

Special Event Operations Agreement

THIS AGREEMENT (hereinafter "Agreement") is entered into on the date of the last signatory noted below (the "Effective Date"), between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") and FPC Live, LLC (hereinafter "Organizer"), a limited liability company organized in the State of Wisconsin and with authority to transact business within the State of Missouri.

WITNESSETH:

WHEREAS, Organizer desires to host an Outdoor Street Concert (hereinafter "Event") and Organizer has requested the closure of any public street, sidewalk or public place for the Event; and

WHEREAS, Organizer is planning a special event which either occurs the day before or the day of any scheduled University of Missouri home football game or is an event that will require city services, equipment or support that is outside the ordinary course of business of the City; and

WHEREAS, pursuant to Section 24-73 of the City of Columbia's Code of Ordinances, the City and the Organizer have negotiated the terms of this Agreement.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows.

1. Date, Time, and Location of Event. The date, time and location of the Events are set forth in Organizer's Event Details contained in Exhibit A. Organizer may set up for the event as set forth in Exhibit A. Organizer shall clean up from the Event as set forth in Exhibit A.
2. Closure of Streets, Sidewalks, and Public Places. The Event Area (hereinafter "Event Area") is designated in the Technical Map contained in Exhibit B. Organizer may close streets, sidewalks and/or public places in the Event Area specified as closed areas in Exhibit B. All areas of the street, sidewalks and public places outside of the designated closed Event Area(s) shall remain open to the public.
3. Roles and Responsibilities.
 - a. City's Responsibilities: City shall provide the services in support of the Event which are contained in **Exhibit C**.
 - b. Organizer's Responsibilities. Organizer shall be responsible for complying with the terms of this Agreement, the Exhibits, and any and all approved Plans and Technical Map. Organizer shall be responsible for compliance

with the Operations Agreement regardless of the failure of any third party, contractor, subcontractor, agent, or employee to fulfill its obligations or promises to the Organizer. Organizer shall pay the fees set forth in the City of Columbia Code of Ordinances for the Event.

4. Special Event Permit. Upon the payment of the Event deposit specified in **Exhibit D**, City shall issue a special event permit to the Organizer for the Event in the designated Event map contained in **Exhibit B**, subject to the restrictions and conditions set forth in the Code, this Agreement and in the Exhibits, approved Technical Map, approved plans and local laws, rules, and regulations. The special event permit is contingent upon Organizer complying with this Agreement, maintaining specified insurance, and operating the Event in accordance to the terms set forth herein, in the attached Exhibits and all approved Technical Maps and plans, and in accordance with all laws, rules, regulations, and orders including any COVID-19 related orders.
5. Insurance. Organizer shall take out and maintain for the Event(s) such Comprehensive General Liability insurance as shall protect it from claims for damages for personal injury including accidental death as well as from claims for property damage which may arise from Event operations, whether such operations be by itself or by anyone directly or indirectly employed or otherwise working for it for the duration of set-up, execution and breakdown of Event(s). The minimum amount and types of insurance required are outlined in **Exhibit E**. At least thirty (30) days prior to the Event, Organizer shall furnish City with a certificate of insurance that names the City of Columbia, its elected officials and employees as additional insureds in the amounts required in this Agreement and that requires a thirty (30) day mandatory cancellation notice. Failure to maintain the required insurance in force may be cause for termination of this Agreement and revocation of the permit. In the event that Organizer fails to maintain and keep in force the required insurance, City shall have the right to cancel and terminate this Agreement without notice.
6. **HOLD HARMLESS.** To the fullest extent not prohibited by law, Organizer shall indemnify and hold harmless the City of Columbia, its officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorneys' fees) arising by reason of any act or failure to act, negligent or otherwise, of Organizer, of anyone directly or indirectly employed by or otherwise working for Organizer, or of anyone for whose acts Organizer may be liable, in connection with the Event(s). This provision does not, however, require Organizer to indemnify, hold harmless, or defend the City of Columbia from City's own negligence. The indemnification set

forth herein is a continuing obligation and survives the expiration or termination of this Agreement or the event permit.

