



# Terms of Engagement

服务条款

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# Terms of Engagement

## 服务条款

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### What are these terms of engagement?

These terms of engagement (Terms) set out the basis of our professional relationship with you, in accepting and actioning your instructions.

#### 服务条款是什么？

我们的服务条款（以下称为“条款”）是一份律师与客户之间的协议。这份条款将说明我们在接受了您的委托之后，会如何依照您的指示替您处理法律问题。

### When do these Terms apply?

These Terms apply whenever you instruct us to act for you, unless we agree (in writing) to vary them.

#### 这些条款什么时候适用？

只要您是我们的客户，我们会依据这些条款来为您服务（除非我们以书面同意更改这些条款）。

### What is our role in acting for you?

Our role is to provide you with the legal services we agree on, unless a conflict of interest or other factors prevent us from providing the legal services to you.

We will use due care and skill. We will act in accordance with your instructions, subject to any ethical or legal duties.

Nobody except you may rely on our advice to you without our written consent.

### 我们为您提供的服务

身为您的律师，我们的任务是为您提供双方同意的法律服务（除非因为有利益冲突或其他因素迫使我们无法为您提供法律服务）。

在不违背职业道德与法律的前提下，我们将会依照您的指示，适当地为您提供妥善的专业服务。

我们提供的专业意见，只限于贵公司使用。若无我们的书面同意，其他人或公司均不得擅自采纳和使用。

### Who will work with you?

We will usually ask you to nominate the partner responsible for each matter to work with you. That person will then involve other partners and staff to assist on your matter, as appropriate.

#### 谁将会为您服务？

我们通常会为您指派一位合伙人来处理您所委托的各项业务，并由这位合伙人适当地联系其他专业人员一起为您服务。

### How are our fees calculated?

Our fees are calculated taking into account the time we spend on a matter, charged at our hourly rates, and adjusted where appropriate to reflect other factors permitted by the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Conduct Rules).

These factors may include the specialised knowledge and responsibility required, the importance of the

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matter, the urgency and circumstances in which we carry out your instructions, and the results achieved. We typically review and change our rates at the beginning of each year.

We will give you a fee estimate on request. This will be a guide only, and not a fixed quote. We will also, on request, periodically advise you of the level of fees incurred or inform you when fees reach a specified level.

## 我们的费用如何计算？

我们的费用基本上以时数计费收取，并将依据 *律师及物业过户师法：2008 年之律师作业及客户关怀准则* [Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008]（以下称为“**准则**”）中所列举的因素视情况作适当调整。这些因素包括特殊专业知识和责任、事件的重要性与紧迫性、也包括任何在您的要求下为取得成果所采取的方式及其所达成的成果。

在您的要求下我们将会为您估价。此估价仅供参考，而非确定的报价。我们也会根据您的要求，定期告知您当下的费用总额或当费用金额累积到一定程度时通知您。我们通常在每年年初评估和更改我们的收费。

## What other charges will be payable?

We also charge for general office services and disbursements we incur on your behalf.

General office services include photocopying, document production and delivery costs, telephone expenses, and routine on-line searching. These are charged at a flat rate of NZ\$50 or 2.5% of our fee, whichever is greater.

Disbursements include out-of-pocket expenses such as travel and accommodation costs, registration and filing costs, court charges, and the fees of any agents, experts, and other professionals we appoint. These are charged at the amount charged to us. Where you have asked us to instruct counsel from outside our firm, then you must, on demand, pay us the fees for which that counsel bills us.

If we hold funds on interest-bearing deposit in our trust account on your behalf, we may charge an

administration fee. That fee will be 5% of the gross interest earned while these funds are in our trust account.

We will also charge goods and services tax (GST) at the rate required by law. Unless we indicate otherwise, our stated rates and any estimates of costs do not include GST.

