



# WATERSHED

DEALER SERVICES

## MDA CAPACITY STATEMENT

## **Watershed Dealer Services Pty Ltd.**

### **MDA Capacity Statement**

#### **Introduction**

This document describes the Managed Discretionary Account (MDA) procedures developed by Watershed Dealer Services Pty Ltd. to ensure the Authorised Representatives wishing to operate an MDA service, operate the service in line with Regulatory Guide 179 and ASIC Class Order 04/194. The procedures outlined within this document will form part of:

- (i) the Licensee guidelines available on the Watershed Dealer Services Pty Ltd. website accessible by all Authorised Representatives
- (ii) the Training and Accreditation Policy
- (iii) the MDA Accreditation Course
- (iv) the Audit Program to ensure appropriate supervision and monitoring is in place
- (v) the Breach procedures

This document also contains a copy of the standard Watershed Dealer Services Pty Ltd. agreement (MDA Contract) used to cover the MDA services that will be provided to clients. The MDA Contract is located in Appendix A.

#### **Licensee guidelines – MDA Services**

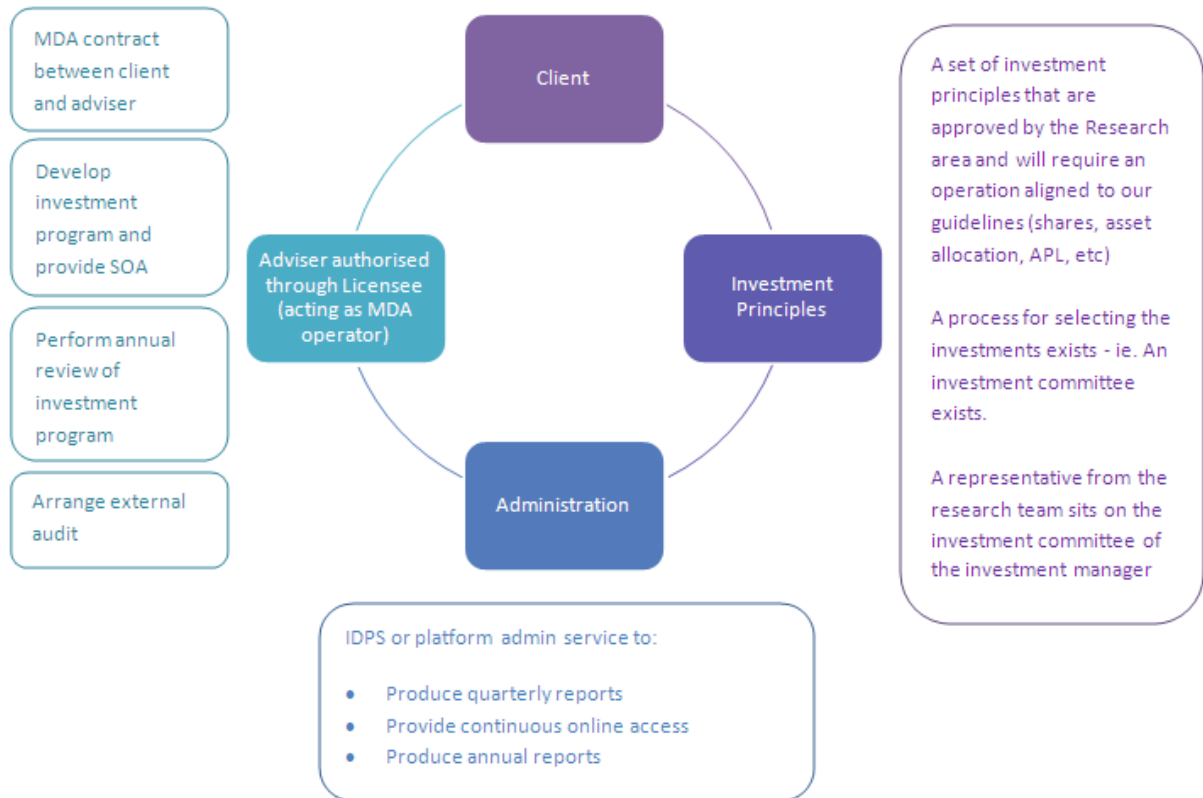
An MDA service is an arrangement between the Authorised Representative and their client where the client allows the Authorised Representative to actively manage their investment portfolio (partially or fully) without obtaining the client's prior approval for each transaction.

An MDA service contains the following key features:

- (a) clients authorise the Authorised Representative to act on their investment/contributions;
- (b) the Authorised Representative has the discretion to invest in financial products using the client investment funds without obtaining the clients specific authorisation for each transaction;
- (c) the client agrees that their investments will be managed as a discrete portfolio; and
- (d) the client understands that they will derive benefits from the MDA service, including benefits from the Authorised Representative's expertise in asset allocation selection and other services offered as part of the MDA service.

As this type of arrangement can create and enhance the risk associated with investing, for both parties involved, there are strict guidelines that must be adhered to when operating a Managed Discretionary Account service.

The Licensee's preferred model for MDA operation is demonstrated below.



## **Legislative Requirements**

Based on the stringent regulatory requirements outlined by ASIC in Regulatory Guide 179, Watershed Dealer Services Pty Ltd. has created guidelines that all Authorised Representatives must follow if they are operating Managed Discretionary Accounts as a part of their service offering to clients. Below is an outline of all of those requirements and due to the high risk nature of this type of service offering, these requirements are not negotiable.

## **Obtaining MDA Authorisation**

Before an Authorised Representative can offer a Managed Discretionary Account service they must satisfy the criteria set out below.

### **Pre-Requisite Criteria**

#### **Authorised Representative Audit Rating**

The Authorised Representative who wishes to offer an MDA service must be a Comprehensive Authorised Representative. They must also have a Compliance Audit Review Rating of A or B (an audit rating of C, D or E will be automatically rejected).

#### **MDA Accreditation Course**

Authorised Representatives must complete the MDA Accreditation course.

The MDA course will be conducted within the Practice and all staff (including support staff) will be required to attend. Pre-requisites must be met prior to enrolling in the MDA course.

