



Unifund CCR Partners

ACCOUNTS RECEIVABLE PURCHASE AGREEMENT

AGREEMENT made as of this 11th day of August, 2005 ("Closing Date") by and between UNIFUND CCR PARTNERS a New York General Partnership doing business at 10625 Techwoods Circle, Cincinnati, Ohio 45242 hereafter referred to as "Seller", and Activus, LLC a Limited Liability Corporation doing business at 640 Ivy Lane, Charlottesville, VA 22901 hereafter referred to as "Buyer."

WITNESSETH:

Whereas, Seller has acquired certain charge-off accounts ("Receivables");

Whereas, Buyer desires to purchase certain of the Receivables in order to attempt collection of the accounts;

NOW THEREFORE the parties do agree to the mutual terms and conditions as stated hereafter and contained herein:

1. Receivables. The Receivables consist of [REDACTED] accounts totaling \$[REDACTED] for the state of MD, as identified on the attached list (Exhibit A). The purchase price to be paid is \$[REDACTED] on the aggregate unpaid balance per Exhibit A.

2. Sale. Seller sells, transfers, and assigns to Buyer Seller's right, title and interest of the Receivables for the total sum of [REDACTED] ("Purchase Price") due at Closing Date.

3. Qualifications

a) Buyer understands and agrees that certain Receivables purchased hereunder may not be legally collectible or enforceable and as such may have little or no value. Within 90 days following Closing Date (November 11, 2005), _____ (Buyer Initials), Buyer shall submit to Seller any and all Disqualified Receivables which shall be defined and shall be understood as Receivables in which the account debtor:

- i) Had died on or before Closing Date, or
- ii) Was discharged in bankruptcy proceedings on or before Closing Date, or
- iii) In which charges to the account were incurred by fraud and deceit, or
- iv) Had paid, resolved, compromised or settled the account on or before the Closing Date, or

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- ☐ v) If the box at the left is checked, then the qualifications as set forth on Annex A attached hereto shall apply.

Any Disqualified Receivables submitted after the aforementioned date shall not be considered nor shall Seller have any obligation whatsoever to account or to replace untimely Disqualified Receivables.

- b) To the extent Buyer timely submits to Seller Disqualified Receivables less than or equal to 5% of the face value of the Receivables purchased on the Closing Date, Seller shall not be obligated to replace any Disqualified Receivables nor to otherwise compensate Buyer. To the extent Buyer timely submits to Seller Disqualified Receivables in excess of 5% of the face value of all Receivables, Seller shall replace such Disqualified Receivables only to the extent in excess of 5% of all Receivables and Seller shall transfer and assign Receivables approximately equivalent in face value to the excess Disqualified Receivables. _____ (Buyer Initial)
- c) Disqualified Receivables shall be accompanied with appropriate and reasonable documentation to demonstrate to Seller's satisfaction that they qualify as Disqualified Receivables pursuant to the conditions of Paragraph 3a). Such documents may include death certificates or other public references to the debtor and date of death; certified copy of bankruptcy petition or name, address and telephone number of debtor's bankruptcy counsel; affidavits of debtor stating resolution by prior payment with evidence of payment made.
4. Post-Closing Receipts. In the event that an account debtor makes any payment under a Contract subsequent to its sale or assignment to Buyer, Seller shall remit all such monies it receives promptly to Buyer. The amount remitted shall equal the amount received by Seller. All monies are to be sent to:

Activus, LLC
640 Ivy Lane
Charlottesville, VA 22901
FAX:
Attn: Charles Bruce Berry

5. Representations Warranties and Covenants of Buyer. Buyer hereby represents, warrants and covenants, to and with Seller, as of the date of this Agreement the following as of the date of this Agreement and as of the Closing Date:

- a) Notification. Within 30 days after the Closing Date, to the extent that any collection activity is commenced against such obligor or, otherwise, as required by applicable state or federal law, Buyer will notify the obligor(s) of each Receivable of their

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acquisition of the Receivable by virtue of a written notice mailed to each obligor at his or her last known address.

