



GALLUP®

OWL RATING SCHEME

Rules governing the use of the Owl
Certification Mark

26 May 2014





CONTENTS

1.	Definitions.....	4
2.	"Owl" Rating Scheme	6
2.1	Objectives	
2.2	Ownership	
2.3	Other Clubs	
3.	"Owl" Rating Scheme Guidelines.....	7
3.1	What is being rated	
3.2	How rating is done	
3.3	Information and disclosure	
4.	Official Rating	8
4.1	Calculation of the Official Rating	
4.2	Calculation of the Owl Rating	
5.	Authorisation to do rating	10
5.1	Appointment of third party vendors	
5.2	Qualifications	
5.3	Gallup	
6.	Application for Rating of a Service	12
6.1	Services included in rating	
6.2	Application for Rating	
6.3	Provider Application	
6.4	Provider Application Fee	
6.5	Privacy	
6.6	The first rating	
6.7	Applying to be re-rated	
6.8	Maintaining Status of Rating	
7.	Use of the "Owl" Certification Mark.....	16
8.	Disputes	18
8.1	Definition of a dispute	
8.2	Dispute Resolution Procedure	
8.2.1	Stage 1	
8.2.2	Stage 2	
	Schedule 1.....	22
	Schedule 2.....	23



1. Definitions

CE11 Mean means the Gallup proprietary questions which measure customer engagement.

First Rating means the first Official Rating awarded to a Service Provider

Gallup means Gallup Organisation Pty Ltd. ABN: 49 088 891 481.

Home Support Service means the service funded under the Commonwealth Government's Home Support Services as part of the Commonwealth Aged Care program.

Home Care Service means a package of services provided to an eligible older person under the Commonwealth Government's aged care program.

Licence Agreement means the licence agreement between the Provider and NRMA governing the use of the Owl Certification Mark, and substantially in the form set out at Schedule 1, as amended from time to time. The current template licence agreement is available at www.livingwellnavigator.com.au.

Motoring Clubs means RACV, RACQ, RAA, RAC, RACT and AANT and such other reputable international motoring organisations that NRMA nominate from time to time.

Official Rating means a rating for a Service Provider determined by the Scheme Operator in accordance with these Rules.

Owl Rating Panel means a Panel appointed in accordance with section 8.2.2 of these Rules to resolve disputes.

Owl Rating Scheme/Scheme means the scheme of rating Service Providers of Residential Aged Care Services, Retirement Living Services, Home Support Services and Home Care Services in accordance with these rules.

Owl Certification Mark means the following trade mark:



Owl Rating means a one owl, two owl or three owl rating determined by the Scheme Operator in accordance with these Rules on the basis of the Official Rating.

Owl Rating Scheme Rules/Scheme Rules means these rules.

Provider Application means an application by a Service Provider to be rated under the Owl Rating Scheme in accordance with the Scheme Operator's application form as amended by NRMA from time to time. The template Provider Application form is also available online at www.livingwellnavigator.com.au.

Provider Application Fee means the fee set in accordance with section 6.4 as varied from time to time. The current Provider Application Fee Schedule is set out at www.livingwellnavigator.com.au.

Rated Service Providers means a Service Provider rated under the Scheme

Rating Scorecard means the scorecard prepared for a Service Provider showing their rating results, their position relative to other providers in the survey



sample size including other relevant data bases and recommendations for service improvement.

Rating Tool Survey means the survey questionnaire set out in Schedule 2, as amended from time to time. The current Rating Tool Survey is available at www.livingwellnavigator.com.au.

Residential Aged Care Service means a care home funded by the Commonwealth Government as defined in the Commonwealth Aged Care Act..

Retirement Living Service means a retirement village regulated under the NSW Retirement Villages Act or similar consumer protection legislation in each State/Territory of Australia.

Scheme Administrator has the meaning given to it in clause 5.1

Scheme Operator means National Roads and Motorists' Association Limited or any operator appointed from time to time by National Roads and Motorists' Association Limited. The current Scheme Operator is identified at www.livingwellnavigator.com.au.

Service Provider means a provider of a Residential Aged Care Service, Retirement Living Service or Home Support Service who has been rated or applied to be rated under the Scheme.

2. Owl Rating Scheme

2.1 Objectives

The objective of the Owl Rating Scheme is to assist people searching for and using aged residential care, retirement living and home support services with information to guide them on finding a service that meets their individual circumstances. The Scheme is different to Government accreditation and other industry certification schemes. This is because the Scheme rates services on what Service Providers do that drives high levels of customer engagement, which is a measurement of customer loyalty and satisfaction with a service provider.

Service Providers who have been rated under the Owl Rating Scheme can use the Owl Certification Marks in accordance with the Scheme Rules.

2.2 Ownership

The Scheme is owned and operated by National Roads and Motorists' Association Limited trading as NRMA Motoring & Services (NRMA). The NRMA is the scheme owner. NRMA is one of the largest Member-owned mutual organisations in Australia and provides a range of services to members including roadside assistance, travel, holiday parks, safer driving programs and other services that meet Member needs.