The Authorised Representative will need to refer to the MDA Accreditation Course notes for the MDA Accreditation Program outline.

### **Report to Advice and Licensing**

In addition, the Authorised Representatives will be required to submit a report to Compliance - Advice and Licensing Team detailing the following:

- Reasons for seeking to establish an MDA service offer
- Estimated number of clients who will be partaking in the MDA service
- Estimated FUM within the MDA service (and the proportion of this to total Practice FUM)
- Practice staff structure, responsibilities and how these staff will be involved in the operation of the MDA service offering to clients
- A copy of the Professional Indemnity Certificate detailing the MDA notation
- What succession/risk management planning is in place in the event of an Authorised Representative being unable to provide advice due to illness, out of office functions, holidays etc.

The above information will be assessed to determine if Watershed Dealer Services Pty Ltd. is comfortable that the Practice can operate an MDA service in a compliant and efficient manner.

## **Non Standard Template Approval**

In instances where an Authorised Representative is intending to use Statements of Advice and Investment Program documents that differ from the Watershed Dealer Services Pty Ltd. standard version, written approval must be obtained from the Compliance – Advice and Licensing team prior to these documents being used.

## **Preliminary MDA Audit**

On successful completion of the MDA accreditation, a preliminary MDA Audit will be conducted by Compliance focusing solely on the MDA procedures in place. This will not be a full audit on the Authorised Representative's financial planning practice.

During this audit the Authorised Representative must be able to demonstrate that all of the Watershed Dealer Services Pty Ltd. requirements for the operation of an MDA Service have been implemented.

## **Ongoing Obligations for maintaining MDA Authorisation**

### **External Company Audit**

An authorised representative operating an MDA Service must arrange a Registered Company Audit on an annual basis. The audit report must be forwarded to Compliance, along with a copy of the MDA Obligations Checklist within 1 month of the end of the financial year. Compliance will be seeking evidence from the Authorised Representative that the external audit was conducted.

Watershed Dealer Services Pty Ltd. has appointed a panel of Chartered Accountants nationally located to ensure Watershed Dealer Services Pty Ltd. Limited's audit obligations are met.

### **Ongoing Internal Audit**

Authorised Representatives must continue to undertake the ongoing Compliance audits. The audit will be structured in the same manner as the standard audit. It is anticipated that the audit may take considerably longer due to the requirement to review all MDA processes to ensure all requirements are being followed.

## **Monthly Funds Under Management Reporting**

Authorised Representatives must provide a FUM report to Compliance on the 2<sup>nd</sup> Tuesday of each month.

## **Authorised Representatives who are not authorised to provide MDA services**

For those Authorised Representatives who do not meet the Initial criteria for the operation of MDA services or simply choose not to offer MDA services to their clients the following applies.

- They must **not** under any circumstances hold a Power of Attorney for a client
- They must **not** undertake discretionary trading on behalf of a family member or any other person
- They must **not** redeem, purchase or rebalance client's investment funds without completing a Statement of Advice and obtaining the client's signature on the Authority to Proceed prior for each transaction.

An Authorised Representative can hold a Power of Attorney for a family member, however approval must be obtained by Compliance. This approval must state that they must not use these Powers for discretionary trading purposes. This means that where a family member obtains advice and invests through the Authorised Representative, a Statement of Advice and Authority to Proceed must be signed in all instances. They can only use the Power of Attorney for the specific purposes granted, ie family member is overseas or family member is incapacitated to make decisions.

A breach notification will be provided to ASIC immediately where the Authorised Representative is found to be providing an MDA service without authority from the Watershed Dealer Services Pty Ltd.

## **ESTABLISHING THE MDA SERVICE WITH THE CLIENT**

### **Financial Services Guide – MDA Version**

Authorised Representatives operating an MDA service must use the MDA FSG. The FSG – MDA Version must be the new FSG given to all clients. Two different types of FSGs cannot be utilised. Therefore, the FSG – MDA Version must be provided to all clients at the first opportunity in line with the standard FSG protocols. No other documentation can be provided to the client until they receive an FSG – MDA Version.

### **Content Requirements**

The following information outlines what must be included in the FSG – MDA Version if these services are going to be offered (FSG version will be provided by Watershed Dealer Services Pty Ltd). ASIC's RG179 states that the FSG must include:

- information about any significant risks associated with investing through the MDA service
- information about how the client must provide instructions to the Authorised Representative and communications relating financial products in the client's portfolio assets;
- a statement that the client must first enter into an MDA contract with the Authorised Representative before the MDA service can be provided/commenced;

- a statement that the MDA contract will include an investment program that is prepared in accordance with the requirements in Division 3 of Part 7.7 of the Corporations Act and that the investment program will contain the following information:
  - ~ the nature and scope of the discretions that the Authorised Representative will be authorised and required to exercise;
  - ~ any significant risks associated with the MDA contract;
  - ~ the basis on which the MDA contract is considered to be suitable for the client; and
  - ~ warnings about the importance of any limitations relating to the MDA contract which the client must consider before signing the MDA contract;
  - ~ a statement of who will be responsible for reviewing the investment program;
- a statement to the effect that the MDA service does not include custodial or depository services (i.e all investments to be in the clients name(s));
- any other information that might reasonably be expected to have a material influence on the decision of a reasonable person (as a retail client) about whether to use the MDA service; and
- a statement that the FSG – MDA Version complies with the conditions of ASIC’s relief and Class Order 04/194.

### **Location of FSG MDA Version**

The Financial Services Guide – MDA Version will be located on the Watershed Dealer Services Pty Ltd website and the Authorised Representative FSG Register must be updated to ensure all record obligations are met.

### **Client Questionnaire and Supplementary MDA Questionnaire**

The Authorised Representatives must be able to demonstrate that the establishment of an MDA service is appropriate for the client. This must be demonstrated at all stages of the advice process and must be re-confirmed at each stage of the review process. Initially the Authorised Representative must ensure that they have collected all information within the Client Questionnaire to illustrate that the MDA arrangement is appropriate. This must also be demonstrated in the Risk Profiling stage of the Advice.