- b) Compliance with Law. In the performance of its collection efforts, in the course of collection of amounts due under the Accounts, Buyer shall at all times conform with all requirements of all applicable Federal, State, and local laws, rules and regulations applicable to the conduct of such activities, including the requirements of the Fair Debt Collection Practices Act (15 U.S.C. Section 1692 et seq.), Consumer Credit Protection Act, and the federal Fair Credit Reporting Act. Buyer shall not engage in the collection of the Receivables in any state in which it is not licensed to engage in such activity, where required by law.
- c) Originator Contact. Under no circumstances shall Buyer be permitted to contact the originator or prior owner of any Receivable without first receiving Seller's express written consent, which consent may be withheld in its sole discretion.
- d) Post-Closing Obligations. After the Closing Date, all rights, obligations, liabilities and responsibilities of Seller with respect to servicing of the Receivables, if any, shall pass to Buyer, and Seller shall be discharged from all liability therefore arising from actions occurring after the Closing Date. Buyer shall comply with all laws related thereto.
- e) Authorization. Buyer is duly and legally authorized to enter into this Agreement and has complied with all laws, rules, regulations, charter provisions and bylaws to which it may be subject or by which its assets may be bound and that the undersigned representative is authorized to act on behalf of and bind Buyer to the terms of this Agreement.
- f) Binding Obligations. Assuming due authorization, execution and delivery by each other party hereto, this Agreement and all of the obligations of Buyer hereunder are the legal, valid and binding obligations of Buyer, enforceable in accordance with the terms of this Agreement, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general equity principles (regardless of whether such enforcement is considered in a proceeding in equity or at law).
- g) No Breach or Default. The execution and delivery of this Agreement and the performance of its obligations hereunder by Buyer will not conflict with any provision of any law or regulation to which Buyer is subject or by which any of its assets may be bound or conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any agreement or instrument to which Buyer is a party or by which it or any of its assets may be bound, or any order or decree applicable to Buyer.

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- h) Assistance of Third Parties. Buyer hereby agrees, acknowledges, confirms and understands that Seller shall have no responsibility or liability to Buyer arising out of or related to any third party's failure to assist or cooperate with Buyer. In addition, Buyer is not relying upon the continued actions or efforts of Seller or any third party in connection with its decision to purchase the Receivables. The risks attendant to the potential failure or refusal of third parties to assist or cooperate with Buyer and/or Seller in the effective transfer, assignment, and conveyance of the purchased Assets, and/or assigned rights shall be borne by Buyer.
- i) Enforcement - Legal Actions. Buyer shall not
- 1) institute any enforcement or legal action or proceeding in the name of Seller, any subsidiary thereof, or make reference to any of the foregoing entities in any correspondence to or discussion with any particular obligor regarding enforcement or collection of the Receivables;
 - 2) take any enforcement action against any obligor that would be commercially unreasonable, nor misrepresent, mislead, deceive, or otherwise fail adequately to disclose to any particular obligor the identity of Buyer as the owner of the Assets;
 - 3) use, adopt, exploit, or allude to Seller or any name derived therefrom or confusingly similar therewith or the name of any other local, state or federal agency or association to promote Buyer's sale, enforcement, collection, or management of the Receivables; and
 - 4) represent that there is an affiliation or agency relationship between Buyer and Seller, nor shall Buyer state or represent in anyway that Buyer is acting on behalf of the Seller.
 - 5) with respect to any Account for which the statute of limitations has expired, not falsely represent or by implication that a lawsuit may or will be filed if the Account Debtor thereon does not pay.

Buyer agrees, acknowledges, confirms and understands that there may be no adequate remedy at law for a violation of the terms, provisions, conditions and limitations set forth in this Section and Seller shall have the right to seek the entry of an order of court of competent jurisdiction enjoining any violation hereof.

Notwithstanding the foregoing, Buyer may use name of Seller only for purposes of identifying itself as the successor in interest to Seller with regard to any Receivable in communications with any Obligor in order to collect amounts outstanding on the Receivable, in connection with filing suit upon the Receivable and in connection with the

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sale of the Receivable.

- j) Independent Evaluation. Buyer's decision to purchase the Receivables pursuant to this Agreement is and was based upon Buyer's own independent evaluation of information deemed relevant to Buyer. Buyer acknowledges and agrees that, while some information concerning the Receivables was made available to Buyer for review prior to the Sale, such information may not be complete. Buyer has relied solely on its own investigation and it has not relied upon any oral or written information provided by Seller, or any its contractors, employees or representatives, and acknowledges that no contractor, employee or representative of Seller has been authorized to make, and that Buyer has not relied upon, any statements other than those specifically contained in this Agreement.
- k) Due Diligence. Buyer has been urged to conduct such due diligence review and analysis of the information provided by the Seller in order to make a complete informed decision with respect to the purchase and acquisition of the Receivables.
- l) Economic Risk. Buyer acknowledges that the Receivables may have limited or no value and Buyer has the financial wherewithal to own the Receivables for an indefinite period of time and to bear the economic risk of an outright purchase of the Receivables and a total loss of the Purchase Price.