## 还有什么额外的费用吗？

我们也将收取一般文书处理费和代您支付的各项费用。

一般文书处理费用包括影印、文件製作、邮寄费用、电话费及网上查询费等等。此收费标准最低为 NZ\$50 或我们所收取费用的 2.5%，以较高者为准。代您支付的费用包括旅费和食宿费、登记及备案费、法庭费和任何代理费、谘询专家和其他专业人士的费用等都将另行向您收取。若您委托我们代聘本所以外的律师服务也需支付此项费用。

若您将资金存放在我们的信托帐户生息，我们有权收取该笔资金利息纯利总额的 5% 做为管理费。

我们也会依法收取消费税（GST）。除非我们有特别声明，否则我们的报价不含消费税。

## When will our fees and charges be payable?

Our general practice is to send interim invoices on a regular basis, usually monthly. We will also send an invoice on completion of each matter. Our invoices are payable on receipt.

If our invoice is not paid promptly, we have the right to:

- deduct any amount outstanding from any money we are holding on your behalf;
- not do any further work for you;
- retain your papers and files, and other property belonging to you that is in our possession; and
- charge interest at Westpac New Zealand's Indicator Lending Rate (or any rate Westpac substitutes for it) on any amount outstanding one month after the date of the invoice. This interest accrues on the outstanding balance until the amount outstanding has been paid in full, and is payable on demand.

# Terms of engagement - 服务条款 - continued

You must pay us when our invoice is due, whether or not you expect somebody else to reimburse you for our fees and/or charges (and whether or not you receive that reimbursement).

## 何时需要付费？

一般而言我们将会定期及在完成每事项托时寄帐单给您。在您收到帐单后必须及时付款。如果我们未能在期限内收到您的应付款项时，我们有以下权利：

- 由我们代您管理的帐户或款项中扣除您应付的任何费用；
- 不再为您服务；
- 保留您的所有文件档案和其他属于您的财产及物件；
- 对于超过帐单开立日一个月未付的款项，我们可依新西兰西太平洋银行 [Westpac New Zealand] 的指标贷款利率（或其同义利率）收取利息，此利息将并入应付款中并持续计息且于我们要求清偿时立即付款，直至付清所有应付款项为止。

不论是否有人同意补偿或让您报销此笔款项（也不论您是否收到该笔款项）您都必须在帐单期限之内付清所有款项。

## Do we require payment in advance?

We may ask you for a payment in advance for amounts we need to pay to third parties on your behalf, or as security for our fees and charges.

We will hold this money in our trust account. It will be used to pay any charges as they are due, and ourselves immediately after sending you our invoice.

We will send you a statement showing how this money has been applied.

## 我们是否需要预先付款？

我们可能会要求您提供一笔预付款，以代您支付必要费用，及确保本所的收费权益。

这笔预付款将存放在我们的信托账户。它将被用来支付所有相关费用（包括到期帐单和我们已经寄给您的帐单上所列的费用）。我们也会将所有付款明细发送给您。

## How will we deal with conflicts of interest?

We have procedures to deal with issues that arise if the interests of two or more clients conflict.

## 我们将如何处理利益冲突？

我们将按既有程序来处理两个或两个以上的客户之间出现的利益冲突问题。

## Legal conflicts

A legal conflict of interest may arise in a matter on which you have instructed us. If this happens, we will contact you as soon as possible.

We may need to decline your instruction or to stop acting for you. In that case, we may accept instructions from, or continue to act for, other clients whose interests are adverse to your own, as long as:

- we do not hold confidential information belonging to you that is relevant to the matter; or
- we have taken proper steps to keep your information confidential.

## 法律上的利益冲突

当您所委託的业务产生法律上的利益冲突时，我们会尽快与您取得联系。

我们可能需要拒绝您的委托或停止为您服务。在这种情况下，我们有权接受或继续为其他客户服务，即使这位客户的利益可能与您相冲突，先决条件是：

- 我们并未持有与您相关并涉及此业务的机密信息；或
- 我们已采取适当的措施来确保您的信息保密。

# Terms of engagement - 服务条款 - continued

## Commercial competitors

We may accept instructions from other clients or potential clients working in the same or competing markets and whose commercial interests conflict with yours.

Subject to the Conduct Rules, we may also act, or have previously acted, for other clients (or potential clients) who are parties (or potential parties) to a transaction or other matter in which you are involved, or whose interests are adverse to your own. If we agree to act in such a role:

- we will operate appropriate information barriers to protect client interests and comply with relevant laws and codes of professional practice; and
- we will have no obligation to disclose to you any information we have about another client or its affairs or to use that information for your benefit.

