

This Mortgage Deed, Executed this 1st day of November, A.D., 1990
between Juan Lucio An Unmarried Man &c

hereinafter called the Mortgagor, which term as used in every instance shall include the Mortgagor's heirs, executors, administrators, successors, legal representatives and assigns, either voluntary by act of the parties, or involuntary by operation of law, and shall denote the single and/or plural, and the masculine and/or feminine, and natural and/or artificial persons, whenever and wherever the context so requires, or admits, party of the first part, and American Bankers Insurance Company OR Russell Faibisch hereinafter called the Mortgagee, which term as used in every instance, shall include the Mortgagee's heirs, executors, administrators, successors, legal representatives and assigns, whenever and wherever the context so requires or admits, party of the second part.

Witnesseth:

That for good and valuable considerations, and also in consideration of the aggregate sum named in the promissory note _____ of even date herewith, hereinafter described, (the term note as hereafter used shall denote the singular, if one note, or the plural, if more than one note, is secured by this mortgage,) the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto the Mortgagee in fee simple, the following described real estate, of which the Mortgagor is now seized and possessed and in actual possession, situate in the County of Shelby, State of Alabama, to wit:

See Legal Description attached hereto as
"Exhibit A"

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This Mortgage Deed, is accepted as collateral for a bail bond, P.A. No. _____ posted on behalf of Pablo Enrique Ruiz and shall be returned when all obligations arising from this undertaking have been satisfied with no loss to American Bankers Insurance Company, or Russell Faibisch, and/or its agents. In the event of forfeiture of the above mentioned bond, or any violations of the Bond Agreement entered into in connection with said bond. It is the intention of this mortgage and the note secured herein, that it shall serve as full and complete security on the above described bond, and to hold American Bankers Insurance Company, or Russell Faibisch, and/or its agents, harmless for any loss whatsoever sustained in connection with said bond.

This Mortgage and the Note secured by it shall serve as full security for the above described bail bond, any extension, substitutions, increments or appeals as provided for herein and/or in the Promissory Note, a copy of which is attached hereto and made part hereof. THE OBLIGATION created by the Note secured by this Mortgage is for a future advance to be made only upon forfeiture of the bail bond, describe herein; therefore NO STATE STAMP or INTANGIBLE TAXES ARE REQUIRED for the recording of the same. (See Rule 4-54, Paragraph 19 of the Florida Revenue Code.)

TOGETHER WITH all structures and improvements now and hereafter on said land, and the fixtures attached thereto, and all rents, issues, proceeds and profits accruing and to accrue from said premises, all of which are included within the foregoing description and the habendum hereof. Also all gas, steam, electric, water and other heating, cooking, refrigerating, plumbing, ventilating, irrigating and power systems, appliances, fixtures, and appurtenances, including air-conditioning ducts, machinery and equipment, which are now or may hereafter pertain to or be used with, in or on said premises, though they be either detached or detachable.

TOGETHER with all furniture, furnishings, fixtures and equipment contained in or appurtenant to said premises, or which may hereafter from time to time be placed therein, and any substitution or replacement thereof. (Inventory attached hereto).

TO HAVE AND TO HOLD the same, together with the tenements, hereditaments, and appurtenances, unto the said Mortgagee in fee simple.

AND THE SAID MORTGAGOR does hereby covenant with Mortgagee that said Mortgagor is indefeasibly seized of said land in fee simple; that said Mortgagor has full power and lawful right to convey said land in fee simple as aforesaid; that it shall be lawful for the Mortgagee at all times peaceably and quietly to enter upon, hold and occupy said land; that said land is free and clear of all other and prior liens, assessments, judgments, taxes and encumbrances, that said Mortgagor will make such further assurances to perfect the fee simple title to said land in the Mortgagee as may reasonably be required; and that said Mortgagor does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS, that if the Mortgagor shall pay unto the said Mortgagee the sum of money aggregating \$ 100,000.00

mentioned in said promissory note _____, in the manner as therein specified, of which the following in words and figures is a

to-wit:

William  

CONTINGENT PROMISSORY NOTE

For value received, the undersigned, jointly and severally, promises to pay American Bankers Insurance Company or Russell Faibisch on demand the principal sum of \$ 100,000.00 Dollars at 1575 N.W. 14th St., Miami, Florida 33125 if and only if the following stated contingency occurs:

Upon the forfeiture or estreature of the surety bond or bonds posted on behalf of Pablo Enrique Ruiz defendant (hereinafter "Defendant"), in Case No. 1 in the Court of Circuit Dade County Florida, together with any continuations and modifications, any extensions, substitutions, increments or appeals thereof (hereinafter "Bond"), or upon payment of any expenses incurred by the payee or holder (hereinafter "Payee") to produce the Defendant before the appropriate court or courts of competent jurisdiction in the above cause, with interest thereon at the rate of 18 percent, per annum, from the date of the occurrence of the above stated contingency, until fully paid. All makers or endorsers now or hereafter becoming parties hereto, jointly and severally, waive demand, notice of non-payment and protest; and in case this note becomes in default and placed in hands of an attorney for collection, the foregoing agrees to pay reasonable attorney's fees and all other costs for making such collection and further agrees that courts of original jurisdiction and appellate courts may award reasonable attorney's fees to the Payee in the event of litigation and appeals.

It is further agreed and specifically understood between the parties to this Note that there is presently no outstanding loan or debt represented by this Promissory Note, and that this Note is given to secure advances up to and including One hundred thousand Dollars and interest, if and when there is a forfeiture or estreature of the Bond.

It is further agreed and specifically understood that this Note shall become null and void at such time as all of the obligations under the Bond posted on behalf of the Defendant have been fulfilled and the Payee has been discharged of all liability and duly exonerated thereunder in writing and until such time as same occurs, the note shall remain in full force and effect.

This Note and The Mortgage of even date herewith shall serve to secure:

- (a) Any and all liability, loss, costs, damages, expenses, premiums and attorneys fees arising or incurred by Payee in connection with the above captioned Bond, or any other recognizance, undertaking or other obligation, heretofore or hereafter executed, assumed or procured by Payee at the instance or request or on behalf of either of owner of the property encumbered by the Mortgage securing the Note (hereinafter "Owner") or of the principal's name;
- (b) For the payment of all premiums on such Bonds;
- (c) For the performance of every agreement (including continuations or modifications, any extensions, substitutions, increments or appeals thereof, with or without consent of Owner) made by Owner or Defendant in connection with said Bonds;
- (d) Against any liability, loss, costs, expenses, and attorneys fees in connection with any claim to the collateral security by person claiming adversely to Owner or to Principals named in the Bonds.
- (e) Any and all future advances made with or without consent of the Owner by Payee on behalf of the Defendant including but not necessarily limited to increments, modifications, extensions or substitutions, or the creation of any future obligation by the Payee in connection with the above described matter, or any bail bonds or obligation undertaken by Payee on behalf of Defendant including, without limiting, to the posting of a new bond for and on behalf of the Defendant in the nature of an appeal bond or a substitution extension or modification of the existing Bond.

(SEAL)

(SEAL)

and shall pay all other sums provided to be paid by this Mortgage, and shall perform, comply with and abide by each and every the stipulation, agreements, conditions and covenants of said promissory note and of this deed, then the deed and the estate hereby created shall cease and be null and void.

And the Mortgagor does hereby further covenant and agree as follows:

1. To pay all and singular the principal and interest and other sums of money payable by virtue of said promissory note and this mortgage, or either, promptly on the days respectively the same severally come due.
2. To pay all and singular taxes, assessments, levies, liabilities, obligations and encumbrances of every nature on said described property, each and every, within the time specified in Paragraph 6 below, and if the same shall not be promptly paid, the Mortgagee may, at any time either before or after delinquency, pay the same without waiving or affecting the option to foreclose, or any right hereunder and every payment so made shall bear interest from the date thereof at the highest rate allowable by law.
3. To keep the buildings now or hereafter on said land and the fixtures and personal property therein contained insured, in a company or companies approved by the Mortgagee, against loss by fire and windstorm, for the highest insurable value so that the Mortgagee's interest is not subject to co-insurance, and the policy or policies shall be held by and be payable to said Mortgagee, and the Mortgagee shall have the option to receive and apply said payment on account of the indebtedness hereby secured, or permit the Mortgagor to receive or use it, or any part thereof, for any purposes without thereby waiving or impairing the equity, lien or right under and by virtue of this mortgage and may place and pay for such insurance or any part thereof without waiving or affecting the option to foreclose or any right hereunder, and each such payment shall bear interest from date at the highest rate allowable by law.

4. To permit, commit, or suffer no waste, impairment, abandonment, or deterioration of said property, or any part thereof, and upon the failure of the Mortgagor to keep the buildings and personal property of said property in good condition or repair, the Mortgagee may demand the immediate repair of said property, or an increase in the amount of security, or the immediate repayment of the debt hereby secured, and the failure of the Mortgagor to comply with said demand of the Mortgagee for a period of 15 days, shall constitute a breach of this Mortgage, and at the option of the Mortgagee, immediately mature the entire amount of principal and interest hereby secured, and the Mortgagee, immediately, and without notice, may institute proceedings to foreclose the Mortgage and apply for the appointment of a Receiver, as hereinafter provided.

5. To perform, comply with and abide by each and every the stipulations, agreements, conditions, and covenants in said promissory note and deed set forth.

6. To deliver to the Mortgagee, on or before February 1 of each year, tax receipts evidencing the payment of all lawfully imposed taxes upon the mortgaged property for the preceding calendar year; to deliver to the Mortgagee receipts evidencing the payment of all liens for public improvements within Ninety (90) days after the same shall become due and payable, and to pay or discharge within Ninety (90) days after due date, any and all governmental levies that may be made on the mortgaged property, on this Mortgage or note or in any other way resulting from the mortgage indebtedness secured by this Mortgage.

7. To pay all and singular the costs, charges, and expenses, including lawyer's fees, reasonably incurred or paid at any time by the Mortgagee, because of the failure of the Mortgagor to perform, comply with and abide by each and every the stipulations, agreements, conditions, and covenants of said promissory note and this deed, or either, and every such payment shall bear interest from date at the rate of 10 percent per annum.

such payment shall bear interest from date at the highest rate allowable by law.

8. That if any action, or proceeding, shall be commenced by any person other than the holder of this mortgage (except an action to foreclose this mortgage, or to collect the debt secured thereby) to which action, or proceeding, the holder of this mortgage is made a party, or in which it shall become necessary to defend, or uphold, the lien of this mortgage, all sums paid by the holder of this mortgage for the expense of any litigation to prosecute, or defend, the rights and liens created by this mortgage (including reasonable counsel fees), shall be paid by the Mortgagor, together with interest thereon, at the highest rate allowable by law, and any such sum, and the interest thereon, shall be a claim upon said premises, and shall be deemed to be secured by this mortgage. The sums paid by or incurred by the holder hereof in accordance with the terms of this paragraph, shall be paid by the Mortgagor unto the holder hereof within thirty (30) days, and the failure or omission of the Mortgagor so to do shall entitle the Mortgagee to add such sums to the principal indebtedness of this mortgage and the note it secures, and/or at its option declare this mortgage and the note it secures to be in default, thereupon maturing all of the unpaid indebtedness including the sums advanced hereunder.

9. That no extension of the time or modification of the terms of payment hereinabove, and no release of any part or parts of the mortgaged premises, even though made without the consent of the Mortgagor shall release, relieve, or discharge the Mortgagor from the payment of any of the sums hereby secured but in such event the Mortgagor shall nevertheless be liable to pay such sums according to the terms of such extension or modifications unless specifically released and discharged in writing by the Mortgagee; and furthermore, that acceptance of part payment of any installment of principal or interest, or both, or of part performance of any covenant or delay for any period of time in exercising the option to mature the entire debt, shall not operate as a waiver of the right to execute such option or act on such default, partial acceptance or any subsequent default.

