

# Master Contractor Agreement

Between

## Pragma (Pty) Ltd

(hereinafter referred to as "Pragma")

and

## GSE Gerald Smith Electrical Contractors (Pty) Ltd

Company Registration number: 2016/232943/07

(hereinafter referred to as "the Contractor")

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## 1. Background

1.1 Pragma wishes to appoint the Contractor to perform certain services for Pragma and its Affiliates. These services include services performed on their behalf at the premises of Clients. Pragma's Affiliates currently comprise the following entities:

- 1.1.1 Pragma Africa (Pty) Ltd;
- 1.1.2 Pragma Africa BEE Holdings (Pty) Ltd;
- 1.1.3 Pragma Products (Pty) Ltd t/a Pragma International;
- 1.1.4 Pragma Products (Pty) Ltd t/a Pragma R&D;
- 1.1.5 Machine Assessment and Reliability Technology (Pty) Ltd (Martec);
- 1.1.6 Pragma Asset Technologies and Solutions (Namibia) (Pty) Ltd,

hereinafter collectively referred to as the "**Pragma Affiliates**" (and shall include such other Affiliates of Pragma which is notified to Contractor in writing from time to time). It is agreed that Pragma Affiliates may under cover of this Master Contractor Agreement conclude Addenda with the Contractor, and accordingly "Pragma" as it is used in this Master Contractor Agreement shall in respect of any Addendum concluded by a Pragma Affiliate, be deemed to refer to such Pragma Affiliate.

## 2. Status and Precedence

- 2.1 This Master Contractor Agreement is an umbrella agreement under which Pragma (or any Pragma Affiliate) may from time to time execute Addenda for the provision of Services by the Contractor to Pragma (or the Pragma Affiliate which has executed the relevant Addendum). Such Services and all terms and conditions applicable thereto (in addition to the terms and conditions contained in this Master Contractor Agreement) shall be set out in the relevant Addendum and Work Orders issued pursuant thereto.
- 2.2 The terms of this Master Contractor Agreement will apply to each and every Addendum. However, save where expressly provided to the contrary, the terms and conditions of any one Addendum shall not apply to any other Addendum.
- 2.3 In the event of any conflict between the terms and conditions contained in this Master Contractor Agreement and the terms and conditions contained in an Addendum, the terms and conditions contained in the Addendum shall prevail to the extent of such conflict.

## 3. Definitions

- 3.1 Unless the contrary is clearly indicated, the following terms shall have the following meanings (and cognate words and expressions shall bear corresponding meanings):
  - 3.1.1 "**Addendum**" means an Addendum agreed and signed by Pragma and the Contractor pursuant to this Master Contractor Agreement, describing the particular Client in respect of which Services will be rendered, the agreed Service delivery term and the Service Requirements relevant thereto, as well as the Fees applicable to the Services;
  - 3.1.2 "**Agreement**" means this Master Contractor Agreement and all Addendums, as amended from time to time in terms hereof;
  - 3.1.3 "**Affiliate**" means with respect to an entity, any other entity Controlling, Controlled by or under common Control with such entity;
  - 3.1.4 "**BBBEE**" means Broad-Based Black Economic Empowerment as defined in the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003):

3.1.5 **"BEE Codes"** means the Codes of Good Practice on Black Economic Empowerment gazetted by the Minister of Trade and Industry under section 9 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), applicable to the Consultant, as amended from time to time;

3.1.6 **"BEE Status"** means the BEE Status of the Consultant based on its generic scorecard as measured and certified by a verification agency in accordance with the applicable BEE Codes;

3.1.7 **"BEE Verification Certificate"** means a certificate issued by a verification agency, verifying the Consultant's BEE Status level, the details of its scorecard performance, as may be applicable, and any other aspect of its BEE performance under the Codes;

3.1.8 **"Change of Control"** means in respect an entity, if Control of that entity is acquired by another entity that was not, prior to that acquisition, an Affiliate of that entity, by way of either a single transaction or series of related transactions;

3.1.9 **"Client"** means an entity established within the Territory as specified in the Addendum, which has contracted with Pragma for the provision by Pragma of services and/or products;

3.1.10 **"Client Premises"** means the premises of a Client at which Services are rendered as specified in the Addendum;

3.1.11 **"Commencement Date"** shall mean:

- in respect of this Master Contractor Agreement, the date specified at head of these terms and failing such stipulation, the date of signature of the Party signing last; and
- in respect of each Addendum, the date of signature of such Addendum by the last Party signing, unless otherwise indicated on the face thereof, in which event it will be the date indicated on the face thereof;

3.1.12 **"Confidential Information"** shall mean any information relating to the Services or the business of Pragma or its Clients, including any business processes, contracts with third parties, cost structures, business requirements, Know-How, opportunities, activities and strategies, management methods, clients and potential clients, intellectual property, trade secrets, financial information, software (including any software and all related documentation provided by Pragma as well as all data collected or generated pursuant to the Services) and any other information indicated as confidential (names, telephone numbers and e-mail addresses of Pragma personnel and Clients), which has or shall hereafter come in its possession, or that is generated in the course of rendering the Services, as well as the terms of this Master Contractor Agreement, the Addenda and Work Orders, or which is derived from any of the aforesaid;

3.1.13 **"Control"** means the possession or control, directly or indirectly, of more than a fifty percent (50%) equity interest in an entity or of the power to appoint the majority of the board of directors of an entity or of the power to direct the management or policies of an entity, whether through the ownership of voting securities, by contract or otherwise;

3.1.14 **"Designated Account"** means the Contractor's bank account for payment for Services rendered that has been duly notified to Pragma in writing;

3.1.15 **"Fees"** means the fees and charges payable to the Contractor in consideration for rendering the Services, as agreed under the relevant Addendum;

3.1.16 **"Force Majeure Event"** means any of the following specific events or circumstances occurring:

- war, civil war or warlike conditions;
- political unrest and demonstrations;
- act or demand or requirement of any government or any government department or local authority;
- or earthquakes, cyclone, hurricane or tsunami,
- but only where those events or circumstances are:

- f. beyond the reasonable control of the party claiming force majeure;
- g. not able to be overcome by the exercise of due care, proper precautions and the consideration of reasonable alternatives with the intention of avoiding the effects of the force majeure by that part, and
- h. which could not have been reasonably foreseen;

