

FIVE STAR SENIOR LIVING INC.

CAFETERIA PLAN

Amended and Restated as of October 1, 2020

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FIVE STAR SENIOR LIVING INC.

CAFETERIA PLAN

Schedule A

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Cafeteria Plan on the same basis as if the Participant had not taken the FMLA Leave, except that the benefit elected on the Form will be reduced proportionally by the amount attributable to the period during which participation was terminated while the Participant was on an FMLA Leave. Notwithstanding the preceding sentence, with regard to any Health Care Reimbursement Plan, a Participant whose coverage ceased will be permitted to elect whether to be reinstated in the Health Care Reimbursement Plan at the same coverage level as was in effect before the FMLA Leave (with increased contributions for the remaining period of coverage) or at a coverage level that is reduced pro rata for the period of FMLA Leave. A Participant who fails to be reinstated shall not have Payroll Contributions withheld on a before-tax basis for the remainder of the Plan Year for which the election was terminated. A Participant on FMLA Leave shall have the same right as any other Participant to modify an election consistent with an event described in Section 4.4(a).

(d) Approved Unpaid Leaves. If a Participant continues to participate in an Optional Benefit Plan that provides Health Benefits while on an approved unpaid leave that is not an FMLA Leave, the Participant shall have the following options for paying the cost of benefits: (i) the Participant may pay, prior to the commencement of the leave, all amounts otherwise due during the leave period; or (ii) the Participant may pay amounts due during the leave on the same schedule as payments would be made if the Participant were not on leave. Such payments will be made in a manner acceptable to the Administrator and may be paid on a before-tax or after-tax basis, as permitted under the Cafeteria Plan Rules.

(e) Dependent Coverage Change. A Participant may revoke an election on a prospective basis (except with respect to any Health Care Reimbursement Plan) if the election change is on account of and consistent with a change made under a plan of a Dependent's employer provided: (i) the employer's plan permits participants to make election changes permissible under the Cafeteria Plan Rules; or (ii) the period of coverage under the Dependent's employer's plan is different from this Cafeteria Plan's period of coverage.

4.5. Automatic Adjustments by the Administrator.

(a) Change in Cost of Coverage. If appropriate, a Participant's election as reflected on a Form relating to an Optional Benefit Plan (other than any Health Care Reimbursement Plan) shall be adjusted automatically in accordance with any increase or decrease in the cost of the coverage, unless the Administrator determines that the increase or decrease represents a Coverage Change.

(b) Termination of Employment. If a Participant terminates employment, the Participant's election, effective as of the date the individual ceases to be employed by an Employer, shall be modified to provide that the Participant will pay his or her share of the cost of the Optional Benefit or Benefits directly to the Employer on an after-tax basis; provided, however, that the Participant may elect to pay the cost of such Optional Benefits on a before-tax basis to the extent the Participant continues to receive compensation following termination of employment.

- (iv) The Participant or the Participant's Covered Dependent becomes eligible for COBRA Continuation Coverage;
- (v) The special enrollment rights provided in Section 9801(f) of the Code apply to an Employee or an Employee's Dependent;
- (vi) Except in the case of any Dependent Care Reimbursement Plan:
 - (A) The Participant becomes or ceases to be subject to a qualified Medical Child Support Order, or other judgment, decree or order resulting from a divorce, legal separation, annulment or change in legal custody that requires accident or health coverage for a Participant's child or foster child who is a Dependent of the Participant; or
 - (B) The Participant or Covered Dependent becomes entitled to coverage (that is, enrolled) or loses eligibility for coverage under Medicare or Medicaid.

(b) Modification of Elections. A Participant may revoke an election and make a new election with respect to the remainder of the Plan Year only if both the revocation and the new election are determined by the Administrator to be consistent with and on account of the relevant event specified in Section 4.4(a) (or the revocation and the new election are on account of and correspond with a Change in Status that affects expenses under the Dependent Care Reimbursement Plan) and satisfy such other requirements as may apply under the Cafeteria Plan Rules. Unless otherwise noted in an Optional Benefit Plan, the effective date of the revocation and/or new election will be the date of the event described in Section 4.4(a); provided, however, that a new election will not be effective retroactively unless the Cafeteria Plan Rules explicitly permit a retroactive change.

