




## Mutual Non-Disclosure Agreement

THIS MUTUAL NON-DISCLOSURE AGREEMENT ("Agreement") is made and entered into as of May 17, 2021, 2021, ("Effective Date") by and between XO SKIN / Q8 Worldwide ("Company") and Pedro Juan Gumbe with his primary address at 3630 SW 19<sup>th</sup> St, Miami, FL 33145 ("Project Partner").

*In consideration of the mutual promises and covenants contained in this Agreement, the mutual disclosure of confidential information to each other and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:*

### 1. Confidential Information and Material


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- a. "Confidential Information" means nonpublic information that the Company and Project Partner designate as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential. "Confidential Information" includes, without limitation, proprietary information, oral or written information relating to released or unreleased Company or Project Partner patent applications, copyrights, techniques, strategies, creative concepts, sketches, diagrams, materials, schematics, engineering, trade secrets, processes, software or hardware, client lists, suppliers, manufacturers, retailers, personnel information, results of any questionnaires completed in part or whole by Project Partner and/or Company, any information resulting from access to or use of Company or Project Partner's software, products, marketing or promotion of any Company products, pricing, Company business policies or practices, and information received from others that is obligated to be treated as confidential, as well as Confidential Materials. Confidential Information disclosed to Company and/or Project Partner by or on the behalf of any Company subsidiary, affiliates, agents or advisors is covered by this Agreement.
  - b. Confidential Information does not include any information that: (i) is or subsequently becomes available without Company or Project Partner's breach of any obligation of confidentiality or non-use; (ii) became known to Company or Project Partner prior to disclosure of such information to Company or Project Partner without breach of any obligation of confidentiality or non-use; (iii) became known to Company or Project Partner from a source other than the Company or Project Partner other than by the breach of an obligation of confidentiality or non-use; or (iv) is independently developed by Company or Project Partner without reference or access to Company's or Project Partner Confidential Information.
  - c. "Confidential Materials" means all tangible materials containing Confidential Information, including, without limitation, written or printed documents and computer code, algorithms, forms, workflows, disks or tapes, whether machine or user readable.

### 2. Restrictions


- a. Company and Project Partner must not disclose any Confidential Information to third parties, except in compliance with the confidentiality, non-use and other restrictions as provided in this Agreement. However, either party may disclose Confidential Information in accordance with judicial or other governmental order, provided the Company and Project Partner must give the Company reasonable




notice prior to such disclosure and the Company and Project Partner must seek and comply with any available protective order or equivalent.

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- b. Company and Project Partner must take commercially reasonable security precautions to keep confidential and restrict the unauthorized use of the Confidential Information. Company and Project Partner may disclose Confidential Information only to Company and Project Partner's employees or consultants on a need-to-know basis. Company and Project Partner must execute appropriate written agreements with its employees and consultants sufficient to enable it to comply with all of the provisions of this Agreement.
  - c. Company and Project Partner may not reverse engineer, decompile or disassemble any assets or products disclosed to the Company or Project Partner.
  - d. Company and Project Partner must not use any Confidential Information to the detriment, directly or indirectly, of the Company or Project Partner or for Company and Receiving Party's own benefit.

### 3. *Rights & Remedies*

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- a. Company and Project Partner must notify the Company and Project Partner immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by Company or Project Partner, and must cooperate with the Company or Project Partner in every reasonable way to help the Company and Project Partner regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.
  - b. Company and Project Partner Party must return all originals, copies, reproductions and summaries of Confidential Information at the Company or Project Partner's request, or at Company and/or Project Partner's option, certify the destruction of the same.
  - c. Company and Project Partner acknowledges that monetary damages may not be a sufficient remedy for any unauthorized disclosure or use of Confidential Information and that the Company and/or Project Partner will be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction, without the need for posting any bond.
  - d. The Company and Project Partner may visit the Company and Project Partner's premises, with three business days prior notice and during normal business hours, to review Company or Project Partner's compliance with the terms of this Agreement and may demand written certification from any officer or owner of the Company and/or Project Partner affirming compliance with this Agreement.

### 4. *Miscellaneous*

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- a. All shared Confidential Information by Company and Project Partner will remain the sole and exclusive property of the Company and Project Partner based on which party provided de Confidential Information. By disclosing information to Company and Project Partner, the Company and Project Partner does not grant any express or implied right to the Company and Project Partner to or under Company and/or Project Partner designs, patents, copyrights, trademarks, logos, trade dress, trade secrets or other information or property.
  - b. Both parties agree that they will comply with U.S. export and import laws when performing their obligations under this Agreement and the Engagement Agreement.
  - c. This Agreement and the Engagement Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and thereof. This Agreement may not be modified except by a written agreement dated subsequent to the date of this Agreement and signed by both parties. None of the provisions of this Agreement will be deemed to have been waived by any act or acquiescence on the part of the Company or Project Partner, its agents, or employees, but only by an instrument in writing signed by an authorized officer of the Company or Project Partner. No waiver of any provision of this Agreement will constitute a waiver of any other provision(s) or of the same provision on another occasion.
  - d. If either party employs attorneys or other professionals to enforce any rights arising out of or relating to this Agreement, the prevailing party will be entitled to recover reasonable attorneys' and other



professional fees and costs reasonably incurred. This Agreement will be construed and controlled by the laws of the State of California and Florida, and both parties' further consent to the exclusive jurisdiction by the state and federal courts sitting in San Diego County in the State of California or the. Process may be served on either party by U.S. Mail, postage prepaid, certified, or registered, return receipt requested, or by such other method as is authorized by the California Long Arm Statute.

- e. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.
- f. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect. If any provision in this Agreement conflicts with the Engagement Agreement, the terms most favorable to protect the Company's Confidential Information will control.
- g. All obligations created by this Agreement will survive change or termination of the parties' business relationship.

**5. *Period of Duty of Confidentiality and Non-Use***

- a. The non-use and confidentiality obligations set forth herein will survive any termination of this Agreement and the Engagement Agreement.

**6. *Counterparts***

The Project Partner and the Company may execute this Agreement in one or more original or facsimile counterparts. The Receiving Party and the Company have read this Agreement, understand it and agree to it. By signing below, each individual warrants that he or she has full power and authority to bind his or her party to this Agreement.

Accepted and Agreed

Signed, George Melendez,  
Chief Executive Officer  
Q8 Worldwide DBA XO Skin

Date:

5/17/21

Signed, Pedro Juan Gumbe

Date: May 17, 2021