3.1.17 **“Intellectual Property Rights”** shall mean all rights in or to any present and future patents, trademarks, trade names, designs, design rights, copyright, know-how, together with all related source codes, inventions, trade secrets, rights to Confidential Information and all other rights of a similar character whether registered or capable of registration and all applications and rights to apply for protection of any of the same;

3.1.18 **“Know-How”** means any and all concepts, ideas, methods, methodologies, procedures, processes, know-how, formulae, techniques, models (including, without limitation, asset management and other management, business, function, process, system and data models), templates, the generalised features of the structure, sequence and organisation of software and data files, user interfaces and screen designs, communications protocols, business processes and business rules, product architecture, data file definitions, structures, utilities and routines; and logic, coherence and methods of operation of systems that a Party has created, acquired or otherwise has rights in;

3.1.19 **“Law”** means -

- a. any statute, regulation, by law, ordinance or subordinate legislation in force from time to time to which a party is subject;
- b. the common law as applicable to the parties from time to time;
- c. any binding court order, judgement or decree;
- d. any applicable industry code, policy or standard enforceable by law, including criteria stipulated by any regulatory authority; or
- e. any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory authority;
- f. in any territory that is applicable to this an Addendum;

3.1.20 **“Losses”** means all losses, liabilities, damages and claims and all related costs and expenses (including legal fees at an attorney and own client scale and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties);

3.1.21 **“Master Contractor Agreement”** means the cover sheet of these terms and conditions and these terms and conditions;

3.1.22 **“Parties”** means Pragma and the Contractor;

3.1.23 **“Personnel”** means any director, employee, agent, consultant, contractor or other representative of an entity;

3.1.24 **“Pragma”** means Pragma Holdings (Pty) Ltd;

3.1.25 **“Services”** shall mean the services specified in the Addenda and Work Orders issued thereunder which are to be rendered by the Contractor, including for and on behalf of Pragma or a Pragma Affiliate in relation to Clients;

3.1.26 **“Service Requirements”** means the requirements for the rendering of the Services and supply of Work Products by the Contractor (including the minimum service requirements, specifications, performance standards, expenses budgets, delivery schedule and places of service therefore as may be agreed with the relevant Client);

3.1.27 **“Territory”** means the geographical area(s) specified in the relevant Addendum and failing such specification the country of incorporation or establishment of Contractor and/or Client; and

- 3.1.28 **"Work Order"** means a written order for Services issued by Pragma under an Addendum;
- 3.1.29 **"Work Product"** means the data, reports, manuals, proposals, plans, documentation, materials and other deliverables created by the Contractor pursuant in the course and scope of the Services, including as described in the relevant Addendum.
- 3.2 Where any term is defined within the context of any particular clause in this Master Contractor Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in this Master Contractor Agreement, notwithstanding that the term has not been defined in this clause 3.
- 3.3 This Master Contractor Agreement and any Addendum may be executed in any number of counterparts (including faxed counterparts) and all of such counterparts taken together shall be deemed to constitute one and the same instrument.
- 3.4 No rule of construction that an agreement shall be interpreted against the party responsible for its drafting or preparation shall apply to this Master Contractor Agreement.

#### 4. **Term**

- 4.1 This Master Contractor Agreement shall commence on its Commencement Date and the terms and conditions hereof shall continue be of force and effect until terminated in accordance with clause 4.2 below.
- 4.2 This Master Contractor Agreement may be terminated by either Party by giving the other Party written notice thereto as of the date specified in the notice of termination provided that no Addendum exists that will be of force or effect at such specified termination date.

#### 5. **Addenda**

- 5.1 Should Pragma require the Contractor to render services which are not provided for in an existing Addendum, then it shall submit a request for proposal ("RFP") to the Contractor detailing the nature of and scope of the Services required together with any other requirements or information which is relevant to the provision of such Services and stipulating a reasonable timeframe within which the Contractor must submit a proposal to the Client.
- 5.2 The Contractor shall submit a proposal within the timeframe contemplated in clause 5.1 setting out:
  - 5.2.1 the manner in which the Contractor proposes providing the Services requested in the RFP;
  - 5.2.2 the proposed Fees; and
  - 5.2.3 the specific terms and conditions applicable to such supply, together with such information as requested by Pragma in the RFP, including without limitation with respect to the Contractor accreditations and permits which are required to enable it to provide the Services.
- 5.3 The Parties shall negotiate the terms of the proposal in good faith and make such amendments thereto as may be agreed. Should the proposal be acceptable, the Parties will execute the Addendum detailing the terms pertaining to the Services.
- 5.4 Each duly executed Addendum will be of effect as from its Commencement Date and shall endure for the period specified therein (which period may be extended or varied by mutual written agreement). Pragma shall for the duration of an Addendum be permitted to issue Work Orders to the Contractor for the provision by the Contractor of the Services described therein.
- 5.5 An Addendum shall terminate, and the Services rendered thereunder shall be suspended or terminate automatically if and to the extent that the obligations of Pragma to render such Services to the Client are suspended or terminated.

5.6 The termination or expiry of any one Addendum will not affect the validity of any other Addendum or this Master Contractor Agreement, which will remain of full force and effect.

## 6. Services

6.1 Upon execution of an Addendum, the Contractor is appointed on the terms and conditions of the Addendum to provide the Services referred to in Work Orders issued pursuant to such Addendum, and the Contractor accepts such appointment.

6.2 The Contractor's appointment is non-exclusive. Accordingly, nothing contained under this Master Contractor Agreement, Addendum or any Work Order shall be construed as granting exclusivity to the Contractor to render Services to Pragma.

6.3 Unless otherwise directed by Pragma, the Contractor will at all times comply with the Service Requirements provided to it by Pragma and as contained in the relevant Addendum.

6.4 Pragma may suspend or cancel in whole or in part Services being rendered by the Contractor (including by varying or cancelling specific Work Orders) by giving written notice thereof to the Contractor and the Fees payable shall be adjusted proportionately pending reinstatement of such Services.

