

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT

NEWRIVER, INC.

Plaintiff,

v.

MORNINGSTAR, INC.

Defendant.

Civil Action No. _____

VERIFIED COMPLAINT

NATURE OF ACTION

1. Plaintiff NewRiver, Inc. ("NewRiver" or the "Company") brings this action in an effort to stop its competitor, Defendant Morningstar, Inc. ("Morningstar"), from accessing NewRiver's Prospectus Express web-based data warehouse using "screen-scraping" technology from internet protocol ("IP") addresses in China and the United States. Morningstar has admitted that it is accessing NewRiver's web-based data warehouse, at a minimum, as part of its quality assurance or control process in the development of its own products, conduct which itself violates prior agreements between the parties and is otherwise unlawful. Without discovery, NewRiver cannot be sure of what other uses Morningstar may be making from its screen-scraping of NewRiver's web-based data. Morningstar's unlawful access of NewRiver's web-based data warehouse violates not only prior agreements between the parties, but also the federal Computer Fraud and Abuse Act, 18 U.S.C. § 1030, and gives rise to numerous common law claims, including trespass to chattels, conversion, tortious interference with contractual and advantageous relationships and

unfair competition under G.L. c. 93A. NewRiver not only seeks to put a halt to Morningstar's unauthorized access of its web-based data warehouse and unfair competition, but also to hold Morningstar accountable for all damages, including treble damages and attorneys' fees, suffered by NewRiver as a result of Morningstar's conduct—conduct which Morningstar has not agreed to stop despite NewRiver's complaints.

THE PARTIES

2. NewRiver, Inc. is a Massachusetts corporation with a principal place of business at 200 Brickstone Square, 5th Floor, Andover, Massachusetts, that provides mutual fund compliance data and document delivery solutions to the financial services industry. NewRiver's products and services help brokerage firms, retirement plan providers, record keepers and variable annuity providers to reduce their operating expenses, comply with governmental regulations, enhance customer relationships and improve employee productivity. NewRiver was formerly known as NewRiver Investor Communications, Inc., but changed its name to NewRiver, Inc. on or about October 18, 2000.

3. Morningstar, Inc. is an Illinois corporation with a principal place of business at 225 West Wacker Drive, Chicago, Illinois.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the causes of action alleged in this Verified Complaint because NewRiver maintains its principal place of business in Massachusetts. This Court has jurisdiction over defendant Morningstar because it has had sufficient contact with Massachusetts in connection with the causes of action alleged in this Verified Complaint pursuant to G.L. c. 223A, § 3 and c. 93A.

5. Venue is proper under G.L. c. 223, § 1 because NewRiver has its principal place of business in Essex County.

GENERAL ALLEGATIONS

NewRiver's Prospectus Express Product

6. NewRiver serves many of the largest financial companies globally, including five of the top ten brokerage firms and three of the top ten retirement plan providers in the United States. It currently employs approximately 250 full-time employees with 60 located in its corporate headquarters in Andover, Massachusetts.

7. NewRiver's document delivery proprietary solutions enable the Company to extract Securities and Exchange Commission ("SEC") filings directly from the Electronic Data Gathering Analysis and Retrieval ("EDGAR") database and convert this information for use by its financial services clients.

8. One of NewRiver's products, Prospectus Express, is the industry's only Web-based SEC-compliant data warehouse providing investor access to an online library of compliance documents (*e.g.*, prospectuses, supplements, semi-annual and annual reports and statements of additional information ("SAIs")) for every open-end mutual fund, variable annuity, variable life product and exchange-traded fund ("ETF"), and certain unit investment trusts ("UITs"), sold in the United States.

9. NewRiver's Prospectus Express product web pages are not intended to be available for use by the public at large, *i.e.* anyone with an internet connection. Rather, NewRiver's brokerage firm clients pay NewRiver for the right to include links to Prospectus Express from their websites or from within emails delivered to their clients. The Prospectus Express web pages are accessible only via a structured Uniform Record Locator ("URL") containing unique client identifiers and other information that is not readily available to the public. Although in some cases these structured URLs can be viewed in a browser address bar when an investor or prospective investor accesses a Prospectus Express document at a client website, that is largely

unavoidable because applicable securities laws and regulations require the Prospectus Express prospectuses to be viewable on NewRiver's clients' brokerage websites, as such prospectuses are required to accompany or precede marketing materials and supplemental sales literature used in connection with the sale of securities.

10. NewRiver's clients enter into a license agreement with NewRiver, which provides them the right to have their customers access NewRiver's web-based data warehouse through a client-tailored URL. Each client has a unique identifier that forms a part of the URL that a client uses to access Prospectus Express.

11. Under the license agreement each customer only has access to a limited number of CUSIPs. A CUSIP is a nine-character alphanumeric security identifier used for all North American securities for the purposes of facilitating clearing and settlement of trades.

12. Under the license agreement, NewRiver's clients further agree as follows:

NewRiver hereby grants [client] a non-exclusive, non-transferable, non-sublicenseable, revocable, limited license to use the Products during the term of this Agreement and the applicable Product License(s) for the sole purpose(s) expressly set forth in such Product License(s) (the "Permitted Uses") and subject to all usage restrictions and limitations set forth in this Agreement and the applicable Product License(s). In no event shall [client], or any employee or agent of [client], use any Product, or any portion thereof, for any purpose other than the Permitted Uses. Without broadening the scope of the Permitted Uses, unless otherwise expressly permitted by the applicable Product License, in no event shall [client], or any employee or agent of [client], resell, redistribute, license, or provide access to any Product, or any portion thereof, (regardless of whether via a data feed or any tool, product, process, or service) to any third party. In the event that [client], or any employee or agent thereof, uses a Product, or any portion thereof, in any manner or for any purpose that is not expressly permitted by this limited license or the Permitted Uses (or that is prohibited by usage restrictions), [client] shall immediately notify NewRiver in writing of such use ("Misuse"). In the event of any Misuse, in addition to any other remedies that may be available, [client] shall promptly pay NewRiver's then-current licensing fees for the entire period of such Misuse.

[...]

NewRiver shall provide the Prospectus Express Product specified herein in accordance with the terms and conditions of this Product License. The Prospectus Express Product shall consist of (a) providing [client] and [client's] end-user clients ("Clients") with online access to the mutual fund disclosure documents in NewRiver's proprietary Prospectus Express database (including without limitation, to the extent available, prospectuses, statements of additional information, annual reports, semi-annual reports, profiles, and supplements) (such documents each a "Document" and collectively the "Documents") that are requested electronically by [client] via mutually acceptable data transfer protocols, and for each of which [client] shall provide a valid nine-digit CUSIP number, and all additional information that NewRiver may request, in order to accurately identify such mutual funds (such mutual funds hereinafter referred to as the "Selected Funds").

[...]

Subject to the limited license set forth [above], [client] may use the Prospectus Express Product for the sole purposes of internally viewing, and providing its direct end-user clients that are natural persons with electronic access to, the Documents via the Internet addresses that have been approved in writing by NewRiver (each such Internet address a "Distribution Channel"). Notwithstanding the foregoing, in no event shall [client] use the Prospectus Express Product (or any portion thereof, including without limitation any Document) (i) in connection with a securities transaction or sale of mutual fund shares, (ii) in [client's] online order-entry screens, (iii) in lieu of a paper document, or (iv) for the purpose of fulfilling a disclosure requirement of any state or federal securities law or regulation.

13. On or about November 19, 2008, the SEC approved a rule that will take effect in early 2009. This rule (the "Summary Prospectus Rule") will permit mutual funds and broker-dealers, in lieu of sending a full statutory prospectus, to send investors a three to four page summary prospectus that includes a URL for a webpage where electronic versions of the summary prospectus, statutory prospectus and related disclosure documents are available, and where the electronic summary prospectus on such webpage contains links to the statutory prospectus and other disclosure documents.

14. Because NewRiver essentially already provides this online service through its product, Prospectus Express, NewRiver projects a dramatic increase in its business as a result of the Summary Prospectus Rule.

Prior Dealings Between The Parties

In Late 1999, NewRiver Provided Morningstar With Access To Prospectus Express Subject To Certain Use And Confidentiality Limitations

15. In or about June 1999, the parties entered into a confidential business relationship relating to electronic document delivery. Pursuant to this relationship, NewRiver provided Morningstar with a structured URL format so that Morningstar could access documents in the Prospectus Express web-based data warehouse. Morningstar paid NewRiver for this access to Prospectus Express and such access was subject to a limited license.

16. On or about February 7, 2000, the parties entered into a more comprehensive agreement governing Morningstar's access and use of NewRiver's Prospectus Express database, as well as the confidentiality of the database. See Exhibit 1. Morningstar was authorized to market and redistribute NewRiver's Prospectus Express database for selected funds in conjunction with Morningstar's ClearFuture product. Morningstar also received access to a customized version of NewRiver's database for a period of three years for its own internal use. See Exhibit 1, § 1.1.

17. Section 3.2 of this agreement, entitled "Prospectus Express Service Distribution Agreement For Pre-Sale and Post-Sale Direct Mutual Fund Delivery" (the "2000 Prospectus Express Service Distribution Agreement") provides, in relevant part, as follows:

- a. Morningstar shall not copy, transfer, create derivative works of, or otherwise reproduce any Document [defined to include documents accessible on the Prospectus Express product web pages], whether for redistribution, lease or license to any third party or for any other purposes, except in connection with distribution through the Distribution Channels provided by this Service Agreement.
- b. Morningstar shall not decompile or otherwise reverse engineer the Documents or in any other manner attempt to obtain NewRiver's proprietary database structure, indices, computer programs and/or programming techniques.
- c. Morningstar shall not use the Documents for any unlawful purposes, [...].

[...]

- h. The provisions of this Section 3.2 are necessary for the protection of the business and goodwill of NewRiver and are considered by the parties to be reasonable for such purpose. Morningstar agrees that any breach by Morningstar of this Section 3.2 will cause NewRiver substantial and irreparable harm and, therefore, in the event of any breach, in addition to other remedies which may be available, NewRiver is entitled to seek specific performance and other injunctive and equitable relief.

18. Section 7.1 of the 2000 Prospectus Express Service Distribution Agreement provides, in relevant part, as follows:

All confidential information disclosed by either party to the other party during the term of this Agreement shall not be used by the receiving party except in connection with the activities contemplated by this Agreement, shall be maintained in confidence by the receiving party and shall not otherwise be disclosed by the receiving party to any other person, firm or agency, governmental or private, without the prior written consent of the disclosing party, except to the extent required to comply with applicable laws or governmental regulations.

19. Section 7.7 of the 2000 Prospectus Express Service Distribution Agreement provides, in relevant part, as follows:

Notwithstanding anything else in this Agreement to the contrary, the parties agree that Sections [...] 3.2a, 3.2b, 3.2c [...] and] 7.1 [...] shall survive the termination or expiration of this Agreement, as the case may be.

20. NewRiver attached to the 2000 Prospectus Express Service Distribution Agreement as Exhibit B a Prospectus Express Technical Specification sheet which contained a structured URL format so that Morningstar could access documents in Prospectus Express. NewRiver provided this URL to Morningstar subject to the protections of the 2000 Prospectus Express Service Distribution Agreement. Again, Morningstar paid NewRiver for a limited license to access Prospectus Express.