2.3 Other Motoring Clubs

The Scheme operates nationally and NRMA will licence the Scheme to other Motoring Clubs in Australia on an opt-in basis to rate Service Providers in each Motoring Club's own state. NRMA will operate the Scheme on behalf of any licensed Motoring Clubs in accordance with the Scheme Rules.

3. Owl Rating Scheme Guidelines

3.1 What is being rated?

Service Providers applying to be rated are rated on factors that drive high levels of customer engagement. These factors have been chosen because empirical evidence that shows customers who are fully engaged are more likely to be happy with the service they receive and recommend it to others as well as improving the financial performance of providers.¹

At the time of submission of these Rules, the core metric that will be used to measure customer engagement is the CE¹¹ Mean. This is a metric developed by and proprietary to Gallup Organisation Pty Ltd. This metric will be used to rate Service Providers, adjusted as necessary for the aged care and retirement living sectors in Australia.

NRMA will also ask additional questions which are relevant solely to the Australian market. When such questions can be shown to be statistically verified and benchmarked to accurately predict customer engagement, then those questions may over time replace the CE¹¹ Mean questions as part of the rating process.

3.2 Credentials of Scheme Administrator

As detailed in section 5.1 below ("Appointment to do the rating") NRMA will appoint an appropriately qualified Scheme Administrator to conduct the rating process.

The current list of Scheme Administrators will be shown at www.livingwellnavigator.com.au.

At the time of submission of these Rules, the sole Scheme Administrator is Gallup.

¹ Fleming, John H. "A Popular Idea That's Dead Wrong" in Gallup Management Journal and Gallup Consulting "The Next Discipline: Applying Behavioural Economics to Drive Growth and Profitability" 2009.



3.3 Overview of the ratings process

Service Providers will be rated by NRMA and the Scheme Administrator and any other authorised certifiers appointed under rule 5 below. There are nine steps in the process of being rated²:

Step 1: Service Providers apply to the Scheme Operator to be rated and pay a Provider Application Fee. The current Provider Application Fee is listed at www.livingwellnavigator.com.au

Step 2: The Service Provider's application is reviewed by the Scheme Operator to determine eligibility to be rated under the Scheme.

Step 3: In order to be rated a sample of customers of the Service Provider applicant must be interviewed using the Ratings Tool Survey (see Steps 4 and 5). The Service Provider provides to the Scheme Operator the list of consumers (including decision-makers where appropriate) relevant to the service being rated and their contact details.

Step 4: Scheme Administrator determines the sample size and composition and selects consumers to be interviewed for the Rating Tool Survey. The sample size will be determined for each type of facility based on the total number of residents/units/participants per facility and estimates of likely completion rates (approximately 35%). Maximum error rates given these sample and population sizes are expected to be between +/- 6 and 11 percentage points.

Step 5: Scheme Administrator administers the Rating Tool Survey either using Face-to-Face, online or telephone methodology depending on the service type and acuity of consumers

Step 6: Scheme Administrator analyses results of Rating Tool Survey using regression analysis and determines an engagement score. The distribution of scores across providers enables the Scheme Administrator to assign the Official Rating that is then compiled into a provider scorecard, and to assign an Owl Rating to the Service Provider

Step 7: Scheme Administrator provides the Provider Scorecard to the Service Provider and offers debrief on results

Step 8: The Scheme Operator advises Service Provider of the Official Rating and Owl Rating (if any) and Scheme Administrator provides a scorecard explaining the rating results.

Step 9: The Service Provider's Owl Rating is compiled and published by the Scheme Operator, including on www.livingwellnavigator.com.au, if the Official Rating is one Owl or higher. If the Service Provider's Official Rating does not qualify for an Owl Rating, the Service Provider's rating will not be published and the Service Provider has the opportunity to address outstanding issues and apply to be re-rated at a subsequent

rating period (see section 6 “Application for Rating of a Service”, and sections 6.6 and 6.7 for more information on ratings periods).

3.4 Information and disclosure

How the Scheme operates including how the rating is done and the interpretation of the variations on the Owl Certification Mark used in the Scheme is publicly available on the NRMA website at www.livingwellnavigator.com.au and included in marketing information for customers and Service Providers.

These Scheme Rules are available online at www.livingwellnavigator.com.au and for public inspection on request during business hours (Mon – Friday 9am – 5pm) at the NRMA office at 9a York Street, Sydney NSW and Level 1, 9 George Street, North Strathfield NSW 2137.

4. Official Rating



4.1 Calculation of the Official Rating


Gallup as the initial Scheme Administrator will determine the Service Provider’s Official Rating based on the results of the Rating Tool Survey for the Service Provider. These results are assessed against the results of other providers of the same category of services, after evaluating the following:

- The spread/distribution of CE¹¹® Mean scores for the same category of services, weighted using a Gallup proprietary formula; and
- Gallup’s benchmarks on customer engagement.

4.2 Calculation of the Owl Rating

The Scheme Administrator will use the Official Rating to assign an Owl Rating to the Service Provider. The Owl Rating will be one, two, or three Owls. The Owl Rating will be assigned by the Scheme Operator as follows:

-  (One Owl Rating) will be assigned to Service Providers who have good levels of customer engagement;
-  (Two Owls Rating) will be assigned to Service Providers who have very good levels of customer engagement; and

-  (Three Owls Rating) will be assigned to Service Providers who have excellent levels of customer engagement.