6.5 The Contractor shall provide the required Services and Personnel at the designated Client Premises during the times as specified by Pragma. Pragma may vary the number of Personnel required and applicable standard hours of Service from time to time and shall notify the Contractor of such changes in its requirements. The Contractor shall provide the Services and / or Personnel at other premises and / or outside of such specified standard Service hours only if requested thereto by Pragma. Pragma shall notify the Contractor of any such offsite or overtime requirement.

6.6 By no later than thirty (30) days after the Commencement Date of an Addendum and thereafter annually upon request by Pragma, the Contractor shall if required by Pragma, send an adequate number of suitably qualified Personnel members for training conducted by Pragma at a Pragma designated time and location, designed to train such Personnel in the delivery of the Services so that such Personnel become capable of training others to render the Services.

6.7 The Contractor shall ensure that the Services are performed at all times with promptness, care, skill and diligence and in a professional and cost-effective manner and in compliance with the Client required standards of performance and delivery schedules using only Personnel that have attended the prescribed training courses presented by Pragma or have been approved by Pragma to render the Services.

6.8 The Contractor shall ensure that it has and shall maintain and equip its Personnel with all the required industry standard tools, equipment and materials necessary to enable them to render the Services.

6.9 The Contractor's performance of the Services may be measured with reference to any Client required performance indicators (**“Performance Indicators”**).

6.10 On or before the 7<sup>th</sup> (seventh) of each month the Contractor shall provide the designated Pragma representative with a written report detailing the Contractor's performance of the Services during the preceding month, and this report shall include such information as may be reasonably required to assess its level of compliance with the agreed Performance Indicators. Such report shall set out the attendance records of the Personnel to render Services and shall detail any complaints, incidents and problems pertaining to the Services or Personnel that were reported during the preceding month and the status of resolution efforts.

6.11 Upon receipt of a notice from Pragma with respect to the Contractor's failure to provide the Services in accordance with the applicable Performance Indicators, the Contractor shall, as soon as reasonably practicable, (1) perform a root-cause analysis to identify the cause of such failure, (2) provide Pragma with a report detailing the cause of, and procedure for correcting, such failure, and (3) implement such procedure.

- 6.12 Pragma may attend the site at during performance of the Services and is entitled at any time (including, without limitation after the performance of the Services) to require the Contractor to reperform the Services (in whole or in part) should Pragma establish that such Services have not been provided in accordance with the terms of this Addendum, and such reperformance is to occur within the time agreed upon between Pragma and the Contractor, or if it is not agreed upon, within the time specified by Pragma after consultation with the Contractor.
- 6.13 In the event of any of the Personnel committing any misconduct or failing to render a satisfactory level of performance, the Contractor shall immediately upon Pragma's request investigate, caution and take other appropriate action against such Personnel.

## 7. Contractor's general obligations

- 7.1 The Contractor shall:
  - 7.1.1 promptly inform Pragma of any facts or opinions of which it is aware that are likely to be relevant in relation to the Services;
  - 7.1.2 perform the Services in compliance with the Service Requirements;
  - 7.1.3 nominate an authorised representative who will be authorised to make binding decisions for the Contractor with regard to the Addendum, including any changes or variations;
  - 7.1.4 take all reasonable steps to ensure that Pragma is in a position to comply with its obligations to the Clients;
  - 7.1.5 obtain such authorisations and consents as may be required to perform the Services;
  - 7.1.6 notify Pragma as soon as reasonably possible of any issues, concerns or disputes with Clients;
  - 7.1.7 at all times comply with the reasonable directions and instructions of Pragma that relate to the Services;
  - 7.1.8 ensure the accuracy and completeness of all materials, data and information, provided by it to Pragma;
  - 7.1.9 make available sufficient numbers of Personnel who are suitably skilled and qualified to perform the Services;
  - 7.1.10 maintain complete, accurate and up to date records as necessary for proper management of the Services and make such records or relevant extracts thereof available to Pragma at any time on reasonable notice (both during the existence of this Master Contractor Agreement and for a period of 5 (five) years after its expiry or earlier termination), including in compliance with generally accepted accounting principles and to comply with applicable local laws, where appropriate;
  - 7.1.11 inform Pragma if they are not accredited or trained for the Services.
- 7.2 The Contractor shall not:
  - 7.2.1 represent that it can bind Pragma;
  - 7.2.2 incur any obligation or liability in the name of Pragma or pledge the credit of Pragma or purport to bind Pragma in any other manner whatsoever;
  - 7.2.3 make false or misleading misrepresentations concerning the Services, or do anything which might injure the name of or otherwise disparage Pragma;
  - 7.2.4 make any representations, warranties, or guarantees in relation to the Services;
  - 7.2.5 engage in illegal, deceptive, misleading or unethical practices;
  - 7.2.6 use name, trade names, trademarks or logos of Pragma or its Affiliates in connection with its business, unless expressly authorised thereto by Pragma in writing; or

7.2.7 circumvent or attempt to circumvent Pragma in respect of the Services and, accordingly, shall not permit any of its Personnel or Affiliates, during and for a period of 24 (twenty four) months after the term of the Addendum, to enter or attempt to enter into any arrangement with a Client for the provision of services similar to the Services under any Addendum and the Contractor shall notify Pragma immediately if it is approached for the purposes of making such an arrangement; and

7.2.8 shall not perform Services:

- for which it does not hold the required accreditations or permits as prescribed by Pragma under the relevant Service Requirements;
- using Personnel which have not received training prescribed by Pragma.

## 8. Contractor personnel

8.1 In relation to the Services performed by Contractor Personnel at a Client Premises, it shall be the sole responsibility of the Contractor –

8.1.1 to provide and procure the use by such Personnel of all necessary safety equipment and, where required, the wearing of neat and appropriate uniforms;

8.1.2 to arrange the necessary transport for its Personnel to and from the designated Client Premises, including in the event of Personnel injury or death;

8.1.3 to assign and make available those Personnel as stipulated in each Addendum or such replacements of equivalent status as may be approved by Pragma (such approval not to be unreasonably withheld) to perform the Services as defined under such Addendum and will use all reasonable endeavours to ensure that such Personnel remain available to perform their allotted tasks at the designated Client Premises until they are completed or ended by Pragma; and

8.1.4 to prearrange leaves of absence with Pragma and the relevant Client and the Contractor will in each such event provide suitable replacement Personnel to carry on the tasks and duties being performed at the relevant Client Premises, without degradation, interruption or delay;

8.2 Pragma may notify the Contractor at any time during the term of this Addendum that it requires the Contractor to replace a Personnel member made available to Pragma under the Addendum for the reasons stated in the notice. The Contractor shall within 7 (seven) days of receiving the notice contemplated above provide Pragma with a suitable replacement for such Personnel member.

