

**BOARD OBSERVER AND INDEMNIFICATION AGREEMENT**

**THIS BOARD OBSERVER AND INDEMNIFICATION AGREEMENT**, dated as of November 30, 2016 (this "Agreement"), is made by and between **THE RESCAP LIQUIDATING TRUST** (the "Trust"), and **ALAN J. CARR** ("Observer").

**WHEREAS**, the Trust was formed pursuant to the Amended and Restated Rescap Liquidating Trust Liquidating Trust Agreement by and among the Liquidating Trustees, Wilmington Trust, National Association, Manufacturers and Traders Trust Company, Residential Capital LLC and certain other debtors, dated as of December 17, 2013 (the "LTA"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the LTA;

**WHEREAS**, pursuant to the Proposed Board Observer Protocol, dated as of November 14, 2016 (the "Observer Protocol"), the Trust has agreed that Canyon Capital Advisors, Discovery Capital Management, Fir Tree Partners, Perry Capital, and SVMF 69 LLC (collectively, the "Selecting Unitholders") may appoint a non-voting observer who will be entitled to attend and participate in meetings of the Trust's Liquidating Trust Board (the "Board") and committees thereof (each a "Committee" and, collectively, the "Committees"), as set forth therein and herein; and

**WHEREAS**, Selecting Unitholders have unanimously appointed Observer as the Observer pursuant to the Observer Protocol and have approved this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing, and in accordance with the terms of the Observer Protocol, the Trust and Observer hereby agree as follows:

1. Board Observer Rights.

(a) The Trust agrees that subject to the provisions set forth herein, and the Observer Protocol, Observer may attend, in a non-voting observer capacity, all meetings of the Board and, subject to the immediately following sentence, any and all Committees for the purposes of permitting Observer to have current information with respect to the affairs of the Trust and the actions taken by the Board and for the Observer to provide input and advice with respect thereto (the "Approved Purposes"). The Observer may attend Committee meetings only with the consent of such Committee's chair, such consent not to be unreasonably withheld or delayed, provided however, if such Committee is vested with authority to bind the Trust pursuant to Section 6.8 of the LTA, the Observer shall have the right to attend such Committee's meetings as if it were a Board meeting (subject to the provisions of Section 1(c)). Observer shall have the right to be heard at any such Board or Committee meeting and the Board will consider in good faith recommendations made by the Observer, but in no event shall Observer: (i) be deemed to be a member of the Board or such Committees; or (ii) have the right to vote on any matter under consideration by the Board or such Committees or otherwise have any power to cause the Trust to take, or not to take, any action. Observer will be provided (concurrently with delivery to the Liquidating Trustees of the Trust and in the same manner delivery is made to them) copies of all notices, minutes, consents, and all other materials or information (financial or otherwise) that are provided to the Board (other than drafts of minutes which will not be provided to Observer) with

respect to a meeting or any written consent in lieu of meeting (except to the extent Observer has been excluded therefrom pursuant to Section 1(c)).

(b) If a meeting of the Board or any of the Committees is conducted via telephone or other electronic medium (e.g., videoconference), Observer may attend such meeting via the same medium; provided, however, that it shall be a material breach of this Agreement by Observer to provide any other person access to such meeting without the Board's express prior written consent (which consent may be by e-mail).

(c) The Board may exclude the Board Observer from access to any materials or meetings (or portion thereof) which the Board concludes in good faith upon advice of counsel, that notwithstanding the expectation that the Board Observer will generally come within the ambit of the attorney-client and joint interest privileges, such exclusion is necessary to preserve such privileges with respect to such material. In such case, the Observer shall be informed of the general subject matter of the materials or meetings (or portion thereof) from which the Observer is excluded. Notwithstanding anything else set forth herein, the Observer may be excluded from access to executive sessions of the Board and access to materials distributed in connection with such executive sessions, provided that if the Board is soliciting consents from the Liquidating Trustees or taking Action pursuant to Section 6.5 of the LTA at such executive session, the Observer may attend that portion of the executive session. Nothing herein shall be deemed to prevent the Board from acting by written consent in accordance with the terms of the LTA.

(d) The Trust shall pay the Observer \$180,000 annually, paid quarterly in arrears. In addition, the Trust shall reimburse Observer for all reasonable out-of-pocket expenses incurred by Observer in connection with the Observer's exercise of the Board Observer Rights pursuant to this Section 1. All compensation and reimbursements payable by the Trust pursuant to this Section 1(d) shall be paid to Observer in accordance with the Trust's policies and practices (including timing) with respect to Liquidating Trustee compensation and expense reimbursement then in effect.