10. Until default in the performance of the covenants and agreements of this mortgage, the Mortgagor shall be entitled to collect the rents, issues, and profits from the premises hereinbefore described, but in case of a default in any of the terms of this mortgage, or the filing of a bill to foreclose this or any other mortgage encumbering the within described property, the Mortgagee shall immediately and without notice be entitled, as a matter of right, and without regard to the value of the premises, or solvency or insolvency of the parties, to the appointment of a Receiver of the mortgaged property, both real and personal, and of the rents, issues and profits thereof, with the usual power of Receivers in such cases, and such Receiver may be continued in possession of the said property until the time of the sale thereof, under such foreclosure, and until the confirmation of such sale by the Court.

11. If foreclosure proceedings shall be instituted on any mortgage inferior to this mortgage or if any foreclosure proceeding is instituted on any lien of any kind, the mortgagee may at its option immediately or thereafter declare this mortgage and the indebtedness secured hereby, due and payable. If there is any mortgage superior to this mortgage, then failure to pay said mortgage when due and in accordance with its terms or failure to abide by the terms of said mortgage shall be deemed a breach of this mortgage and the Mortgagee at its option may immediately or thereafter declare this mortgage and the indebtedness hereby secured due and payable. Any modification of any mortgage superior to this mortgage or waiver of any principal or interest payment on any note or mortgage superior to this mortgage shall be deemed a breach of the terms and covenants of this mortgage and the Mortgagee hereof may at its option declare this mortgage and the indebtedness secured hereby due and payable.

12. That the mailing of a written notice of demand, addressed to the owner of record of the mortgaged premises, directed to the said owner at the last address actually furnished to the Mortgagee, or directed to the said owner at said mortgaged premises, and mailed by the United States mails, shall be sufficient notice and demand in any case arising under this instrument and required by the provisions hereof or by law.

13. That in the event the Mortgagor should assign the rents of the mortgaged premises or any part thereof without the consent of the Mortgagee, then the entire principal sum secured hereby shall, at the option of the Mortgagee, become immediately due and payable.

14. To the extent of the indebtedness of the Mortgagor to the Mortgagee described herein or secured hereby, the Mortgagee is hereby subrogated to the lien or liens and to the rights of the owners and holders thereof of each and every mortgage, lien or other encumbrance on the land described herein which is paid and/or satisfied, in whole or in part, out of the proceeds of the loan described herein or secured hereby, and the respective liens of said mortgages, liens or other encumbrances, shall be and the same and each of them hereby is preserved and shall pass to and be held by the Mortgagee herein as security for the indebtedness to the Mortgagee herein described or hereby secured, to the same extent that it would have been preserved and would have been passed to and been held by the Mortgagee had it been duly and regularly assigned, transferred, set over and delivered unto the Mortgagee by separate deed of assignment notwithstanding the fact that the same may be satisfied and cancelled of record, it being the intention of the parties hereto that the same will be satisfied and cancelled of record by the holders thereof at or about the time of the recording of this mortgage.

15. If any of the sums of money herein referred to be not promptly and fully paid upon demand next after the same severally come due and payable, or if each and every the stipulations, agreements, conditions and covenants of said promissory note and this deed, or either, are not duly performed, complied with and abided by, the aggregate sum mentioned in said promissory note then remaining unpaid, with interest accrued to that time, and all moneys secured hereby, shall become due and payable forthwith, or thereafter, at the option of said Mortgagee, as fully and completely as if all of the said sums of money were originally stipulated to be paid on such day, anything in said note or in the mortgage to the contrary notwithstanding, and thereupon or thereafter, at the option of said Mortgagee, without notice or demand, suit at law or in equity may be prosecuted as if all moneys secured hereby had matured prior to its institution.

16. Mortgagor will exhibit to Mortgagee written receipts establishing payment of any sums required to be paid under any superior mortgage or other lien obligation, no later than five (5) days prior to the time that acceleration of such superior mortgage or lien could be declared for non-payment thereof.