8.3 The Contractor shall furthermore ensure that Contractor Personnel made available to Pragma:

8.3.1 are expressly advised that Contractor shall be their sole employer;

8.3.2 comply with the terms of use pertaining to their use of Client facilities, Client equipment and any other Client materials made available to such Personnel;

8.3.3 attend at the designated Client Premises during the designated service hours in compliance with the Client deployment plans provided to the Contractor;

8.3.4 are suitable for and competent to perform the Services, including by having the requisite levels of health and fitness, skills, experience, qualifications and operator's licences needed to perform their allotted tasks;

8.3.5 at all material times have the necessary work permits and authorisations as required by applicable law to perform the Services at the relevant Client Premises;

8.3.6 do not have a criminal record and are not charged with or are under investigation for the commission of any criminal offence;

8.3.7 do not cause any harm or disruption to the reputation or business of Pragma and / or the Client or otherwise bring Pragma or the Client into disrepute;

8.3.8 perform their duties with promptness, reasonable care and in a lawful and workmanlike manner so as to ensure the fulfilment of their allotted duties;

8.3.9 perform their duties in accordance with the reasonable requests and instructions of staff members of Pragma or the Client appointed to oversee the Services performed by the Personnel, which duties shall include but not be limited to;

- a. fulfilling the designated tasks at the relevant Client Premises in compliance with the applicable Service Requirements;
- b. completing the required documentation or fields in the applications used to accurately record work durations and activities and providing same to the Pragma or the designated Client representative for sign off;
- c. complying, at all times while on the Client's Premises, with all applicable laws, regulations, codes of practice, policies, procedures and guidelines implemented by or affecting Client staff, including, without limitation, their health, safety and security policies;
- d. prearranging and agreeing with Pragma the timing and duration of any leaves of absence they may wish to take while Services are being rendered by them;

8.4 The Contractor shall be solely responsible for the remuneration of Personnel and for making such payments and effecting such deductions and contributions as required by applicable law and the Contractor shall immediately, upon demand, reimburse Pragma in the event that Pragma becomes obliged to make any such payment.

8.5 The Contractor shall comply with, and shall be responsible for ensuring that its Personnel complies with, all applicable laws, regulatory requirements and codes of practice in rendering the Services and shall procure that all its Personnel are suitably insured against injury and death occurring during the performance of the Services. The Contractor shall be solely responsible for addressing all disciplinary, grievance, incapacity and related procedures with such Personnel and shall use its resources to facilitate these activities.

## 9. Fees and payments

9.1 In return for providing the Services, the Contractor may invoice for the Fees due to it under the Addendum.

9.2 Unless otherwise agreed in writing, all Fees will be deemed exclusive of value-added tax, which the Contractor shall show as a separate item on each invoice submitted to Pragma. Pragma shall not be liable for any other taxes relating to Services. The Contractor shall reimburse Pragma and its Affiliates any taxes that they may become obliged to withhold or pay directly to any government or tax authority on behalf of the Contractor and Pragma will provide the Contractor with such assistance as it may reasonably require in obtaining an applicable tax credit in respect of such taxes.

9.3 Pragma will not settle, nor be liable for, any invoices for work carried out without a Work Order issued by Pragma to the Contractor.

9.4 Unless otherwise agreed, the Contractor shall invoice Pragma for all amounts due under the Addendum in the agreed currency on a monthly basis in arrears following Pragma's standard invoicing requirements and procedures.

9.5 Each invoice shall be accompanied by a detailed breakdown enabling Pragma to verify the amounts invoiced as well as all required supporting documentation.

9.6 Unless otherwise agreed in writing, Pragma will pay all undisputed amounts due within 30 (thirty) days after receipt of a properly submitted invoice in respect of such amount.

9.7 The Contractor shall provide a monthly statement of accounts to Pragma to enable Pragma to verify all amounts invoiced during each month. Failure to comply in submitting the statement of account monthly may result in payment suspension until receipt thereof.

9.8 All payments may be made by Pragma into the Contractor's Designated Account and Pragma shall not be liable for further payment if the details of the Designated Account are not correctly provided to

it. The Contractor will notify the details of the Designated Account to Pragma in writing no later than upon conclusion of the Addendum. The Contractor may change the Designated Account to another South African bank account by giving the Pragma at least 30 (thirty) days prior written notice thereof.

- 9.9 Pragma shall pay undisputed amounts when those amounts are due. Pragma may withhold payment of any amount that it disputes in good faith until such dispute is finally resolved.
- 9.10 Pragma may query any of the Fees quoted for materials and / or services by the Contractor or a member of the Contractors' organisation.
- 9.11 The Contractor agrees that payment of the invoices duly submitted by it to Pragma is conditional upon Pragma receiving payment for from the Client, and that Pragma may accordingly delay making payment of amounts invoiced by the Contractor until Pragma has received payment from the Client.
- 9.12 The Contractor shall process and produce invoices in the Pragma electronic system (On Key and associated applications) for Services rendered no later than 30 (thirty) days after the completion date of such Services under a Work Order, where this completion date is the date of completion as certified by the Clients' representative on the printed Work Order. Pragma has full rights or will refuse payment of any or all invoices received later than the 30 (thirty) day limit stated above. There will be no negotiation and re-opening of invoices.

