

## CONSENT AND COEXISTENCE AGREEMENT

This Consent and Coexistence Agreement (this "Agreement") is dated as of the last date of execution identified below (the "Effective Date") and is made by Bandit Industries, Inc., a Michigan corporation ("Bandit Industries"), and Automated Ag Systems, LLC, a Washington limited liability company ("Automated Ag").

### Recitals

A. Bandit Industries manufactures and sells various material processing machines under marks containing or consisting of the word "BANDIT" and/or raccoon designs (the "Bandit Industries Marks"), including hand-fed chippers, stump grinders, whole tree chippers, horizontal grinders, track carriers, and skid steer attachments;

B. Bandit Industries uses and owns United States trademark registrations for the marks BANDIT (Reg. No. 3008168), BRUSH BANDIT (Reg. No. 3018948), and Raccoon Logo (Design only) (Reg. No. 2864286) (collectively, the "Bandit Industries Registered Marks");

C. Bandit Industries uses and has filed United States trademark applications for the marks BANDIT (& Design) (Serial No. 88162663), BANDIT (& Design) (Serial No. 88162667), BANDIT THE BEAST (& Design) (Serial No. 88162670), BANDIT (& Design) (Serial No. 88162674), BANDIT (& Design) (Serial No. 88162677), BANDIT INTIMIDATOR (& Design) (Serial No. 88162673), BANDIT INDUSTRIES, INC. (& Design) (Serial No. 88600600) (collectively, the "Bandit Industries Applied-for Marks");

D. Automated Ag manufactures and sells various agricultural machines under marks containing or consisting of the word "BANDIT" and/or raccoon designs, including platform machines, tractors, and trailers, none of which are capable of pruning, thinning, trimming, or otherwise processing vegetation, but some of which enable workers to prune, thin, or trim vegetation themselves or with the assistance of other tools, and provides services related to the manufacture, design, maintenance, and repair of such machines (the "Automated Ag Goods and Services");

E. Automated Ag uses and has filed United States trademark applications for the marks BANDIT (Serial No. 87933451) and HOME OF THE BANDITS (Serial No. 87933488) (together, the "Automated Ag Marks");

F. The U.S. Patent & Trademark Office (the "USPTO") has suspended prosecution of several of the Bandit Industries Applied-for Marks pending the outcome of trademark applications for the Automated Ag Marks;

G. Bandit Industries has requested and been granted extensions of time to oppose the federal trademark applications for the Automated Ag Marks; and

H. The parties believe that their respective marks can peacefully coexist pursuant to the terms and conditions set forth in this Agreement.

### Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **No Likelihood of Confusion.** The parties agree that, subject to the terms of this Agreement, their co-existing uses of the Bandit Industries Marks and the Automated Ag Marks is not likely to cause confusion, to cause mistake by, or to deceive the public as to the source of the parties' respective goods and services. Each party agrees that it will not advertise or promote its goods or services in a manner that implies that it or its goods or services are affiliated or connected with the other party or the other party's goods or services. In the event the parties become aware of instances of actual confusion between their respective marks, the parties agree to cooperate with each other and, to the extent appropriate, negotiate in good faith to amend this Agreement to adopt additional, commercially reasonable terms and conditions regarding the use of the marks to eliminate any such confusion. The parties agree to take such further action and execute such further agreements as may be necessary to carry out the spirit and intent of this Agreement.

2. **Further Limitations.** Automated Ag hereby agrees to the following: (a) Automated Ag will not use the raccoon face design depicted in Exhibit A in connection with goods that process waste, vegetation, and other material, including machines that can prune, trim, or thin vegetation, but may use the mark in connection with Automated Ag Goods and Services; (b) Automated Ag will not use or apply to register any marks containing the term "BANDIT" or a raccoon design element for goods that process waste, vegetation, and other material, including machines that can prune, trim, or thin vegetation, but may use and apply to register such marks in connection with Automated Ag Goods and Services; (c) Automated Ag will permanently cease using the mark BLOOM BANDIT and rebrand any goods bearing the mark BLOOM BANDIT to a mark that does not contain the term "BANDIT"; (d) Automated Ag will delete all goods identified in International Class 8 from U.S. trademark application serial no. 87933451; and (e) Automated Ag will amend application serial nos. 87933451 and 87933488 to explicitly exclude "machines that process vegetation, waste, and other materials by pruning, trimming, or thinning by the machines themselves" from the goods identified in International Classes 7 and 12. Notwithstanding the foregoing, and for purposes of clarification, the agreements and consents given in this Agreement allow Automated Ag to use and register the Automated Ag Marks with and for machines that enable workers to prune, thin, or trim vegetation themselves or with the assistance of other tools as long as the machines themselves are not performing the pruning, thinning, or trimming.

3. **Consent to Use and Registration.**

a. **By Bandit Industries.** Automated Ag hereby consents to Bandit Industries' use and registration of the Bandit Industries Marks with the USPTO, including the Bandit Industries Applied-for Marks.

b. **By Automated Ag.** Subject to the condition that Automated Ag is in compliance with Section 2 of this Agreement, Bandit Industries hereby consents to Automated Ag's use and registration of the Automated Ag Marks and other marks containing the term BANDIT and/or the raccoon design element depicted in Exhibit A with the Automated Ag Goods and Services.

4. **Representations and Warranties.** Each party represents and warrants that it has full authority to enter into this Agreement and to enter into the undertakings and obligations set forth throughout this Agreement.

5. **Successors and Assigns.** This Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors and assigns.

6. **Costs.** Each party shall pay its own costs and attorneys' fees associated with the settlement of this matter. No other monetary relief shall be granted or exchanged in connection with this Agreement.

Exhibit A

Raccoon Face Design




7. **Counterparts.** This Agreement may be executed in counterparts, each of which when executed and delivered shall be deemed an original, and such counterparts together shall constitute one and the same instrument. Such executed counterparts may be delivered by facsimile or electronic mail which, upon transmission to the other party hereto, shall have the same force and effect as delivery of the original signed counterpart.

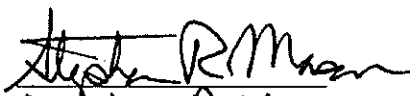
8. **Entire Agreement.** This Agreement, and any other records incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

The parties have executed this Agreement as of the Effective Date.

Bandit Industries, Inc.

Automated Ag Systems, LLC

By:   
Name: Jerry Wiley  
Title: President  
Date: 12/29/19

By:   
Name: Stephen R. Mason  
Title: Managing Director  
Date: 12/27/2019