(e) The Observer (or any replacement) may be replaced at any time by the holders of more than 50% of the Units not held by the Nominating Parties and must be reasonably acceptable to the Board. The Board may require the Observer's removal upon : (i) any material violation of the terms of this Agreement by Observer which (A) remains uncured within five business days after receipt of notice thereof to Observer and Selecting Noteholders, or (B) if such violation is not subject to cure, immediately upon notice thereof to Observer and Selecting Noteholders if such violation causes harm to the Trust in the Board's sole and absolute discretion based upon legal advice; or (ii) the death or disability of Observer.

## 2. Confidential Treatment of Trust Confidential Information.

(a) In consideration of the Trust's disclosure to Observer of information, Observer agrees that this Agreement will apply to all information, in any form whatsoever (e.g., written, electronic, verbal) disclosed or made available to Observer concerning the Trust, its affiliates, its assets and/or the Approved Purposes, including any discussions at Board meetings and Committee meetings ("Confidential Information").

(b) Except as otherwise provided herein, Observer agrees: (i) to hold Confidential Information in strict confidence; (ii) not to disclose Confidential Information to any third parties including for the avoidance of doubt any Unitholders; and (iii) not to use any Confidential Information for any purpose except for the Approved Purposes. Observer will, at all times, remain liable under the terms of this Agreement for any unauthorized disclosure or use of Confidential Information.

3. Return of Confidential Information. Following the termination of the rights of Observer described in Section 1(e) and upon request of the Trust, Observer will promptly: (i) return to the Trust all physical materials containing or consisting of Confidential Information and all hard copies thereof; and (ii) destroy all electronically stored Confidential Information in Observer's possession or control. Observer may retain in his confidential files one copy of any item of Confidential Information in order to comply with any legal, compliance or regulatory requirements. Any Confidential Information that is not returned or destroyed, including, without limitation, any oral Confidential Information, and all notes, analyses, compilations, studies or other documents prepared by or for the benefit of Observer from such information, will remain subject to the confidentiality obligations set forth in this Agreement indefinitely.

4. Disclaimer. All Confidential Information is provided to Observer is "as is" and the Trust does not make any representation or warranty as to the accuracy or completeness of the Confidential Information or any component thereof. The Trust will have no liability to Observer resulting from the reliance on the Confidential Information by Observer or any third party to whom such Confidential Information is disclosed.

5. Trust Ownership of Confidential Information. Observer acknowledges that all of the Confidential Information is owned solely by the Trust (or its licensors) and that the unauthorized disclosure or use of such Confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Therefore, in the event of any breach of this Agreement, the Trust is entitled to seek all forms of equitable relief (including an injunction and order for specific performance), in addition to all other remedies available at law or in equity.

6. Observer and Compliance with Securities Laws. Observer agrees that the Confidential Information is given in confidence in accordance with the terms of this Agreement, and Observer will not take any action relating to the Units of the Trust which would constitute insider trading, market manipulation, or any other violation of applicable law, including securities laws. Observer agrees that, while he is the Observer, he shall not acquire, directly or indirectly, any interest in the Trust or the Units, unless such interest in the Trust or Units are granted by the Trust to Observer.

7. Observer and Compliance with Board Policies and Practices. Observer agrees that he will comply with and be subject to policies and practices regarding the behavior and conduct of the Liquidating Trustees, including, without limitation, the Board's Conflict of Interest Policy.

8. Indemnity.

(a) The Trust will indemnify and hold harmless Observer from and against any losses, claims, damages, liabilities and expenses to which Observer may become subject, insofar as such losses, claims, damages, liabilities or expenses (or actions in respect thereof) arise out of, relate to, or are based upon Observer's designation or attendance at meetings of the Board and Committees, Observer's receipt of materials or information under this Agreement, or Observer's exercise of his rights under this Agreement. The Trust will pay or reimburse Observer for such losses, claims, damages, liabilities and expenses, including, without limitation, for amounts incurred in connection with investigating or defending any such loss, claim, damage, liability, expense or action to the extent permitted by the LTA, applicable law and the Trust's applicable liability policies.