Subject to the Conduct Rules, you consent to us not disclosing to you any information we hold for any other client.

## 商业竞争对手

我们有权为任何客户（或潜在客户）服务，即使这些客户可能与您在相同或竞争市场工作，而且其商业利益可能与您发生冲突。

在不违背**准则**的前提下，我们可以受理，或以前曾经受理，其他客户（或潜在客户）的委任，其案件可能涉及您或对您不利。在此情况下如果我们仍然同意为您服务：

- 我们会进行适当的信息区隔，以保护客户权益，并遵守相关的法律和专业法规。
- 我们将没有义务向您透露任何有关其他客户的信息或使用此项信息使您获益。

在不违背**准则**的前提下，您同意我们不将所持有的其他客户信息透露给您。

## What customer checks will be done?

We are required to comply with all laws binding on us in all applicable jurisdictions, including:

- the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act); and
- the United States Foreign Account Tax Compliance Act, the intergovernmental agreement between the United States and New Zealand relating to it, and relevant provisions of the Tax Administration Act 1994 (together, **FATCA**);
- We will perform customer due diligence and account monitoring, keep records, and report any unusual or suspicious transactions where required by the AML/CFT Act FATCA or any other law.

We may also be required to assist any bank or other entity with whom we transact as your agent, or with whom we deposit money on trust for you, to comply with that entity's legal obligations in any jurisdictions.

We will periodically advise you what information and documents are required for these purposes. These purposes may relate to you, any other relevant person (eg any beneficial owner), the source of funds/wealth, the transaction, the ownership structure, tax identification details, and any other relevant matter. Please provide the information and documents requested promptly. We may retain the information and documents, provide them to a bank or other entity (where applicable) to deal with in accordance with their terms, and disclose them to any law enforcement or regulatory agency or court as required by law.

We or the bank or other entity (as the case may be) may:

- suspend, terminate, or refuse to enter into a business relationship; and
- delay, block, or refuse to process a transaction (including by refusing to handle and deposit money on trust for you); and
- and report a transaction,

without notice to you if:

- the required information or documents are not provided; or
- it is suspected that the business relationship or transaction is unusual, may breach any applicable law, or may otherwise relate to conduct that is illegal or unlawful in any country.

# Terms of engagement - 服务条款 - continued

## 我们需要做什么客户调查？

我们必须遵守所有相关管辖区域与我们相关的所有法律，包括

- 2009 年之反洗钱和反资助恐怖主义法 (Anti-Money Laundering and Countering Financing of Terrorism Act 2009) (以下称为“反洗钱/反资恐法”)。
- 美国国外账户税务合规法 (the United States Foreign Account Tax Compliance Act)、与之相关的美国政府和新西兰政府的协议 (the intergovernmental agreement between the United States and New Zealand relating to it)、以及 1994 年之税法 (Tax Administration Act 1994) 的相关条款。以下将这三者统称为美国国外账户税务合规法。
- 我们将调查客户背景及监管客户帐户，并记录在案，如发现涉及反洗钱/反资恐法/美国国外账户税务合规法或其他法令之可疑或异常交易时，有义务向当局报告。

当我们作为您的代理人与银行或其他机构交易或成立帐户时，也可能被要求协助这些银行或机构遵守其在任何管辖地区的法律责任。

在这些前提下，我们可能会定期要求您提供相关文件和信息，这些资讯可能涉及到您和任何相关人士（如任何实益拥有人）、资金来源、交易细节、物业所有权之结构、税务详情以及任何相关事宜。请及时提供我们所要求的资料 and 文件。我们有权保留这些资料 and 文件，并于必要时，提供给银行或其他相关机构，由他们依规定处理，我们也会按照法律要求将这些资料 and 文件提交给任何执法单位、监管机构或法庭。

如果您不提供我们所要求的资料或文件，或我们怀疑有不寻常的业务关系或交易，其可能违反相关法令或可能违反任何国家的法律时，我们或银行或其他机构（视情况而定）有权在不另行通知情况下采取以下处置：

- 暂停，终止或拒绝签订业务合作关系；并且
- 延迟，阻止或拒绝处理交易（包括拒绝处理款项、拒绝代您存款）；并且
- 并向当局报告该交易。

## How will we use and store your personal information?

We will treat all your personal information as confidential.