6. Buyer Indemnification. Buyer will protect, indemnify, defend and hold Seller (including its Officers, Directors, Employees, Stockholders, Agents, Partners, Representative, Assigns and Principals) harmless from and against any and all claims, loss, cost, expense (including without limitation, reasonable attorney's fees and costs of suits), demands, liabilities and damages arising from or related to: (a) any breach by the Buyer or any subsequent buyer or assignee of the representations, warranties, covenants or other responsibilities set forth in this Agreement, each to be read without regard to any materiality requirement in order for there to be a breach or (b) any other act or omission by the Buyer or any of its respective officers, directors, agents, employees, representatives or assignees with respect to the Receivables, or (c) by reason of negligent or willful misconduct or violation of any applicable law, rule or regulation by Buyer (or its employees or agents) in connection with the collection or enforcement of the Accounts. The Buyer shall notify the Seller immediately of any claim or threatened claim that may affect the Buyer or Seller that is discovered by Buyer.

7. Seller Indemnification. Seller will protect, indemnify, defend and hold Buyer (including its Officers, Directors, Employees, Stockholders, Agents, Partners, Representative, Assigns and Principals) harmless from and against any and all claims, loss, cost, expense (including without limitation, reasonable attorney's fees and costs of suits), demands, liabilities and damages arising from or related to: (a) any breach by the Seller of the representations, warranties, covenants or other responsibilities set forth in this Agreement, each to be read without regard to any materiality requirement in order for there to be a breach or (b) any other act or omission by the Seller or any of its respective officers, directors, agents, employees, representatives or assignees with respect to the

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Receivables, or (c) by reason of negligent or willful misconduct or violation of any applicable law, rule or regulation by Seller (or its employees or agents) in connection with the collection or enforcement of the Accounts. The Seller shall notify the Buyer immediately of any claim or threatened claim that may affect the Buyer or Seller that is discovered by Seller.

☒ 8. Additional Terms. If the box to the left is checked, then the additional terms on Annex B shall apply, which terms are hereby incorporated herein by reference. To the extent any term or provision on Annex B conflicts with or is otherwise inconsistent with the terms contained herein, the terms on Annex B shall control.

9. Assignment. This contract can only be assigned and the Receivables can only be transferred, sold or otherwise assigned by Buyer with the written approval of Seller, which consent can be withheld in Seller's sole discretion.

10. Amendments. No modification of or amendment to this Agreement shall be binding unless in writing and executed by both parties.

11. Arbitration. In the event that a dispute or controversy arising out of this Agreement or the accomplishment or transactions hereunder is not resolved by good faith discussion between the parties within 30 days, then the matter shall be resolved by binding arbitration conducted in accordance with then current rules of the American Arbitration Association which arbitration shall be conducted in Cincinnati, Ohio or at such other location as may be agreed to by parties. A single arbitrator shall be selected. The arbitrator shall make written findings of fact and the basis for the decision. The arbitrator in his reasonable discretion may award the prevailing party costs including attorney fees.

12. Limitation of Liability. Seller's liability under this Agreement shall be strictly limited to the amounts in fact received by Seller from Buyer. Seller shall not be liable nor assume any obligation for incidental consequential or special damages of any kind, including without limitation, lost profit, lost revenue, cost of capital, use of capital and/or lost services. Seller makes absolutely no representations or warranties regarding the collectibility of the Receivables being transferred to Buyer hereunder.

13. Agency. Nothing in this Agreement is intended nor shall be construed to create any agency, joint venture, partnership, or fiduciary relationship between the parties. The parties shall at all times remain separate and distinct, independently contracting entities; neither party shall be authorized to create any obligation or bind the other to any contract or performance in any manner.

14. Third-Party Beneficiary. Except as disclosed on Annex F attached hereto, Buyer and Seller acknowledge and agree that no party is intended to be a third-party beneficiary of this contract.

15. Severability. If any one or more provisions of this Agreement, for any reason, is held to be invalid, unenforceable or illegal, such invalidity, unenforceability or illegality will not affect the

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other provisions of this Agreement, and this Agreement will be construed without the invalid, illegal or unenforceable provision.

16. **NO OTHER REPRESENTATIONS OR WARRANTIES.** EXCEPT AS PROVIDED HEREIN, THE RECEIVABLES ARE BEING SOLD "AS-IS" AND "WITH ALL FAULTS" WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER (WHETHER EXPRESSED OR IMPLIED), AND SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE RECEIVABLES, AND THE STRATIFICATION OR PACKAGING OF THE RECEIVABLES.