The fact finding process will determine whether or not a Managed Discretionary Account is suitable for a client. This process is conducted to ensure compliance with Section 945A of the Corporations Act, as well as the requirements set out in ASIC Regulatory Guide 179.

Typically, a client should be a wealth creator with an objective to invest funds over the long term (5+ years) in addition to meeting the following criteria:

- The client’s acceptable level of investment risk tolerance must match their Investment Program, with the funds invested accordingly.
- the client must be completely comfortable with the Authorised Representative making investment decisions on a regular basis without consultation for each transaction and this must be the preferred method for the client; and
- the client must also be comfortable with the quantity of additional reports that will be provided throughout the year. In particular the information included within the quarterly reports and annual investor statement which includes a summary of the

quarterly reports, a copy of the registered company audit and a copy of the annual review of the investment program.

### **Location of Supplementary Risk Profile MDA Client Questionnaire**

The Supplementary MDA Client Questionnaire will be located on the Watershed Dealer Services Pty Ltd. internal secure server network as well as completed via online risk profiling platform Finmetrica. Upon each review with the clients a supplementary MDA questionnaire will be completed by the client and updated accordingly on the clients Investment Program once the Watershed Dealer Services Pty Ltd. AFS Licence is varied to include authorisation on MDA services.

### **The MDA contract between the Authorised Representative and the client**

The Authorised Representative must enter into an MDA contract with each retail client before providing MDA services to that client. Watershed Dealer Services Pty Ltd. has outlined that the contract must include the following:

### **Content Requirements**

The MDA Contract must include the following information:

- an investment program;
- statements to the effect that the Authorised Representative and Watershed Dealer Services Pty Ltd. will:
  - ~ act honestly in providing the MDA services to clients.
  - ~ exercise the degree of care and diligence that a reasonable person would exercise if they were in the MDA provider's position in providing the MDA services to the client
  - ~ act in the best interests of the client in providing the MDA services to the client and, if there is conflict between the interests of the client and its own interests in providing the MDA services to the client, give priority to the client's interests
  - ~ not use information the MDA provider has through providing MDA services to the client to gain an improper advantage for itself or any other person or to cause detriment to the client
  - ~ comply with;
    - (i) the conditions of ASIC's relief (RG179 and CO 04/194)
    - (ii) the MDA contract including the investment program (except where the client has agreed in writing to a variation); and
    - (iii) any representations included in the FSG for the MDA service.
  - ~ that Watershed Dealer Services Pty Ltd. will be responsible to the client for:
    - (i) the functions that the Authorised Representatives have been contracted to perform; and
    - (ii) acts and omissions of any persons that the Authorised Representatives have engaged to perform those functions, as if they were our acts or omissions.



- ~ Compensate the client for any loss because of any act or omission of the Authorised Representative or other person engaged by Watershed Dealer Services Pty Ltd. in connection with the MDA Services as if the acts or omissions were acts or omissions of Watershed Dealer Services Pty Ltd.
- The MDA contract must clearly specify the nature and scope of the discretions that the Authorised Representative will be authorised and required to exercise and any investment strategy that is to be applied in exercising those discretions.

**Watershed Dealer Services Pty Ltd. will provide a template MDA contract which must be used.**

### **The Investment Program**

An Investment Program must be provided to the client, along with the MDA contract and the Statement of Advice.

Based on the requirements outlined by ASIC, with keeping in mind the view of limiting any potential complaints, Watershed Dealer Services Pty Ltd. has drafted the following guidelines in relation to the Investment Program:

### **Content Requirements**

Authorised Representatives must ensure that the investment program included in the MDA contract includes the following information:

- it is appropriate for the client and it states why it is considered appropriate for the client (see below for further comments)
- complies with the requirements in subdivisions C and D of Division 3 of Part 7.7 of the Corporations Act, unless there is a separate statement of advice (SOA) that meets these requirements (subdivision C details the Requirements for an SOA to be given and subdivision D details the Content of the SOA)
- sets out, in as much detail as is necessary for the client to clearly understand
  - ~ the basis on which the Authorised Representative considers the MDA service to be suitable for the client's relevant personal circumstances
  - ~ the nature and scope of the MDA contract, including the nature and scope of the discretions that the Authorised Representative will be authorised to exercise under that contract
  - ~ any significant risks associated with the MDA contract, in particular the risks associated with the nature and scope of the Authorised Representatives discretions and the strategies that are to be applied in exercising those discretions
  - ~ the basis on which the Authorised Representative consider the MDA contract to be suitable for the particular client in light of that client's personal objectives, needs and financial circumstances (client's relevant circumstances);
  - ~ how the client may give instructions to the Authorised Representative to make any changes to the MDA contract;
  - ~ warnings that the MDA contract:

- (i) may not be suitable for the client if the client has provided to the Authorised Representative or inaccurate personal information about the client's relevant circumstances
- (ii) may cease to be suitable for the client if the client's relevant circumstances change
- when and by whom the MDA contract will be reviewed, detailing if the MDA service is still suitable to the client's relevant personal circumstances.
- the investment program must contain discretions that authorise or require the Authorised Representative to replace financial products in the client's portfolio

## **Financial Products that can be included in the MDA service**

### **Types of Investments available under this service**

Due to the Managed Discretionary Account service having higher risks associated with its operation there are only certain investments that can be purchased within the boundaries of this service. These are listed below:

- ❑ **Managed Funds**  
All Managed Funds listed on the Watershed Dealer Services Pty Ltd. Authorised Product List (where funds are not available on the Watershed Dealer Services Pty Ltd. Authorised Product List prior approval from the Technical Research and Paraplanning Team must be obtained).
- ❑ **Listed Shares**  
Access to Watershed Dealer Services Pty Ltd. approved stockbroking firms that provide quality research into selected listed shares
- ❑ **Other**  
Any other investments/variations must be approved by the Technical Research and Paraplanning Team

### **Investment Restrictions / Limitations**

There are certain limitations related to the investments. Authorised Representatives are not allowed to provide advice or invest on behalf of the client for the following products:

- ❑ Direct Property
- ❑ Options and derivatives
- ❑ Investments not available on our Authorised Product List
- ❑ Any investments the Authorised Representative cannot provide advice on due to not completing the necessary accreditation.