## 10. **Tax compliance**

- 10.1 The Contractor warrants that it is in full compliance with and throughout the term of the Addendum shall remain in full compliance with all applicable laws relating to taxation in the Republic of South Africa.
- 10.2 If Pragma becomes aware of any non-compliance by the Contractor and such non-compliance is not remedied within 60 (sixty) days after Pragma has given notice to this effect, such non-compliance shall be deemed to constitute a material breach of the Addendum by the Contractor and Pragma shall be entitled to terminate the Addendum forthwith.
- 10.3 The Contractor further warrants that it shall deliver to Pragma on the Commencement Date of the Addendum and each anniversary thereof during the term of this Addendum, a valid tax clearance certificate issued for the then-current year in respect of the Contractor.
- 10.4 Should the Contractor fail to provide such certificate within 21 (twenty one) days of the contract anniversary date contemplated under clause 10.3, such shall constitute a material breach of this Addendum and Pragma may terminate the Addendum on 30 (thirty) days' notice.

## 11. **Force majeure**

- 11.1 Force Majeure Event: If a party ("Precluded Party") is prevented in whole or in part from carrying out its obligations under the Addendum as a result of a Force Majeure Event, it must promptly give a notice to the other party that:
  - 11.1.1 describes the Force Majeure Event;
  - 11.1.2 specifies the obligations the party cannot perform ("Affected Obligations");
  - 11.1.3 the extent to which the Force Majeure Event precludes the Precluded Party from performing the Affected Obligations ("Precluded Extent"); and
  - 11.1.4 the expected duration of the delay arising directly out of the Force Majeure Event.
- 11.2 Suspension of obligations: Following the notice referred to in clause 11.1, and while the Force Majeure Event continues:
  - 11.2.1 the Precluded Party's obligation to perform the Affected Obligations will, to the Precluded Extent, be suspended for the duration of the actual delay arising directly out of the Force Majeure Event ("Actual Delay"); and

11.2.2 the other party's obligations to perform any obligations dependent on the Affected Obligations will be suspended until the Precluded Party resumes performance.

11.3 The Precluded Party must remedy the Force Majeure Event to the extent reasonably practicable to avoid the Actual Delay to resume performance of its obligations as soon as reasonably possible, and, in any event (without limiting the foregoing), the Precluded Party shall do all things reasonably practicable to mitigate the Actual Delay.

11.4 Mitigation:

11.4.1 The Precluded Party must take all action reasonably practicable to mitigate any losses suffered or incurred by a party as a result of its failure to carry out its obligations under the Addendum, provided that a Party will not be required to settle any labour dispute or strike against its will.

11.4.2 Notwithstanding any other provision of an Addendum, each party must bear any costs, and losses which it incurs arising from the Force Majeure Event and the operation of this clause 11.

11.4.3 The Contractor has no entitlement to claim and Pragma has no liability for:

- a. any costs or losses suffered or incurred by the Contractor or the payment of any part of the Fees during a Force Majeure Event; and
- b. any delay costs in any way incurred by the Contractor due to a Force Majeure Event.

11.5 Subject to the consent of the Contractor, which consent shall not be unreasonably withheld, Pragma shall be free to utilise other contractors to make up or assist with any work affected by the occurrence of any Force Majeure Event. Notwithstanding the provisions of this clause 11.5, the Contractor shall compensate Pragma for any financial loss should its consent as aforementioned be withheld.

11.6 Notwithstanding any other provision of contained herein, if performance under the affected Work Orders is not resumed within 3 (three) months after the occurrence of the Force Majeure Event, either Party may terminate such Work Orders immediately by written notice to such effect to the other party.

## 12. Intellectual property

12.1 To the extent that Pragma makes available any of its Know-How to the Contractor, same shall remain the property of Pragma (including all Intellectual Property Rights thereto) and the Contractor shall acquire no right or interest in such Know-How, and the Contractor shall not use such Know-How for any purpose other than as required to supply the Services. Without limiting the aforesaid, the Contractor shall not in any manner whatsoever represent that it owns or has any other proprietary interest in Pragma's Know-How, and shall not take any action to impute any right, title or interest in such Know-How or any deliverables or materials supplied to it by Pragma which contains or references such Know-How.

12.2 All Intellectual Property Rights in the Work Products shall belong solely to Pragma. The Contractor accordingly hereby assigns and shall procure that its Personnel assign all right, title and interest in and to the same to Pragma, with full force and effect immediately as from the date of the coming into existence of such work, and furthermore agrees to take such steps and execute such documents as may reasonably be required to enable Pragma to prove the existence of and / or its title (including with respect to Intellectual Property Rights) to the relevant Work Products.

12.3 The Contractor shall procure that its Personnel involved in the creation of Work Products waive their moral rights with respect to the Work Products.

## 13. Confidentiality

13.1 The Contractor shall treat as confidential the Confidential Information of Pragma and the Clients and shall ensure that it and its Personnel do not, without the prior written consent of Pragma, use such Confidential Information for any purpose other than to supply the Services, or disclose such Confidential Information to any person, firm, company or third party.

- 13.2 Upon the request of Pragma, and at the option of Pragma, the Contractor shall return or destroy all materials and deliverables containing Confidential Information which have been made available to it by Pragma and shall certify to Pragma in writing that it has done so.
- 13.3 The provisions contained in this clause 13 shall survive termination of an Addendum or the Services supplied thereunder.