21. On or about November 3, 2000, the parties executed a letter agreement (the "November 2000 Release Agreement") in which they agreed to release one another from all agreements

executed by them before November 1, 2000, except the 2000 Prospectus Express Service Distribution Agreement, the enforceability of which was expressly preserved in the November 2000 Release Agreement. See Exhibit 2.

22. The parties thereafter executed a letter agreement, dated November 6, 2000, amending the 2000 Prospectus Express Service Distribution Agreement. See Exhibit 3. This letter agreement provides, in relevant part:

Notwithstanding anything in the Prospectus Express Agreement to the contrary [...] Morningstar shall not redistribute or provide access to the Services or Documents to any third party, and may use the Services and Documents solely for its internal viewing.

23. Under the amendment, the parties continued the Internal Use portion of the services under the 2000 Prospectus Express Service Distribution Agreement. See Exhibit 3, paragraph 2.

24. By letter dated November 4, 2002, Morningstar notified NewRiver that it wished to discontinue the 2000 Prospectus Express Service Distribution Agreement, effective at the end of the contract term, or February 7, 2003. See Exhibit 4.

25. Notwithstanding the termination of the 2000 Prospectus Express Service Distribution Agreement, sections 3.2a, 3.2b, 3.2c and 7.1 of the agreement, among others, remain in effect pursuant to Section 7.7 of the agreement (under the agreement's Survival Clause).

In The Early Summer of 2008, NewRiver Provided Morningstar With Confidential Information About Its Business Prospects Pursuant To Discussions Concerning A Strategic Business Combination

26. In early April 2008, NewRiver engaged Lane, Berry & Co. International, LLC ("Lane Berry") to help it assess its strategic options, including a possible sale of the Company. Before this time, dealings between NewRiver and Morningstar had been essentially dormant other than for a few meetings that took place between the parties in the summer of 2005 during which meetings NewRiver provided Morningstar with, among other things, confidential information

regarding its Prospectus Express and Intelligent Delivery Services products and the names of some of NewRiver's clients.

27. NewRiver engaged Lane Berry because it had received inquiries from several large industry leaders who wanted exclusive distribution rights for specific NewRiver market segments, including Prospectus Express, in advance of the SEC's imminent approval of the Summary Prospectus Rule.

28. On or about May 19, 2008, Lane Berry contacted Morningstar to discuss a potential transaction involving the parties, without identifying NewRiver by name, and provided Morningstar with a one-page Executive Summary.

29. On or about May 23, 2008, NewRiver and Morningstar executed a Confidentiality and Non-Disclosure Agreement (the "2008 Nondisclosure Agreement"). See Exhibit 5.

30. The 2008 Nondisclosure Agreement provides, in relevant part, as follows:

Each of [NewRiver] and Morningstar understand that in respect of the Transaction, information concerning either and/or their respective affiliates, including, without limitation, the Confidential Information Memorandum prepared in connection therewith (the "Memorandum"), may be disclosed to the other or its directors, officers, employees, affiliates, agents and advisors ("representatives") in connection with such discussion, either in written, oral, electronic or other form (the "Evaluation Material").

[...]

All Evaluation Material will be held in confidence by the Receiving Party and its representatives and, without the Disclosing Party's prior written consent, will not be disclosed, in whole or in part, to any other person [...], nor will any Evaluation Material be used in any way directly or indirectly detrimental to the Disclosing Party or its affiliates or for any purpose other than the evaluation or negotiation of the Transaction. The Receiving Party agrees to protect all Evaluation Material with the same degree of care (but no less than a reasonable degree of care) used to protect its own similar confidential or proprietary information.

[...]

Without prejudice to any other rights or remedies the [sic] a party may have, each party acknowledges and agrees that money damages would not be an adequate

remedy for any breach of this agreement and that the other party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this agreement and no bond or other security shall be required in connection with any such equitable relief. Each party hereby agrees that it will not contest the seeking of such equitable relief, including injunction and specific performance, by the other party on the basis that there was no irreparable harm to the other party.

[...]

Each party acknowledges that the other party may now have overlapping business lines, products and/or customers and that the other party may compete with it and that so long as the Evaluation Material is not used in such business in violation of this agreement, the operation of such businesses and such competitive activity shall not itself be in violation of this agreement. Each party further acknowledges and agrees that the other party may now or in the future provide products and services to the same markets and customers as it does and that nothing in this agreement will prohibit or otherwise restrict the other party or its affiliates from competing with it, including by soliciting existing customers or business prospects who also happen to be its customers, clients or accounts, provided that the other party will not use the Evaluation Material for that purpose.

[...]

The Receiving Party acknowledges that as a result of the disclosure of the Evaluation Material to it, it shall not receive any right, title or interest in, or any license or right to use, the Evaluation Material or any patent, copyright, trade secret, trademark or other intellectual property rights included therein, by implication or otherwise. All Evaluation Materials (including all copies thereof), and the rights and title thereto, shall at all times remain the property of the Disclosing Party.

31. On or about June 2, 2008, NewRiver provided Morningstar with a twenty-six page Confidential Information Memorandum subject to the confidentiality protections of the 2008 Nondisclosure Agreement.
32. The Executive Summary and Confidential Information Memorandum detail the significant market opportunity for NewRiver's core products and the likely increased demand for its products, including Prospectus Express, as a result of the SEC's Summary Prospectus Rule. In those highly confidential documents, NewRiver provided Morningstar with an overview of its technology, the names of key clients (including many of those whose unique customer identifiers

Morningstar used to access Prospectus Express) and its anticipated revenue growth through fiscal year 2010, driven in large part by the Summary Prospectus Rule.

33. On or about June 4, 2008, Lane Berry hosted a conference call with Morningstar to discuss the Confidential Information Memorandum and NewRiver's valuation expectations. During this call, Morningstar requested certain follow-up information, including fiscal year 2005 revenue, a fiscal year 2007 revenue breakdown for FundPOINT, one of NewRiver's products, and projected fiscal year 2008 and 2009 expenses for certain of NewRiver's operations. Later that day, there was a follow-up telephone conversation to further discuss NewRiver's business operations.

34. On or about June 6, 2008, NewRiver provided Morningstar with the additional information it had requested during the June 4 call. This information was provided subject to the confidentiality protections of the 2008 Nondisclosure Agreement.

35. Between on or about June 9 and June 11, 2008, Lane Berry and Morningstar discussed by telephone the information provided on June 6, 2008.

36. On or about June 12, 2008, Morningstar informed Lane Berry it would not pursue a transaction between the parties at that time.

37. On or about July 25, 2008, Lane Berry and Morningstar discussed pursuing a potential strategic partnership with NewRiver, but Morningstar informed Lane Berry on or about July 29, 2008 that it was not interested in pursuing a strategic partnership with NewRiver.

On Information And Belief, In The Late Summer Of 2008, Morningstar Began Heavily "Screen-Scraping" NewRiver's Prospectus Express Web-Based Data Warehouse

38. Unbeknownst to NewRiver and upon information and belief, beginning at least as early as May 2008, Morningstar had begun "screen-scraping" NewRiver's Prospectus Express web-based data warehouse for competitive information from, among other locations, Morningstar's

China subsidiary. A screen-scraping is a computer program that extracts data from the display output of another computer program on a systematic and high volume basis.

39. Morningstar's apparent screen-scraping dramatically picked up in frequency on August 1, 2008, after Lane Berry and Morningstar had concluded strategic transaction discussions.

40. NewRiver has technology that allows it to track Internet Service Providers and companies that visit its websites and to track the web pages that they view.

41. Using this technology, NewRiver has determined that two IP addresses associated with Morningstar accessed Prospectus Express more than 130,000 times between May 1, 2008 and December 3, 2008 alone.

42. More than 74,000 of these accesses came from a Morningstar IP address in Guangzhou, China.

43. More than 60,000 of these accesses came from a Morningstar IP address in Chicago, Illinois.

44. To access the Prospectus Express web-based data warehouse, Morningstar claims it has systematically substituted CUSIPs and other publicly known identifying information into the URL that is used to retrieve documents contained in the Prospectus Express database via a third-party website. However, NewRiver's Prospectus Express web-based data warehouse is not a generally available public website, but as Morningstar well knows, is intended for NewRiver's fee paying customers. Moreover, while some of the data may be accessed by NewRiver's customers' clients directly and for their personal investment use, Morningstar is not such a customer. Instead, Morningstar has retrieved documents contained in the Prospectus Express web-based data warehouse directly from Prospectus Express, not through NewRiver's customer sites, and for its own commercial use.

45. For example, Morningstar retrieved Prospectus Express documents directly from the Prospectus Express web-based data warehouse used by NewRiver's client Merrill Lynch Pierce Fenner & Smith Incorporated ("Merrill Lynch"). Merrill Lynch's Prospectus Express client identifier is not publicly known and is not viewable in a browser address bar by Merrill Lynch's investors.

46. Morningstar appears to have accessed the Merrill Lynch documents through a calculated process of trial and error to uncover Merrill Lynch's client identifier. Morningstar then appears to have screen-scraped documents for 10,113 out of 14,917 CUSIPs available to Merrill Lynch in Prospectus Express. This is particularly valuable data, because unlike most other companies' Prospectus Express documents, the Prospectus Express documents that NewRiver makes available to Merrill Lynch in Prospectus Express contain the filing and effective date information for its mutual fund documents in a different and valuable format, not otherwise readily available to the public. This additional valuable effective dating information is consolidated into the Prospectus Express documents through a combination of NewRiver proprietary technology and NewRiver's considerable industry expertise and document interpretation skills accumulated by NewRiver through years of experience in processing securities filings.

47. NewRiver believes Morningstar employed a screen-scrafer due to the systematic, high volume access of the web-based data warehouse.

48. For example, on August 1, 2008, the first day of significant access by Morningstar from China, someone or something at the Morningstar Guangzhou, China IP address referenced above accessed Prospectus Express on 8,092 occasions. On August 2, 2008, there were 14,594 accesses; on August 3, 2008, 14,280 accesses; on August 4, 2008, 14,460 accesses; and on August 5, 2008, 7,104 accesses.

49. On August 5, 2008, the first day of significant access by Morningstar from Chicago, someone or something at the Morningstar Chicago, Illinois IP address referenced above accessed Prospectus Express on 22,801 occasions. The 22,801 accesses commenced at 6:01:59 a.m. and continued throughout the day until 6:02:56 p.m. at the rate of approximately one access every two seconds. The regular interval at which the accesses occurred, the short duration of the accesses, and the lack of a user-agent value for all but one of the 22,801 accesses (as indicated by the lack of a browser used to access the web-based data warehouse for those accesses), indicates a programmatic non-human access of the Prospectus Express web-based data warehouse.

50. Of the 22,801 accesses from Chicago on August 5, 2008, 22,800 appear to be by robotic access, whereas only 1 appears to be a human user.

51. Of these 22,800 accesses, there were 11,400 distinct CUSIPs requested. Each CUSIP was requested twice, once for the prospectus document and once for the SAI document. Upon information and belief, two distinct threads were used: one thread requesting prospectuses and the other requesting SAIs.

52. Since May 2008, Morningstar has successfully accessed nearly half of the CUSIPs contained in NewRiver's Prospectus Express database, and has unsuccessfully attempted to access approximately 17,000 additional CUSIPs, without rendering payment to NewRiver as any NewRiver client would be obligated to do. NewRiver would not have agreed to provide Morningstar with access to Prospectus Express at any price whether to perform quality assurance, quality control or otherwise.