5. Authorisation to do the Rating

5.1 Appointment of Scheme Administrators by NRMA

NRMA as owner of the Scheme may at its sole discretion appoint third parties to administer the Rating Tool Survey, calculate the Official Rating or to be the Scheme Operator, including:

- Gallup;
- NRMA endorsed market research providers; or
- Government or Government-endorsed agencies; (each a “Scheme Administrator”)

As set out above, the current list of Scheme Administrators will be shown at www.livingwellnavigator.com.au.

5.2 Qualifications

NRMA will ensure that Scheme Administrators authorised to conduct the Rating Tool Survey, calculate the Official Rating or to be the Scheme Operator are appropriately qualified and conduct the rating in accordance with the Scheme’s operating manual, Scheme Rules and guidelines.

5.3 Gallup

At the time of submission of the Rules, the Scheme Administrator is Gallup, who has been appointed by NRMA for three years from 15 April 2013 to:

- Administer the Rating Tool Survey
- Calculate the Official Rating
- De-brief Service Providers on their Official Rating

NRMA may appoint a replacement Scheme Administrator in the ratings process as indicated above, as an alternative or replacement for Gallup at the end of this three year period.



6. Application for Rating of a Service

Service Providers must apply to have their services officially rated under the Scheme.

6.1 Services included in rating

Service Providers eligible to be rated under the Scheme are providers of the following service types:

- Residential Aged Care Services
- Retirement Living Services
- Home Support Services
- Home Care Services

Service types eligible to be officially rated will be phased in commencing with Retirement Living Services and Home Care Services.

6.2 Application for Rating

Service Providers apply to be rated under the Scheme via the Provider Application.

A Service Provider will only be eligible to be rated under the Scheme if all of the following apply:

- The Service Provider is governed by the Commonwealth Aged Care Act 1997 and/or Retirement Villages legislation in each respective State/Territory) including revisions to these Acts and regulations
- The Service Provider has provided its ABN to verify the Service Provider's company/organisation identity and status and
- Is compliant with the relevant government or appropriate industry accreditation/certification scheme

6.3 Provider Application

Service Providers will complete and submit the Provider Application form online. The Provider Application form is available at www.livingwellnavigator.com.au.

The Scheme Operator may not commence the ratings process until:



- the Provider Application form is completed by the Service Provider;
- the Scheme's terms and conditions have been read and accepted by the Service Provider; and
- the Provider Application Fee has been paid by the Service Provider.

The Scheme Operator may request further information in addition to the Provider Application form where, in the Scheme Operator's opinion, the further information is necessary for the Service Provider to be properly rated under the Scheme.

6.4 The Provider Application Fee

Service Providers applying to be rated under the Scheme must pay the Provider Application Fee set out in the fee schedule at www.livingwellnavigator.com.au.

The Provider Application Fee is designed to cover the costs associated with operating the Scheme including:

- Conducting the complete rating process*
- Management of the Provider Application process
- Administering the Rating Tool Survey
- Analysing results of the Rating Tool Survey
- Calculating the Official Rating and Owl Rating
- Producing the rating scorecard and posting the Provider's Rating Scorecard
- Maintaining public listings and Service Provider information (if applicable)
- Promoting the Owl Rating Scheme to Service providers
- Answering enquiries from Service Providers
- Administration and development of the Rating Tool*

*Additional costs apply where:

- There are travel and/or accommodation costs associated with administering the Rating Survey
- A Service Provider engages expert advice as part of the dispute resolution process, in which case the Service Provider acknowledges and agrees that those costs will be met by the Service Provider.



Costs associated with travel and accommodation to conduct face to face interviews will be an additional charge (charged at cost +GST) to the Service Provider by the Scheme.

NRMA will review the Provider Application Fee from time to time based on a number of factors, including but not limited to the number of services rated, the frequency at which Service Providers can be rated, the period of time for which the rating is valid, and costs to operate the Scheme. The current fee schedule is available at www.livingwellnavigator.com.au.

6.5 Privacy

The Service Provider must comply with NRMA's requirements for privacy consents or notifications as advised from time to time. NRMA will provide a copy of the current requirements with the Provider Application at www.livingwellnavigator.com.au.

6.6 The First Rating

There are two rating periods available each year under the Scheme. These rating periods occur approximately every six months. Service Providers have the option to be rated at these times. The first rating is current for two years after which time the Service Provider can apply to have their services re-rated. The terms and conditions of the Licence Agreement at Schedule 1 will apply during this two-year period. When an Owl rating is made and posted on the Service Provider's service listing, the rating will be dated so there is transparency about the period of time for which the rating is relevant.

6.7 Applying to be re-rated

Service Providers can apply to be re-rated after the first rating at any time before the expiry of the first rating. The Official Rating assigned by the Scheme Administrator will be published by the Scheme for the duration of the rating. When the rating period expires, the Scheme Operator will remove the Owl rating from the Service Provider's listing. The Service Provider's new rating is based on the results of the new Rating Tool Survey being administered again in accordance with steps 1-9 in Section 3.3.



