Non-Disclosure Agreement (NDA) Guidelines
November 2014

The Master’s Project (MP) is the culmination and capstone of every MEM student’s education and training within the Nicholas School of the Environment. Each student works individually or in a group to develop a unique and specific project that showcases their knowledge and expertise and that attempts to develop a solution or management plan around a specific environmental problem or concern. Throughout the history of this program, the NSOE has observed an increase in the number of client-orientated MPs, in which the client may refer to a person, company or government agency. The NSOE supports these opportunities as this provides real “practice”, and entry-level opportunities for our students, while at the same time addressing real environmental problems.

As some of these client-student relationships develop, particularly with businesses and private companies, students may need to consider implementing a non-disclosure agreement (NDA) to safeguard a company’s proprietary information. Every NDA and MP will likely be different, and this makes development of an “all-occasion” NDA template difficult. However, the attached Appendix I may serve as a starting point in developing the NDA, or may be used in cases where the company has no NDA of their own. Specific considerations and guidelines that should be adhered to in considering an NDA are itemized below.

1. Before entering into any NDA, students should first discuss the rationale for the NDA request with the company in question. The company should be asked if an NDA is absolutely necessary for completion of the project, or ask if there are other avenues to address the project without involving an NDA. A clear and defined justification (provided by the company) for an NDA request is required for any proposed MP. Students must understand that by signing an NDA, they are potentially waiving their rights to publish their final MP.

2. NSOE students should never engage nor sign an NDA without written approval from their MP advisor and from Duke’s Office of Research Support. If a student signs an NDA without prior approval from their MP advisor and approval from Duke’s Office of Research Support (ORS), the data or analyses generated from that NDA may be ineligible for use in the final MP.

3. When signing an NDA, the student, MP advisor and company must first identify what information is considered proprietary and confidential, and clearly put into writing the timeline by which the student is allowed access to the information. The student and MP advisor also need to engage the staff in ORS and have them provide oversight and review of the NDA. The following verbiage should be included in every NDA:

   a. COMPANY shall disclose the INFORMATION (e.g. data, software, etc) to the RECIPIENT in sufficient detail to enable the RECIPIENT to fully evaluate the same for the purpose of the PROJECT.
b. The RECIPIENT agrees, for a period of 3 years from the date hereof, that it will handle the INFORMATION with reasonable care to avoid disclosure of the INFORMATION to any other person, firm or corporation, and that the RECIPIENT shall be liable for unauthorized disclosure or failure to exercise such reasonable care.

c. RECIPIENT agrees to return to COMPANY any information received hereunder upon completion of its use.

d. INFORMATION is disclosed to RECIPIENT for educational purposes only. No license or additional rights are provided to RECIPIENT under any patent applications, copyrights, trademarks, trade secrets, or other proprietary rights of COMPANY. In particular, the RECIPIENT shall not be entitled to make any commercial use of the INFORMATION.

4. When signing an NDA, the students and clients must recognize that the final MP presentation will be open to the public. Therefore, all NDAs should include specific languages that protect the student’s ability to discuss their MP in public venues. Also when an NDA is signed, students would benefit greatly from producing a publicly-available written MP brief to share openly with potential employers. Students can request to have their final MP embargoed for a maximum of 3 years, but NOT their MP presentation or brief. To request the embargo the student must submit a written (electronic) request to their MP advisor, Ms. Cindy Peters in the Enrollment office and to the Director of Professional Studies. The script below should be included in every NDA:

a. COMPANY understands and agrees that RECIPIENT will prepare one or more papers, reports or presentations relating to the PROJECT (each a “DOCUMENT”). RECIPIENT agrees it will submit each DOCUMENT, in final form, to COMPANY for review 30 days prior to disclosing, disseminating, presenting or publication to any third party or to the public in any manner. To the extent any such DOCUMENT contains Proprietary Information (such as a specific name, technology, or company data-or anything specific supplied by the company themselves), as COMPANY may determine in its discretion, RECIPIENT agrees to remove the Proprietary Information from DOCUMENT prior to any publication, disclosure, dissemination or presentation to a third party. COMPANY may not request that the RECIPIENT remove any specific analyses conducted by the students using COMPANY data, nor can they prevent the student from making any validated conclusions or supported recommendations based on these analyses. If no comments are received within thirty (30) days of the date submitted to COMPANY, it will be conclusively presumed that the publication may proceed without delay. If COMPANY determines that the proposed material contains subject matter that identifies COMPANY or its Confidential Information, COMPANY may delay publication for a period of time not to exceed thirty (30) days to revise and/or correct the publication content.

5. All MP advisors should be strongly encouraged to sign the NDA with their students, as this will provide more oversight and protection to the student and MP.
CONFIDENTIAL DISCLOSURE AGREEMENT

WHEREAS, __________________ (“COMPANY”), having its principal place of business in __________________, ____ has certain confidential information relating to its business and operations ("INFORMATION"), and desires to disclose the same to Duke University ("RECIPIENT") having a principal place of business in Durham, North Carolina and;

WHEREAS, the RECIPIENT is interested in receiving the INFORMATION for study by its student(s) __________________ , __________________ , __________________ in furtherance of RECIPIENT’S educational mission and the named students’ Master Thesis (“PROJECT”).

NOW, THEREFORE, the parties hereby agree to the following terms and conditions:

1. COMPANY shall disclose the INFORMATION to the RECIPIENT in sufficient detail to enable the RECIPIENT to fully evaluate the same for the purpose of the PROJECT.

2. The RECIPIENT agrees, for a period of two (2) years from the date hereof, that it will handle the INFORMATION with reasonable care to avoid disclosure of the INFORMATION to any other person, firm or corporation, and that the RECIPIENT shall be liable for unauthorized disclosure or failure to exercise such reasonable care.

3. The RECIPIENT shall have no obligation, with respect to the INFORMATION, or any part thereof, which:
   a) is already known to the RECIPIENT at the time of the disclosure from a source independent of COMPANY;
   b) becomes publicly known without the wrongful act or breach of this agreement by the RECIPIENT;
   c) is rightfully received by the RECIPIENT from a third party on a nonconfidential basis; or
   d) is approved for release by written authorization of the COMPANY.

4. INFORMATION is disclosed to RECIPIENT for educational purposes only. No license or additional rights are provided to RECIPIENT under any patent applications, copyrights, trademarks, trade secrets, or other proprietary rights of COMPANY. In particular, the RECIPIENT shall not be entitled to make any commercial use of the INFORMATION.

5. COMPANY understands and agrees that RECIPIENT will prepare one or more papers, reports or presentations relating to the PROJECT (each a “DOCUMENT”). RECIPIENT agrees it will submit each DOCUMENT, in final form, to COMPANY for review prior to disclosing, disseminating, presenting or publication to any third party or to the public in any manner. To the extent any such DOCUMENT contains Proprietary Information, as COMPANY may determine in its discretion, RECIPIENT agrees to remove the Proprietary Information from DOCUMENT prior to any publication, disclosure, dissemination or presentation to a third party.

6. RECIPIENT agrees to return to COMPANY all written information received hereunder upon completion of its use.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without giving effect to any principles of conflicts of law. Each of the parties submits to the
exclusive jurisdiction of the state courts of the State of north Carolina and the federal district courts in the State of North Carolina for the purposes of any suit, action or other proceeding related to or arising out of this Agreement.

IN WITNESS WHEREOF, the parties have signed or caused this agreement to be signed as of the dates indicated below.

COMPANY

By: ________________________
Name: _______________________
Title: ________________________
Date signed: _________________

RECIPIENT:

By: ________________________
Name: _______________________
Title: ________________________
Date signed: _________________

STUDENT

By: ________________________
Name: _______________________
Date: ________________________

STUDENT

By: ________________________
Name: _______________________
Date: ________________________

STUDENT

By: ________________________
Name: _______________________
Date: ________________________