 920-8987

**Toll Free:** (877) 743-3302

### **Courier Address**

Legal Registries  
Department of Justice  
Government of the Northwest Territories  
1st Floor, Stuart M. Hodgson Building  
5009-49th Street  
Yellowknife, NWT X1A 2L9  
Canada

**Fax:** (867) 873-0243

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