



## Confidentiality Agreement

Cylynx, Inc. dba PBXEQ and " \_\_\_\_\_ "

This **CONFIDENTIALITY AGREEMENT** (the "Agreement") is by and between Cylynx, Inc. dba "PBXEQ", a Michigan Corporation (hereinafter "Disclosing Party"), and the undersigned (hereinafter "Recipient"), entered this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**WHEREAS**, Recipient has requested information from Disclosing Party in connection with consideration of a possible transaction or business relationship between Recipient and Disclosing Party.

**WHEREAS**, in the course of consideration of the possible transaction or relationship, Disclosing Party may disclose to Recipient confidential, important and/or proprietary trade secret information concerning Disclosing party and his/its activities.

**THEREFORE**, the parties agree into a confidential relationship with respect to the disclosure by Disclosing Party to Recipient of certain information.

**(1) DEFINITIONS.** For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial value or other utility in the business or prospective business of Disclosing Party. Confidential Information also includes all information of which unauthorized disclosure and use could be detrimental to the interests of Disclosing Party whether or not such information is identified as Confidential Information by Disclosing Party. By example and without limitation, Confidential Information includes, but is not limited to, the Disclosing Party's Business Plans, business strategy, invention, idea, financial and/or marketing information, new product or technology, sensitive and proprietary information and plan of operations.

For purposes of this Agreement, the term "Recipient" shall include Recipient, the company he or she represents, and all affiliates, subsidiaries, and related companies of the Recipient. For purposes of this Agreement, the term "Representative" shall include Recipient's directors, officers, employees, agents, and financial, legal and other advisors.

**(2) EXCLUSIONS.** Confidential Information does not include information that the Recipient can demonstrate:

- (a) Was in Recipient's possession prior to its being furnished to Recipient under the terms of this Agreement, provided the source of that information was not known by Recipient to be bound by a confidentiality agreement with or continual, legal or fiduciary obligation of confidentiality to Disclosing Party;
- (b) Is now, or hereafter becomes, through no act of failure on the part of the Recipient, generally known to the public;
- (c) Is rightfully obtained by Recipient from a third party, without breach of any obligation to Disclosing Party;



- (d) Is independently developed by Recipient without use of or any reference to the Confidential Information.
- (3) **CONFIDENTIALITY.** Recipient and its Representatives shall not disclose any of the Confidential Information in any manner whatsoever, except as provided in paragraphs 4 and 5 of this Agreement, and shall hold and maintain the Confidential Information in strictest confidence. Recipient hereby agrees to indemnify Disclosing Party against any and all losses, damages, claims, expenses, and attorney's fees incurred or suffered by Disclosing Party as a result of a breach of this Agreement by Recipient or its Representatives.
- (4) **PERMITTED DISCLOSURES.** Recipient may disclose Disclosing Party's Confidential Information to Recipient's responsible Representatives with bona fide need to know such Confidential Information, but only to the extent necessary to evaluate or carry out a proposed transaction or relationship with Disclosing Party and only if such employees are advised of the confidential nature of such Confidential Information and the terms of this Agreement and are bound by a written agreement or by a legally enforceable code of professional responsibility to protect the confidentiality of such Confidential Information.
- (5) **REQUIRED DISCLOSURES.** Recipient may disclose Disclosing Party's Confidential Information if and to the extent that such disclosure is required by court order, provided that Recipient provides Disclosing Party a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure.
- (6) **USE.** Recipient and its Representatives shall use the Confidential Information solely for the purpose of evaluating a possible transaction or relationship with Disclosing Party and shall not in any way use the Confidential Information to the detriment of the Disclosing Party.
- (a) Recipient agrees not to use the Confidential Information in any way, or to manufacture or test any product embodying Confidential Information, except for the purpose set forth above.
- (b) Recipient agrees to use its best efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than Recipient's employees having a need for disclosure in connection with Recipient's authorized use of the Confidential Information.
- (c) Recipient agrees to take all steps reasonably necessary to protect the secrecy of the Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons.
- (7) **OWNERSHIP OF CONFIDENTIAL INFORMATION.** Recipient agrees that all Confidential Information shall remain the property of Discloser, and that Discloser may use such Confidential Information for any purpose without obligation to Recipient. Nothing contained herein shall be construed as granting or implying any transfer of rights to Recipient in the Confidential Information, or any patents or other intellectual property protecting or relating to the Confidential Information.
- (8) **TERM AND TERMINATION.** The obligations of this Agreement shall be continuing until the Confidential Information disclosed to Recipient is no longer confidential.