7. Restrictions and Conditions, Plans and Technical Map.
 - a. Hours of Operation. Organizer is allowed to operate the Event on the date(s) and time(s) specified in **Exhibits A** and **D**.
 - b. Public Safety Plan. No later than two (2) weeks prior to the Event, Organizers shall provide a Public Safety Plan acceptable to the City. Organizer shall comply with Organizer's Public Safety Plan which has been approved by the City. Organizer shall be responsible for implementing the Public Safety Plan in the event of an emergency situation. Organizer shall provide trained crowd managers in the amount of one (1) per every five hundred (500) attendees.
 - c. Organizer shall provide security, identification checking, first aid, fencing, and signage for the Event(s).
 - d. Organizer shall comply with the additional provisions set forth in **Exhibit D**. Organizers shall also comply with the PHHS approved COVID-19 Event plans and all local, state, and federal health orders related to COVID-19.
 - e. Required Technical Map. Organizer will submit for City review and approval an Event Technical Map. The Event Technical Map shall be dated as of the date of the last change. The Technical Map that shall include, but is not limited to, details on the placement of vendor and /or concession booths, porta-johns, art installations, alcohol service locations, trash/recycling locations, and any other temporary tents and structures placed inside the Event location outlined on the Event Map. Organizer shall finalize its Event Technical Map and submit it for City approval. The special Events permit is contingent upon the City's written approval of the final Technical Map for the Event.
8. No Waiver of Immunities. In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.

9. Compliance with Laws. Organizer shall comply with all federal, state, and local laws, codes, rules, regulations and orders, including but not limited to any COVID-19 orders.
10. The term of this Agreement shall commence on the Effective Date and shall terminate six (6) months following the Effective Date. Section 6 of this Agreement shall survive termination of this Agreement.
11. Termination, Cancellation or Postponement.
 - a. For Public Safety. City may terminate this Agreement and/or any permit issued pursuant to this agreement when the City Manager, in the City Manager's sole discretion, determines that such action is necessary when there is a credible threat to public health, safety and welfare.
 - b. Termination by Default. Should Organizer be in default of any provision of this Agreement or any requirements contained herein or in an attached exhibit or approved plan, City may immediately terminate this Agreement and may revoke any permit issued for the Event.
 - c. Cancellation or Postponement pursuant to Section 24-73. Pursuant to Section 24-73, the city manager may cancel or postpone a special event permit if the manager thinks that any denial condition listed in section 24-73(d) of the Code exists, or is likely to exist, or to otherwise protect people and property in the city.
12. No Third-Party Beneficiary. No provision of this Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such person a third-party beneficiary under the Agreement.
13. Amendment. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.
14. Governing Law and Venue. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or

relating to this contract document, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the state of Missouri. The Parties agree to waive any defense of forum non conveniens.

15. Compliance with ADA and Nondiscrimination Laws. Organizer shall comply with federal, state and local laws related to Equal Opportunity and Nondiscrimination. Organizer shall not discriminate on the basis of race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation, gender identity or expression, or any other protected category. In addition, Organizer shall comply with all applicable provisions of the Americans with Disabilities Act and the regulations implementing the Act, including those regulations governing employment practices and public accommodations. Organizer shall make the Event accessible to persons with disabilities as required by the Americans with Disabilities Act and its implementing regulations.
16. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.
17. Contract Documents. This Agreement includes the following exhibits, which are incorporated herein by reference:

<u>Exhibit</u>	<u>Description</u>
A	Organizer's Event Information
B	Event Maps
C	City's Responsibilities
D	Special Event Restrictions and Conditions
E	Minimum Insurance Requirement

In the event of a conflict between the terms of an Exhibit and the terms of this Agreement, the terms of this Agreement controls. In the event of a conflict between the terms of the Exhibits, the Exhibits control in the order listed above.