53. Although investors and potential investors that are customers of NewRiver's paying clients can access portions of NewRiver's Prospectus Express database through certain third-party websites for their personal "pre-sale" investment purposes as a customer of such client

without paying a fee to NewRiver, Morningstar is not similarly situated. Indeed, Morningstar has obligations to NewRiver under the 2000 Prospectus Express Service Distribution Agreement, is not a customer of a paying client of NewRiver, is not using Prospectus Express for its personal investment purposes, and knows, based upon the 2000 Prospectus Express Service Distribution Agreement, that use of Prospectus Express as a NewRiver customer requires payment of substantial fees and is subject to usage limitations under a limited license.

54. Morningstar has continued to access NewRiver's web-based data warehouse in an unauthorized manner, in violation of the parties' prior agreements, through at least as recently as December 16, 2008.

55. New River is not seeking relief for any review by Morningstar of its public website at www1.newriver.com, because competitors such as Morningstar may review this website to inform themselves about NewRiver's products.

On Information And Belief, At Or Around The Same Time, Late Summer 2008, Morningstar Used The Information It Had Screen-Scraped From Prospectus Express To Unfairly Compete With NewRiver's Clients

56. Upon information and belief, after heavily screen-scraping NewRiver's Prospectus Express web-based data warehouse in August and September 2008, Morningstar embarked on a series of presentations to NewRiver's clients in order to convince those clients to terminate their contractual and business relationships with NewRiver and enter into contractual and business relationships with Morningstar. In addition, Morningstar's presentations caused NewRiver clients to demand price reductions from NewRiver and such clients obtained significant pricing concessions from NewRiver.

57. Morningstar presented to several NewRiver Prospectus Express clients, including Citigroup, Inc., on September 2, 2008, and The Standard Insurance Company, on September 16, 2008.

Since Learning Of Morningstar's Screen-Scraping, NewRiver Has Taken Remedial Measures And Incurred Costs While Morningstar Continues To Screen-Scape Prospectus Express

58. Upon discovery of Morningstar's apparent screen-scraping activity, NewRiver terminated access to its web-based data warehouse for the Morningstar Guangzhou, China IP address.

59. Despite this termination of access, someone or something using the Morningstar China IP address attempted to access Prospectus Express on or about December 11, 12 and 16, 2008.

60. NewRiver has not terminated access for the Morningstar Chicago, Illinois IP address because it cannot terminate such access consistent with its client agreements, as doing so would likely harm customers and/or potential customers of its clients, who may be innocent Morningstar employees and who might be using that address to legitimately and lawfully access NewRiver's web-based data warehouse for private investment purposes. Blocking access for such IP address could additionally result in significant harm to NewRiver's clients and significant liability to NewRiver.

61. On or about December 13, 2008, at 11:00 a.m., NewRiver caused new terms and conditions to appear in Prospectus Express, which more clearly prohibit screen-scraping and other unauthorized use of the web-based data warehouse.

62. On or about December 16, 2008, despite these new terms and conditions, Morningstar appears to have continued to screen-scrape Prospectus Express on approximately 200 occasions from the Morningstar Chicago IP address.

63. NewRiver has also hired a computer security consultant to more fully assess the extent of Morningstar's screen-scraping activity. To date, NewRiver has paid this consultant \$5,400 for these response, investigatory, assessment and remedial services.

64. In addition, NewRiver has incurred approximately \$19,000 to date in internal costs related to the work of its employees to investigate and remediate Morningstar's actions.

NewRiver Attempted To Resolve This Matter Without The Need For Judicial Intervention

65. On or about December 19, 2008, NewRiver demanded that Morningstar cease its screen-scraping activity and then attempted to resolve this dispute without the need for judicial intervention.

66. On or about December 30, 2008, a Morningstar representative admitted that Morningstar, to ensure the quality of its own products, has systematically accessed NewRiver Prospectus Express documents. Morningstar claims that such access was obtained via a third-party's public website, but NewRiver has reason to believe that the vast majority of the accesses were directly to NewRiver's servers, and in many cases, involved the use of URLs that were not publicly available on a client website. The Morningstar representative further admitted that Morningstar performs this quality assurance exercise because it wants to determine whether its own database of mutual fund compliance documents is as current and complete as NewRiver's database.

67. In addition, upon information and belief, based upon the timing and pattern of Morningstar's access, Morningstar may also have retrieved prospectuses, SAIs and associated supplements from Prospectus Express in order to reproduce NewRiver's Prospectus Express documents and reverse-engineer and obtain NewRiver's confidential and proprietary information and technology in violation of the parties' prior agreements.

COUNT I

Violation Of The Computer Fraud And Abuse Act 18 U.S.C. § 1030(a)(2)(C)

68. NewRiver repeats and realleges the allegations in ¶¶ 1-67 of the Verified Complaint.

69. NewRiver owns and maintains computers that are used in and affect interstate and foreign commerce or communication, in that investors around the globe access through these computers an online library of compliance documents (prospectuses, supplements, semi-annual and annual reports and SAIs) for every open-end mutual fund, variable annuity, variable life

product and ETF, and certain UITs, sold in the United States. As such, NewRiver owns and maintains one or more “protected computers” as defined in the Computer Fraud and Abuse Act.

70. Upon information and belief, Morningstar has intentionally accessed and used NewRiver’s computer network and servers through the use of screen scrapers and without authorization, or in excess of its authorized access.

71. By accessing NewRiver’s computer network and servers without authorization, or in excess of its authorized access, Morningstar obtained information from NewRiver’s protected computers.

72. As a result of Morningstar’s conduct, NewRiver has suffered damages and/or loss, including incurring costs in responding to Morningstar’s conduct, and investigating, assessing, and remediating NewRiver’s computer systems in excess of \$5,000 in the year preceding the date of the filing of this Complaint.

73. Unless enjoined, Morningstar may continue to unlawfully access and use NewRiver’s computer network and servers, thereby causing NewRiver irreparable harm.

COUNT II

Violation Of The Computer Fraud And Abuse Act 18 U.S.C. § 1030(a)(4)

74. NewRiver repeats and realleges the allegations in ¶¶ 1-73 of the Verified Complaint.

75. Morningstar knowingly and with intent to defraud accessed NewRiver’s protected computers without authorization or in excess of its authorized access.

76. By means of such conduct, Morningstar furthered its intended fraud of unlawfully competing with NewRiver.

77. By means of such conduct, Morningstar obtained something of value, namely, documents from NewRiver’s Prospectus Express web-based data warehouse.

78. As a result of Morningstar’s conduct, NewRiver has suffered damages and/or loss,

including incurring costs in responding to Morningstar's conduct, and investigating, assessing, and remediating NewRiver's computer systems in excess of \$5,000 in the year preceding the date of the filing of this Complaint.

79. Unless enjoined, Morningstar may continue to unlawfully access and use NewRiver's computer network and servers, thereby causing NewRiver irreparable harm.

COUNT III

Violation Of The Computer Fraud And Abuse Act 18 U.S.C. § 1030(a)(5)(C)

80. NewRiver repeats and realleges the allegations in ¶¶ 1-79 of the Verified Complaint.

81. Morningstar intentionally accessed NewRiver's protected computers without authorization.

82. As a result of such conduct, Morningstar caused NewRiver damages and loss in excess of \$5,000.

83. As a result of Morningstar's conduct, NewRiver has suffered damages and loss, including incurring costs in responding to Morningstar's conduct, and investigating, assessing, and remediating NewRiver's computer systems in excess of \$5,000 in the year preceding the date of the filing of this Complaint.

84. Unless enjoined, Morningstar may continue to unlawfully access and use NewRiver's computer network and servers, thereby causing NewRiver irreparable harm.

COUNT IV

Trespass To Chattels

85. NewRiver repeats and realleges the allegations in ¶¶ 1-84 of the Verified Complaint.

86. The computer networks and servers that comprise NewRiver's online delivery of documents to clients as part of its Prospectus Express web-based data warehouse are the personal property of NewRiver, over which it had a right to immediate possession and control.

87. Without authorization, Morningstar has intentionally and repeatedly accessed and used NewRiver's proprietary computer network and servers to engage in prohibited and unauthorized conduct on NewRiver's Prospectus Express web-based data warehouse.

88. Through Morningstar's pattern and practice of repeatedly accessing NewRiver's computer network and servers, Morningstar has wrongfully interfered with NewRiver's possessory interest in its computer network and servers.

89. Through Morningstar's pattern and practice of repeatedly accessing and copying documents from NewRiver's Prospectus Express web-based data warehouse, Morningstar has wrongfully interfered with NewRiver's proprietary information for its own competitive advantage.

90. As a result of Morningstar's trespass, NewRiver has suffered and will continue to suffer irreparable injury. Unless enjoined, Morningstar may continue these acts of trespass, thereby causing NewRiver continuing and irreparable damage.

COUNT V

Conversion

91. NewRiver repeats and realleges the allegations in ¶¶ 1-90 of the Verified Complaint.

92. The computer networks and servers that comprise NewRiver's online delivery of documents to clients as part of its Prospectus Express web-based data warehouse are the personal property of NewRiver, over which it had a right to immediate possession and control.

93. Without authorization, Morningstar has intentionally and repeatedly accessed and used NewRiver's proprietary computer network and servers to engage in prohibited and unauthorized conduct on NewRiver's Prospectus Express web-based data warehouse.

94. Through Morningstar's pattern and practice of repeatedly accessing NewRiver's computer network and servers, Morningstar has wrongfully exercised dominion and control over

NewRiver's proprietary and confidential programs, its computer network and its servers in denial of NewRiver's rights to that property.

95. Through Morningstar's pattern and practice of repeatedly accessing and copying documents from NewRiver's Prospectus Express web-based data warehouse, Morningstar has wrongfully exercised dominion and control over NewRiver's proprietary information for its own competitive advantage.

96. As a direct and proximate result of Morningstar's conversion, NewRiver has suffered and will continue to suffer damages.

COUNT VI

Breach Of Contract

97. NewRiver repeats and realleges the allegations in ¶¶ 1-96 of the Verified Complaint.

98. Section 3.2 of the 2000 Prospectus Express Service Distribution Agreement provides as follows:

- a. Morningstar shall not copy, transfer, create derivative works of, or otherwise reproduce any Document, whether for redistribution, lease or license to any third party or for any other purposes, except in connection with distribution through the Distribution Channels provided by this Service Agreement.
- b. Morningstar shall not decompile or otherwise reverse engineer the Documents or in any other manner attempt to obtain NewRiver's proprietary database structure, indices, computer programs and/or programming techniques.
- c. Morningstar shall not use the Documents for any unlawful purposes, [...].

99. Morningstar breached Sections 3.2a, 3.2b, and 3.2c of the 2000 Prospectus Express Service Distribution Agreement by, among other things, using NewRiver's Prospectus Express documents to perform "quality assurance" of its own products, as well as, upon information and belief, reproducing NewRiver's Prospectus Express documents and reverse-engineering and

obtaining NewRiver's confidential and proprietary information and technology.

100. As a direct and proximate result of Morningstar's breaches of the 2000 Prospectus Express Service Distribution Agreement, NewRiver has suffered and will continue to suffer damages.

COUNT VII

Breach Of Implied Covenant Of Good Faith And Fair Dealing

101. NewRiver repeats and realleges the allegations in ¶¶ 1-100 of the Verified Complaint.

102. The 2000 Prospectus Express Service Distribution Agreement and 2008 Nondisclosure Agreement are valid contracts between NewRiver and Morningstar.