### **Trading Discretions**

Once the Authorised Representative's client has agreed to enter into a Managed Discretionary Account arrangement the Authorised Representative must ensure the following trading discretions are adhered to:

- (a) The trading discretions must be in line with the detailed investment program provided to the client.

- (b) Under no circumstances can the client's investments be disposed or purchased outside of the investment program agreed upon.
- (c) Where an Authorised Representative wishes to implement an investment decision outside of the investment program, a new Statement of Advice must be provided to the client detailing the new recommendations. In this instance, the client must sign an Authority to Proceed prior to making an investment changes.

## **How Clients can make Contributions**

### **Initial Client Contributions**

Initial client contributions must be invested in line with the recommendations provided in the Statement of Advice. The Statement of Advice must outline the initial recommended portfolio. In turn where the client agrees to proceed with the recommendations, the client's funds must be invested directly into the recommended portfolio. In some instances, the Statement of Advice may recommend that funds are to be invested into the cash account of a Master Trust or Wrap and the funds are then invested into the market within the Master Trust or Wrap in line with the recommended Investment Program.

### **Ongoing Client Contributions**

Where a client has instructed the Authorised Representative that ongoing client contributions will be made or the Authorised Representative has made ongoing client contribution recommendations, this must be outlined in the original Statement of Advice. The following information must be included:

- (a) Value of the ongoing contributions
- (b) Investment timing of the ongoing contributions
- (c) Detailed description of where the ongoing contributions will be invested ie. the client's funds will be invested in line with the investment program.

Where a client wishes to make an additional contribution into their investment portfolio, and the new contributions were not addressed in the original Statement of Advice, a new Statement of Advice or a Record of Advice must be provided to the client.

An Authorised Representative or practice will not, under any circumstances, hold investment monies for clients in a trust account. All client monies will be held at all times in their own name. The beneficial ownership of client monies or property will not change. The Authorised Representative must not hold client monies, including, premiums, contributions and investment monies under any circumstances.

### **Client Instructions**

An Authorised Representative must follow the client's instructions on:

- (a) the transfer and liquidation of assets in the client's portfolio; and
- (b) payment of the proceeds from the realisation of assets.

These procedures are standard across all clients. Where a client makes a request to withdraw or transfer their investment funds the Authorised Representative must follow these instructions in line with the Authorised Representative's client request.

The Authorised Representative must ensure the client is advised of the following where applicable to the movement of funds:

- Exit Fees or charges
- Capital Gains Tax implications (where funds have been held for less than 12 months not being able to benefit from the capital gains tax discounting provisions)
- Capital Losses
- Other considerations

It is important for the Authorised Representative's client to consider that withdrawing funds from their investment portfolio within the recommended investment timeframe could adversely affect their long term financial planning situation. In particular some of the possible consequences of this action could be:

- Depriving their investments of potential income/growth.
- Not meeting the goals that the original recommendations and subsequent investment were aiming to achieve.
- Diversification being reduced across fund manager investment styles and asset classes, increasing volatility relative to the clients Cash/Defensive/Moderately Defensive/Balanced Growth/High Growth risk profile.

### **Custodial Arrangement**

The MDA service does not include custodial or depository services. An Authorised Representative or practice will not, under any circumstances, hold investment monies for clients in a trust account.

All client monies will be held at all times in their own name.

The beneficial ownership of client monies or property will not change. The Authorised Representative must not hold client monies, including, premiums, contributions and investment monies under any circumstances.

### **Ongoing MDA Reporting Requirements**

To ensure compliance with Regulatory Guide 179 in addition to ensuring the Authorised Representative's clients are kept informed about their investment portfolio, the following reporting requirements must be adhered to.

The specific reporting and audit requirements are designed to:

- enable the client to monitor the performance of, and trading in, their portfolio and thereby address the possible risk of excessive trading of portfolio assets; and

- promote accountability on the part of the operator in implementing the investment program, including any changes to it following its review.

### **Transaction Statements**

Any changes to the client's investment portfolio must be recorded. A transaction statement must be completed where a client's investment has been partially or fully redeemed and/or purchased. The transaction statement will assist with meeting the Quarterly Statement preparation to ensure the requirements outlined in RG179 are met.

### **Content Requirements**

The Authorised Representative must record the following information on the MDA Transaction Statement:

1. Investment sold – funds realised
2. Sale charges/Exit fees
3. Capital Gains/Loss on investment sold
4. Purchase price of new investment
5. Purchase costs
6. Reasons for sale
7. Reasons for purchase
8. Remuneration/commissions
9. Buy/sell differentials

The justification for the sale and purchase of an asset must be documented clearly.

Where a staff member is processing the transaction, the Authorised Representative must sign the transaction statement prior to acting on the trade.

The transaction statement will also contain a section which must be completed, detailing the trade was in line with the client's investment program.

### **Location of Transaction Statements**

Client transaction statement will be located and provided upon request on each individual Investment Platform where the client's funds are invested. These transaction statements will be monitored and a copy presented to the client by the Authorised Representative upon regular review under the guidance of the Watershed Dealer Services Pty Ltd MDA agreement authorization.

## Quarterly Reporting Requirements

An Authorised Representative must provide to each client either:

1. Quarterly reports that:
  - (a) are given within one month after the end of 31 March, 30 June, 30 September and 31 December in each year; and
  - (b) contain information detailing:
    - (i) all transactions effected as part of the MDA service, including any liabilities incurred in relation to those transactions
    - (ii) the value of the assets in the client's portfolio
    - (iii) all revenue and expenses (including fees and charges) relating to the MDA service during the relevant quarter

or

2. Electronic access to information on a substantially continuous basis where:
  - (a) the client agrees to obtain the relevant information electronically instead of receiving quarterly reports
  - (b) the Authorised Representative have no reason to doubt that the client can electronically access this information
  - (c) the information details:
    - (i) all transactions effected as part of the MDA service including any liabilities incurred in relation to those transactions;
    - (ii) the value of the assets in the client's portfolio;
    - (iii) all revenue and expenses (including fees and charges) relating to the MDA service during the relevant quarter;
    - (iv) all transactions up to a date no more than 48 hours before the time of access and a reasonable valuation of the non-current assets in the client's portfolio as at that time; and
    - (v) a statement of the time at which the information is current.