6.8 Maintaining status of rating

A condition of using the Owl Certification mark is that Service Providers must notify the Scheme Operator of any changed circumstances that may have a bearing on the Owl Rating or on the Service Provider's eligibility to be rated under the Scheme, including any change in accreditation and/or certification or any of the other factors identified in sections 6.1 or 6.2.

The Scheme Operator may suspend or terminate a Service Provider's rating at any time on 30 days' notice to the Service Provider where the Service Provider:

- is in breach of the Scheme Rules or the Licence Agreement;
- has serious compliance issues with the relevant regulatory agency,
- ceases to offer, or ceases to be approved to offer, the service for which the Service Provider has been rated under the Scheme,
- is subject to an Insolvency Event (as defined in the Trade Mark Licence set out in Schedule 1), or
- is subject to or involved in any other serious circumstance that in the Scheme Operator's reasonable opinion may have a bearing on the Official Rating or Owl Rating awarded to the Service Provider.

The Scheme Operator may audit compliance with the Owl rating at any time on reasonable notice to the Service Provider.

7. Use of the Owl Certification Mark

Rated Service Providers who have been assigned an Owl Rating can use the Owl Certification Mark in accordance with the Scheme Rules and the terms of the Licence Agreement (Schedule 1) and otherwise as approved in writing by the NRMA.

Rated Service Providers whose Official Rating does not qualify for an Owl Rating are not permitted to use the Owl Certification Mark and are not eligible to enter into the Licence Agreement.



8. Disputes

8.1 Definition of a dispute

A “Dispute” means any dispute, difference or claim arising out of or in relation to:

- a) A refusal by the Scheme Operator to rate a Service Provider in accordance with the Scheme Rules;
- b) A refusal by the Scheme Operator to award an Official Rating or Owl Rating to a Service Provider’s service in accordance with the Scheme Rules;
- c) An alleged breach of the Licence Agreement by the Service Provider;
- d) Termination of the Licence Agreement by NRMA;
- e) A refusal by NRMA to allow use of the Owl Certification Mark in accordance with these Scheme Rules or the Licence Agreement;
- f) any other issue relating to the Owl Certification Mark.

8.2 Dispute Resolution Procedure

Any Dispute must be resolved in accordance with the following step-by-step process prior to recourse to any other dispute resolution process:

8.2.1 Stage 1

- Disputes must be referred in writing (with supporting documentation) by a Service Provider to the Scheme Operator. The referral must be made within 30 days of receiving the Scheme Operator’s refusal to rate the Service Provider, the Official Rating or Owl Rating, the Scheme Operator’s refusal to award an Official Rating or Owl Rating, the Service Provider being informed of the alleged breach of the Licence Agreement, the termination of the Licence Agreement by the Scheme Operator, or the Scheme Operator’s refusal to allow use of the Owl Certification Mark, as applicable.
- The Scheme’s responsible Manager for Operations will ensure that the Service Provider is given the opportunity to be heard.
- The Scheme’s responsible Manager for Operations may request additional information at his or her discretion.
- The Scheme’s responsible Manager Operations will make a decision within 10 working days of receiving notice of the Dispute (**Initial Decision**). In making the Initial Decision,



consideration will be given to the terms and conditions of the Licence Agreement and these Scheme Rules, as relevant.

- The Scheme's responsible Manager Operations will respond in writing to the Service Provider advising the Service Provider of the Initial Decision within 10 days.

8.2.2 Stage 2

- The Service Provider may request review of the Initial Decision in writing (with supporting documentation) to the Scheme's General Manager (General Manager) at the NRMA within 30 days. The contact details for the General Manager are available at www.livingwellnavigator.com.au
- The General Manager will convene the Owl Rating Panel that will ensure the Service Provider is given the opportunity to be heard.
- The Owl Rating Panel will consist of the General Manager (or his/her nominee), a representative of COTA and a recognised industry expert appointed by the General Manager. The Panel will meet as required.
- The procedure of the Owl Rating Panel will be as it considers appropriate to effectively consider and resolve the Dispute. This may include inviting the Service Provider to present to the Panel and seeking expert advice either in writing or in person from the Vendor endorsed by the Scheme Operator to administer the Rating Tool Survey (e.g. Gallup)
- In making its decision, the Owl Rating Panel will have regard to the submission put by the Service Provider, the decision previously made by the Scheme's responsible Manager Operations, the terms and conditions of the Licence Agreement, these Scheme Rules and other applicable precedents in addressing previous Disputes under the Scheme, as relevant.
- The Owl Rating Panel may, at its absolute discretion, seek the advice of the relevant industry association or from a recognised industry expert. This applies particularly where the Dispute relates to an issue of broader impact within the Scheme.
- The Scheme's responsible Manager Operations will advise the Service Provider of the outcome of the Dispute within 10 working days of the Owl Rating Panel meeting.
- Any change to an Official Rating or Owl Rating or any Licence Agreement condition arising from a decision of the Owl Rating



Panel will be effective from the date of the Scheme Operator's notification sent to the Service Provider.