103. Morningstar's pattern and practice of repeatedly accessing without authorization NewRiver's computer network and servers, in violation of these agreements, deprived NewRiver of the benefits of these contracts—specifically, NewRiver's exclusive right to use its computer network and to limit the use of that network by Morningstar.

104. As such, Morningstar's conduct violated NewRiver's reasonable expectations under these agreements.

105. As a direct and proximate result of Morningstar's wrongful conduct, NewRiver has suffered and will continue to suffer damages.

COUNT VIII

Tortious Interference With Contractual And Advantageous Business Relationships

106. NewRiver repeats and realleges the allegations in ¶¶ 1-105 of the Verified Complaint.

107. NewRiver had contractual and advantageous long-term business relationships with clients and prospective clients.

108. Morningstar knew about NewRiver's contractual and advantageous business relationships with clients and prospective clients.

109. Morningstar intentionally and wrongfully interfered with NewRiver's contractual and advantageous business relationships through improper means.

110. As a direct and proximate result of Morningstar's wrongful conduct, NewRiver has suffered and will continue to suffer damages.

COUNT IX

Unfair Competition In Violation Of G.L. c. 93A

111. NewRiver repeats and realleges the allegations in ¶¶ 1-110 of the Verified Complaint.

112. Morningstar is engaged in trade or commerce.

113. Morningstar's wrongful conduct constitutes unfair and deceptive trade practices and unfair competition declared unlawful by G.L. c. 93A.

114. Morningstar's wrongful conduct constituting unfair and deceptive trade practices and unfair competition occurred primarily and substantially within Massachusetts.

115. As a direct and proximate result of Morningstar's violation of G.L. c. 93A, NewRiver has suffered and will continue to suffer damages.

COUNT X

Unjust Enrichment

116. NewRiver repeats and realleges the allegations in ¶¶ 1-115 of the Verified Complaint.

117. Through Morningstar's pattern and practice of repeatedly accessing NewRiver's computer network and servers, and accessing and copying documents from NewRiver's Prospectus Express web-based data warehouse, NewRiver has conferred benefits on Morningstar.

118. Morningstar appreciated or had knowledge of those benefits.

119. Morningstar unfairly and wrongfully retained the benefits conferred by NewRiver.

120. NewRiver has a reasonable expectation of payment for the benefits conferred upon

Morningstar.

121. As a direct and proximate result of Morningstar's wrongful conduct, NewRiver has suffered and will continue to suffer damages.

JURY TRIAL DEMAND

PLAINTIFF DEMANDS A TRIAL BY JURY
OF ALL ISSUES AND COUNTS SO TRIABLE

REQUESTS FOR RELIEF

WHEREFORE, NewRiver requests the following relief:

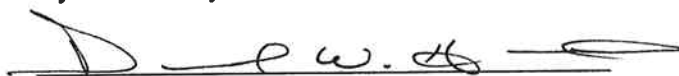
1. A permanent injunction preventing Morningstar, its agents, servants, representatives, employees, and attorneys, and those in participation with it, from:
 - a. Accessing, either directly or indirectly, NewRiver's Prospectus Express web-based data warehouse by the use of any robotic means, such as through the use of "screen-scrapers," or through the use of any client identifier, such as client specific uniform record locators.
 - b. Copying, transferring, creating derivative works of, or otherwise reproducing any document from NewRiver's Prospectus Express web-based data warehouse, whether for redistribution, lease or license to any third party or for any other purposes.
 - c. Decompiling or otherwise reverse engineering documents from NewRiver's Prospectus Express web-based data warehouse or in any other manner attempting to obtain NewRiver's Prospectus Express proprietary database structure, indices, computer programs and/or programming techniques.
2. An order compelling Morningstar to provide NewRiver's counsel and this Court with verification that all of NewRiver's proprietary and confidential business information previously in Morningstar's possession or control has been returned to NewRiver;
3. Judgment against Morningstar in favor of NewRiver for all damages suffered as a result of Morningstar's wrongful acts and omissions in an amount to be determined at trial, plus the amount by which Morningstar has been unjustly enriched or otherwise benefited as a result

of its unfair competition and other unlawful conduct, together with interest, costs and attorneys' fees as allowed by law;

4. Treble damages and attorneys' fees pursuant to G.L. c. 93A;
5. An award to NewRiver of its fees and expenses in this action; and
6. Such other relief as the Court may deem just and proper.

NEWRIVER, INC.

By its attorneys:

A handwritten signature in black ink, appearing to read "D. W. Halston", written over a horizontal line.

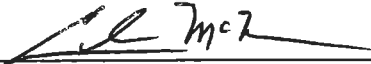
Daniel W. Halston, BBO # 548692
Gregory Reiser, BBO # 662284
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
Tel: 617-526-6000
Fax: 617-526-5000

Dated: January 30, 2009

VERIFICATION

I, Christopher McMann, verify that I have read the allegations contained in this Verified Complaint; that I have personal knowledge of the facts stated therein or such facts are within the knowledge of other employees of NewRiver, Inc. or contained in its business records; that, other than allegations made upon information and belief, those allegations are true to the best of my knowledge and that I believe that the allegations made upon information and belief are true.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 30th DAY OF JANUARY 2009.



Christopher McMann
Chief Financial Officer
NewRiver, Inc.

Signed and sworn before me
this 30 day of January, 2009



Notary Public

Alexander C. Magary
My Commission Expires Sept. 13, 2013

NEWRIVER INVESTOR COMMUNICATIONS, INC.

PROSPECTUS EXPRESS• SERVICE DISTRIBUTION AGREEMENT
FOR PRE-SALE AND POST-SALE DIRECT MUTUAL FUND DELIVERY

This Service Agreement is made this 7th day of Feb, 2000 by and between NewRiver Investor Communications Inc., a Massachusetts corporation having its principal place of business at 200 Brickstone Square, Andover, Massachusetts 01810 ("NewRiver") and Morningstar, Inc., an Illinois corporation having its principal offices at 225 West Wacker Drive, Chicago, Illinois 60606 for itself and its subsidiaries ("Morningstar").

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

SECTION 1. PROVISION OF SERVICES.

1.1 Services. During the term of this Agreement, NewRiver shall provide Services (defined below) to Morningstar and Morningstar's customers (such customers hereinafter referred to as the "Clients") in accordance with the Master Subscription Pricing attached to this Agreement as Exhibit A. A Master Subscription Order Form (Exhibit A-1) and a Client Sell List (Exhibit A-2) shall be completed for each Client based on the Client's requirements and the Master Subscription Pricing (the Master Subscription Pricing, the Master Subscription Order Forms, and the Client Sell lists shall hereinafter be referred to collectively as the "Master Subscription"). The Master Subscription Order Forms shall constitute purchase orders for the Services hereunder. The Services ("Services") shall consist of electronic access to NewRiver's proprietary database of prospectuses, profiles, semi-annual and annual reports, statements of additional information, and supplements (collectively, the "Documents") which relate to the mutual funds identified with a nine digit CUSIP number and specifically set forth on the Client Sell Lists (collectively, the "Selected Funds"). The Documents shall be stored in the NewRiver database at the time they have been initially processed by NewRiver. Clients shall receive the pre-sale services (the "Pre-Sale Services") which shall include access to the standard NewRiver ProspectusExpress database containing the currently effective Documents for the Selected Funds. Morningstar shall be authorized to market and redistribute the Pre-Sale Services through the Internet on the www.morningstar.com URL (web address), in conjunction with Morningstar's ClearFuture product ("ClearFuture"), or packaged together with Morningstar's Advisor products. Solely for Morningstar's internal use and for use with Morningstar's Advisor products and Morningstar.com, Morningstar shall receive access to a customized version of the NewRiver database which shall retain the Documents (starting with those that are available and effective on the date of final execution hereof) for a period of three years (such access to the customized NewRiver database shall be hereinafter referred to as the "Internal Use Services"). The Services shall include without limitation Pre-Sale Services and Internal Use Services.

1.2 Method of Access. NewRiver shall provide Morningstar and Clients with electronic access to the Documents by means of the Internet via an HTTP connection which shall be established and maintained by Morningstar or Clients at their own expense according to the specifications provided to Morningstar by NewRiver and attached hereto as Exhibit B.

1.3 Redistribution. Subject to the provisions of Section 3.2 below, Morningstar is permitted to redistribute electronically the Documents to Morningstar's Clients via the Internet solely through the universal resource locators (the "Distribution Channels") set forth on the Client's Master Subscription Order Form. Morningstar agrees that it shall not market or redistribute the Services to any of the entities indicated on the "NewRiver Client List" set forth in Exhibit D, or to any parent, affiliate or subsidiary (including without limitation indirect parents, affiliates or subsidiaries of such entities through one or more other parents, affiliates or subsidiaries) of such entities.

SECTION 2. CONSIDERATION FOR SERVICES.

2.1 Fees. In consideration for the Services, Morningstar shall pay to NewRiver the following fees:

a. Setup Fees

Within thirty days of execution of this Agreement Morningstar shall pay NewRiver a one-time fee of twenty thousand dollars (\$20,000.00) for set-up of Morningstar's internal use of the NewRiver database. Morningstar shall additionally pay to NewRiver within sixty days of Morningstar's receipt of invoice a set-up fee for each Distribution Channel requested per Client ("Set-Up Fee"), which shall be equal to the dollar amount set forth under the heading "Set-Up Fee" on the Master Subscription Pricing. Morningstar shall be obligated to pay a Set-Up Fee for each Client in accordance with the Master Subscription pricing, regardless of how the Services are packaged or priced in Section 2.1.b below.

b. Pre-Sale Fees

Morningstar shall pay NewRiver an annual fee of one hundred eighty thousand dollars (\$180,000.00) for the Internal Use Services and for integration of the Internal Use Services into Morningstar.com and Morningstar's Advisor products (such fee hereinafter referred to as the "Internal Use Fee"). NewRiver shall discount the Internal Use Fee by twenty thousand dollars (\$20,000.00) for each of up to four corporate Clients to which Morningstar resells the Pre-Sale Services (for at least three hundred funds each) within eighteen months of execution of this Agreement. For any Client, if Morningstar (i) packages the ProspectusExpress Pre-Sale Services separately from Morningstar's proprietary Quicktakes product ("Quicktakes"); (ii) provides Quicktakes and the ProspectusExpress Pre-Sale Services for separate prices; or (iii) packages the ProspectusExpress Pre-Sale Services with ClearFuture; then for the ProspectusExpress Pre-Sale Services provided to such Client Morningstar shall pay to NewRiver a Pre-Sale Services Fee equal to the greater of (a) \$2.62 per fund per month, or (b) seventy percent of the fees payable by such Client. If Morningstar packages the ProspectusExpress Pre-Sale Services together with Quicktakes, and Morningstar provides both Quicktakes and the ProspectusExpress Pre-Sale Services to such Client for one price, then Morningstar

shall pay to NewRiver a quarterly subscription fee for each of the Selected Funds per Distribution Channel per Client (the "Quarterly Subscription Fee"), and each such Quarterly Subscription Fee shall be equal to the dollar amount set forth under the heading "Quarterly Subscription Fee" on the Master Subscription Pricing. NewRiver will send to Morningstar an invoice for the Quarterly Subscription Fees, the Internal Use Fees (to be paid quarterly), and all other Pre-Sale Fees, and Morningstar shall pay such fees within sixty days of receipt of such invoice.

c. Post-Sale Fees

Morningstar shall pay to NewRiver a transaction fee for each notice of Document availability sent to a customer of a Client (a "Notice"), and each such fee shall be equal to the dollar amount set forth under the heading "Post-Sale Service Fee" on the Master Subscription Pricing. For purposes of determining the number of Notices for which Morningstar shall pay the Post-Sale Service Fee, any communication mentioning the availability of multiple Documents shall constitute multiple Notices, as measured by the number of Documents mentioned. The Post-Sale Service Fee for each Notice shall be payable by Morningstar no later than 30 days after the month in which such Notice was delivered.

d. Referral Fees

NewRiver shall pay to Morningstar a referral fee for each customer referred by Morningstar to NewRiver (a "Referred Customer") with whom NewRiver signs a binding agreement for provision of services (a "Referred Agreement"). The referral fee shall equal two percent (2%) of the fees actually paid by the Referred Customer for the lesser of (i) the initial term of the Referred Agreement, or (ii) the period commencing upon execution of the Referred Agreement and ending two years thereafter. In no event shall NewRiver be obligated to pay more than one referral fee per Referred Customer.

