

CONSENT AGREEMENT

THIS CONSENT AGREEMENT (this “Agreement”) is made by and between **Cedar Fair, L.P.**, a Delaware limited partnership with an address at One Cedar Point Drive, Sandusky, Ohio 44870, (hereinafter “Cedar Fair”), and **Hard Rock Cafe International (USA), Inc.**, a Florida corporation with an address at 5701 Stirling Road, Davie, Florida 33314 (hereinafter “Hard Rock”) (collectively the “Parties”).

WHEREAS, Hard Rock has adopted and used the SOUND WAVES mark and is the owner of U.S. Registration No. 6114082 that issued on July 28, 2020, for the SOUND WAVES (design) mark for use in connection with “entertainment services in the nature of live music, theater, dance and comedy performances” claiming first use on June 18, 2018 (the “Hard Rock Registration” or the “Hard Rock Mark”), and has used the Hard Rock Mark on its website <https://www.hardrockhotelatlanticcity.com/event-calendar/sound-waves> and in association with its entertainment venue located in Atlantic City, New Jersey;

WHEREAS, Cedar Fair has adopted and used the SOUND WAVES mark and is the owner of U.S. Application No. 88696287 filed on November 18, 2019, for the SOUND WAVES mark for use in connection with “entertainment services in the field of live musical performances by and competitions between bands; entertainment services in the field of live musical performances by and competitions between chorus; entertainment services in the field of live musical performances by and competitions between orchestras; and entertainment services in the field of live performances by and competitions between dance teams” claiming first use on April 25, 1995 (the “CF Application” or the “CF Mark”), and has provided all of these services in CF amusement parks for elementary, middle, and high school band, orchestra, and dance group competitions and live performances held within CF amusement parks;

WHEREAS, the CF Application has been refused registration by the US Trademark Office under Section 2(d) on grounds that the CF Mark and the Hard Rock Mark are likely to be confused;

WHEREAS, both Hard Rock and Cedar Fair believe that the concurrent use of their respective SOUND WAVES marks in connection with their respective services as described above and herein is unlikely to cause purchaser confusion, mistake, or deception based on the differences between the services themselves and the differences between the agreed upon classes of customers, channels of trade, and manner in which the Parties’ respective marks are and will be used;

WHEREAS, the Parties are unaware of any actual confusion between their respective marks in over two years of their concurrent use; and

WHEREAS, the Parties agree that their respective services are not likely to be confused and desire to enter into this Agreement.

NOW, THEREFORE, in reliance upon and in exchange for the mutual covenants and conditions set forth herein and further valuable consideration, the sufficiency of which is hereby acknowledged, Hard Rock and Cedar Fair agree as follows:

1. Hard Rock agrees not to use the Hard Rock Mark in amusement parks.
2. CF agrees not use the CF Mark in restaurants or entertainment venues located outside any of its amusement parks or in hotels or casinos.
3. The Parties agree that their respective uses of their respective SOUND WAVES Marks as set forth herein target different customers, are provided in different types of venues, and are advertised in different channels of trade.
4. Hard Rock agrees that it shall not challenge, object to, or take any action at law or in equity against use by Cedar Fair of the CF Mark for the services as noted herein.
5. Hard Rock agrees not to oppose the CF Application or to petition to cancel any registration that issues therefrom as long as the CF Mark is in use.
6. CF agrees that it shall not challenge, object to, or take any action at law or in equity against use by Hard Rock of the Hard Rock Mark for the services as noted herein.
7. CF agrees not to petition to cancel the Hard Rock Registration as long as the Hard Rock Mark is in use.
8. The Parties agree to take all reasonable steps necessary to avoid confusion as to the source or origin of their respective goods and services offered under their respective marks, as well as to sponsorship or affiliation between them. The Parties agree to cooperate and consult with one another, in good faith, should future conditions or developments suggest the possibility that the Parties' respective marks might likely be confused with one another, with the view to ensuring that no substantial likelihood of confusion occurs between the Parties' respective marks as they are used in commerce.


9. This Agreement shall be binding on and adhere to the benefit of the Parties and their related companies, including, but not limited to, their subsidiaries, divisions, licensees, successors-in-interest, and assigns.
10. This Agreement may be executed in multiple copies, and each copy shall be considered an original for all purposes.

Signed and agreed to by the Parties as follows:

**HARD ROCK CAFE
INTERNATIONAL (USA), INC.**

CEDAR FAIR, LP

By: 

By: 

Name: Brian Alexander
Title: Vice President/Secretary
Date: March 4, 2021

Name: Duthel Mulkie
Title: EVP / General Counsel
Date: March 8, 2021