As mentioned earlier, all MDA processes and procedures must be approved prior to operating an MDA service. The Authorised Representative must prove to Compliance that the above requirements can be met.

## Annual Review of the Investment Program

The investment program must be reviewed in light of the particular client's relevant circumstances at least once every 12 months. This is to ensure that each retail client obtaining MDA services has an MDA contract that continues to be suitable for that client.

## Content Requirements

The Authorised Representative must:

- provide the client with review plan (Statement of Advice)
- include with the annual investor statement, information about:
  - (a) when the investment program was reviewed

- (b) the basis on which the Authorised Representative consider the MDA contract continues to be suitable for the client in light of the client's relevant circumstances; and
- (c) if any changes to the MDA contract are considered necessary (including its termination) in light of any changes in the client's relevant circumstances — whether and when those changes have been or will be made and the reasons why.

**Note: If the Authorised Representative's conduct client reviews more frequently than annually, the above requirements still apply.**

### **Annual Investor Statement and Audit Requirements**

The Authorised Representative must also give to the client within three months of the end of each financial year an annual investor statement that contains:

- a summary of the information contained in quarterly reports
- a copy of the report of a registered company auditor containing the following opinions:
  - (a) whether the internal controls and other procedures of the MDA operator and any other person acting on behalf of the operator were suitably designed and operated effectively to ensure that the information provided in the quarterly reports or electronically on an on-going basis (as relevant) for the financial year is not materially misstated; and
  - (b) whether the aggregate of assets (other than assets held by a client), liabilities, revenue and expenses shown in the clients' annual investor statements for the financial year have been properly reconciled to the corresponding amounts shown in the audited reports prepared by the custodian; and
  - (c) whether the auditor has any reason to believe that the information provided in the quarterly reports or electronically on an on-going basis and the annual investor statement is materially misstated; and
- a copy of the annual review of the investment program

## APPENDIX A – MDA CONTRACT

### (Watershed Funds Management Logo)

### Managed Discretionary Account Contract

<b>Full Client Name/s</b>	
<b>Client Address</b>	
<b>Your Financial Adviser</b>	Authorised Representative Name
	AR of Watershed Dealer Services
	Level 22 North Tower, 459 Collins Street, Melbourne Vic 3000

**WARNING: The key differences between acquiring investments directly and through a managed discretionary account service are:-**

- 1. You will not hold the legal title to the investments. Instead, a professional custodian will hold the investments on trust for you.**
- 2. You legally authorise us to make investment decisions on your behalf without having to first seek your authority. We may change your investments at our discretion and you will not receive advice notice of those changes.**
- 3. You will not be able to exercise voting rights or decide whether to take advantage of corporate actions such as share buybacks and rights issues; we will do this for you.**

I acknowledge these differences and agree to the terms of this MDA Contract.

Please provide me with continuous electronic access to information about my MDA Account and provide the Annual Report about my MDA Account by email.

<b>Client signature(s)</b>		<b>Date</b>	
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**IMPORTANT:** This Managed Discretionary Account Contract imposes rights and obligations on us and you regarding investments and decisions we make via this Contract for you. It is important that you read and understand it before signing and returning it. If you do not understand any part of it please ask your Financial Adviser to explain its meaning. You may wish to seek advice from your solicitor if you are unsure of any aspect of this agreement.



# Terms and Conditions

These are the terms and conditions on which Watershed Funds Management (We/Us/Our) provides managed discretionary account services to the person(s) named on the previous page (You/Your):-

## 1. Definitions

'Contributions' mean all the money's worth and assets that you request us to manage on your behalf pursuant to this MDA Contract.

'Custodian' means any person you appoint to hold the assets in your MDA Portfolio.

'Financial Products' means cash and cash products, ASX listed shares, managed investments, managed accounts, exchange traded funds, listed investment companies and any other financial product on which we are authorised to advise and deal and which we, in our discretion, consider suitable for inclusion in your Investment Program.

'Financial Adviser' means Trent Bell.

'Investment Program' means the investment strategy set out in the Schedule to this MDA Contract headed Investment Program or any investment strategy which replaces it.

'MDA' means managed discretionary account.

'MDA Account' means your Contributions and the Financial Products into which your Contributions have been invested pursuant to this MDA Contract.

'MDA Services' means the services that we provide to you in accordance with this Contract.

## 2. Definitions

2.1 You appoint us to manage your MDA Portfolio at our discretion, without limitation or prior consultation with you, but always in accordance with this MDA Contract and your Investment Program. We will be responsible for:-

- (a) Selecting and acquiring the Financial Products in which your MDA Portfolio will be invested and adjusting these Financial Products when appropriate; and
- (b) Managing the asset allocation weightings for your MDA portfolio in line with the Investment Program selected by your Financial Adviser.

2.2 Your Financial Adviser will be responsible for:-

- (a) Determining the most appropriate Investment Program for you based on your personal circumstances and risk tolerance;
- (b) Ensuring this MDA Contract is appropriate for your personal circumstances;
- (c) Assessing and advising us of your risk profile and any changes to it;
- (d) Advising us of any material changes to your personal circumstances that may reasonably be expected to be relevant to this MDA Contract and your Investment Program; and
- (e) Verifying your identity and providing us with up to date and accurate information about your contact details.