2.2 Additional Fees.

- a. NewRiver and Morningstar may amend the Master Subscription from time to time to add or delete Clients, Distribution Channels or Selected Funds pursuant to an amendment to the Master Subscription in the form attached hereto as Exhibit C (an "Amendment to Master Subscription"). In the event that the parties enter into such Amendment to Master Subscription, NewRiver will also revise the Set-Up Fees and/or Quarterly Subscription Fees, as the case may be, to reflect such amendment.
- b. Any overpayment of the amount paid or payable by Morningstar to NewRiver in a given calendar quarter as a result of a deletion of Clients, Distribution Channels or Selected Funds shall be accounted for in the invoice remitted by NewRiver to Morningstar for the next succeeding calendar quarter pursuant to Section 2.1(b).
- c. Any underpayment of the amount paid or payable by Morningstar to NewRiver in a given calendar quarter as a result of the addition of Clients, Distribution Channels or Selected Funds shall be accounted for in a separate invoice which shall be sent by NewRiver to Morningstar after the end of such calendar quarter, and which shall be payable by Morningstar no later than 30 days from receipt of such invoice.

- d. If the parties enter into an Amendment to Master Subscription, each such Amendment to Master Subscription shall, upon execution, be deemed a part of this Agreement, subject to all of the terms and conditions provided herein, except as specifically set forth in such Amendment to Master Subscription.

2.3 Interest on Overdue Amounts. In addition to any other remedies available to NewRiver, including but not limited to termination under Section 6.2, any undisputed amount not paid when due ("Overdue Amount") shall bear interest from the date such amount becomes due until it is paid in full by Morningstar at a rate equal to the lesser of (i) 12% per annum or (ii) the maximum interest rate permitted under applicable law. Any and all disputes, controversies or claims arising under or in connection with this Agreement (or provision of the Services hereunder), or the breach thereof, including without limitation all disputes regarding payment of fees, shall be resolved by binding arbitration in accordance with the provisions of Section 7.15.

2.4 Modifications to Fees. The payment amounts set forth in Section 2.1 and on the Master Subscription are those currently in effect. Such fees are subject to change by NewRiver, in its sole discretion, after the first year of the term of this Agreement and annually thereafter, provided that during the term of this Agreement NewRiver shall not increase Morningstar's prices hereunder to such a degree that the increase would reduce the currently existing margin (as measured at the time of execution of this Agreement) between NewRiver's standard prices offered to new customers and Morningstar's reseller prices.

2.5 Taxes. All fees hereunder are exclusive of federal state or local taxes, now or hereinafter enacted or imposed, which apply to the Agreement or to the Services rendered hereunder.

SECTION 3. COVENANTS OF THE PARTIES

3.1 Covenants of NewRiver. NewRiver hereby covenants and agrees as follows:

- a. The Documents distributed to Clients shall at all times and in all material respects be in the form retrieved by NewRiver from the Securities and Exchange Commission's Electronic Data Gathering and Retrieval System ("EDGAR"). Morningstar agrees that NewRiver shall have no liability whatsoever for any errors, misstatements, omissions or any other inaccuracies contained in the Documents as retrieved from EDGAR. Morningstar agrees that all contracts between Morningstar and Clients will require Clients to release NewRiver from any and all liability whatsoever for any errors, misstatements, omissions or any other inaccuracies contained in the Documents as retrieved from EDGAR. NewRiver and Morningstar shall use commercially reasonable efforts to work together to (i) determine which funds, if any, have failed to file electronically on EDGAR, and (ii) obtain such documents

from the fund(s) in order to manually insert such documents into the NewRiver database.

- b. NewRiver has the unencumbered right to access EDGAR in order to compile, sort and label the Documents which are to be provided to Clients and will compile, sort and label such Documents accurately.
- c. The Documents shall be accessible by Clients beginning no more than two (2) business days after such Documents have been filed on EDGAR by the Selected Fund.
- d. Subject to subsection (c) above, upon receiving an HTTP request from a Client, (i) NewRiver shall begin electronic transmission of the Documents via Client's hyperlinks to Client in less than two seconds with respect to no less than 90% of such requests, and (ii) the "up time" for delivery of Service shall average 99.9%.
- e. NewRiver shall provide to Morningstar electronically a monthly performance report no later than the fifth day of each month for the preceding monthly period. Such performance report shall document NewRiver's performance with respect to the covenants set forth in Section 3.1(d)(i) and (ii) above.
- f. The software applications and systems which are components of the services are Year 2000 Compliant; provided that NewRiver makes no such covenant with respect to any degradation in functionality arising from the EDGAR database, from Morningstar's software or systems, from the Clients' software or systems, from any third party's software or systems that are not an integral part of the software or systems providing the Services, or from general operational problems on the Internet which are not attributable solely to NewRiver. For purposes of the foregoing, "Year 2000 Compliant" means that all applications and system products, programs, files, data bases and/or functionalities are no more likely to produce logical or arithmetical inconsistencies when dealing with dates beyond December 31, 1999 than they are when dealing with dates prior to and including December 31, 1999.
- g. NewRiver shall comply with all laws and government regulations applicable to NewRiver's business and to its performance under this Agreement.
- h. The provisions of this Section 3.1 are necessary for the protection of the business and goodwill of Morningstar and are considered by the parties to be reasonable for such purpose. NewRiver agrees that any breach by NewRiver of this Section 3.1 will cause Morningstar substantial and irreparable harm and, therefore, in the event of any such breach, in addition to other remedies which may be available, Morningstar is entitled to seek specific performance and other injunctive and equitable relief.

3.2 Covenants of Morningstar. Morningstar hereby covenants and agrees as follows:

- a. Morningstar shall not copy, transfer, create derivative works of, or otherwise reproduce any Document, whether for redistribution, lease or license to any third party or for any other purposes, except in connection with distribution through the Distribution Channels provided by this Service Agreement.
- b. Morningstar shall not decompile or otherwise reverse engineer the Documents or in any other manner attempt to obtain NewRiver's proprietary database structure, indices, computer programs and/or programming techniques.
- c. Morningstar shall not use the Documents for any unlawful purposes, including without limitation any use which constitutes a violation of the Securities Act of 1933, as amended, or the Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended.
- d. Morningstar or Clients shall install and maintain, at its own expense, all hyperlinks and other technology that is necessary to redistribute the Documents to Clients or Client's customers.
- e. Morningstar will comply with all laws and government regulations relating to its business and its performance under this Agreement.
- f. Morningstar will not make any written or contractual warranties regarding the Services beyond the warranties provided in Section 3.1. This provision will not restrict Morningstar's ability to market the Services in accordance with applicable NewRiver marketing materials and in accordance with other corporate-level guidance from NewRiver.
- g. Morningstar will, in Morningstar's agreements with Clients, require that Clients will also comply with Sections 3.2.a, 3.2.b, 3.2.c.
- h. The provisions of this Section 3.2 are necessary for the protection of the business and goodwill of NewRiver and are considered by the parties to be reasonable for such purpose. Morningstar agrees that any breach by Morningstar of this Section 3.2 will cause NewRiver substantial and irreparable harm and, therefore, in the event of any such breach, in addition to other remedies which may be available, NewRiver is entitled to seek specific performance and other injunctive and equitable relief.

SECTION 4. DISCLAIMER OF WARRANTIES

4.1 Disclaimer of Warranties. EXCEPT AS SET FORTH IN SECTION 3.1, NEWRIVER MAKES NO WARRANTIES OF ANY KIND WHATSOEVER WITH RESPECT TO THE SERVICES, WHETHER SUCH WARRANTIES ARE EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN PARTICULAR AND WITHOUT LIMITING THE FOREGOING, NEWRIVER MAKES NO WARRANTY WITH RESPECT TO (I) ANY DEGRADATION, INACCURACIES OR ERRORS IN THE DOCUMENTS WHICH ARISE FROM DEGRADATION, INACCURACIES OR ERRORS IN EDGAR OR WHICH EXIST IN THE DOCUMENTS AT THE TIME THEY ARE RETRIEVED FROM EDGAR AND (II) ANY INTERRUPTION OR DELAY IN OBTAINING DOCUMENTS FROM EDGAR OR IN ELECTRONICALLY TRANSMITTING DOCUMENTS TO MORNINGSTAR, IN EACH CASE WHICH RESULT FROM CAUSES BEYOND THE CONTROL OF NEWRIVER. THE INDEMNIFICATION PROVISION SET FORTH IN SECTION 4.3 BELOW STATES NEWRIVER'S ENTIRE LIABILITY WITH RESPECT TO INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS, COPYRIGHTS, TRADEMARKS, TRADE SECRETS AND OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

4.2 NEWRIVER SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR DEFECTS IN THE SERVICES WHICH HAVE BEEN MODIFIED, ALTERED OR CHANGED IN ANY WAY BY OR ON BEHALF OF MORNINGSTAR OR CLIENTS TO THE EXTENT SUCH ERRORS OR DEFECTS RESULT FROM SUCH MODIFICATION, ALTERATION OR CHANGE.

4.3 NEWRIVER SHALL NOT BE RESPONSIBLE FOR ANY WARRANTY THAT MORNINGSTAR OR ANY OF MORNINGSTAR'S EMPLOYEES OR AGENTS MAKES TO A CLIENT CONCERNING THE SERVICES WHICH GOES BEYOND THE WARRANTIES MADE BY NEWRIVER PURSUANT TO THIS SECTION 4 AND MORNINGSTAR HEREBY INDEMNIFIES NEWRIVER FROM AND AGAINST ANY CLAIMS OR LIABILITIES ASSERTED BY THIRD PARTIES ARISING FROM ANY SUCH WARRANTY MADE BY MORNINGSTAR OR ANY MORNINGSTAR EMPLOYEE OR AGENT. NEWRIVER HEREBY INDEMNIFIES MORNINGSTAR FOR LIABILITY WITH RESPECT TO INFRINGEMENT OR ALLEGED INFRINGEMENT OF THIRD PARTY PATENTS, COPYRIGHTS, OR OTHER INTELLECTUAL PROPERTY.