18. Entire Agreement. This Agreement represents the entire and integrated Agreement between Organizer and City relative to the Event(s). All previous or contemporaneous agreements, representations, promises and conditions relating to the Event(s) described herein are superseded.

IN WITNESS WHEREOF, the Parties have executed this agreement on the day and year of the last signatory noted below.

CITY OF COLUMBIA, MISSOURI

By: _____
De'Carlton Seewood, City Manager

Date: _____

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor/rw

ORGANIZER

By: _____

Name and Title: Mike Nolan - Director of Operations

Date: 03/23/23

ATTEST:

Exhibit A

Organizer's Event Information

- 1) Organizer desires to utilize Ninth Street between Broadway Street and Walnut Street for the 2023 Summerfest Concert Series on Friday, May 12th, Sunday, August 13th and 20th, and Sunday, September 17th. Event(s) subject to the restrictions and conditions set forth in this Agreement and in the Exhibits.
- 2) Hours of Operation – Organizer is allowed to operate the Events during the following hours: 6:00 p.m. until 11:00 p.m.
- 3) Set-Up Activities for the Event may occur on the day of the events beginning at 7:00 a.m. until 6:00 p.m.
- 4) Clean-Up Activities – All tents, port-a-johns, and other temporary structures used for the Event shall be removed and other clean-up completed by 12:00 p.m. the day after the Events. All fencing shall be removed by 12:00 p.m. the day after the Events. In the case of inclement weather and with approval in writing by the Convention and Visitor's Bureau Department Director, these deadlines may be extended to 10:00 p.m. the day after the Events.

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Exhibit B

Event Map

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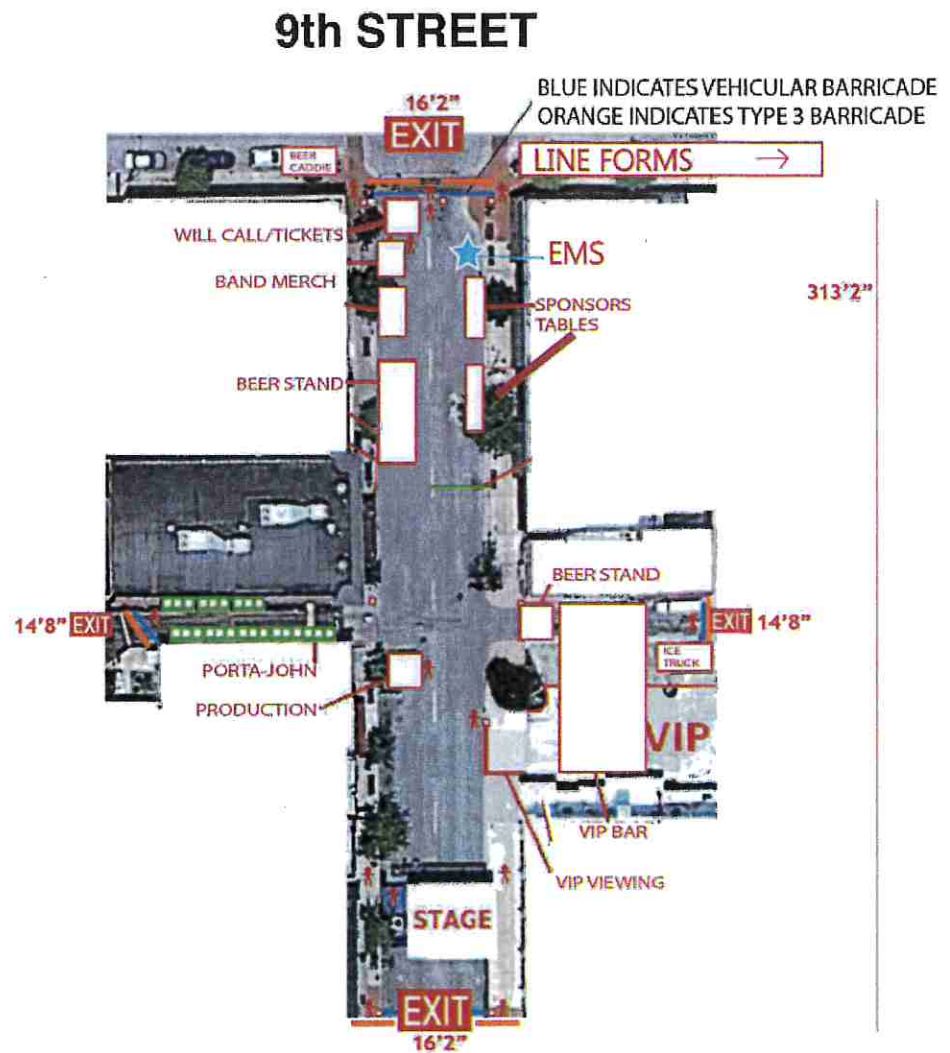