## 14. **Warranties**

- 14.1 The Contractor hereby represents, warrants and undertakes that:
  - 14.1.1 the Personnel assigned by it to provide the Services are suitable for and competent to perform the Services defined under the Addendum, including by being over eighteen (18) years of age, with no criminal record, conversant in English and literate, and having the requisite levels of health and fitness, skills, experience, qualifications, permits and operator's licences needed to perform their allotted tasks;
  - 14.1.2 the Personnel assigned by it to provide the Services shall perform the Services with promptness, diligence and in a professional cost-effective manner consistent with the level of quality and performance required by Client;
  - 14.1.3 it and its Personnel shall at all times comply fully with applicable law in performing their duties hereunder and it shall hold and maintain all required regulatory registrations, licences, approvals and permissions to enable it to supply the Services and Personnel hereunder; and
  - 14.1.4 it has not and will not in connection with an Addendum, without the prior written consent of Pragma's Chief Executive Officer, offer any benefit or present any representative of Pragma or the Client with any incentive or gift, including any cash, voucher, holiday or present;
  - 14.1.5 as at the date of entering into this Master Contractor Agreement (and in each case prior to executing any Addendum) that nothing prevents it or its Personnel in any way from performing the Services to be carried out by the Contractor as set out in the relevant Addendum and that it is unaware of any impending factor which may prevent such performance; and
  - 14.1.6 all Services will be performed and all Work Products, goods and materials to be provided will be supplied in compliance with the Service Requirements, shall conform to any agreed requirements, specifications and performance criteria, including as set out in the Service Requirements, will be of a suitable quality and workmanship and free from defects, and will not be harmful or unlawful.
- 14.2 Each of the above shall be construed as a separate and material warranty or representation on behalf of the Contractor and shall not be limited or restricted by reference to, or inference from, the terms of any other warranty or representation or any other terms of contained herein.
- 14.3 Without prejudice, if the Contractor fails in a material respect to comply with the warranties specified herein, Contractor shall promptly correct such failure or, if Contractor is unable to do so within 14 (fourteen) days of being notified of the failure, upon request redeliver such Service or replace the affected Personnel member, Work Product, goods or materials with a new replacement of the same type that complies with the warranties, failing which Pragma may take the necessary steps to rectify the failure and recover the costs from Contractor.
- 14.4 All manufacturer warranties applicable to goods or materials provided by Contractor will be transferred to Pragma or the relevant Client, as instructed by Pragma.
- 14.5 If Contractor fails to meet any warranty under this clause 14 or specified in an Addendum, Contractor will at its sole risk and cost promptly undertake all required remedial actions.

## 15. **Indemnities**

- 15.1 The Contractor hereby indemnifies and holds harmless Pragma, its Affiliates and the shareholders, directors, officers and employees of each of them, from and against any and all losses, whether

arising in statute, contract or tort (including strict liability and negligence), arising from, connected with or in relation to:

- 15.1.1 damage or loss to property, death or personal injury which is caused by the Contractor or its Personnel;
- 15.1.2 fines imposed by law as a result of actions or omissions by Contractor or its Personnel;
- 15.1.3 claims that any Work Product provided by the Contractor or its staff infringes any third party right;
- 15.1.4 fraudulent acts or statements, or misrepresentation on the part of the Contractor or its Personnel;
- 15.1.5 failure of Work Products to conform to the Service Requirements;
- 15.1.6 breach of its confidentiality undertakings in clause 13;
- 15.1.7 wrongful termination of or abandonment of work in respect of the Services; and
- 15.1.8 any other acts or omissions of the Contractor not in accordance with its obligations hereunder or under the Addendum.

15.2 The Contractor shall if required by Pragma take out and maintain adequate insurance cover with a reputable insurance company against the types of liabilities that may arise in connection with the Services, including as may be prescribed by Pragma, which may include employer's liability, public liability, general liability, vehicle accident cover and professional indemnity cover. The Contractor shall exhibit to Pragma forthwith upon demand, the policy of such insurance, the premium receipt and insurance certificate, including as specified in the relevant Addendum.

## 16. Ethical business practices

- 16.1 Pragma has the policy of zero tolerance regarding corrupt activities. The Contractor will promptly report to Pragma and the relevant authorities any suspicion of corruption on the part of their Personnel, as well as any behaviour by any of those persons that is likely to constitute a contravention of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004).
- 16.2 If the results of any audit of the Services conducted by or on behalf of Pragma indicates the possibility of corrupt activities, improper or fraudulent practices or theft, Pragma will, after allowing the Contractor reasonable opportunity to investigate that possibility, have the right either by itself, or by its agents, or by requesting the police, to investigate all the relevant circumstances, to question any relevant Personnel of the Contractor or a third party and the Contractor will use all reasonable efforts to facilitate any such investigation or enquiry. In the event that an act of corruption, fraud or theft is proven, Pragma will be entitled, on written notice to the Contractor, to immediately terminate the Addendum.
- 16.3 The Contractor shall prohibit its Personnel from offering, soliciting or accepting any advantage when conducting business in connection with this Contract.
- 16.4 The Contractor shall require its Personnel to declare in writing to the Contractor any conflict or potential conflict between their personal / financial interests and their duties in connection with this Master Contractor Agreement. In the event that such conflict or potential conflict is disclosed in a declaration, the Contractor shall forthwith inform Pragma thereof and take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict or potential conflict so disclosed.
- 16.5 The Contractor shall prohibit its Personnel from engaging in any work or employment other than in the performance of the Services, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with the Services. The Contractor shall also require their sub-contractors and agents to impose similar restriction on their employees by way of a contractual provision.

16.6 The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that its Personnel are aware of the prohibitions in this clause.

## 17. **Termination**

17.1 Without prejudice to any other rights or remedies it may have, Pragma, by giving written notice to the Contractor, may terminate an Addendum, in whole or in part (including specific Work Orders issued in terms of such Addendum), as of the date specified in the notice of termination if any of the following circumstances occur or exist:

- 17.1.1 the Contractor commits a material breach of the relevant Addendum which is capable of remedy and fails to remedy such breach within 30 (thirty) calendar days of having been called upon in writing to do so;
- 17.1.2 the Contractor commits a material breach of the relevant Addendum which is not capable of being cured; or
- 17.1.3 the Contractor repeatedly fails to achieve performance standards agreed under the Addendum.

17.2 Either Party may terminate an Addendum on written notice to the other in the event that the other Party:

- 17.2.1 effects or attempts to effect a compromise or composition with its creditors; or
- 17.2.2 commences with business rescue proceedings, take steps for its voluntary winding up or be provisionally or finally liquidated or be placed in judicial management, whether provisionally or final or cease to conduct business.

## 18. **Effect of termination**

18.1 The expiry or termination of an Addendum shall be without prejudice to any rights of the Parties accrued as at the date of such expiry or termination.

18.2 The following Clauses will survive any termination or expiry of an Addendum: Clause 3 (Definitions), Clause 12 (Intellectual Property), Clause 13 (Confidentiality), Clause 15 (Indemnities), Clause 18 (Effect of Termination), , Clause 19 (Personal Information) Clause 20 (Notices), Clause 21 (Disputes), Clause 22 (General) and all other Clauses contained in these terms that expressly or by their nature survive any termination or expiry of an Addendum or which impose any obligations following the termination or expiry of an Addendum.