By completing the Provider Application and paying the Provider Application Fee, you agree that you have read and understood and to be bound by these Scheme Rules.



Schedule 1

Owl Certification Trade Mark Licence Agreement

TERMS SHEET

Licensor	National Roads and Motorists' Association Ltd
Service Provider (insert name)	
Permitted Purpose means the provision of: (tick applicable service)	Retirement Living Services <input type="checkbox"/> Aged Care Residential Facility <input type="checkbox"/> Home Support Service <input type="checkbox"/> Home Care Service <input type="checkbox"/>
Commencement date (insert date)	
Term	2 years from Commencement Date
Territory (tick applicable)	New South Wales <input type="checkbox"/> Victoria <input type="checkbox"/> Queensland <input type="checkbox"/> South Australia <input type="checkbox"/> Western Australia <input type="checkbox"/> Tasmania <input type="checkbox"/> Australian Capital Territory <input type="checkbox"/> Northern Territory <input type="checkbox"/>
Trade Mark (tick applicable)	<div style="display: flex; align-items: center; margin-bottom: 10px;"> <input type="checkbox"/> </div> <div style="display: flex; align-items: center; margin-bottom: 10px;"> <input type="checkbox"/> </div> <div style="display: flex; align-items: center;"> <input type="checkbox"/> </div>



GALLUP®

<p>Notices</p>	<p>Licensor</p> <p>Address: Telephone: Email: Fax:</p> <p>Licensee</p> <p>Address: Telephone: Email: Fax:</p>
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The parties agree

1 Defined terms

The Terms Sheet and the Owl Rating Scheme Rules set out the definitions for this Licence Agreement.

Insolvency Event means being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act 2001) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

2 Licence

2.1 Grant

In consideration of the payment of the Provider Application Fee, the Licensor grants to the Service Provider a non-transferable, non-exclusive, royalty free licence to use the Trade Mark in the Territory, during the Term, for the Permitted Purpose, on the terms set out in this agreement and the Owl Rating Scheme Rules.

2.2 Service Provider acknowledgment

The Service Provider acknowledges that nothing in this agreement gives the Service Provider any rights or interests in the Trade Mark, other than as a licensee under this agreement.

2.3 Sub-licences

The Service Provider must not sub-license any right or interest granted to it under this agreement.

2.4 Relationship of the parties

The parties agree that:

- (a) each are independent contractors and are not partners, joint venturers or principal and agent; and
- (b) a party does not have authority to bind the other party by contract or otherwise and must not hold itself out as having authority to bind the other party to any contract or otherwise.



2.5 Excluded powers

The parties agree that the Service Provider will have none of the powers conferred on an authorised user of Trade Mark by section 26 of the Trade Marks Act 1995.

3 Use of Trade Mark

3.1 Use of the Trade Mark

The Service Provider must:

- (a) only use the Trade Mark in accordance with the terms of this agreement;
- (b) use the Trade Mark in accordance with guidelines provided by the Licensor, which the Licensor may amend from time to time by notice in writing to the Service Provider;
- (c) comply with all of the Licensor's directions and guidelines concerning use of the Trade Mark notified to the Service Provider in writing;
- (d) comply with the Owl Rating Scheme Rules;
- (e) not use the Trade Mark in a way likely to deceive or cause confusion or prejudice its distinctiveness or value or the Licensor's goodwill or reputation;
- (f) only use the Trade Mark in the form in which it is registered; and
- (g) not use the Trade Mark with any other name or trade mark without first obtaining the Licensor's written consent;
- (h) comply will all applicable laws, regulations and industry standards.

3.2 Service Provider's acknowledgments

The Service Provider acknowledges that:

- (a) the Trade Mark is significant to the Owl Care Rating Scheme's goodwill and reputation; and
- (b) all use of the Trade Mark (including any goodwill from that use) inures to the benefit of the Licensor, without cost to the Licensor.



4 Term

This agreement commences on the Commencement Date and continues, unless terminated earlier under clause 11, for the Term.

5 Suspension

If the Service Provider's Owl Care Rating is suspended in accordance with clause 6.8 of the Owl Rating Scheme Rules, this Licence is automatically suspended for the period of suspension of the Service Provider's Owl Rating, and the Licensee must not use the Trade Mark for that period.

6 Inspections

During the Term, the Service Provider must permit (and reasonably assist) the Licensor and its representatives, on reasonable notice during usual business hours, to inspect, audit and take copies of and extracts from the records kept by the Service Provider in relation to the Trade Mark.

7 Representations and Warranties

Each party represents and warrants that:

- (a) **(power)** it has full legal capacity and power to enter into this agreement and to perform its obligations under this agreement;
- (b) **(no controller)** no controller (as defined in the Corporations Act) is currently appointed in relation to any of its property, or any of its subsidiaries; and
- (c) **(no trust)** it is not entering into this agreement as trustee of any trust or settlement.

Each party acknowledges that the other party has executed this agreement in reliance on the representations and warranties that are made in this clause.