Exhibit C

City Responsibilities

1) Street Closures and Parking Restrictions:

- a. City shall restrict parking in the aforementioned street closure in Exhibit A. Signage will be installed at least 24 hours in advance of parking restrictions.
- b. Solid Waste – Organizer will coordinate pick up of trash receptacles and pickup of trash after the Event directly with Solid Waste.
- c. Public Safety - City shall provide a cost recovery plan for emergency services and present to the Organizer no later than 15 days prior to the Event. Organizer shall pay for the emergency/public safety services as outlined in the City approved cost recovery plan.
- d. City Utilities – City shall provide a cost recovery plan for city utilities services to shut off designated street lights for the evening concert no later than 15 days prior to the Event. Organizer shall pay for these services as outlined in the City approved cost recovery plan.

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Exhibit D

Special Event Restrictions and Conditions

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- 1) Organizer desires to close 9th Street from Walnut to Broadway for an outdoor street concert to be held on Friday, May 12, 2023, Sunday, August 13, 2023, Sunday, August 20, 2023, and Sunday, September 17, 2023. Event(s) subject to the restrictions and conditions set forth in this agreement and in the Exhibits.
- 2) Hours of Operation – Organizer is allowed to operate the Events during the following hours: 6:00 p.m. until 11:00 p.m. on each day of the event.
- 3) Set-Up Activities for the Event may occur on the morning of the Event from 7:00 a.m. until 6:00 p.m.
- 4) Clean-Up Activities – All tents, port-a-johns, and other temporary structures used for the Events shall be removed and other clean-up completed by 11:59 p.m. the day of the Events. All fencing shall be removed by 11:59 p.m. the day of the Events. In the case of inclement weather and with approval in writing by the Convention and Visitor's Bureau Department Director, these deadlines may be extended to 10:00 a.m. on the following day after the Event.
- 5) Admission Fees- Organizer is authorized, but not required, to charge admission to the fenced Event area. The ticketed area will be distinguished by fencing around its perimeter. Perimeter of fenced Event area shall be secured with a combination of fencing types including bike racks, snow fencing, and exhibit infrastructure.
- 6) Portable Generators- Organizer shall provide City with information as to the number, size, and location of portable generators to be use at the Event. Location of generators shall be shown on the approved Technical Map.
- 7) Parking- Organizer shall ensure that all motorized vehicles, including those of Event staff and volunteers, shall remain on paved roads and/or in designated parking areas.
- 8) Portable Toilets- Organizer shall provide sufficient portable toilets and washing stations/ hand sanitizing stations for the Event as noted in the City's special event application and approved Technical Map. Portable toilets and washing/sanitizing stations shall be removed from the event footprint no later than 12:00 p.m. the day after the Event. Organizer shall be solely responsible for installing and maintaining the toilets and washing/sanitizing stations in a safe and sanitary condition. Organizer shall provide portable restrooms meeting ADA accessibility

guidelines and to locate such toilets so as they can be accessed via an accessible route in accordance with ADA regulations.