(b) Promptly after receipt by Observer under Section 8(a) of notice of the commencement of any action (but in no event in excess of 30 days after receipt of actual notice), Observer will, if a claim in respect thereof is to be made against Observer under this Section 8, notify the Trust in writing of the commencement thereof, but the omission to so notify the Trust will not relieve the Trust from any liability under this Section 8, except to the extent that the Trust is prejudiced by such failure to notify. In case any such action is brought against Observer, and Observer notifies the Trust of the commencement thereof, the Trust will have the right to control the defense thereof. The Observer is entitled, to the extent it may wish, to participate in the defense thereof, with separate counsel at Observer's expense. The Trust shall not be liable to Observer on account of any settlement of any claim or action effected without the consent of the Trust, such consent not to be unreasonably withheld or delayed. The Trust may not settle any matter under Section 8(a) without the written consent of the Observer which consent shall not be unreasonably withheld or delayed; provided, further that the Observer's written consent shall not be required for a settlement which provides for a general release of the Observer and does not impose any prospective restrictions on the Observer.

(c) The Trust shall pay all reasonable legal fees and expenses in the defense of such claims or actions; provided, however, that the Trust shall not be obliged to pay legal expenses and fees to more than one law firm (in addition to local counsel) in connection with the defense of similar claims arising out of the same alleged acts or omissions giving rise to such claims notwithstanding that such actions or claims are alleged or brought by one or more parties against Observer.

9. Insurance. The Trust shall provide that Observer shall be covered under the Trust's applicable liability insurance for Trustees; provided, however, that nothing herein shall require the Trust to maintain such insurance.

10. Governing Law: Venue for Disputes. This Agreement shall be governed in all respects by the laws of the State of Delaware (without giving effect to principles of conflicts of laws which would lead to the application of the laws of another jurisdiction). Each party hereby irrevocably and unconditionally consents to the jurisdiction of the United States Bankruptcy Court, Southern District of New York, and hereby further irrevocably and unconditionally

waives and agrees not to plead or claim in such court that any such action, suit or proceeding brought in such court has been brought in an inconvenient forum.

11. Notices. All notices and communications hereunder shall be in writing and shall be deemed to have been given and delivered two (2) business days after being deposited in the United States mail, postage prepaid, registered or certified mail, and one (1) business day after being deposited with a recognized overnight courier or by personal delivery to the applicable address set forth below.

*To the Trust or the Board:* ResCap Liquidating Trust  
1100 Virginia Avenue, Suite 250  
Fort Washington, PA 19034  
Attention: General Counsel  
and  
ResCap Liquidating Trust Board of Trustees  
22 Cormorant Island Lane  
Kiawah Island, SC 29455  
Attention: Mitchell I. Sonkin

*With a copy to:* Kasowitz, Benson, Torres & Friedman LLP  
1633 Broadway  
New York, NY 10019  
Attention: Marc E. Kasowitz

*To Observer:* Alan Carr  
c/o Drivetrain, LLC  
630 3rd Avenue, Floor 21  
New York, New York 10017-6751

*To Selecting Unitholders:* Robbins, Russell, Englert, Orseck,  
Untereiner & Sauber LLP  
1801 K Street N.W.  
Washington, DC 20006  
Attention: Kathryn S. Zecca

12. Entire Agreement; Non-Preclusion. This Agreement, together with the Observer Protocol and the LTA, constitutes the complete and exclusive statement regarding the subject matter of this Agreement and supersedes all prior agreements, understandings and communications, oral or written, between the parties regarding the subject matter of this Agreement. To the extent that any provision of the Observer Protocol conflicts with any provision of this Agreement, this Agreement shall control and to the extent any provision of this Agreement conflicts with the LTA, the LTA shall control. Nothing herein shall preclude any

agreements by the Trust with other Unitholders that are otherwise consistent with the LTA and applicable law.

13. Litigation Expenses. The Trust agrees to reimburse Observer, and Observer agrees to reimburse the Trust, for the actual and reasonable costs and expenses of the other party that such other party incurs in connection with the enforcement of this Agreement or any claim, damages or litigation relating to any breach of this Agreement, if such other party is found to have breached this Agreement.

14. Publication. The parties agree that pursuant to the Observer Protocol, this Agreement will be posted to the Trust's website. The parties agree that the identity of the Observer shall be posted on the Trust's website.


15. Amendment. Any amendments hereto, must be approved by the holders of at least 50% of the Units not held by the Nominating Parties, the Observer and the Board, provided however, non-material, technical and conforming amendments may be made solely with the consent of the Board and the Observer.

16. Term. The provisions of Section 1(a)-(d) hereof shall terminate and be of no further force or effect pursuant to Section 1(e) hereof. Notwithstanding the provisions of this Section 16, the provisions of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 and this Section 16 shall survive any termination or expiration of this Agreement.