### **3. Our Discretions**

- 3.1 Subject to clause 0, you authorise us to do the following to the extent necessary to enable us to manage your MDA Portfolio in accordance with the Investment Program:-
- (a) Buy, subscribe for, apply for, deal with, accept transfers of, sell, transfer, repurchase or redeem Financial Products;
  - (b) Appoint any investment manager, broker or other service provider on your behalf;
  - (c) Provide your tax file number, interest and dividend banking instructions and other personal information and instructions required by any Financial Product or services provider with whom we deal on your behalf;
  - (d) Operate all accounts in which your MDA Portfolio is held (other than any cash holding account/s);
  - (e) Exercise (and decline to exercise) all rights and privileges and perform all duties and obligations which now or may in the future apply to the Financial Products in your MDA Portfolio;
  - (f) Reinvest any revenue earned in your MDA Portfolio; and
  - (g) Receive, hold and execute all necessary documents, pay all obligations and liabilities, undertake all acts and do all things that are necessary or convenient in order to implement the Investment Program.
- 3.2 You acknowledge that this will require us to and you authorise us to:-
- (a) Determine how any additional contributions, revenue earned or surplus cash are allocated between investments in your MDA Portfolio;
  - (b) Rebalance the investments in your MDA Portfolio where there has been a variation from any benchmark asset allocation;
  - (c) Adjust the asset allocations within the ranges described in the Investment Program in order to achieve the objectives of the Investment Program;
  - (d) Change the investments if there is a rating change or we consider that any of the investments are no longer suitable for inclusion in the Investment Program; and
  - (e) Determine which, if any, investments will be sold to accommodate any withdrawals you wish to make.

### **4. Giving Us Instructions**

- 4.1 Unless otherwise agreed, all instructions to us in respect of your MDA Portfolio must be provided to us in writing (which includes email) through your Financial Adviser; and
- 4.2 We are under no obligation to act in accordance with your instructions if we reasonably consider that they are ambiguous, unclear or conflict with any regulatory requirement or local market practice. We will notify you if we decide to act in accordance with your instructions for any reason.

## **5. Authorisations and Acknowledgement**

5.1 You acknowledge that:-

- (a) We provide the MDA Service through the Administration Service;
- (b) It is a condition of this MDA Contract that you hold an account with the Administration Service;
- (c) You may be required to keep a minimum balance of certain assets in your MDA Portfolio. We may vary the required minimum balance from time to time;
- (d) We will make decisions regarding any changes to your MDA Portfolio at our discretion without prior consultation with you regarding each change and that you will be bound by our actions and the changes we make;
- (e) There may be delays in processing purchases, subscriptions, applications, transfers, sales, repurchases or redemptions of investments. We will not be liable for delays caused by third parties;
- (f) Our investment decisions may have capital gains tax or income taxation consequences for you depending on your personal tax position. While we may provide general guidance on taxation matters from time to time, we are not tax specialists and any information we provide cannot be regarded as tax advice. You accept that it is your responsibility to seek advice from a qualified taxation adviser when required;
- (g) The investments in your MDA Portfolio may change in order to achieve the objectives of your Investment Program and as a result of changes in the economic outlook for those investments;
- (h) Any representations of expected performance provided to you are based on past performance and are not a guarantee of future performance;
- (i) We do not guarantee or make any promises concerning the future performance of your investments, return of capital, the success or taxation consequences of any strategy we may use or that our decisions will achieve your expectations and needs; and
- (j) These risks may affect the value of your investment and the return you may achieve.

5.2 You authorise us to negotiate and enter into any arrangements with external service providers that are required to enable us to manage the MDA Portfolio as your agent and you will be bound by the terms and conditions of business of those service providers.

## **6. Your Rights and Obligations**

6.1 You undertake to:-

- (a) Provide all information and written authorities required by us and/or your Financial Adviser to enable us to fulfil our obligations to you; and
- (b) Inform us and your Financial Adviser of any changes to your Personal Circumstances or investment objectives as soon as is reasonably practical after the change. You understand that if you fail to do so, we and your Financial Adviser will not be able to advise you if the Investment Program and/or this MDA Contract become unsuitable for you.

6.2 Through your Adviser, you may at any time give us instructions in relation to your MDA Portfolio regarding:-

- (a) Buying, redeeming, transferring or selling any assets; or
- (b) The exercise of any rights associated with the assets;

but we shall not be liable to you for any failure to comply with those instructions if they are not received from your Financial Adviser in a timely manner.

6.3 You may instruct us that you wish to make further Contributions or withdraw funds from your MDA Portfolio at any time. In order to maintain your Investment Program, we will determine at our absolute discretion which, if any, investments will be purchased with the Contributions and which, if any, investments will be sold to accommodate the withdrawal. If you instruct us

to withdraw funds from your MDA Portfolio, you must instruct us to whom the proceeds are to be paid.

## **7. Review and Reporting**

7.1 We will provide you with the following reports regarding your MDA Portfolio:-

- (a) Electronic access to the following information which will be current up to 48 hours before the time of access:
  - (i) Details of the assets in and value of your MDA Portfolio;
  - (ii) All transactions on your MDA Portfolio for the past quarter; and
  - (iii) Details of the revenue received and expenses incurred in relation to your MDA Portfolio for the past quarter.
- (b) Within 3 months of the end of the financial year (subject to such reports being made available by the Administration Service) – an Annual Investor Statement which will include:-
  - (i) A summary of the information contained in the quarterly reports
  - (ii) A registered company auditor's opinion regarding the MDA Services; and
  - (iii) A copy of the annual review of the Investment Program

## **8. Undertakings**

8.1 We undertake to do the following when providing the MDA Services to you:-

- (a) Comply with the Investment Program;
- (b) Act honestly;
- (c) Exercise the degree of due care and diligence that a reasonable person would exercise if they were in our position in providing the MDA services to you;
- (d) Act in your best interests and give priority to your interests where they conflict with our interests;
- (e) Comply with any instructions received from you regarding your MDA Portfolio;
- (f) Not use information we have about you through providing the MDA services to gain an improper advantage for ourselves or any other person or to cause detriment to you;
- (g) Ensure that the assets in your MDA Portfolio are held in your name or on trust for you, or, if we engage another person to hold those assets, are held in such a way that you have a direct or indirect beneficial interest in them;
- (h) Not invest in any unregistered managed investment schemes;
- (i) Comply with the conditions of ASIC Class Order 04/194 which relate to the MDA Services; and
- (j) Comply with any representations made in the Financial Services Guide given to you for the MDA Services (unless you agree otherwise in writing).