17. **Cross Default.** In addition to this Agreement, Buyer and any affiliated entities, subsidiaries, parents and other related entities (collectively, "Buyer") may have entered into Accounts Receivable Agreements with Seller in the past or may enter into Accounts Receivable Agreements with Seller in the future (the "Other Agreements"). Any breach or default by Buyer under this Agreement or any of the Other Agreements, or any other agreements or contracts between Seller and Buyer, shall constitute a breach of this Agreement and the Other Agreements.

18. **Waiver and Release.** Buyer and all others claiming by or through Buyer hereby disclaim and waive any claim, losses or liabilities they may now or in the future have against Seller and any of their respective contractors, affiliates, officers, directors, employees, contractors, attorneys, agents, and predecessors in interest and their respective successors and assignees as a result of the purchase of the Receivables; provided, however, that this waiver and release shall not extend to any liability of Seller arising from Seller's failure to perform its obligations in accordance with the terms of this Agreement. In addition, Buyer and all others claiming by or through Buyer hereby release Seller, its affiliates, officers, directors, employees, contractors, attorneys, agents and predecessors in interest and their respective successors and assigns, from any and all claims, losses or liabilities arising from or related to the Receivables or arising out of the violation of any applicable laws.

19. **Prior Understanding.** This Agreement supersedes any and all prior discussions and agreements between Seller and Buyer with respect to the purchase of the Receivables and other matters contained herein, and this Agreement contains the sole and entire understanding between the parties hereto with respect to the transactions contemplated herein.

20. **Governing Law/Choice of Forum.** This Agreement shall be construed, and the rights and obligations of Seller and Buyer hereunder determined, in accordance with the laws of the State of Ohio (the "State"). The parties agree that any legal actions between Buyer and Seller regarding the purchase of the Receivables hereunder shall be originated in the courts in and for the State in the county where Seller is located, and Buyer hereby consents to the jurisdiction of said court in connection with any action or proceeding initiated concerning this Agreement and agrees that service by mail to the address specified on the first page of this Agreement, or such other address as may be provided to Seller in writing from time to time, shall be sufficient to confer jurisdiction over Buyer in such State court.

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This Agreement shall become effective when executed by Buyer and Seller.

SELLER:

UNIFUND CCR PARTNERS,
by CREDIT CARD RECEIVABLES
FUND, INC.
a General Partner
513/489-8877
513/489-7511 Fax

BUYER:

Activus, LLC
(434)971-1888

By: D. Rosenberg
David Rosenberg, President

By: _____
Charles Bruce Berry,

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Annex B
Citibank (South Dakota), N.A.
Additional Terms

1. Retrieval of Account Documents. Buyer may deliver to Seller a written request as to any Account, for Seller to provide account applications, account statements, or affidavits of debt ("Account Documents") subject to Seller's reasonable ability to obtain each such request from the Originator, Citibank (South Dakota), N.A. ("the Bank"). Seller will charge \$ [REDACTED] for each Account Document furnished. Each item requested constitutes a separate request for purposes of determining the cumulative number of requests, notwithstanding the fact that it may relate to the same Account or Debtor. The failure of Seller to obtain an Account Document requested by Buyer will not be a breach of this Agreement. An affidavit signed by the Seller attesting to the account balance and transfer of the account to Buyer is available for any account free of charge.

2. Compliance with Law. With respect to any Account, Buyer or Buyer's agent will at all times: (a) comply with all state and federal laws applicable to debt collection, including, without limitation, the Consumer Credit Protection Act, the Fair Credit Reporting Act and the Fair Debt Collection Practices Act, and (b) for any Account where the statute of limitations has run, not falsely represent that a lawsuit will be filed if the Cardholder does not pay. Furthermore, Buyer shall immediately cease any collection efforts upon receiving notice (whether from the Debtor, the Seller, or a third party on behalf of the Debtor) that a Debtor has discharged the debt in bankruptcy, and shall not re-commence collection activity until Buyer has conducted a reasonable investigation into the Debtor's claim and determined, based upon reasonable evidence, that the Debtor's claim is unfounded.

3. Notice of Claims. Buyer will notify Seller immediately of any claim or threatened claim against the Seller and/or the Bank, or any claim or threatened claim that may affect the Seller and/or the Bank, that is discovered by Buyer. Seller will use its reasonable efforts to promptly notify the Buyer of any notice it receives that an account is subject to Bankruptcy protection.

4. Use of Names. The Buyer will not use or refer to the name "Citibank," "Citibank Classic," "Citicorp," "Citigroup", Universal Bank, Universal Card Services Corp., or any similar name or successor corporation, except to reference "Citibank", "Universal Bank" or Universal Card Services for purposes of identifying an Account in communications with the Account's Debtor, in collecting amounts outstanding on the Account, and in conducting litigation or participating in a bankruptcy proceeding with respect to the Account. Buyer shall not represent that there is an affiliation or agency relationship between Buyer and the Bank, nor shall Buyer state or represent in any way that it is acting for or on behalf of the Bank. Buyer shall not misrepresent, mislead or otherwise fail adequately to disclose its ownership of the Accounts.