8 Protection of Trade Mark and Infringement Claims

8.1 Prohibited Acts

The Service Provider must not:

- (a) do, or authorise the doing of, anything that challenges or impairs the Licensor's rights or interests in the Trade Mark;
- (b) use or authorise the use of, or make or authorise any application to register, any trade mark that is substantially identical with, or



deceptively similar to, the Trade Mark on or in connection with any goods or services;

- (c) use or register any business name, company name, domain name or anything else that incorporates or is substantially identical with, or deceptively similar to, the Trade Mark and must ensure that none of its related bodies corporate does so;
- (d) hold itself out as connected in any way with the Licensor or any of its related bodies corporate other than as a licensee of the Trade Mark under this agreement; or
- (e) use any other name or trade mark owned or used by the Licensor or any of its related bodies corporate.

8.2 Infringement and other claims

- (a) The Service Provider must promptly notify the Licensor in writing of any:
 - (i) *actual, suspected or threatened infringement of, or challenge to, the Trade Mark and any conduct in relation to the Trade Mark that may constitute passing off or misleading or deceptive conduct; and*
 - (ii) *claim or proceeding alleging that use of the Trade Mark infringes another person's rights, or constitutes passing off or misleading or deceptive conduct.*
- (b) The Licensor may, in its discretion, decide whether or not to take any action in relation to the matters referred to in clause 7.2(a) and the Licensor's decision is final. Any money recovered as a result of action taken by the Licensor will belong to the Licensor, absolutely.
- (c) If the Licensor takes action in relation to the matters referred to in clause 7.2(a), the Service Provider must give all reasonable assistance that the Licensor may request, at the Licensor's expense.



9 Maintenance of Trade Mark

The Service Provider must cooperate with the Licensor in maintaining the validity of any registration of the Trade Mark, including (at Licensor's cost) do anything (including execute any document such as a declaration of use) as the Licensor may reasonably require in connection with the Trade Mark, its use and registration in the Licensor's name.

10 Exclusion and Limitation of Liability

10.1 Exclusion

Except as expressly provided in this agreement, to the extent permitted by applicable law, all warranties, representations and terms concerning the subject-matter of this agreement are excluded.

10.2 Maximum liability

To the extent permitted by applicable law, and subject to clause 10.3, the Licensor's liability to the Service Provider under or in connection with this agreement, however caused, and whether arising under contract, tort (including negligence) or otherwise, will not exceed the Provider Application Fee paid by the Service Provider to the Licensor pursuant to the Owl Rating Scheme Rules.

10.3 Excluded liability

To the extent permitted by applicable law, the Licensor is not liable to the Service Provider for:

- (a) loss of anticipated savings, opportunity, revenue, profit or goodwill, or other economic loss; or
- (b) any indirect, consequential, incidental, punitive or exemplary damages, however caused, and whether arising under contract, tort (including negligence) or otherwise, even if the Service Provider has advised the Licensor of their possibility.

11 Termination

11.1 Termination by the Licensor

The Licensor may terminate this agreement (including all licences granted under it) by written notice effective immediately (or effective from any later date that it may nominate) if:

- (a) the Service Provider is in breach of the Owl Rating Scheme Rules, including where the Service Provider loses government



accreditation, certification or relevant industry certification in relation to the Permitted Purpose;

- (b) subject to clause 11.1(c), the Service Provider materially breaches any of its obligations under this agreement and the breach is not rectified, if it can be rectified, within 30 days of written notice of the relevant breach;
- (c) the Service Provider breaches an obligation under this agreement that it has previously breached (whether or not the previous breach was rectified);
- (d) the Service Provider commits, or is the subject of, an Insolvency Event; or
- (e) without limiting the other provisions of this clause 11, the Service Provider engages in any conduct or practice that is reasonably likely, in the Licensor's opinion, to adversely affect the Trade Mark, the goodwill associated with the Trade Mark, the Licensor's rights in the Trade Mark or the Licensor's reputation or the reputation of the Owl Rating Scheme.

11.2 Service Provider termination

If the Licensor ceases to have the right to licence the Trade Mark, the Service Provider's sole remedy is to terminate this agreement.

12 Consequences of Expiry or Termination

12.1 The parties' obligations

On expiry or termination of this agreement:

- (a) the Service Provider must not use the Trade Mark or any substantially identical or deceptively similar trade mark, or identify itself or associate itself, whether directly or indirectly, with the Trade Mark or the Licensor or the Owl Care Rating Scheme. The Service Provider must as soon as reasonably possible cease all use of the Trade Mark and, without limitation, immediately take down or obliterate all signs on buildings, vehicles and elsewhere on which the Trade Mark appears, and withdraw all media advertising and directory listings that refer to the Trade Mark. For the avoidance of doubt, on expiry or termination of this agreement, the Service Provider must not use the Trade Mark to refer to itself as having been previously rated under the Owl Rating Scheme;



- (b) the Licensor may at its own cost apply to cancel any registration of the Service Provider as a licensee of the Trade Mark and the Service Provider consents to these cancellations.

12.2 Claims

The expiry or termination of this agreement does not affect any claim that either party may have against the other.

13 Amendment and Assignment

13.1 Amendment

Except as expressly provided otherwise, this agreement may only be amended, supplemented, replaced or novated by another agreement signed by the parties.