SECTION 5. LIMITATION ON LIABILITIES

5.1 Limitation on Liability. NEWRIVER'S LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR DELIVERY OF THE SERVICES, WHETHER BASED UPON WARRANTY, CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE ACTUAL AGGREGATE SET-UP FEES AND QUARTERLY SUBSCRIPTION FEES PAID BY MORNINGSTAR FOR SERVICES WITHIN THREE YEARS PRIOR TO A CLAIM. ANY CLAIMS NOT MADE AGAINST NEWRIVER BY MORNINGSTAR WITHIN THREE YEARS AFTER THE OCCURRENCE OF THE ACTION (OR FAILURE TO ACT) GIVING RISE TO SUCH CLAIM SHALL BE DEEMED WAIVED AND RELEASED.

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR OTHER INDIRECT DAMAGES HEREUNDER, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF USE DAMAGES, ARISING OUT OF THE RENDERING OF SERVICES HEREUNDER, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

SECTION 6. TERM; TERMINATION.

6.1 Term of Agreement. This Agreement shall have an initial term of three years from the date set forth on the first page hereof, provided that any Amendment to Master Subscription executed by the parties in accordance with the terms of Section 2.2 hereof, and taking effect after the first year of the initial term of this Agreement, shall have an initial term of one year from the date of such Amendment to Master Subscription; and any Amendment to Master Subscription executed by the parties in accordance with the terms of Section 2.2 hereof, and taking effect during the first year of the initial term of this Agreement, shall have an initial term that coincides with the initial term of this Agreement. Unless earlier terminated pursuant to Section 6.2, this Agreement and all Amendments to Master Subscription shall automatically be extended for an unlimited number of additional one year terms (remaining subject to early termination in accordance with the provisions of this Agreement), unless either party gives the other written notice at least 60 days prior to the beginning of any such extension term that such party has decided not to extend this Agreement.

6.2 Termination for Cause. Either party may terminate this Agreement 30 days after giving written notice to the other party ("Defaulting Party") of its material breach of any of its obligations hereunder if the Defaulting Party fails to cure such breach within such 30 day period.

6.3 Termination for Bankruptcy. Upon the filing of a petition in bankruptcy, insolvency or reorganization against or by either party, or either party becoming subject to a composition for creditors, whether by law or agreement, or either party going into receivership or otherwise becoming insolvent (such party hereinafter referred to as the "Insolvent Party"), this Agreement may be terminated by the other party by giving written notice of termination to the Insolvent Party, such termination being immediately effective upon the giving of such notice of termination.

6.4 Effect of Termination. Termination or expiration of this Agreement shall not affect the obligation of Morningstar to pay NewRiver all amounts owing or to become owing as a result of Services rendered hereunder through the date of such termination or expiration, as well as interest on any Overdue Amounts. Termination or expiration of this Agreement shall not affect the obligation of NewRiver to deliver all services paid for by Morningstar through the date of such termination or expiration, provided that if NewRiver determines that provision of such services would be impractical then, at NewRiver's sole discretion, it may elect to refund the fees paid for any services still owing to Mornignstar.

SECTION 7. MISCELLANEOUS.

7.1 Confidentiality. All confidential information disclosed by either party to the other party during the term of this Agreement shall not be used by the receiving party except in connection with the activities contemplated by this Agreement, shall be maintained in confidence by the receiving party and shall not otherwise be disclosed by the receiving party to any other person, firm or agency, governmental or private, without the prior written consent of the disclosing party, except to the extent required to comply with applicable laws or governmental regulations. The obligation of confidentiality and non disclosure shall not apply to such portion of the confidential information which (i) are or become generally available to the public other than as a result of disclosure by the receiving party or its employees, representatives or agents; or (ii) become available to the receiving party on a non-confidential basis from a third party (unrelated to the receiving party) which is entitled to disclose it; or (iii) was known to the receiving party on a non confidential basis prior to its disclosure to the receiving party by the other party.

7.2 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and supercedes any and all previous arrangements with respect to the subject matter hereof, whether oral or written.

7.3 Audit Rights. Morningstar shall keep accurate records and accounts of matters relating to the distribution of the Services, including but not limited to all relevant information regarding Notices provided by Morningstar or Clients (such records, accounts, and information hereinafter referred to as the "Records"). NewRiver or its authorized representatives shall have the right to inspect and examine the Records annually upon reasonable notice to Morningstar for the purpose of verifying the correctness of fees paid to NewRiver pursuant to Section 2 of this Agreement. If non-NewRiver personnel conduct the audit, they will execute appropriate confidentiality and non-disclosure agreements. The cost of such audit shall be borne by NewRiver. If there is a deficiency in payments to NewRiver, then Morningstar shall promptly pay the amount of such deficiency to NewRiver. If the deficiency is more than 5% of the amount actually paid for the audited period, then Morningstar shall reimburse NewRiver for half of the reasonable costs incurred in connection with such audit.

7.4 Reporting. In the event that any Client fails to provide sufficient information for NewRiver to calculate Morningstar's fees hereunder, Morningstar shall provide to NewRiver complete and accurate monthly reports containing at least the total number of Notices provided by Clients during the prior month (the "Service Use Reports"). Morningstar shall deliver the Service Use Report for each month no later than ten (10) business days from the end of such month. The Service Use Reports may be used by NewRiver, and the accuracy and completeness of such reports may be relied upon by NewRiver, for purposes of calculating Morningstar's Post-Sale Services Fees.

7.5 Assignment. Neither party may assign this Agreement in whole or in part without the prior consent of the other party (which consent shall not be unreasonably withheld), except in connection with a sale of its business to which the Agreement relates.

7.6 Failure to Perform; Force Majeure. No failure or omission by either party hereto in the performance of any obligation of this Agreement (other than payment obligations) shall be deemed a breach of this Agreement or create any liability if the same shall arise from any cause or causes beyond the

control of the party, including, but not limited to, the following: acts of God; acts or omissions of any governmental agency; any rules, regulations or orders issued by any governmental authority or by any officer, department, agency or instrumentality thereof; fire; storm; flood; earthquake; war; rebellion; insurrection; riot; and invasion and provided that such failure or omission resulting from one of the above cases is cured as soon as is practicable after the occurrence of one or more of the above-mentioned causes.

7.7 Survival. Notwithstanding anything else in this Agreement to the contrary, the parties agree that Sections 2.3, 3.2.a, 3.2.b, 3.2.c, 3.2.e, 3.2.f, 4, 5, 6.4, 7.1, 7.3, 7.7, 7.8, 7.9, 7.10, 7.14 and 7.15 shall survive the termination or expiration of this Agreement, as the case may be.

7.8 Headings. The captions or headings of the sections or other subdivisions hereof are inserted only as a matter of convenience or for reference and shall have no effect on the meaning of the provisions hereof.

7.9 No Implied Waivers; Rights Cumulative. No failure on the part of either party to exercise, and no delay in exercising, any right, power, remedy or privilege under this Agreement, or provided by statute or at law or in equity or otherwise, shall impair, prejudice or constitute a waiver of any such right, power, remedy or privilege or be construed a waiver of any breach of this Agreement or as an acquiescence therein, nor shall any single or partial exercise of any such right, power, remedy or privilege preclude any other or further exercise thereof or the exercise of any other right, power, remedy or privilege.

7.10 Severability. If any provision hereof should be held invalid, illegal or unenforceable in any respect in any jurisdiction, then, to the fullest extent permitted by law, (a) all other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to carry out the intentions of the parties as nearly as may be possible and (b) such invalidity illegality or unenforceability shall not affect the validity, legality or enforceability of such provision in any other jurisdiction.

7.11 Public Announcements. Neither party will make a public announcement of this Agreement without the consent of the other, which consent will not be unreasonably withheld; provided, however, if such announcement is required by law, such consent shall not be denied and the party making the announcement shall, if practicable, notify the other party prior to the announcement.

7.12 Execution in Counterparts. This Agreement may be executed in counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument.

7.13 Notices. Any communication, consent or notice required or permitted by this Agreement to be given the other party shall be in writing and shall be deemed given upon (a) deposit in the United States mail by registered or certified mail, postage prepaid, return receipt requested, (b) delivery by a nationally recognized express delivery service, or (c) facsimile transmission, in each case addressed to such party at the address set forth in this Agreement, or at such other address as may be provided in the manner herein prescribed.

7.14 Amendments. Except as provided in Section 2.4, the terms and conditions hereof may be changed only by an agreement in writing signed by both parties.

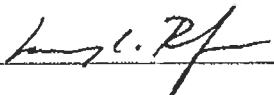
7.15 Governing Law. This Agreement shall be solely governed and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. Any and all disputes, controversies or claims arising out of or in connection with this Agreement (or provision of the Services hereunder), or the breach thereof, shall be settled solely by binding arbitration in Boston, Massachusetts, in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

7.16 Binding Authority. NewRiver and Morningstar each represent and warrant to the other that the person executing this Agreement has been duly authorized to execute this Agreement.

7.17 Relationship of Parties. Morningstar and NewRiver shall be independent contractors. The relationship between Morningstar and NewRiver shall not be construed to be that of employer and employee, and shall not constitute a partnership, joint venture or agency of any kind. Neither party shall have any right to enter into any contracts or commitments in the name of, or on behalf of, the other party, or to bind the other party in any respect whatsoever.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their hands and seals as of the date first written above.

NEWRIVER INVESTOR COMMUNICATIONS, INC.
By Its Authorized Representative:

Signature: 
Name: LARRY C. RENTRO
Title: President + CEO

MORNINGSTAR, INC.
By Its Authorized Representative:

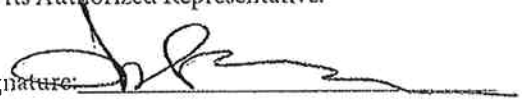
Signature: 
Name: JAMES M. WHRONE
Title: Senior Vice President

EXHIBIT A

MORNINGSTAR MASTER SUBSCRIPTION PRICING

Prospectus Express Pre-Sale Pricing

These ProspectusExpress Pre-Sale Prices apply only in the event that Morningstar packages and resells the ProspectusExpress Pre-Sale services together with Quicktakes for a single price in accordance with the requirements of section 2.1.b. For all other Clients, Morningstar shall pay the fees set forth in Section 2.1.b.

The following prices apply to the first Distribution Channel per Client:

<u>Number Of Funds Accessed by Morningstar Client</u>	<u>Monthly Subscription Fee</u>	<u>Quarterly Subscription Fee</u>	<u>Set-Up Fee*</u>
Up to 500 Funds	\$2.50 (\$1,000 Minimum)	\$7.50 (\$3,000 Minimum)	\$2,500
500-1000	\$2.30	\$6.90	\$2,500
1000-2000	\$2.00	\$6.00	\$3,000
2000-3000	\$1.80	\$5.40	\$4,000
>3000	\$1.60	\$4.80	\$5,000

* Anticipates that Client's Sell List will contain a 10% error rate, additional erroneous funds will be billed at \$15 each.

Additional Distribution Channels per Client are priced as follows:

<u>Additional Distribution Channels Per Morningstar Client</u>	<u>Additional Quarterly Charge Per Fund as a Percentage of the Quarterly Subscription Fee</u>
2	84%
3	69%
4	55%
5	46%
6	41%
7	37%

Example:

<u>Funds</u>	<u>Distribution Channel</u>	<u>Monthly Subscription Fee</u>	<u>Quarterly Subscription Fee</u>	<u>Total Quarterly Subscription Fees</u>
3,000	1 st	\$1.80	\$5.40	\$16,200
3,000	2 nd	\$1.51	\$4.53	\$13,590

10% of the value of the Post-Sale Service Fees paid to NewRiver may be used as a credit against Pre-Sale Quarterly Subscription Fees.