(c) FMLA Leave. This Section 4.4(c) will apply only to Optional Benefit Plans that provide Health Benefits. If a Participant continues to participate in an Optional Benefit Plan that provides Health Benefits while on an unpaid FMLA Leave the Participant will have the following options for paying the cost of benefits: (i) the Participant may pay, prior to the commencement of the FMLA Leave, all amounts due for the FMLA Leave period; (ii) the Participant may pay amounts due for the FMLA Leave period on the same schedule as payments would be made if the Participant were not on leave; or (iii) the Participant may make, upon return from FMLA Leave, a catch-up payment. A Participant electing to use the catch-up payment option must agree with the Employer in advance of the FMLA Leave that the Participant elects to continue Health Benefits plan coverage while on an unpaid FMLA Leave, that the Employer will assume responsibility for any premiums due during the unpaid FMLA Leave, and that the advanced amounts must be paid by the Participant upon return from the FMLA Leave. Such payments may be made on a before-tax or after-tax basis, as permitted under the Cafeteria Plan Rules. A Participant who takes an FMLA Leave may revoke an existing election for the remainder of the Plan Year; provided, however, that if the Participant's participation in the Optional Benefit Plan terminated while on FMLA Leave (whether due to revocation or nonpayment), the Participant may be reinstated under the applicable Optional Benefit Plan. Reinstatement means that the Participant will participate in the

(a) In General. Approximately 30 days before the commencement of each Plan Year, the Administrator will provide one or more election forms and compensation reduction agreements (collectively, "Forms") to each Participant and to each other individual who is or will be eligible to become a Participant at the beginning of the Plan Year. The Administrator will similarly provide Forms to Employees who become eligible to participate during a Plan Year. Each eligible Employee who desires to elect an Optional Benefit for the Plan Year (or in the case of a new Employee, the remainder of the Plan Year) must so specify on the appropriate Form or Forms and must agree to a reduction of Compensation in an amount equal to the cost of the elected Optional Benefit(s) less Employer Contributions, if any.

(b) Effective Date of Elections. Elections pursuant to Forms that are timely submitted to the Administrator will be effective as of the first day of the following Plan Year or, if later, the date specified in the Optional Benefit Plan. In the case of a new Employee who timely submits one or more Forms to the Administrator, elections will be effective as soon as administratively practicable following the date the Employee becomes eligible to participate in the Cafeteria Plan. All or a portion of an election by a Participant under the Cafeteria Plan for the Plan Year that began on October 1, 2020 may, unless otherwise announced by the Administrator, be treated as continuing in effect on the Effective Date.

(c) Deemed Elections. Until an Employee returns completed Forms to the Administrator for the initial Plan Year of participation, or for the Plan Year in which the Employee becomes a Participant, the Employee will be deemed to have elected to receive all Compensation in cash. Unless otherwise announced by the Administrator or unless otherwise provided under an Optional Benefit Plan, a Participant who fails to return completed Forms to the Administrator on or before the due date specified by the Administrator for any subsequent Plan Year will not be deemed to have made the same election as was in effect as of the end of the preceding Plan Year

(d) COBRA Continuation Coverage. The Administrator may permit before-tax payment of COBRA Continuation Coverage arising under certain situations.

4.4. Irrevocability of Elections.

(a) In General. An election made by a Participant (either by completion of a Form or as a result of a deemed election pursuant to Section 4.3(c)) will be irrevocable as to the Plan Year with respect to which it is made as of the commencement of the Plan Year (or as of the commencement of participation during a Plan Year) unless and to the extent a change or revocation of an election complies with the Cafeteria Plan Rules, one of the following events occurs:

- (i) The Participant experiences a Change in Status;
- (ii) The Administrator determines that a Coverage Change will permit a change or revocation of an election during a Plan Year with respect to the remainder of the Plan Year;
- (iii) The Participant takes an FMLA Leave;

2.13. “Payroll Contribution” means an amount that a Participant elects to have withheld from Compensation and contributed by the Employer toward the cost of benefits under an Optional Benefit Plan in accordance with Section 4.3.