- 9) Alcohol Sales- Organizer has requested permission to serve alcoholic beverages as part of the Event operations. All service of alcohol at the Event shall comply with the following provisions. The alcoholic beverage service may immediately be halted for noncompliance with any of the below-listed conditions. The City of Columbia shall enforce these conditions and may require closure of all bar stations upon determining that any condition has been violated.

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- a. Alcoholic beverages shall only be served at the soda & bar stations shown on the Event Technical Map.
- b. Organizers are responsible for ensuring there is no unregulated alcohol within the fenced Event area.
- c. Alcohol service is limited to two (2) alcoholic beverages per person per service. All alcoholic beverages must be pre-approved by the City.
- d. Beverages, both alcoholic and non-alcoholic, shall not be served in glass bottles or glass containers. Alcoholic beverages shall be served only in clear, plastic and commemorative cups, plastic bottles, or cans. Alcoholic and non-alcoholic beverages shall be served in containers that are distinctively different from each other.
- e. Pouring of alcoholic beverages into anything other than the container intended for the beverage is prohibited.
- f. All pre-packaged beverages shall be opened by servers/bartenders before being served.
- g. Event staff is responsible for ensuring ID's are checked before the issuance of wristbands. Bartenders/servers are responsible for ensuring anyone they serve an alcoholic beverage is wearing a wristband indicating they are 21 years of age or older. The bartenders/servers are responsible for ensuring no one under 21 years of age is served alcohol.
- h. Intoxicated individuals shall not be served.
- i. Alcoholic beverages shall be served only at the following times: from 6:00 p.m. until 10:45 p.m. on the day of the Event.

- j. All servers and Event staff in the alcohol sales area are required to complete SMART training offered online by the University of Missouri on alcohol awareness or to have an Alcohol Server Certificate card issued by the Columbia/Boone County Department of Public Health and Human Services.
 - k. Stations serving or distributing alcohol shall be monitored and randomly checked for compliance with alcohol regulations by the City of Columbia and/or the State of Missouri.
 - l. Organizer will provide a list of all those person that will be used as designated servers/bartenders for the Event to the City seven (7) business days before the Event, along with a copy of a SMART training certificate or Alcohol Server Certificate care for each person on the list. Only designated servers/bartenders are allowed to pour or serve alcohol during the Event.
 - m. Organizer shall provide and keep in place signs at all bar stations stating, "ID Required- No More than 2 Drinks per Person- Alcohol Service Ends at [designated end time] within the Event location.
 - n. Organizer shall provide training to all servers and Event staff in the alcohol service area on the alcohol rules and restrictions listed above.
- 10) Alcohol. Organizer has requested permission to serve alcoholic beverages as part of the Event operations. All service of alcohol at the Event shall comply with all local, State and Federal rules, regulations and laws.
- 11) Organizer shall provide security, identification checking, first aid, fencing, and signage for the Event.
- 12) Organizer shall be responsible for compliance with the Operations Agreement regardless of the failure of any third party to fulfill its obligations or promises to Organizer.
- 13) Organizer shall secure all necessary City permits required in connection with the Event.
- 14) Organizer shall comply with the City approved Event plans.
- 15) Management of Trash, Recycling, and Clean-up. City and Organizer shall negotiate a plan for the management of trash, recycling and clean-up of Event. Organizer shall comply with the City approved plan for the management of trash, recycling and clean-up of the Event

as described in the special events application. Organizer shall work with the City of Columbia Public Works and Utilities Departments to determine appropriate locations for the recycling and trash receptacles. Organizer is responsible for picking up and returning the 55 gallon trash barrels and recycling bins from the City's Landfill and for the distribution of the trash and recycling receptacles throughout the Event space per the approved plan. Organizer shall be responsible for supplying trash and recycling bags for receptacles. Organizer shall ensure that staff and/or vendors do not move or relocate receptacles. Organizer shall be responsible for coordination of event staff, volunteers, or a contract agency to monitor and empty all trash and recycling receptacles during the event into the roll-off containers. City shall be responsible for delivering, emptying and picking up roll-off containers on a schedule outlined in the Solid Waste Plan. Event Organizer shall be responsible for paying all fees set forth in Chapter 22 of the City's Code of Ordinances.