17. The abstract of title covering the encumbered property shall belong to and remain in the possession of the Mortgagee during the lien of this mortgage.

18. That it is the intent hereof to secure payment of said note and obligation whether the entire amount shall have been advanced to the Mortgagor at the date hereof, or at a later date, and to secure any other amount or amounts that may be added to the mortgage indebtedness under the terms of this instrument. The total amount of indebtedness secured hereby may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed the principal sum of highest insurable value, plus interest thereon and any disbursements made for the payment of taxes, levies or insurance on the property covered by the lien of this mortgage, with interest thereon; and this mortgage shall secure any and all additional or further monies which may be advanced by Mortgagee to the Mortgagor after the date hereof, which future advances of money, if made, shall be evidenced by a note or notes executed by the Mortgagor to

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the Mortgagee bearing such rate of interest and with such maturities as shall be determined from time to time, but any and all such future advances secured by this mortgage shall be made not more than ten (10) years after the date hereof. Nothing herein contained shall be deemed an obligation on the part of the Mortgagee to make any future advances.

19. That in the event the premises hereby mortgaged, or any part thereof, shall be condemned and taken for public use under the power of eminent domain, the Mortgagee shall have the right to demand that all damages awarded for the taking of or damages to said premises shall be paid to the Mortgagee, its successors or assigns, up to the amount then unpaid on this mortgage and may be applied upon the payment or payments last payable thereon.

20. The Mortgagor shall, within five (5) days from written demand by the Mortgagee, execute in such form as shall be required by the Mortgagee, and estoppel certificate and waiver of defenses, duly acknowledged, setting forth the amount of principal and interest unpaid hereunder and the general status of said mortgage, and the failure of the Mortgagor to make and deliver said estoppel certificate and waiver of defenses within the time aforesaid shall constitute a default and a breach of this mortgage and shall entitle the holder hereof to declare all of the unpaid principal balance immediately due and payable.

21. It is specifically agreed that time is of the essence of this contract and that no waiver of any obligation hereunder or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the instrument secured hereby.

22. It is understood and agreed that the Mortgagee may at any time, without notice to any person, grant to the Mortgagor any modification of any kind or nature whatsoever, or allow any change or changes, substitution or substitutions of any of the property described in this mortgage or any other collateral which may be held by the Mortgagee without in any manner affecting the liability of the Mortgagor, any endorsers of the indebtedness hereby secured or any other person for the payment of said indebtedness, together with interest and any other sums which may be due and payable to the Mortgagee, and also without in any manner affecting or impairing the lien of this mortgage upon the remainder of the property and other collateral which is not changed or substituted; and it is also understood and agreed that the Mortgagee may at any time, without notice to any person, release any portion of the property described in this mortgage or any other collateral, or any portion of any other collateral which may be held as security for the payment of indebtedness hereby secured, either with or without any consideration for such release or releases, without in any manner affecting the liability of the Mortgagor, all endorsers, if any, and all other persons who are or shall be liable for the payment of said indebtedness, and without affecting, disturbing or impairing in any manner whatsoever the validity and priority of the lien of this mortgage for the full amount of the indebtedness remaining unpaid, together with all interest and advances which shall become payable, upon the entire remainder of the mortgaged property which is unreleased, and without in any manner affecting or impairing to any extent whatsoever any and all other collateral security which may be held by the Mortgagee. It is distinctly understood and agreed by the Mortgagor and the Mortgagee that any release or releases may be made by the Mortgagee without the consent or approval of any other person or persons whomsoever.