2.14. “Schedule A” means the schedule to this Cafeteria Plan that identifies the various Optional Benefit Plan(s) available hereunder.

ARTICLE III ELIGIBILITY AND PARTICIPATION

3.1. Initial Participation. Each Employee who is a participant in the Cafeteria Plan as of October 1, 2020 will remain eligible to participate under this amended and restated Cafeteria Plan. Unless otherwise specified in an Optional Benefit Plan, Employees hired after the Effective Date will be eligible to participate in the Cafeteria Plan as of the later of the Eligibility Date specified in Schedule D to the Benefits Plan or the date on which they meet the eligibility requirements of one or more Optional Benefit Plans.

3.2. Cessation of Participation. An individual will cease to be a Participant in the Cafeteria Plan as of the earlier of: (a) the date the Cafeteria Plan terminates; (b) the date the Participant revokes (or is deemed to revoke as a result of termination) an election pursuant to Section 4.4; (c) the date the Participant fails to pay the cost of elected benefits pursuant to Section 4.5; (d) the date the Participant’s right to receive benefits under all Optional Benefit Plans terminates; or (e) the date the Participant’s right to receive benefits pursuant to any applicable federal or state law expires.

ARTICLE IV OPTIONAL BENEFITS

4.1. Benefit Options. A Participant may elect to receive all Compensation for any Plan Year in cash or to have a portion of it applied by the Employer to the cost of benefits available to the Participant under one or more Optional Benefit Plans. The Compensation of each Participant who elects an Optional Benefit will be reduced on a before-tax basis, and an amount equal to the reduction will be used by the Employer to cover the Participant’s share of the cost of benefits under the Optional Benefit Plan or Plans in which the Participant chooses to participate. In addition, the Employer may, but shall not be required, to provide additional benefits at its own expense (“Employer Contributions”) under one or more Optional Benefit Plans.

4.2. Description of Benefits Other Than Cash. The Optional Benefits elected under this Cafeteria Plan will be provided not by this Cafeteria Plan but by the Optional Benefit Plan(s) in which the Participant chooses to participate. The types and amounts of benefits available under each Optional Benefit Plan, the requirements for participating in each Optional Benefit Plan and the other terms and conditions of coverage and benefits under each Optional Benefit Plan are as set forth from time to time in the Optional Benefit Plans. The benefit descriptions in each Optional Benefit Plan, as in effect from time to time, are hereby incorporated by reference into this Cafeteria Plan.

4.3. Election of Optional Benefits in Lieu of Cash.

Marketplace effective no later than the day immediately following the day the coverage was revoked.

(i) In the case of an Optional Benefit Plan that provides accident and health benefits or group-term life insurance, a Change in Status includes an increase or decrease in the number of Dependents who may benefit from coverage under an Optional Benefit Plan if the change affects eligibility under the Optional Benefit Plan. Change in Status for purposes of any Health Benefits Contract, including any Health Care Reimbursement Plan, includes events affecting children under age 27 who are not dependents within the meaning of Section 152(a) of the Code to the extent permitted under applicable guidance.

2.5. "Compensation" means an Employee's total salary, wages, bonuses, pay for overtime, vacation pay, sick pay, pay for shift differentials and other compensation paid by the Employer to an Employee (without regard to any elective contributions within the meaning of Section 402(g)(3) of the Code or any salary reductions pursuant to Sections 125 or 132(f) of the Code), but excluding reimbursed expenses, credits or benefits under any plan of deferred compensation to which the Employer contributes and any additional compensation payable in a form other than cash.

2.6. "Coverage Change," unless otherwise specified in a particular Optional Benefit Plan, means a significant increase or decrease in the premium or other cost, or a significant curtailment of or improvement in, or new, coverage, occurring during a Plan Year with respect to an Optional Benefit Plan other than any Health Care Reimbursement Plan and, in the case of any Dependent Care Reimbursement Plan, other than as a result of a change in cost by a dependent care provider who is related to the Employee or such other events as the Administrator shall, without discrimination in favor of highly compensated individuals or participants, determine to be consistent with the Cafeteria Plan Rules.

2.7. "Dependent Coverage Change" has the meaning set forth in Section 4.4(e).