## 9. Fees and Charges

### Consumer Advisory Warning

#### DID YOU KNOW?

**Small differences in both investment performance and fees and costs can have a substantial impact on your long term returns.**

**For example, total annual fees and costs of 2% of your MDA Account balance rather than 1% could reduce your final return by up to 20% over a 30 year period (for example, reduce it from \$100 000 to \$80 000).**

**You should consider whether the features of an MDA service justify the fees and costs.**

- 9.1 Please refer to the Watershed Funds Management Financial Services Guide (FSG) version 4 dated 5/2/2018 for details of fees and charges levied by Watershed Funds Management for the MDA Service. You can request another copy of this at any time.  
Your Financial Adviser should have provided you with a Statement of Advice, and also a Product Disclosure Statement for the Administration Service and Custodian recommended by your adviser. Please refer these documents in relation to fees charged by the Administration Service and Custodian.
- 9.2 You are responsible for all taxes, stamp duty or government charges incurred in relation to the assets in your MDA Portfolio and must reimburse us for any such amounts.
- 9.3 This clause 9 survives termination of this Contract.

## 10. Responsibility and Indemnity

- 10.1 We agree to:-
- (a) Be responsible for the MDA Services that we have contracted to perform under this Contract and for the acts or omissions of any person we engage to perform those functions as if they were our acts or omissions; and
  - (b) Compensate you for any loss you incur due to the acts or omissions of any agent or other person we engage in connection with the MDA Service (other than your Financial Adviser and Custodian) as if their acts and omissions were our acts or omissions.
- 10.2 Notwithstanding clause 10.1 and except as required by law, we do not accept liability for any losses you sustain as a result of:-
- (a) The performance of the assets in your MDA Portfolio;
  - (b) The tax effect of your Investment Program;
  - (c) Any instruction that you provide to us in relation to your MDA Portfolio which is different from the Investment Program;
  - (d) Any instruction from you which is not provided in a timely manner;
  - (e) Delay in implementing your instructions if this is not possible or practical to implement them or during any period required to obtain clarification of your instructions from you;
  - (f) Any act or omission undertaken on the instructions or advice of any person which we had no reason to believe to be other than authentic or sound;
  - (g) Events beyond our control where the loss could not have been avoided by the exercise of reasonable diligence; or
  - (h) Any act or omission required by law.
- 10.3 This clause 10 survives termination of this Contract.

## **11. Termination**

- 11.1 You may terminate this MDA Contract at any time.
- 11.2 We may terminate this MDA Contract on 2 months' notice to you.
- 11.3 This MDA Contract will terminate automatically if the authority provided by our Australian Financial Services Licensee is suspended, terminated or varied so that we are not authorised to provide the MDA Services.
- 11.4 This MDA Contract may be terminated immediately:-
- (a) By us – if you are in default of an obligation under this Contract and fail to rectify it within 5 business days' notice of the default;
  - (b) By us – if you enter bankruptcy or any other insolvency arrangement or Contract with creditors;
  - (c) By us – if you terminate the appointment of your Financial Adviser and have not appointed a replacement adviser to which we have agreed;
  - (d) By us – if we reasonably believe that your MDA Portfolio is being used fraudulently (including money laundering or terrorism financing);
  - (e) By us – if you become insolvent, are made bankrupt or enter into an arrangement with your creditors under the Bankruptcy Act or, being a company or trust, enter into any arrangement with creditors, become subject to external administration or are liquidated or wound up;
  - (f) By you – if we enter into any arrangement with creditors, become subject to external administration or are liquidated; or
  - (g) By either party – if any fundamental part of this Contract becomes unenforceable, void, illegal or invalid.
- 11.5 On suspension or termination of the MDA Contract:-
- (a) We will not conduct any further transactions on your behalf in relation to your Investment Program without your written authorisation; and
  - (b) We will promptly arrange for you to be provided with final Portfolios and reports in relation to your MDA Portfolio and will provide reasonable assistance to transfer all property and rights in relation to your MDA Portfolio. During that time, we may deal with your MDA Portfolio to settle or offset existing obligations. You acknowledge that there may be delays in transferring or disposing of the assets in your MDA Portfolio.
- 11.6 Termination does not affect:-
- (a) Any transaction commenced before termination; or
  - (b) Any existing rights and obligations incurred prior to termination.

## **12. Miscellaneous**

- 12.1 Each of the parties will give notice to the other of any change of address, telephone and facsimile numbers, email address and the like as soon as practicable. Any notice given under this Contract must be in writing and, if sent to the last known address or facsimile number of the other party, is deemed to be received:-
- (a) 3 business days after the date of posting, if posted; or
  - (b) The date of sending, if sent by facsimile; or
  - (c) On the next succeeding business day, if received or deemed to be received on a day which is not a business day.
- 12.2 We may vary this Contract at any time by giving you 20 business days' notice. No variation of this Contract will affect any right already accrued at the date of the variation.
- 12.3 We may assign, charge or otherwise deal with our rights and obligations under this Contract without your consent. You may not assign, charge or otherwise deal with your rights under this Contract.
- 12.4 An agreement, warranty, representation or obligation which binds or benefits two or more persons under this Contract binds or benefits those persons jointly and severally.
- 12.5 If any provision of this Contract is found to be void, voidable, illegal or otherwise unenforceable, the parties will amend that provision in a manner which reasonably achieves the intention of the parties or, at our discretion, that provision may be severed from this Contract and the remaining provisions of the Contract will remain in full force and effect.
- 12.6 This Contract is governed by the law of state or territory in which you resided at the time of execution. The parties submit to the non-exclusive jurisdiction of the courts of that state or territory and any courts which may hear appeals from those courts in respect of any proceedings in connection with this Contract.
- 12.7 Unless the context otherwise requires:-
- (a) A word which denotes the singular denotes the plural and vice versa;
  - (b) Any gender denotes the other genders; and
  - (c) A person includes an individual, a body corporate, trust and a government body.
- 12.8 Unless the context otherwise requires, a reference to:
- (a) Any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation;
  - (b) Any other agreement or instrument, where amended or replaced, means that agreement or instrument as amended or replaced; and
  - (c) A business day means a day other than Saturday on which banks are open for general banking business in the state or territory referred to in clause 12.6.