23. If the Mortgagor defaults in the performance of any of Mortgagor's covenants and agreements contained herein, particularly including but not limited to the covenants and agreements contained in Paragraphs 2, 3, 4, 8 and 11, hereof, and the said default can be cured by the payment of money, Mortgagee shall have the right at any time, and without waiving or affecting its option to foreclose or any other rights hereunder, to pay such sums of money as may be necessary or required to cure the default, and all sums so paid shall forthwith upon payment thereof, together with interest thereon at the rate of ten per cent (10%) per annum, and any and all costs, charges, abstract fees, attorneys' fees and other expenses incurred or expended in connection with the said payment, be due and payable from the Mortgagor to the Mortgagee, and this mortgage shall stand as security therefor, and any sums so paid shall be deemed as indebtedness in addition to the indebtedness hereby secured.

24. Mortgagor hereby waives and renounces for himself and family any and all homestead and exemption rights he may have now, or hereafter, under or by virtue of the constitution and Laws of the State of Florida, or any of any other State, or of the United States, as against the payment of the promissory note secured by this mortgage or any portion hereof, or any other obligation or damage that may accrue under the terms of this mortgage.

25. If the Mortgagor is a Corporation, foreign or domestic, said Corporation does hereby warrant, agree and represent to Mortgagee that this mortgage is executed in consideration of good and valuable services and/or sums paid by the defendant(s) to the Corporation and that it is in the best interest of the Corporation, based upon consideration acknowledged as having been received, to execute this Mortgage to secure the release of the Defendant(s) and does hereby waive any defenses in connection therewith.

In Witness Whereof, the said Mortgagor has hereunto signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

X	<u>Lucy P. Chaykin</u>	X	<u>Juan Lucio</u>	L.S.
X	<u>[Signature]</u>	X		L.S.
X		X		L.S.
X		X		L.S.

Acknowledgement for Individuals

STATE OF FLORIDA,
COUNTY OF Dade) SS.

BEFORE ME, the undersigned authority, personally appeared Juan Lucio
and _____

personally known to me and known by me to be the person(s) described in and who executed the foregoing mortgage deed, and he acknowledged before me that _____ he _____ executed the same for the uses and purposes in said instrument set forth.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this _____ day of November A.D., 19 90

at Miami in the State and County aforesaid,

NOTARY PUBLIC STATE OF FLORIDA
My commission expires APR. 3, 1993
BONDED THRU GENERAL INS. UND.

Lucy P. Chaykin
Notary Public State of Florida at Large

This Instrument prepared by: LUCY CHAYKIN
Address: 1575 N.W. 14th St.

"EXHIBIT A"

Commence at the NW corner of the S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 2, T-20S, R-1W; thence run easterly along the north boundary line of said S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ for a distance of 899.80 feet to the point of beginning; thence continue along the same line for a distance of 451.36 feet to a point at the NE corner of the said S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$; thence turn an angle of 91°10'00" to the right and run southerly along the east boundary line of said S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ for a distance of 660.83 feet to a point at the Southeast corner of said S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$; thence turn an angle of 88°57'59" to the right and run westerly along the south boundary line of said S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ for a distance of 1257.97 feet to a point; thence turn an angle of 73°09'00" to the right and run northwesterly for a distance of 191.20 feet to a point on the southeast 40 foot right-of-way line of County Highway No. 47; thence turn an angle of 50°18'12" to the right and run northeasterly for a distance of 132.72 feet to a point on the said 40 foot right-of-way line of County Highway No. 47; thence turn an angle of 33°28'30" to the right and run northeasterly for a distance of 441.58 feet to a point; thence turn an angle of 2°59'09" to the left and run northeasterly for a distance of 439.18 feet to the point of beginning; Said parcel of land is lying in the S $\frac{1}{2}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 2, T-20S, R-1W

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1987 FEB 12 AM 10:25

Thomas A. Henderson, Jr.
JUDGE OF PROBATE

1. Notary Fee	\$27.00
2. Notary Fee	---
3. Recording Fee	\$5.00
4. Notary Fee	\$1.00
TOTAL	\$33.00

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

90 NOV -2 PM 12:30

Thomas A. Henderson, Jr.
JUDGE OF PROBATE

1. Notary Fee	\$27.00
2. Notary Fee	---
3. Recording Fee	\$5.00
4. Notary Fee	\$1.00
TOTAL	\$33.00

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