13.2 Assignment with consent

Subject to 12.3, neither party shall be permitted to assign its rights under this agreement without the other party's prior written consent.

13.3 Assignment to Successor

In the case of the sale, assignment or other transfer of the Service Provider's entire right and interest in a facility rated under the Owl Rating Scheme, [or management rights in a facility rated under the Owl Rating Scheme], to a new operator (Successor), the Service Provider may assign its rights in the Licence to the Successor, provided that:

- (a) the Service Provider notifies the Licensor in writing of the details of the Successor at least thirty (30) days prior to the proposed sale, assignment or other transfer, including:
 - (i) successor's ACN/ABN;
 - (ii) (if relevant) proof of the Successor's government accreditation, certification or relevant industry certification; and
 - (iii) Provide details to the Licensor of all other Residential Care, Home Support and/or Retirement Living services operated in Australia and claim those listings on the Owl Rating web portal.
- (b) the Licensor, acting reasonably, does not object to the proposed assignment of the Licence to the Successor within thirty (30) days of notification by Service Provider. For the avoidance of



doubt, it will be reasonable for Licensor to object to the assignment of the Licence where:

- (i) the new operator does not meet the requirements of the Owl Rating Scheme Rules;
 - (ii) the Successor is a competitor of Licensor;
 - (iii) the Successor engages in any conduct or practice that is reasonably likely, in the Licensor's opinion, to adversely affect the Trade Mark, the goodwill associated with the Trade Mark, the Licensor's rights in the Trade Mark or the Licensor's reputation or the reputation of the Owl Care Rating Scheme; and
- (c) prior to the sale, assignment or other transfer, the Service Provider procures that the Successor enters into a licence with the Licensor on the same terms as this Licence.

14 General

14.1 Governing law

This agreement is governed by the law in force in New South Wales.

14.2 Giving effect to this agreement

Each party must do anything (including execute any agreement), and must ensure that its employees and agents do anything (including execute any agreement), that the other party may reasonably require to give full effect to this agreement.

14.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver.

14.4 Operation of this agreement

- (a) This agreement, together with the Owl Rating Scheme Rules, contain the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this agreement and has no further effect.
- (b) Any provision of this agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this agreement enforceable, unless



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this would materially change the intended effect of this agreement.

14.5 Counterparts

This agreement may be executed in counterparts.



Schedule 2: Rating Tool Survey

Part A - CE11 questions

1. Taking into account all the products and services you receive from ___ (Name Retirement Village), how satisfied are you overall? Please use a five-point scale, where 5 means you are extremely satisfied and 1 means you are not at all satisfied. You may use any of the numbers 1, 2, 3, 4, or 5 for your rating

2. If moving were a viable option and you had a choice, how likely would be to continue to reside at ___ (Name Retirement Village) as a place for you to live? Please use a five-point scale, where 5 means you are extremely likely and 1 means you are not at all likely. You may use any of the numbers 1, 2, 3, 4, or 5

3. How likely are you to recommend to a family, friend or associate? Please use a five-point scale, where 5 means you are extremely likely and 1 means you are not at all likely. You may use any of the numbers 1, 2, 3, 4, or 5

Now, I am going to read a number of statements. Using a five-point scale, where 5 means you strongly agree and 1 means you strongly disagree, please rate your level of agreement with each statement as it applies to ___ (Name Retirement Village)

4. is a name I can always trust

5. always delivers on what they promise

6. always treats me fairly

7. If a problem arises, I can always count on _____ to reach a fair and satisfactory resolution..

8. I feel proud to be a _____ customer



- 9. always treats me with respect
- 10. is the perfect senior living solution for people like me
- 11. I can't imagine a world without _____

OPEN 1. What are the MAIN reasons you gave a score of (READ OUT RATING IN Q1) with regards to your Overall Satisfaction with ___ (Name Retirement Village)?

Q1. Does the Retirement Village you are at, provide the following services?

- Food Services 1.Yes/2.No
- Health and Care Services 1.Yes/2.No

Driver Set A: The following questions relate to your experience at ___ (Name Retirement Village):

Please continue using a five-point scale, where 5 means you strongly agree and 1 means you strongly disagree. Please rate:

- 12. I have a higher quality of life since moving here
- 13. The staff are aware of my needs and requirements
- 14. The staff always do their best to meet my individual needs and requirements
- 15. The staff always show genuine concern for me
- 16. The staff are always courteous and friendly to me
- 17. I feel safe where I live
- 18. There is a great atmosphere at ___ (Name Retirement Village)

Driver Set B: The items I will now read out represent various aspects about your Social and Community Wellbeing.