Our Privacy Policy details what we may do with your personal information, your rights and other information related to the protection of your personal information.

You may review our Privacy Policy [here](#).

We may also use your personal information to keep you informed about legal developments, other legal services, or seminars we offer. Please let us know if you do not want your personal information used for this purpose.

The records relating to your matter will be stored electronically in an on-premises data centre or by 3rd party data management, processing and storage service providers.

## 我们将如何使用和储存您的个人信息？

我们会将您的个人信息保密，除非在我们依据您的指示、履行我们的专业职责、行使我们在这些条款之下的权利、或遵守法律的要求时，可能需要向以下人士披露您的信息：

- 我们的承包商或代理人；和
- 其他机构，包括与这个案件相关的各方人员、法院、执法单位和政府机构。

当我们收集，使用和披露您的个人信息时将遵守所有适用法律（包括 1993 年之隐私法 (Privacy Act 1993)）。

在接受您的委托时，我们有时需要收集，使用和披露有关您的雇员、董事、或与您有关或有交易关系的人的资料（包括您的雇主或任何您所代表的人或受益对象等等）来进行您的委托事项。请确保这些人人都知道，在接受您的委托时，我们的行动可能涉及收集、使用和披露他们的个人信息。在大多数情况下，他们有权要求查阅我们持有的关于他们的个人信息。

我们也可能使用您的个人信息，通知您关于法律的发展或其他的法律服务或我们提供的研讨会，如果

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您不希望您的个人信息被如此使用的话，敬请告知我们。

同您的委托事件相关的信息会以电子方式在本律所的内部部署信息中心或通过第三方服务商进行信息管理、处理和储存。

## How do we treat email communications?

We will usually communicate with you by email while acting for you. Please let us know if you prefer us not to send you emails.

Our incoming email messages are scanned for content and viruses and are cleared by our email security system. On rare occasions a legitimate email may be deleted before its intended recipient at our firm reads it.

Emails are not always secure or may have defects, such as viruses. We do not accept responsibility (and will not be liable) for any damage or loss caused by an email that is intercepted or that has a defect.

## 我们如何对待电子邮件通讯？

当我们为您服务时一般会透过电子邮件与您联络，如果您不希望我们向您发送电子邮件的话，敬请告知我们。

本所收到的电子邮件都会经过内容及病毒扫描，并由我们的安全过滤系统做初步处理。在罕见的情况下，一般正当文件也可能在我们收到前被删除。

电子邮件并非总是安全的，其缺陷包括电脑病毒等。若电子邮件因被拦截或由其他缺陷而造成任何损失或伤害，我们不承担任何责任，也不提供任何赔偿。

## What happens if we rely on external information and public records?

We often obtain and rely on external information (eg from your accountant) or public records (eg from a government agency or registry) to carry out your instructions.

This information may not always be accurate, complete, or up-to-date. We do not accept

responsibility to investigate or verify external information or public records and will not be liable for any damage or loss caused by errors or omissions in them.

## 如果我们采用外部信息和公开记录时可能会发生什么事？

为了完成您的委托我们经常必须从许多单位获取所需信息或公开记录（例如从您的会计师处或政府机构或注册单位等等）。

这些信息可能并不见得完全准确，完整，或随时更新。我们没有义务调查或核实这些信息或公开记录，也不会为这些信息或公开记录的错误或遗漏所造成的伤害或损失承担责任或提供赔偿。

## What happens if we receive residential land sale proceeds on your behalf?

If you sell residential land and we receive the sale proceeds on your behalf, we may be legally required to withhold residential land withholding tax (RLWT) from the proceeds.

This will apply if, under the Income Tax Act 2007:

- you are an "offshore RLWT person";
- the land is "residential land" in New Zealand; and
- you sell the land within the five year "bright-line" period.

In this event, we must remit the RLWT to the Inland Revenue Department (IRD). We will account to you for the net sale proceeds only, after withholding RLWT and any other amounts we are permitted to deduct (including our fees).