Post-Sale Service Fee

\$0.25 per Notice

EXHIBIT A-1

MASTER SUBSCRIPTION ORDER FORM

CLIENT:

Dated :

FOR PROSPECTUS EXPRESS - Pre-Sale Fees

DISTRIBUTION CHANNELS	TOTAL FUNDS	UNIQUE FUNDS	SHARED FUNDS	MONTHLY SUBSCRIPTION FEE	QUARTERLY SUBSCRIPTION FEE	SET-UP FEE

NEWRIVER INVESTOR COMMUNICATIONS, INC.
By Its Authorized Representative:

MORNINGSTAR, INC.
By Its Authorized Representative:

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A-2

SELL LIST

SELECTED FUNDS

EXHIBIT B

PROSPECTUS EXPRESS™ TECHNICAL SPECIFICATION

Introduction

This document describes the components of the NewRiver Prospectus Express service.

Prospectus Express is NewRiver's repository of mutual fund compliance documents. The Prospectus Express database is housed at NewRiver's data center, maintained by NewRiver, and accessed by Customers through the Internet.

This document describes the content contained within the Prospectus Express system, the standard interface used by Customers to retrieve Prospectus Express content, and the standard delivery format for Prospectus Express documents.

Prospectus Express Content

The Prospectus Express repository contains compliance documents for mutual funds and variable annuities. For each fund, Prospectus Express contains any of the following types of documents, depending on their availability:

- Profile
- Prospectus
- Statement of Additional Information (SAI)
- Semi Annual Report
- Annual Report
- Supplements to Prospectuses and SAIs

The combined set of documents is referred to as a Regulated Financial Information Document (RFID) Envelope.

Client Sell Lists

In order to track, process, and distribute compliance documents, NewRiver requires each Client to provide their sell list. Morningstar and the Clients shall submit their sell lists periodically to allow NewRiver to update the scope of the services. The services shall conform to the sell lists within five business days of receipt of such sell lists. The sell lists contain the CUSIP numbers for all of the funds that are included in the Client's service. The Client sell list is also used as the basis for a translation table that enables NewRiver to translate between Client-provided CUSIP numbers and CUSIP numbers within the Prospectus Express database in the event that any discrepancy arises.

Clients are required to submit their sell lists to NewRiver in a format acceptable to NewRiver. The Client sell lists must contain the following data for each fund:

- fund family
- fund name
- fund class
- CUSIP number
- Morningstar Fund Code
- Ticker Symbol

The fund family and fund name are required to confirm mappings between the Client-provided CUSIP number and the CUSIP number within the Prospectus Express database.

Clients may update their sell list on a monthly basis, or as otherwise determined by NewRiver and the Customer.

Interface

Prospectus Express Clients access documents in the repository using a standard HTTP request interface. Documents are returned in HTML format as described in the following section (Delivery Format). This mechanism enables Clients to embed hyperlinks to Prospectus Express content within any HTML document.

The standard HTTP request/response sequence is as follows:

- Client (e.g. browser) establishes TCP/IP socket connection to Prospectus Express server.
- Client (e.g. browser) sends standard HTTP GET request including a URL as specified below.
- Prospectus Express server returns standard HTTP response containing documents in HTML format as described under Delivery Format.

The standard URL format for Prospectus Express requests is as follows:

REDACTED

Delivery Format

The interface described above returns the prospectus for the given fund. Other documents can then be accessed using navigation elements as described below.

All documents are delivered as HTML documents enclosed by `<HTML>...</HTML>` tags. Documents include a `<TITLE>` with an appropriate description of the content (e.g. "ABC Fund Prospectus"). The document content is enclosed by `<PRE>...</PRE>` HTML tags, indicating that it is pre-formatted plain text. Each document is suitable to include by itself within an HTML frame.

At the top of each document is a control for navigating to all of the documents (e.g. Prospectus, SAI, Annual Report, etc.) available for the given fund. The navigation control consists of a drop-down list box (an HTML `<SELECT>` control) containing a list of all of available documents, and a "Go" button (image). A Javascript function is used to load the new document when the user clicks the Go button.

Any supplements (i.e. "stickers") are included directly within the document to which they apply. Each supplement is appended to the document, and a hyperlink to the supplement is included at the top of the document. The hyperlink is of the form "Supplement dated mm/dd/yyyy", and links to an anchor tag within the document.

Reporting

NewRiver provides Customer with periodic summary and detail reports containing statistical information on document delivery. Report detail will be determined by values passed to NewRiver from Customer's system. NewRiver will provide the reports in HTML format, via email or through the web. Access reports will contain the following information:

Usage Report

Items:

- Access by Document Type;
- Access by User;
- Top 10 Funds Accessed.
 Frequency:
 - 1 day;
 - 7 days;
 - 30 days.

Exception Report

Items:

- Total Document Requests;
- Total Documents Delivered;
- Percent of Requests Delivered;
- Failed requests in last 30 days.
 Frequency:
 - 1 day;
 - 7 days;
 - 30 days.

EXHIBIT C

AMENDMENT NO. ___ TO

MASTER SUBSCRIPTION ORDER FORM

[CLIENT]

FOR PROSPECTUS EXPRESS™

Dated _____, 200_

DISTRIBUTION CHANNEL	TOTAL FUNDS	UNIQUE FUNDS	SHARED FUNDS	AMENDED MONTHLY SUBSCRIPTION FEE	AMENDED QUARTERLY SUBSCRIPTION FEE	ADDITIONAL SET-UP FEE

1. Special Terms and Conditions:

2. The Agreement, as modified by this Amendment No. ___ to the Master Subscription together with any prior Amendments contain the entire agreement among the parties and amends, all prior and contemporaneous arrangements or understandings with respect thereto. Except as so amended, the Agreement remains in full force and effect.

NEWRIVER INVESTOR COMMUNICATIONS INC.
By Its Authorized Representative

MORNINGSTAR, INC.
By Its Authorized Representative

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

EXHIBIT D

NEWRIVER CLIENT LIST

American Express

Charles Schwab

Citibank

E*TRADE

Merrill Lynch

Morgan Stanley Dean Witter

Paine Webber

Quick & Reilly

Salomon Smith Barney

TD Waterhouse

November 3, 2000

Mr. Timothy Armour
Mr. Gary Burge
Morningstar
225 West Wacker Drive
Chicago IL 60606

Dear Gentlemen:

This letter confirms and formalizes our agreement of 11/1/00 regarding the terms and conditions under which Morningstar, Inc and Morningstar Associates LLC (individually and collectively "Morningstar"), and NewRiver Inc. ("NewRiver") will mutually release each other from certain contractual obligations as follows.

- 1) **ClearFuture:** Under the letter of agreement for ClearFuture Services dated 1/26/00 (the "ClearFuture Agreement"), Morningstar will continue to use NewRiver's Andover MA based web center which supports ClearFuture for the months of November and December 2000, and will pay NewRiver \$49,800 monthly for the operation of this facility. Any other services currently provided to Morningstar under the ClearFuture Agreement will terminate as of 11/3/00. Except for the operation of the Andover Web Center in November and December, NewRiver and Morningstar will mutually release each other from their obligations associated with the ClearFuture Agreement as described in the release paragraph below.
- 2) **Data Content Project:** Work on the Data Contract Project and Contract Reengineering will continue until mutual agreement to cease, which will be no later than 11/15/00. Morningstar will continue to pay the previously agreed upon rate for this work.
- 3) **ProspectusExpress:** Morningstar and NewRiver will continue to honor the ProspectusExpress agreement dated 2/7/00, and such agreement shall remain fully binding and enforceable in accordance with its terms.
- 4) Except as agreed in the numbered sections above, Morningstar and NewRiver will mutually release each other from all other agreements between the parties executed prior to 11/1/00 (the "Morningstar Agreements") as described in the release paragraph below.
- 5) All payments and obligations incurred by Morningstar for services performed prior to the date of this agreement shall remain due and payable to NewRiver.

Corporate Headquarters:

200 Brickstone Square, 5th Floor - Andover - Massachusetts 01810

phone 978.623.9900 - fax 978.623.9901

www.newriver.com



Release:

NewRiver and Morningstar together with their heirs, successors, beneficiaries, agents and assigns each hereby remise, release and forever discharge the other parties hereto and their respective former, present and future officers, directors, attorneys agents, successors, affiliated or subsidiary corporations, control persons and employees from any and all past, current or future claims or liabilities arising under or in connection with any Morningstar Agreement.

Notwithstanding the foregoing, this release paragraph shall be subject to the terms, conditions and limitations set forth in the numbered paragraphs above.

Please indicate Morningstar's acceptance of the terms and conditions of this agreement by providing authorized signatures below.

Agreed and Accepted:
NewRiver, Inc.



Larry Renfro
President and CEO

Agreed and Accepted:
Morningstar



Tim Armour
President

Agreed and Accepted
Morningstar



Gary Burge
CFO

Larry C. Renfro

President & Chief Executive Officer



November 6, 2000

Mr. Gary Burge
Chief Financial Officer
Morningstar Associates
225 West Wacker Drive
Chicago IL 60606

Dear Gary:


This binding letter of amendment between Morningstar, Inc on behalf of itself and its subsidiaries (individually and collectively "Morningstar"), and NewRiver Inc. ("NewRiver") amends and modifies the Prospectus Express Service Distribution Agreement dated February 7, 2000 (the "Prospectus Express Agreement"). The parties hereby agree to amend the Prospectus Express Agreement as set forth below.

Notwithstanding anything in the Prospectus Express Agreement to the contrary:

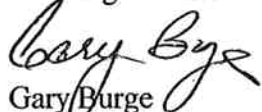
1. Morningstar shall not redistribute or provide access to the Services or Documents to any third party, and may use the Services and Documents solely for its internal viewing.
2. The Internal Use Fee shall be one hundred thousand dollars (\$100,000.00) annually. NewRiver shall invoice Morningstar for the Internal Use Fee quarterly in advance, in installments of twenty-five thousand dollars (\$25,000.00) each. Morningstar shall pay such quarterly installments within thirty days of receipt of invoice.

Except as so amended the Prospectus Express Agreement remains in full force and effect. Please indicate Morningstar's acceptance of the terms and conditions of this amendment by providing an authorized signature below.

Agreed and Accepted:
NewRiver, Inc.


Larry Renfro
President and CEO

Agreed and Accepted:
Morningstar Inc.


Gary Burge
Chief Financial Officer

200 Brickstone Square, 5th Floor ~ Andover ~ Massachusetts 01810

direct 978.247.7233 ~ phone 800.481.2331 ~ fax 978.247.7201

larry.renfro@newriver.com

www.newriver.com

November 4, 2002

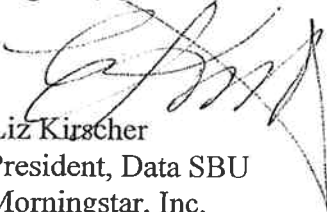
TO: Garrett Wiley
Senior Vice President
Enterprise Services
NewRiver

RE: Cancellation of Prospectus Express Agreement

Garett,

Please consider this official notification that Morningstar, Inc. wishes to discontinue our Prospectus Express Agreement with NewRiver – effective at contract expiration (February 7, 2003). Morningstar, Inc. has no plans to purchase any additional products or services at this time

Regards,



Liz Kirscher
President, Data SBU
Morningstar, Inc.