**[SIGNATURES APPEAR ON NEXT PAGE]**

IN WITNESS WHEREOF, the undersigned have hereto executed this Agreement as of the date first above written.

RESCAP LIQUIDATING TRUST

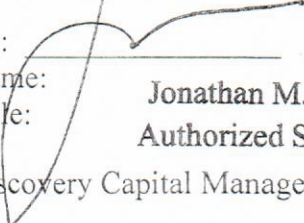
By:   
Name: \_\_\_\_\_  
Title: John J. Ray III  
Liquidating Trust Manager

OBSERVER

  
\_\_\_\_\_  
Alan J. Carr

The undersigned, being all of the Selecting Unitholders, represent that they are the holders of more than 50% of the Units not held by the Nominating Parties and unanimously appoint Alan J. Carr as the Observer and approve this Agreement.

Canyon Capital Advisors LLC

By:   
Name: \_\_\_\_\_  
Title: Jonathan M. Kaplan  
Authorized Signatory

Discovery Capital Management

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Fir Tree Partners

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Perry Capital LLC, on behalf of one or more affiliated entities for which it acts as investment advisor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SVMF 69 LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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By: \_\_\_\_\_  
Name:  
Title:

**OBSERVER**

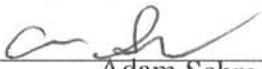
\_\_\_\_\_  
Alan J. Carr

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Canyon Capital Advisors

By: \_\_\_\_\_  
Name:  
Title:

Discovery Capital Management, LLC

By:   
Name: Adam Schreck  
Title: General Counsel

Fir Tree Partners

By: \_\_\_\_\_  
Name:  
Title:

Perry Capital LLC, on behalf of one or more affiliated entities for which it acts as investment advisor

By: \_\_\_\_\_  
Name:  
Title:

SVMF 69 LLC

By: \_\_\_\_\_  
Name:  
Title:



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**RESCAP LIQUIDATING TRUST**

By: \_\_\_\_\_  
Name:  
Title:

**OBSERVER**

\_\_\_\_\_  
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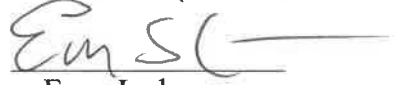
**Canyon Capital Advisors**

By: \_\_\_\_\_  
Name:  
Title:

**Discovery Capital Management**

By: \_\_\_\_\_  
Name:  
Title:

**Fir Tree Partners (on behalf of certain investment funds under management)**

By:   
Name: Evan Lederman  
Title: Authorized Person

**Perry Capital LLC, on behalf of one or more affiliated entities for which it acts as investment advisor**

By: \_\_\_\_\_  
Name:  
Title:

**SVMF 69 LLC**

By: \_\_\_\_\_  
Name:  
Title:

**IN WITNESS WHEREOF**, the undersigned have hereto executed this Agreement as of the date first above written.

RESCAP LIQUIDATING TRUST

By: \_\_\_\_\_  
Name:  
Title:

**OBSERVER**

\_\_\_\_\_  
Alan J. Carr

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Canyon Capital Advisors

By: \_\_\_\_\_  
Name:  
Title:

Discovery Capital Management

By: \_\_\_\_\_  
Name:  
Title:

Fir Tree Partners

By: \_\_\_\_\_  
Name:  
Title:

Perry Capital LLC, on behalf of one or more affiliated entities for which it acts as investment advisor

By: \_\_\_\_\_  
Name: **Michael C. Neus**  
Title: **General Counsel**

SVMF 69 LLC

By: \_\_\_\_\_  
Name:  
Title:

**IN WITNESS WHEREOF**, the undersigned have hereto executed this Agreement as of the date first above written.

RESCAP LIQUIDATING TRUST

By: \_\_\_\_\_  
Name:  
Title:

**OBSERVER**

\_\_\_\_\_  
Alan J. Carr

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Canyon Capital Advisors

By: \_\_\_\_\_  
Name:  
Title:

Discovery Capital Management

By: \_\_\_\_\_  
Name:  
Title:

Fir Tree Partners

By: \_\_\_\_\_  
Name:  
Title:

Perry Capital LLC, on behalf of one or more affiliated entities for which it acts as investment advisor

By: \_\_\_\_\_  
Name:  
Title:

SVMF 69 LLC

By:   
Name: James Dougherty  
Title: Authorized Signatory