## 19. **Personal information**

19.1 The Contractor acknowledges that it may, in the course of supplying the Services be required to process Personal Information on behalf of Pragma and its Clients. The terms "**Process**" and "**Personal Information**" shall have the meanings ascribed to them under applicable data protection laws, including without limitation the Protection of Personal Information Act 2013 (as amended) ("**Data Protection Laws**"), and "Personal Information" shall include information relating to both Pragma and its Clients.

19.2 Accordingly, the Contractor shall ensure that its Personnel shall provide all reasonable assistance to Pragma and its Clients to enable compliance with their responsibilities under applicable Data Protection Laws with respect to Personal Information, including in dealing with any requests for access thereto, correction thereof or complaints made with respect to the Processing thereof, whether received from Pragma or its Clients. The Contractor shall not permit Personal Information to be processed by any third party outside of South Africa, save with the prior written consent of Pragma.

19.3 The Contractor shall ensure that its Personnel process all Personal Information:

- 19.3.1 strictly in compliance with Data Protection Laws and the terms of the applicable Client consents pertaining thereto;
- 19.3.2 only as may strictly be necessary to supply the Services in accordance with the terms of the Addendum; and
- 19.3.3 otherwise in accordance with Pragma's lawful and reasonable instructions, including by providing, updating, correcting and deleting relevant records thereof upon Pragma's request; and
- 19.3.4 the Contractor hereby indemnifies Pragma and its Client's against any claims, fines or penalties for which they may become liable as a result of a failure to comply with this clause 19.
- 19.4 The Contractor shall take all reasonable precautions and implement, update and maintain all appropriate reasonable technical and organisational security measures to prevent any unauthorised disclosure, access, processing, use, alteration, destruction, damage or loss of the Personal Information Processed by it or its Personnel.
- 19.5 If the Contractor becomes aware of or has reasonable grounds to believe that any unauthorised disclosure, use, access, alteration, Processing, loss, damage or destruction of Personal Information may have occurred, the Contractor will ensure that the relevant security personnel of Pragma is alerted immediately and will promptly report the incident to Pragma describing in detail the scope and nature of the incident and the potentially affected Clients.
- 19.6 If the Contractor carries out an investigation into a suspected or actual security incident, the Contractor shall provide reasonable assistance, including providing relevant reports or data relating to such security incident. If the Contractor initiates such an investigation that is relevant to Pragma the Contractor shall inform Pragma of such investigation and its outcome and Pragma shall be entitled to participate in such investigation.

## 20. Notices

- 20.1 The Parties choose as their *domicilia citandi et executandi* for all purposes under an Addendum, whether in respect of court process, notices or other documents or communications of whatsoever nature, the respective addresses stated in the Addendum. In the event that an Addendum does not specify an address for Pragma, the following address shall be used:
  - 20.1.1 **Physical Address:** Pragma Group, Treur Close, Waterfall Park, Midrand, 1685.
- 20.2 Any Party may by notice to the other party change its *domicilium citandi et executandi* to another physical address in its country of establishment, provided that such change shall become effective only on the 7th (seventh) day after receipt of the notice.
- 20.3 Notice will be deemed given –
  - 20.3.1 if delivered by hand to a responsible person during business hours to the designated physical address, on the date of delivery;
  - 20.3.2 if sent to the designated physical address by an express courier with a system for tracking delivery, when received; and
  - 20.3.3 if successfully sent by email during business hours to an email address designated by the recipient for the delivery of notices then on the day of sending, and if outside such business hours then at the beginning of the next business day.
- 20.4 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi*.

## 21. Disputes

21.1 The validity and interpretation of this Master Contractor Agreement shall be governed by the laws of the Republic of South Africa.

21.2 The Parties shall make diligent efforts through negotiation to settle any disputes arising out of or related to this Master Contractor Agreement, including elevating the issues to their respective upper management levels.

21.3 Subject to the remainder of this Clause, the parties' consent to the non-exclusive jurisdiction of the Western Cape High Court, Cape Town of the Republic of South Africa to adjudicate all disputes arising in connection with an Addendum.

21.4 Save in respect of those provisions of hereunder which provide for their own remedies which would be incompatible with arbitration, any dispute which the parties are unable to resolve in accordance with Clause 21.2 and which arises in regard to:

- 21.4.1 the interpretation of; or
- 21.4.2 the carrying into effect of; or
- 21.4.3 any of the Parties' rights and obligations under an Addendum or arising from the termination of; or
- 21.4.4 the rectification or proposed rectification of this Master Contractor Agreement (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction);

shall be submitted to and decided by arbitration on written notice given by any Party to the others in terms of this clause.

21.5 Such arbitration shall be held in Cape Town in accordance with the rules of the Arbitration Foundation of Southern Africa ("AFSA") save that:

- 21.5.1 the arbitration shall be informal; and
- 21.5.2 the arbitrator shall have the entire and absolute discretion to determine the procedure to be adopted, it being the agreed intention that, if possible, the arbitration shall be held and concluded within 15 (fifteen) business days after it has been demanded.

21.6 Save as otherwise specifically provided under this Master Contractor Agreement, the arbitrator shall be, if the question in dispute is:

- 21.6.1 primarily an accounting matter – an independent chartered accountant of not less than 15 (fifteen) years' standing;
- 21.6.2 primarily a legal matter – a practising senior advocate or attorney of not less than 15 (fifteen) years' standing;
- 21.6.3 any other matter – an independent and suitably qualified person, as may be agreed upon between the Parties.

21.7 If agreement cannot be reached on whether the question in dispute falls under clause 21.6.1, 21.6.2 or 21.6.3 or upon a particular arbitrator in terms of clause 21.6 within 3 (three) business days after the arbitration has been demanded, then it shall be deemed to be a legal dispute to which the provisions of clause 21.6.2 shall apply and the arbitrator, in the event of a dispute as to his identity, shall be appointed by the chairman of AFSA within five (5) business days after the parties have failed to agree.

21.8 This clause shall constitute each party's irrevocable consent to the arbitration proceedings and no party shall be entitled to withdraw therefrom or to claim at such arbitration proceedings that it is not bound by this clause.