5. Breach. Buyer and Seller acknowledge that Buyer's breach of Section 4 clause will result in actual and substantial damages to the Bank, the amount of which will be difficult to ascertain with precision. Therefore, if Buyer breaches this Article 4, Buyer will be liable for payment to the Bank the sum of \$10,000.00 for each breach (each breach being the single use of the above names, communicated to a third party as described above) as liquidated damages and in preventing Buyer's further breach of this provision.

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6. SELLER'S RIGHT TO REPURCHASE ACCOUNTS RECALLED BY THE BANK

Accounts Affected. The Seller shall have the right to repurchase any Account that has not been paid in full, released or compromised by Buyer, if the Bank has determined that there is a pending or threatened suit, arbitration, bankruptcy proceeding or other legal proceeding or investigation relating to an Account or a Cardholder, and naming the Bank or otherwise involving the Bank's interest therein in a manner unacceptable to the Bank, or the Bank otherwise determines (in its sole discretion) that such matter cannot be resolved and/or that the Bank's interest therein cannot be adequately protected without the Bank owning such Account.

7. RIGHT TO REPURCHASE

Upon notice to Buyer, Seller may repurchase any Account described in the Section 6 by repaying to Buyer the purchase price of the Account. Upon delivering to the Seller a full accounting of the Account, Buyer may retain any money or value that Buyer collected or received on the Account before Buyer's receipt of the Seller's notice electing to repurchase the Account; provided that, after Buyer has received the Seller's notice, Buyer will immediately cease releasing or compromising the Account.

8. RIGHT OF RESALE

Sale or Transfer to a Third Party. Buyer may not resell or transfer the ownership of any Account to a third party, nor shall it sell Cardholder information (such as names and addresses) to any third party without the express written consent of the Seller and the Bank, which consent will not be unreasonably withheld; provided, however, that Buyer must conduct commercially reasonable and prudent due diligence of the third party and present the Seller with the due diligence material obtained; and, provided further, that Buyer shall defend, indemnify and hold harmless the Seller and the Bank from any and all causes of action, claims, expenses or judgments incurred by the Seller or the Bank for which Buyer's third party is responsible. Buyer shall require the third party to agree to be bound to the Buyer's obligations as set out in this Annex B. All Consents to allow Buyer to resell Accounts shall be memorialized by third party buyer executing a Consent to Resell Accounts in the form of Exhibit B, attached. Seller shall respond to Buyer's request to resell Accounts within five (5) business days from the date the Seller receives the request, unless Seller's delay in responding is caused by or related to Buyer's failure to provide Seller with necessary information relating to potential third party buyers. Unless otherwise agreed in writing, Seller's consent to the Buyer's resale or transfer of ownership of any Account to a third party shall not relieve the Buyer of its obligations and responsibilities under this Agreement. If Seller and the Bank consent to such resale or transfer of ownership of any Account to a third party, all third party requests for documentation pursuant to section 6.2 must be made to Bank through Seller, unless Seller and the Bank otherwise agree in writing. Nothing in this section shall modify the indemnification provisions between Buyer and Seller as set forth in Articles 6 and 7 of this Agreement.

9. Exceptions. Section 8 shall not apply to Buyer's sale, pledge or transfer of Accounts to one or more of its wholly owned subsidiaries or affiliates or to a trust or other special purpose vehicle which is wholly owned by such subsidiary for the sole purpose of obtaining financing and/or issuing asset-backed securities secured by such Accounts, provided that Buyer shall give Seller prior notice of the sale, pledge, or transfer under this Section 9.

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Unifund CCR Partners

BILL OF SALE

Unifund CCR Partners, for value received and in accordance with the terms of the Accounts Receivable Purchase Agreement by and among Unifund CCR Partners and Activus, LLC ("Purchaser"), dated as of August 11, 2005 (the "Agreement"), does hereby sell, assign and transfer to Purchaser all of its good and marketable title, free and clean of all liens, claims and encumbrances in and to the Accounts listed in the Account Schedule attached as Appendix A to the Agreement, without recourse and without representation or warranty of collectibility, or otherwise, except to the extent stated in the Agreement.

Executed on August 11, 2005.

UNIFUND CCR PARTNERS
By Credit Card Receivables Fund, Inc.
Its General Partner

By D. Rosenberg
David Rosenberg
President

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