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

May 23, 2008

Dan Piscatelli
Director, Mergers & Acquisitions
Morningstar, Inc.
225 West Wacker Drive
Chicago, IL 60606

Dear Mr. Piscatelli:

You have expressed interest in discussing a potential transaction (the "Transaction") involving NewRiver, Inc., a Massachusetts corporation (the "Company") and Morningstar, Inc., an Illinois corporation ("Morningstar"). Each of the Company and Morningstar understand that in respect of the Transaction, information concerning either and/or their respective affiliates, including, without limitation, the Confidential Information Memorandum prepared in connection therewith (the "Memorandum"), may be disclosed to the other or its directors, officers, employees, affiliates, agents and advisors ("representatives") in connection with such discussion, either in written, oral, electronic or other form (the "Evaluation Material"). As used herein, the term "Disclosing Party" shall refer to a party when it is disclosing such information as contemplated hereby and the term "Receiving Party" shall refer to a party when it is receiving such information as contemplated hereby. Evaluation Material shall be deemed to include: (a) information pertaining to the Transaction itself; (b) this agreement, (c) the fact that the parties are providing Evaluation Material to each other; (d) that the parties have had, are having or may have discussions concerning the Transaction; (e) any negotiations that may occur between the parties; and (f) the content of any resulting offer. Evaluation Material shall also be deemed to include any notes, copies, reports, analyses, forecasts, compilations, studies, presentations, interpretations or other documents prepared by or for the Receiving Party that contain or reflect, in whole or in part, the information or materials furnished to the Receiving Party pursuant to this agreement. The term "Evaluation Material" does not include any information: (i) which at the time of disclosure to the Receiving Party or its representatives is in the public domain or which after such disclosure comes into the public domain through no fault of the Receiving Party or its representatives; (ii) which was or becomes available to the Receiving Party or its representatives on a non-confidential basis from a source other than the Disclosing Party or its officers, directors, employees, affiliates or advisors, provided that the Receiving Party or its representatives reasonably believe such source is not and was not bound by a confidentiality agreement with the Disclosing Party or its affiliates with respect to such information and reasonably believed such source otherwise had the legal right to disclose such information; (iii) is subsequently and independently developed by the Receiving Party or its representatives without access to the Evaluation Material and without otherwise violating the provisions of this agreement; or (iv) which, after complying with the provisions of paragraph 5, is required by applicable law or regulatory authority of competent jurisdiction to be disclosed. The burden of proving that information falls within (i), (ii), (iii) or (iv) shall rest with the Receiving Party.

In consideration of each the parties agreeing to make the Evaluation Material available to the other and/or its representatives, the parties agree as follows:

1. Except as required by applicable law (and subject to compliance with the provisions of paragraph 5), neither the Receiving Party nor its representatives shall disclose to any other party (a) the fact that the Disclosing Party is providing Evaluation Material to the Receiving Party, (b) that the parties have had, are having or may have discussions concerning the Transaction and (c) any of the terms, conditions or other facts with respect to the potential Transaction, including but not limited to the status thereof.
2. All Evaluation Material will be held in confidence by the Receiving Party and its representatives and, without the Disclosing Party's prior written consent, will not be disclosed, in whole or in part, to any other person (other than such of its representatives who need access to any such materials or information for purposes of assisting the Receiving Party in evaluating or negotiating the Transaction and who will be advised of the terms of this agreement pertaining to maintaining the confidentiality of Evaluation Material), nor will any Evaluation Material be used in any way directly or indirectly detrimental to the Disclosing Party or its affiliates or for any purpose other than the evaluation or negotiation of the Transaction. The Receiving Party agrees to protect all Evaluation Material with the same degree of care (but no less than a reasonable degree of care) used to protect its own similar confidential or proprietary information.
3. The Receiving Party shall be responsible for ensuring that its representatives adhere to the terms of the undertakings of this agreement with respect to the confidentiality of Evaluation Material as if such persons were original parties hereto. In any event, the Receiving Party shall be liable for any breach of the terms of this agreement with respect to the confidentiality of Evaluation Material by any of its representatives.
4. The Receiving Party and its representatives will return to the Disclosing Party or destroy upon demand all Evaluation Material provided to it or its representatives, including all copies thereof which may have been made by or on behalf of the Receiving Party or its representatives, and the Receiving Party shall destroy, or cause to be destroyed, all notes or memoranda or other stored information of any kind prepared by it or its representatives relating to the Evaluation Material. If requested, the Receiving Party will provide to the Disclosing Party written certification that it has complied with the provisions of this paragraph 4. Notwithstanding the return and destruction of the Evaluation Material, you will continue to be bound by the obligations of confidentiality and non-use as otherwise provided herein. Notwithstanding the foregoing, the Receiving Party and its representatives need not destroy electronic archives of the Evaluation Material made in the ordinary course of business, but shall destroy or erase all such Evaluation Materials held in archives in accordance with normal document destruction policies applicable to such archives. All Evaluation Material contained in the archives of the Receiving Party and its representatives shall remain subject to obligations of confidentiality and non-use herein.
5. If the Receiving Party or its representatives become legally compelled to disclose any Evaluation Material, prompt notice of such fact shall be given to the Disclosing Party so that appropriate action may be taken by, and at the sole expense of, the Disclosing Party prior to any disclosure and the Receiving Party shall offer reasonable assistance to the Disclosing Party to obtain, at the sole expense of the Disclosing Party, an order or other reliable assurance that the Evaluation Material so required to be disclosed will be treated confidentially. If, failing the entry of a protective order, the Receiving Party is legally compelled to disclose Evaluation Material, the Receiving Party may disclose only that portion of the Evaluation Material which it is legally compelled to disclose and the Receiving Party will, at the sole expense of the Disclosing Party, use reasonable efforts to obtain assurances that confidential treatment will be accorded to that portion of the Evaluation Material which is being disclosed. In any event, the Receiving Party will not oppose any action by the

Disclosing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Evaluation Material.


6. Without prejudice to any other rights or remedies the a party may have, each party acknowledges and agrees that money damages would not be an adequate remedy for any breach of this agreement and that the other party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this agreement and no bond or other security shall be required in connection with any such equitable relief. Each party hereby agrees that it will not contest the seeking of such equitable relief, including injunction and specific performance, by the other party on the basis that there was no irreparable harm to the other party.
7. Each party acknowledges that, except as may be set forth in a definitive, written purchase agreement in respect of the Transaction, neither party nor any of its directors, officers, employees, affiliates, agents or advisors shall have been deemed to make, or shall be responsible for, any representations or warranties, express or implied, with respect to the accuracy or completeness of the Evaluation Material supplied under this agreement. Further, it is acknowledged hereby by each party that only those representations and warranties made by the other party in a definitive, written purchase agreement in respect of the Transaction shall have any force or effect. Neither party nor any of its directors, officers, employees, affiliates, agents or advisors shall have any liability to the other party or its representatives resulting from the use of the Evaluation Materials in accordance with the terms of this agreement.
8. During the period of twelve months commencing on the date hereof, each party agrees that it will not, directly or indirectly, solicit to employ any person to whom it was first introduced in connection with its consideration of a Transaction and who at the time of such solicitation is also employed by the other party. Nothing in this paragraph would prohibit general solicitations by a party. Each party acknowledges that the other party may now have overlapping business lines, products and/or customers and that the other party may compete with it and that so long as the Evaluation Material is not used in such business in violation of this agreement, the operation of such businesses and such competitive activity shall not itself be in violation of this agreement. Each party further acknowledges and agrees that the other party may now or in the future provide products and services to the same markets and customers as it does and that nothing in this agreement will prohibit or otherwise restrict the other party or its affiliates from competing with it, including by soliciting existing customers or business prospects who also happen to be its customers, clients or accounts, provided that the other party will not use the Evaluation Material for that purpose.
9. It is understood that Lane, Berry & Co. International, LLC, in its capacity as financial advisor to the Company, will arrange for appropriate contacts for due diligence purposes. All (i) communications regarding the Transaction, (ii) requests for additional information, (iii) requests for facility tours or management meetings and (iv) discussions or questions regarding procedures, will be submitted or directed to Lane, Berry & Co. International, LLC.
10. Morningstar acknowledges that the Company and the Company's advisors shall be free to conduct the process in respect of the Transaction as they in their sole discretion shall determine, including, without limitation, negotiating with any prospective or interested parties at the same time the Company is having negotiations with you. The parties agree that unless and until a definitive agreement with respect to a Transaction is executed and delivered, neither party intends to be, nor shall be, under any legal obligation with respect to a Transaction, except for the matters specifically agreed to in this agreement. Each party further acknowledges and agrees that the other party reserves the right, in its sole discretion, to reject any and all proposals made by such party or its

representatives with regard to a Transaction, and to terminate discussions with such party or its representatives at any time.

11. The Receiving Party acknowledges that as a result of the disclosure of the Evaluation Material to it, it shall not receive any right, title or interest in, or any license or right to use, the Evaluation Material or any patent, copyright, trade secret, trademark or other intellectual property rights included therein, by implication or otherwise. All Evaluation Materials (including all copies thereof), and the rights and title thereto, shall at all times remain the property of the Disclosing Party.
12. No failure or delay by either party in exercising any right, power or privilege under this agreement shall operate as a waiver or estoppel thereof or with respect to any subsequent breach of any provisions hereof, and no modification, amendment or waiver hereof shall be effective, unless in writing and signed by both parties.
13. Neither party may assign, cede or transfer any of its rights or obligations under this agreement without the prior written consent of the other party. No such assignment shall relieve it of the performance of any accrued obligations that it may then have under this agreement. This agreement shall be binding on, and inure to the benefit of, the parties' legal successors and permitted assigns.
14. The illegality, invalidity or unenforceability of any provision hereof under the laws of any jurisdiction shall not affect its legality, validity or enforceability under the laws of any other jurisdiction, nor the legality, validity or enforceability of any other provision.
15. This agreement shall be governed by and construed in accordance with the laws of the State of Massachusetts, applicable to contracts made and to be performed therein, without regard to its conflict of laws principles and both parties unconditionally consent to submit to the jurisdiction of the State of Massachusetts for any action, suit or other proceeding relating to this agreement. Furthermore, all suits will be brought and resolved in Massachusetts, and all judgments of any such Massachusetts court may be enforced in any court of competent jurisdiction.
16. This agreement implies no obligation for either Morningstar or the Company (or any of their respective affiliates) to enter into any further agreement with the other.
17. This agreement, including without limitation Morningstar's obligations with respect to the Memorandum shall terminate on the second anniversary of the date hereof. However, a separate non-disclosure agreement will be required if the Receiving Party or its representatives request information beyond the Confidential Offering Memorandum.
18. This agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.


If you are in agreement with the foregoing, please sign and date this agreement in the space provided below and return your executed page to me by facsimile, whereupon this letter agreement will constitute our entire agreement with respect to the subject matter hereof.

Very truly yours,
NEWRIVER, INC.

By: 
Name: Christopher J. McMann *Alex Magary*
Title: Chief Financial Officer *General Counsel*

Accepted and agreed to as of the date hereof:

MORNINGSTAR, INC.

By: 
Name: Dan Piscatelli
Title: Director, Mergers & Acquisitions