- 19. I have strong friendships at this Retirement Village
- 20. I am encouraged and helped to maintain connections with friends and family outside the village
- 21. I get to choose interesting and enjoyable things to do every day
- 22. My transportation needs are met



23. Staff and residents are like members of a family

Driver Set C: The next few items represent various aspects about your Physical Wellbeing. (Ask 24 if 1 coded in Q1 and ask 25 if 1 coded in Q2)

24. I enjoy the food provided

25. The provider offers assistance to ensure my health and care needs are being met

26. I have options for exercise and other physical activity that I enjoy

Driver Set D: The items I will now read out represent various aspects about the Care and the Service you receive:

27. I am given choices about the services available here when I need more support

28. I am always helped to be as independent as I can be

29. I am always encouraged to provide my opinions about the services offered

30. I am always treated like a valued person

Driver Set E: The next items relate to the Physical Aspects of the Facility:

31. My private living space is appropriate for my needs and feels like home

32. The Village and surrounds are well maintained

33. The cleanliness and hygiene of the common areas is good

Driver Set F: The next items relate to Value and Communication:

34. The accommodation and services available to me here represent excellent overall value for the money

35. The contract and fee structure is clear and easy to understand

36. The provider helps me with decisions I need to make, by providing relevant information.

37. The communication provided is always clear and easy to follow

communication provided is always clear and easy to follow



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38. In the past 6 months, have you personally experienced a problem or issue in any aspect of your relationship with ___ ?

Yes

No → Go to Question #42

OPEN2. Please describe the LAST problem you or your family member experienced

40. Did you report the problem?

Yes

No →

41. Overall, how satisfied are you with the way ___ handled or is currently handling this problem or issue? Please use a five-point scale, where 5 means you are extremely satisfied and 1 means you are not at all satisfied.



Part B – Additional questions

	Retirement Living Services	Aged Residential Care Facilities	Home Support
Overall Wellbeing	I have a higher quality of life since moving here	I have a higher quality of life since moving here	I have a higher quality of life after I started receiving home support
	The staff are aware of my needs and requirements	The staff are aware of my needs and requirements	The carers who visit are aware of my needs and requirements
	The staff always do their best to meet my individual needs and requirements	The staff always do their best to meet my individual needs and requirements	The carers who visit always do their best to meet my individual needs and requirements
	The staff always show genuine concern for me	The staff always show genuine concern for me	The carers who visit always show genuine concern for me
	The staff are always courteous and friendly to me	The staff are always courteous and friendly to me	The carers who visit are always courteous and friendly to me
	I feel safe where I live	I feel safe where I live	I trust and feel safe with the carers who visit
	There is a great atmosphere at this village	There is a great atmosphere at this care home	The services provided are tailored to meet my needs



			I receive consistently high service from the staff who visit me
Social/Community Wellbeing	I have strong friendships and feel I belong in this Retirement Village	I have strong friendships and feel I belong at this care home	
	I am encouraged and helped to maintain connections with friends and family outside the village	I am encouraged and helped to maintain connections with friends and family outside this care home	The services I receive help me stay connected with my family
	I get to choose interesting and enjoyable things to do every day	I get to choose interesting and enjoyable things to do every day	
			The services I receive make me optimistic about being able to remain in my own home.
	My transportation needs are met	My transportation needs are met	My transportation needs are met
	Staff and residents are like members of a family	Staff and residents are like members of a family	Carers who visit have become like members of a family to me



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Physical Wellbeing	I enjoy the food provided	I enjoy the food provided	I enjoy the food provided
		The staff here help me maintain good levels of personal hygiene	The staff here help me maintain good levels of personal hygiene
	The provider always ensures my needs are being met	The provider always ensures my health and care needs are being met	The provider always ensures my health and care needs are being met
	I have options for exercise and other physical activity that I enjoy	I have options for exercise and other physical activity that I enjoy	
Consumer directed care	I am given choices about the services available here	I am given choices about the services I receive here	I am always encouraged to make decisions about the services I need



			I am always allowed to choose who provides the services I need
	I am always helped to be as independent as I can be	I am always helped to be as independent as I can be	I am always helped to be as independent as I can be
	I am always encouraged to provide my opinions about the services offered	I am always encouraged to provide my opinions about the services offered	I am always encouraged to provide my opinions about the services offered
			The carers who visit are always punctual
	I am always treated like a valued person	I am always treated like a valued person	I am always treated like a valued person
Appeal	My living space is appropriate for my needs and feels like home	My living space is appropriate for my needs and feels like home	
Cleanliness	The facilities and surrounds are well maintained	The facilities and surrounds are well maintained	



	Hygiene	The cleanliness and hygiene of the common areas is good	The cleanliness and hygiene at the facility is good	
Value	VFM	The accommodation and services available to me here is an excellent overall value for the money	The accommodation and services I receive here is an excellent overall value for the money	The service I receive represents an excellent overall value for the money I pay
Communication	Contract	The contract and fee structure is clear and easy to understand	The contract and fee structure is clear and easy to understand	The contract and fee structure is clear and easy to understand
	Relevant	The provider helps me with decisions I need to make, by providing relevant information	The provider helps me with decisions I need to make, by providing relevant information.	The provider helps me with decisions I need to make, by providing relevant information
	Clear	The communication provided is always clear and easy to follow	The communication provided is always clear and easy to follow	The communication provided is always clear and easy to follow



Decision Maker specific	Communication		I am kept informed on matters I need to know about the person for whom I am the carer	
	Valued		I am always treated like a valued customer	
	Opinions count		My opinions about the services count	

Note: Driver questions highlighted in red may be adjusted to suit the circumstances of the person completing the survey.