21.9 Each of the parties hereby irrevocably agrees that the decision of the arbitrator in the arbitration proceedings:

- 21.9.1 shall be final and binding on each of them; and
- 21.9.2 will be carried into effect; and
- 21.9.3 can be made an Order of any Court to whose jurisdiction the parties are subject.
- 21.9.4 Nothing herein contained shall be deemed to prevent or prohibit a Party from applying to any appropriate Court for an interdict, urgent relief or for judgment in relation to a liquidated claim.

## 22. General

- 22.1 The Contractor may not subcontract, cede, assign or delegate any of its rights and obligations under the Master Contractor Agreement, unless with the prior written approval of Pragma, which approval shall not be unreasonably withheld. The Contractor shall remain fully responsible and liable for complying with all its obligations under this Master Contractor Agreement despite it being permitted to subcontract performance thereof. Pragma shall be entitled to cede, assign, delegate and transfer all or some of its rights and obligations under this Master Contractor Agreement to any third party and the Contractor hereby agrees to such cession, assignment, delegation and transfer.
- 22.2 Each Party acknowledges that it has not been induced to enter into this Master Contractor Agreement by any prior representations, warranties or guarantees, whether oral or in writing, except as expressly contained in this Master Contractor Agreement.
- 22.3 This Master Contractor Agreement constitutes the whole agreement between the Parties and supersedes all prior verbal or written agreement or understandings or representations by or between the parties regarding the subject matter thereof, and the Parties will not be entitled to rely, in any dispute on any terms, conditions or representations not expressly contained in this Master Contractor Agreement.
- 22.4 No amendment or consensual cancellation of this Master Contractor Agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Master Contractor Agreement and no settlement of any disputes arising in connection with this Master Contractor Agreement, and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Master Contractor Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Master Contractor Agreement shall be binding unless recorded in a written document signed by the Parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.
- 22.5 In the event that any of the terms of this Master Contractor Agreement are found to be invalid, unlawful or unenforceable such terms will be severable from the remaining terms, which will continue to be valid and enforceable. If any invalid term is capable of amendment to render it valid, the parties agree to re-negotiate an amendment to remove the invalidity.
- 22.6 In connection with this Master Contractor Agreement, each Party is an independent contractor and, as such will not have any authority to bind or commit the other Party.
- 22.7 Nothing in this Agreement will be deemed or construed to create a joint venture, partnership, employment or agency relationship between the Parties for any purpose.
- 22.8 On certain occasions Pragma may inform the Contractor if they will be willing to partake or invest in a new region of work. The need might arise due to events such as termination of the previous Contractor or if there is lack of service capacity in a region. It is the Contractor's sole responsibility to complete a feasibility analysis in the new region proposed and determine if Return on Investment (ROI) will be favourable for them. Pragma will not be held liable for any financial damages, (i) if the Contractor does not realise ROI in that particular region due to little or no work, (ii) if Pragma decides in the near future to suspend work in that region, which might result in loss of income, (iii) if Pragma decides to change Contractors due to performance failure, which might result in loss of income and (iv) if Pragma cancels or terminates an Addendum in accordance with this Agreement.

23. **Broad Based Black Economic Empowerment (BBBEE)**

23.1 The Contractor acknowledges that Broad-Based Black Economic Empowerment is a business and social imperative in order to achieve a non-racial, non-sexist and equitable society in South-Africa.

23.2 In pursuance of this objective the Contractor commits and warrants to comply in all respects with the requirements of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) (hereafter referred to as the BBBEE Act) as amended from time to time, and the Codes of Good Practice issued in terms of the BBBEE Act.

23.3 Upon signature of this Master Contractor Agreement and 1 (one) calendar month after the expiry of a current certificate for a particular year, the Contractor shall provide Pragma with a certified copy of its BEE rating status from an agency accredited by the South African National Accreditation System ("SANAS") or the Independent Regulatory Board of Auditors ("IRBA").

23.4 For the duration of this Master Contractor Agreement, the Contractor shall use reasonable endeavours to maintain and improve its current BEE rating status.

23.5 A failure to provide a certified copy of its BEE rating status or a failure to comply with provisions of this clause will entitle Pragma to terminate the relevant Addendum by giving the Contractor one (1) month's written notice.

## 24. Signature

The Parties hereby acknowledge that they have read, understood and agree to the terms and conditions contained in this Master Contractor Agreement and furthermore, that their Personnel will abide by this Agreement.

### 24.1 Pragma

| Contact person duly authorised to sign on behalf of Pragma   |   |
|--|---|
| Name   | Travers Mckitterick   |
| Position   | Business Area Manager: Oil and Gas Sector   |
| Email address  | Travers.Mckitterick@pragmaworld.net   |
| Signature<br>Please also initial each page of this document. |  |
| Date   | 09/19/2024  |

|  |  |
|--|--|
| Name   | Ningi Shezi  |
| Position   | Central Supply Chain Manager   |
| Email address  | Ningi.Shezi@pragmaworld.net  |
| Signature<br>Please also initial each page of this document. |  |
| Date   | 09/19/2024   |

### 24.2 Contractor

|  |   |
|--|---|
| Company name   | GSE Gerald Smith Electrical Contractors (Pty) Ltd                                   |
| Contact person duly authorised to sign on behalf of Contractor <b>GERALD SMITH</b> |   |
| Name   | GERALD  |
| Position   | CEO   |
| Email address  | Gerald@gselectrical.co.za   |
| Signature<br>Please also initial each page of this document.                       |  |
| Commencement Date  | 09/19/2024  |

# Master Contract\_GSE Gerald Smith Electrical Contractors (Pty) Ltd

Final Audit Report

2024-09-19

|                 |   |
|-----------------|---|
| Created:        | 2024-09-18  |
| By:             | Pragma Supply Chain (PragmaSupplyChain@pragmaworld.net) |
| Status:         | Signed  |
| Transaction ID: | CBJCHBCAABAAcNxL4_dJXO-dvhgUiWIABH3p7RlvHFbL            |

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Adobe Acrobat Sign



Document e-signed by Ningi Shezi (ningi.shezi@pragmaworld.net)

Signature Date: 2024-09-19 - 9:01:23 AM GMT - Time Source: server



Agreement completed.

2024-09-19 - 9:01:23 AM GMT



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