## **Appendix – Investment Program (Risk Profile Must follow)**

### **SCHEDULE 1 - FEES AND COSTS**

It is agreed that the following fee structure will apply to MDA Services provided under this agreement.

Authorised Representative Fees for Advising on and Dealing in Financial Products and Ongoing Services and Advice.

Portfolio Management Fees for Ongoing Service and Advice

Watershed Dealer Services Pty Ltd. May decide to charge an asset management fee if outlined and agreed to in the Statement of Advice.

An Administrative fee will be charged by the relevant preferred platforms that allow for MDA structures. Please refer to the relevant product disclosure statement for further details.

### **Adviser Remuneration**

All staff at Watershed Dealer Services Pty Ltd. are salaried employees and do not receive any form of commission.

### **Tax Deductible Fees**

The ongoing administration fees are tax deductible.

### **Brokerage on Share Transactions**

Brokerage rates can range from 0.2% to 1% may be charged by the Stockbrokers we use for equity transactions. Watershed Dealer Services Pty Ltd. may receive a payment from the Stockbroker ranging from nil to .50%.

### **Costs**

The Client agrees to pay or reimburse immediately to the Adviser on demand for all taxes, levies, imposts, deductions, charges, stamp duties, transaction and other costs and any registration and other fees and fines and penalties in relation to the establishment of the Client's Portfolio.

### **Fund Managers**

All managed funds will be at wholesale rates.

## **SCHEDULE 2 - INVESTMENT PROGRAM [STATEMENT OF ADVICE]**

### **Suitability of the MDA Service and investment Program**

Watershed Dealer Services Pty Ltd. considers a Managed Discretionary Account (MDA) Service to be suitable for your investment purposes. Investment under this structure allows us



to professionally manage a large portfolio of assets on your behalf, utilising our expertise, research and analysis capability. The MDA Service will also provide you with a flexible investment program including a Level of discretion detailed below in addition to comprehensive reporting of investment activity and results.

### **Investment Strategy**

Any reason for deviation away from our recommended weightings for this portfolio has been agreed with you or as a result of direct instruction from you, tailoring the asset allocations due to unique circumstances or a specified risk preference.

*Please note: that Watershed Dealer Services Pty Ltd. does not provide advice upon specific Direct Property investments however we will allocate a recommended weighting we believe is appropriate to your circumstances. Your actual weighting may differ significantly from this due to your current holdings of these types of assets.*

### **Discretion**

You have agreed that Watershed Dealer Services Pty Ltd. and the Authorised Representative have absolute discretion with respect to selection, timing and investment in the securities within each asset class. Additionally, Watershed Dealer Services Pty Ltd. will periodically review the suitability of the asset allocations for each risk profile and may make changes to those percentages.

You may give instructions to Watershed Dealer Services Pty Ltd. to purchase an investment on your behalf as a "Client Selected" investment. We will not transact that investment until specifically ordered to do so by you.

You have directed us to assign your existing holdings as "Client Selected". We will not sell that investment until ordered to do so by you.

### **Risks**

Watershed Dealer Services Pty Ltd. has worked with you to identify your risk preference or tolerance (see the Financial Plan we prepared for you) to determine an appropriate level of exposure to each asset class above.

All investments involve varying degrees of risk. There are many factors beyond the control of investors that may affect the return of capital and/or return on the invested capital. Each investment in each asset class is exposed to different and/or varying levels of risk, which will include one or more of the following:

**Market risk** - the performance of investment markets are affected by the economic climate, regulatory changes, as well as consumer and investor sentiment;

**Specific asset risk** - each specific investment in each asset class, is subject to its own specific risks relating to its operations and business activities undertaken in the industry, market and geographic area within which it operates;

**Currency risk** - investments in international assets are also subject to risks arising from fluctuations in the value of the currencies involved;

**Interest rate risk** - this can affect the return on fixed interest investments and can also have a direct or indirect impact upon the value and return of other investments, particularly those that rely upon borrowings to fund their activities.

**Credit Risk** - the risk of loss arising from the failure of another party to meet their obligations. Additionally, the price of securities may be negatively impacted by any changes in the credit rating of the underlying companies.

In managing your portfolio account the purchases and sales of assets, changes to the market value of assets and the receipt of income and dividends will cause fluctuations in the weightings of each asset class and may result in a departure from the recommended weightings set out above.

### **Giving us instructions and making changes to your Investment Programme**

Please remember, your instructions to us about your investments, regarding corporate actions, proxy voting etc, should be in writing at all times and should be directed to your Portfolio Manager at Watershed Dealer Services Pty Ltd..

### **Review of your Investment Programme**

Each year we will undertake a review of your Investment Program and confirm if it remains appropriate to your circumstances. Your Authorised Representative will contact you to arrange an appointment to review your needs and circumstances from which a review will be conducted in conjunction with the Portfolio Management Investment team. Each year you will discuss the relevance of your current Investment program and if it is still relevant to your circumstances. If there is a change to your circumstances or your risk profile this will be adequately documented in an ROA Change and a new Investment program will be provided to you.

### **Warning**

The Investment Program may not be suitable for you if you have provided us with Limited, incomplete or inaccurate information relating to your personal circumstances. Also, this Investment Program may cease to be suitable if your personal circumstances change.

We encourage you to contact your Authorised Representative or Watershed Dealer Services Pty Ltd. urgently if your circumstances have changed so we can determine if this service remains appropriate to your needs.

## APPENDIX – Operating Managed Discretionary Account