- 16) Signage. Signs, art and banners promoting the Event may only be displayed in the footprint on the days of the Event, set up and clean up. All such signs, art and banners shall be temporary and shall be removed from the footprint upon completion of the Event. Signage to be placed outside of the footprint shall be outlined in a signage plan to be submitted by the Organizer to City. Signage outside of event footprint shall comply with the City of Columbia's Code of Ordinances.
- 17) Required Plans. Organizer shall provide to City the following plans for the City's review prior to the Event. City shall review the plans and approve the plans in the City's sole discretion. Failure to obtain City's approval of the required plans shall result in the cancellation of the Event permit.
 - a. Public Safety Plan. Organizer shall provide a Public Safety Plan to outline procedures to be implemented in the event of an emergency situation during the Event.
 - b. Severe Weather/Emergency Shelter Plan. Organizer shall provide a Severe Weather / Emergency Shelter Plan to outline procedures to be implemented in the event of severe weather occurring during the Event.
 - c. Accessibility Plan. Organizer shall provide City with a plan to ensure Event is accessible in accordance with the requirements of the Americans with Disabilities Act and related regulations.
 - d. Signage Plan: Organizer shall provide City with a plan outlining all signage used for the event, to include sign wording, location and size.

- e. Concessions/Vendor Plan: Organizer shall submit a Concessions and Vendor Plan. The plan shall identify the type of concession equipment to be used including portable concession trailers, tents, generators, grills, fryers, etc. The approved Technical Map shall indicate the location of concession facilities, identification of vendors, and shall outline plans for disposal of any waste generated by vendor operations. Any ashes resulting from the use of portable charcoal grills are to be removed from the Event site. There is absolutely no dumping of the ashes on the grass or City streets. All grease, frying oil, and other waste products resulting from vendor operations must be removed from the Event site. Organizer is responsible for addressing these issues as part of the overall trash/recycling plan.

Exhibit E

Minimum Insurance Requirements

- 1) Organizer's Insurance. Organizer shall obtain and maintain the following insurance in connection with the Event.

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- a. Organizer shall take out and maintain for the Events Employers' Liability and Workers' Compensation insurance for all of its employees working in connection with the Events for the duration of set-up, execution and breakdown of the Events. Workers' Compensation coverage shall meet Missouri statutory limits. Employers' Liability limit shall be \$1,000,000.00 each employee, \$1,000,000.00 each accident, and \$3,000,000.00 policy limit.
- b. Organizer shall take out and maintain for the Events such Comprehensive General Liability insurance as shall protect it from claims for damages for personal injury including accidental death as well as from claims for property damage which may arise from Event operations, whether such operations be by itself or by any one directly or indirectly employed or otherwise working for it for the duration of set-up, execution and breakdown of the Events. The amount of insurance shall be not less than \$3,000,000.00 combined single limit for any one occurrence covering both bodily injury and property damage, including accidental death.
- c. Organizer shall take out and maintain for the Events Automobile Liability insurance in an amount not less than \$1,000,000.00 combined single limit for any one occurrence covering bodily injury, including accidental death and property damage, to protect itself from any and all claims arising from the use of motor vehicles operated by it in connection with the Event for the duration of set-up, execution and breakdown of the Events.
- d. Liquor Liability. Organizer shall take out and maintain liquor liability coverage for the Event. Liquor Liability coverage shall be no less than \$1,000,000.00.
- e. Organizer shall furnish City with a certificate of insurance that names the City of Columbia, its elected officials and employees as additional insureds in the amounts required in this Agreement and that requires a thirty (30) day mandatory cancellation notice.