2.8. "Employer Contributions" has the meaning set forth in Section 4.1.

2.9. "Forms" has the meaning set forth in Section 4.3.

2.10. "HSA" has the meaning set forth in Section 2.11.

2.11. "Optional Benefit Plan" or "Optional Benefit" means any welfare benefit option or other qualified benefit option maintained by an Employer and designated as an Optional Benefit Plan in Schedule A attached hereto and as amended and in effect from time to time. For the avoidance of doubt and in accordance with the provisions of Section 223 of the Code and applicable guidance thereunder, an Optional Benefit Plan may include any health savings account ("HSA") established by or on behalf of a Participant who enrolls in any high deductible health plan Health Care Contract offered by an Employer. The provisions of this Flexible Compensation Plan, including without limitation Sections 4.4 and 4.7 of the Plan, shall be interpreted to permit the maximum flexibility with respect to HSA elections and benefits as permitted under applicable guidance issued under Sections 223 and 125 of the Code.

2.12. "Participant" means an Employee who satisfies the participation conditions of Article 3.

(b) Birth, adoption or placement for adoption of a Dependent (other than the Participant's spouse);

(c) Death of a Dependent;

(d) A Dependent first satisfying or ceasing to satisfy the requirements for coverage due to attainment of age, student status or any similar circumstance, as provided in the Contract under which the Participant receives coverage;

(e) Any change in the employment status of the Participant or the Participant's Dependent that affects eligibility to participate in the Cafeteria Plan or any Optional Benefit (as defined in the Cafeteria Plan), including commencement or termination of employment, an increase or decrease in hours of employment, a switch between full-time and part-time status, a strike or lockout, a commencement of, or return from, an unpaid leave of absence or a change in worksite;

(f) Except in the case of any Health Care Reimbursement Plan or Dependent Care Reimbursement Plan, any change in the place of residence or place of work of the Participant or the Participant's Dependent;

(g) The commencement or termination of an adoption proceeding, if adoption assistance is offered under the Cafeteria Plan; and

(h) Effective September 18, 2014, a Change in Status for the Cafeteria Plan (and not for purposes of any Health Care Reimbursement Plan or any Dependent Care Reimbursement Plan) will include, as provided in Notice 2014-55:

(i) A revocation of Health Benefits Contract coverage related to the Participant's change in employment status that reduces a Participant's reasonably expected average hours of service per week to below 30 hours, even if that reduction does not affect eligibility to participate in a Health Benefits Contract, provided that the Participant reasonably represents to the Administrator that the revocation of coverage under the Health Benefits Contract corresponds to the enrollment of the Participant and any Covered Dependents in another health plan that provides minimum essential coverage, effective no later than the first day of the second month following the month that includes the date the original coverage was revoked; and

(ii) A revocation of Health Benefits Contract coverage related to the Participant becoming eligible to enroll in a qualified health plan through a public Marketplace, pursuant to guidance issued by the Department of Health and Human Services (and whether as part of an annual open enrollment period or otherwise), provided that the Participant reasonably represents to the Administrator that the revocation of coverage under the Health Benefits Contract corresponds to the enrollment of the Participant and any Covered Dependents in a qualified health plan offered by the public

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ARTICLE I
THE PLAN

1.1. Establishment. Five Star Senior Living Inc. (the “Company”) hereby amends and restates, effective as of October 1, 2020, the Five Star Senior Living Inc. Cafeteria Plan (the “Cafeteria Plan”). The Flexible Compensation Plan is a Contract under the Five Star Senior Living Inc. Benefits Plan (the “Benefits Plan”). This document describes the features that are unique to the Cafeteria Plan. Other features of the Cafeteria Plan are located in the policies, documents and rules governing the Benefits Plan.

1.2. Purpose. The purpose of the Cafeteria Plan is to provide Employees eligible for the Benefits Plan the opportunity to choose between cash compensation and benefits under such welfare benefit plans as the Company may from time to time designate as Optional Benefit Plans. The Cafeteria Plan is intended to comply with the provisions of Section 125 of the Code and all regulations and rulings thereunder (collectively, the “Cafeteria Plan Rules”) and shall be interpreted and administered in a manner consistent with those rules.