You must provide us with all the information we need to determine whether you are liable for RLWT and (if so) for how much. This includes both the information the Tax Administration Act 1994 requires you to provide and any other information we reasonably request. If you do not give us all this information, we may assume that RLWT applies and withhold it.

We have no liability to you for or in relation to any amount we withhold and remit to IRD as RLWT.

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## 我们代您收取住宅房产销售房款时，会发生什么情况？

如果您出售住宅地产，而我们代您收到销售款时，我们可能需要按照法律规定从销售款中代扣地产销售所得税（residential land withholding tax (RLWT)）。

根据新西兰 2007 年收入所得税法（Income Tax Act 2007），如果：

- 您是“海外地产销售所得税适用的个人或法人”（“offshore RLWT person”）；
- 该地产为新西兰住宅地产；而且
- 您在五年之内销售该地产，

我们必须将扣除的地产销售所得税交给新西兰税务局。我们会将扣除地产销售所得税和扣除其它我们有权扣除的款项（例如我们的费用）后的余额给您。

您必须向我们提供所有资料，以便我们确定您是否需要交地产销售所得税以及需要上交的金额。这些资料包括新西兰 1994 年税务法（Tax Administration Act 1994）要求您交的所有资料，以及我们合理要求您提供的所有资料。如果您不向我们提供所有资料，我们可能会假定您需要上交地产销售所得税，而从地产销售款中扣除地产销售税。

关于代扣并上交新西兰税务局的地产销售所得税的任何数额，我们不对您承担任何责任。

## How does our engagement end?

You may end our engagement by written notice to us. You must pay our fees for work done and for other charges we incur up to the end of our engagement.

We may end our engagement on reasonable notice to you. Our right to end our engagement may be subject to some restrictions set out in the Conduct Rules.

If we end our engagement, we will bill you for all outstanding fees and other charges up to the time of termination.

## 如何终止双方的委托协议？

您可以用书面形式通知我们终止您的委托。您必须支付直到委托终止前的所有服务及已代支的费用。

在不违背**准则**的前提下，我们有权在合理时间内通知您，并终止您的委托。

当我们终止您的委托时，我们会向您收取委托终止前的所有服务及已代支的费用和所有未付款项。

## What do we do with your file and documents?

If you require we will send all documents to you at the end of the matter. We will retain a digital copy of your file for the minimum period required by law.

## 我们如何处理您的文件和档案？

如果您需要的话，我们会在您的委托案件结束后，将所有资料发给您。我们也会在法律规定的期限内保存您所有文件和档案。

## Is there a time limit for any claim against us?

Any claim you have against us must be filed within two years after the date of the act or omission on which the claim is based. Otherwise, the claim cannot be filed and we will have no liability for that act or omission or for its consequences (to the extent permitted by law).

In these Terms, "claim" and "the date of the act or omission on which the claim is based" have the same meanings as in the Limitation Act 2010.

This time limit overrides the time periods under that Act, and applies regardless of when any fact relevant to the claim was first discovered or able to be discovered.

## 对我们的求偿是否有时间限制？

以下**条款**中“索赔”和“索赔肇因之行为或疏失发生的日期”定义于 2010 年之**时效追诉法**（Limitation Act 2010）（以下称为“**时效追诉法**”）。



# Terms of engagement - 服务条款 - continued

如果您要向我们求偿必须在索赔肇因之行为或疏失发生的日期两年内提出索赔申请。否则，您就无权申请索赔。我们也不承担因此行为或疏失或任何因其所导致的后果之责任或赔偿（在法律允许的范围內）。

本**条款**中的追诉时效限制凌驾于**时效追诉法**所订的追诉时效，且不受限于与索赔相关之任何事实被发现或能够被发现的时间。

## Is our liability capped?

To the extent permitted by law, our aggregate liability to you (whether in contract, equity, tort, statute, or otherwise) arising out of your engagement of us on a matter (or any series of related matters) is limited to the greater of:

- the amount available to be paid out under any relevant insurance held by us, up to a maximum of NZ\$20,000,000; or
- five times the amount of our applicable fee (excluding our office services charge, disbursements, and GST).