ARTICLE II
DEFINITIONS

Whenever used in the Cafeteria Plan, the following words and phrases have the meanings set forth below unless the context plainly requires a different meaning, and when the defined meaning is intended, the term is capitalized. Capitalized terms not defined below have the meanings set forth in the Benefits Plan.

2.1. “Anniversary Date” means the effective date of this Cafeteria Plan and each October 1 thereafter.

2.2. “Benefits Plan” means the Five Star Senior Living Inc. Benefits Plan, as amended from time to time.

2.3. “Cafeteria Plan Rules” has the meaning set forth in Section 1.2.

2.4. “Change in Status,” unless otherwise specified in a particular Contract, means any of the following or such other events as the Administrator shall, without discrimination in favor of highly compensated individuals or participants, determine to be consistent with the Cafeteria Plan Rules:

- (a) Participant’s marriage, divorce, legal separation or annulment;

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(c) Loss of Eligibility for Coverage. If a Participant who continues employment with an Employer ceases to be eligible to participate in one or more Optional Benefit Plans, the Participant's election, effective as of the date the individual ceases to be eligible to participate in one or more Optional Benefit Plans, shall be modified to provide that the election to use before-tax Compensation to pay the cost of benefits is reduced to zero.

(d) Loss of Compensation. If a Participant ceases to have sufficient before-tax Compensation to support an elected Payroll Contribution, the Participant's election, effective as of the date the Participant ceases to have sufficient Compensation, shall be modified to provide that the Participant will pay his or her share of the cost of the Optional Benefit or Benefits directly to the Employer on an after-tax basis to the extent the Participant's before-tax Compensation is not sufficient (after taking into account all withholdings).

(e) Nonpayment. If a Participant fails to pay the required cost of an Optional Benefit Plan, the Administrator will automatically terminate the Participant's election as of the date the Participant fails to pay. A Participant who ceases to be entitled to benefits under an Optional Benefit Plan due to a failure to pay his or her share of the cost of the benefits as required under the terms of the Optional Benefit Plan may not make a new election hereunder with respect to the Plan Year in which the entitlement to benefits ceased, unless the Participant's accident and health benefit terminated due to nonpayment while on FMLA Leave.


(f) Change in Status. The Administrator will not automatically modify the election of a Participant who experiences a Change in Status or any other event described in Section 4.4(a). Instead, the Participant must notify the Administrator and affirmatively revoke an existing election and, if applicable, make a new election in accordance with procedures established by the Administrator.

4.6. Nondiscrimination Requirement of Cafeteria Plan Rules. If the Administrator determines before or during any Plan Year that the Cafeteria Plan may fail to satisfy for the Plan Year any nondiscrimination requirement imposed by the Cafeteria Plan Rules, or any limitation imposed by the Cafeteria Plan Rules on benefits provided to persons who are key employees within the meaning of Section 416(i) of the Code, the Administrator will take such action as the Administrator deems appropriate, under rules uniformly applicable to similarly situated Participants, to ensure compliance with the requirement or limitation in question. Such action may include, without limitation, a modification of elections by Participants who are highly compensated individuals or participants or key employees, each within the meaning of the Cafeteria Plan Rules, with or without the consent of the Participants.

4.7. Forfeitures. Reductions in Compensation may be used only to purchase the specific types and amounts of benefits indicated in the Participant's election. Except to the extent otherwise provided in any Health Care Reimbursement Plan or Dependent Care Reimbursement Plan, if a Participant does not fully utilize during the Plan Year a benefit with respect to which an election was made, the Compensation that would have been used to purchase or provide the benefit will be forfeited and applied by the Administrator to the reasonable expenses of administering the Cafeteria Plan, or in such other manner as the Administrator considers, upon advice of counsel, appropriate.

4.8. Maximum Payroll Contributions. The maximum amount of Payroll Contributions under the Cafeteria Plan for any Participant for any Plan Year shall, unless otherwise stated, be the aggregate cost of the benefits available to the Participant for that Plan Year in accordance with the Participant's elections under any or all Optional Benefit Plans less Employer Contributions, if any.

FIVE STAR SENIOR LIVING INC., on its behalf
and on behalf of participating employers

By: 
Date: 12-22-21