## 我们有理赔上限吗？

在法律的容许范围之下，您委托我们的任一案件或任何与其相关的其他案件或事宜上，我们对您的最高赔偿总额（无论是依据合约法、公平法、侵权法或其他法规）都将为以下两者中金额较高者：

- 根据我们持有的任何相关保险能够理赔的金额，最多不超过 NZ\$20,000,000；或
- 我们所收取费用的五倍金额（不含我们的文书处理费，代付款和消费税）。

## What happens if these terms are updated?

Our standard terms are updated from time to time. Unless expressly agreed with you in writing, our terms will be updated from the date we publish the updated standard terms on our website (with respect to any work performed after the date of publication).

## 如果我们更新了此条款怎么办？

我们将时不时更新我们的基本条款。除非通过书信方式和您双方同意拒绝接受新的条列，新条款将从上载至我们网站时受到更新并开始采用（只针对在发表日期后所完成的工作）。

## What law governs these Terms, and which courts can hear disputes?

These Terms, and any other agreement we have with you, are governed by New Zealand law.

The New Zealand courts have non-exclusive jurisdiction to hear and determine all disputes and issues arising under any of these Terms and any other agreement we have with you.

## 这些条款将由什么法律管辖，还有哪些法庭有权审理纠纷呢？

我们与您之间的**条款**和任何其他协议，均由新西兰法律管辖。

新西兰法院具有不排除管辖权来审理和裁定双方因这些**条款**及任何其他协议下产生的所有争议与纠纷。

# Terms of engagement - 服务条款 - continued

## Who is bound by these Terms?

These Terms, and any other agreement we have with you, are binding on you and any successor to your rights and obligations.

You may not assign or transfer any rights or obligations under these Terms or any other agreement we have with you.

## 这些条款对谁有约束力？

我们与您之间的条款和任何其他协议，对于您和任何继承您的权利和义务的人都具有约束力。您不得转让或转移本条款或我们与您之间的任何协议下的任何权利与义务。

## Who can you contact with questions?

We encourage you to contact us if you have any comments or questions about these Terms or any related matters. Please contact the partner you usually deal with, or our Quality Manager, at:

**Email:** [feedback@simpsongrierson.com](mailto:feedback@simpsongrierson.com)

**Telephone:** +64-9-358-2222 or +64-4-499-4599 or +64-3-365-9914

**Mail:** **Auckland:** Private Bag 92518, Auckland 1141, New Zealand

**Wellington:** PO Box 2402, Wellington 6140, New Zealand

**Christchurch:** PO Box 874, Christchurch 8140, New Zealand

## 您可以和谁联系？

如果您对这些条款或相关事宜有任何意见或问题，我们欢迎您与我们联系，请联系平时与您接洽的案件合伙人，或我们的客户经理（联络资料如下）：

**电子邮件:** [feedback@simpsongrierson.com](mailto:feedback@simpsongrierson.com)

**电话:** +64 9 358-2222 或 +64 4 499-4599 或 +64 3 365-9914

**邮件:** **奥克兰:** Private Bag 92518, Auckland 1141, New Zealand

**惠灵顿:** PO Box 2402, Wellington 6140, New Zealand

**基督城:** PO Box 874, Christchurch 8140, New Zealand

## Acceptance of Terms

If you give us instructions or use our services, you agree to these Terms (to the extent that they are not excluded or varied by any other written agreement between us). If there are any discrepancies between the Chinese version and the English version of these Terms, the English version will prevail.

## 同意以上条款

只要您委托我们或接受我们的服务就代表您同意这份条款（除非双方之间有书面同意更改或排除其中任何条款）。这份条款的中文部分如有疑义则以英文条款为准。



**BARRISTERS AND SOLICITORS**

AUCKLAND: Level 27, Lumley Centre, 88 Shortland Street, Private Bag 92518, Auckland 1141, New Zealand. T +64 9 358 2222

WELLINGTON: Level 24, HSBC Tower, 195 Lambton Quay, PO Box 2402, Wellington 6140, New Zealand. T +64 4 499 4599

CHRISTCHURCH: Level 1, 151 Cambridge Terrace, West End, PO Box 874, Christchurch 8140, New Zealand. T +64 3 365 9914

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