

02-11-2000

FORM PTO-1594  
1-31-92

*MWD*  
*1-12-00*



101266077

HEET U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):  
Daniels Printing, Limited

Individual(s)       Association  
 General Partnership     Limited Partnership  
 Corporation-State  
 Other \_\_\_\_\_

Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies):

Name: Merrill/Daniels, Inc.  
 Internal Address: \_\_\_\_\_  
 Street Address: One Merrill Circle  
 City: St. Paul State: MN ZIP: 55108

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State Minnesota  
 Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
 (Designations must be a separate document from Assignment)  
 Additional name(s) & address(es) attached?  Yes  No

3. Nature of conveyance:

Assignment       Merger  
 Security Agreement     Change of Name  
 Other Asset Purchase Agreement  
 Execution Date: March 11, 1999

4. Application number(s) or registration number(s):

A. Trademark Application No.(s) 75/393725; 75/393452  
 B. Trademark Registration No.(s) \_\_\_\_\_

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Janal M. Kalis  
 Internal Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Street Address: 121 South 8th Street, Suite 1600  
 \_\_\_\_\_  
 City: Minneapolis State: MN ZIP: 55402

6. Total number of applications and registrations involved: ..... 2

7. Total fee (37 CFR 3.41): ..... \$65

Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number:  
19-0743  
 (Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.  
*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

Gillian B. Uecker      *Gillian B. Uecker*      January 6, 2000  
 Name of Person Signing      Signature      Date

Total number of pages comprising cover sheet: 1

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

02/14/2000 JSRBAZZ 00000010 75393725

01 FC:481      40.00 OP  
 02 FC:482      25.00 OP

TRADEMARK  
REEL: 002019 FRAME: 0980

**ASSET PURCHASE AGREEMENT**

**BY  
AND  
BETWEEN**

**MERRILL CORPORATION  
MERRILL DANIELS, INC.**

**AND**

**DANIELS PRINTING, LIMITED PARTNERSHIP  
DANIELS PRINTING CORP.  
GROVER B. DANIELS II  
LEE S. DANIELS  
THE LEE AND JOAN DANIELS FAMILY TRUST  
AND  
JAMES E. GATELY**

**DATED AS OF  
MARCH 11, 1999**

# ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT, dated as of March 11, 1999, is by and between Merrill Corporation, a Minnesota corporation (the "Parent" or "Merrill"), Merrill Daniels, Inc. a Minnesota corporation (the "Purchaser") and Daniels Printing, Limited Partnership (the "Seller"), Daniels Printing Corp., a Massachusetts corporation and the sole general partner of the Seller ("Daniels"), Grover B. Daniels II ("G. Daniels"), Lee S. Daniels ("L.Daniels"), The Lee and Joan Daniels Family Trust under agreement dated September 1, 1994 (the "Trust"), and James E. Gately ("Gately") (G. Daniels, L.Daniels the Trust and Gately are hereinafter referred to as the "Limited Partners", which together with the General Partner are collectively referred to as the "Owners").

A. The parties hereto wish to provide for the terms and conditions upon which the Purchaser will purchase substantially all of the assets and assume substantially all of the liabilities of the Seller's business (the "Business").

B. The parties hereto wish to make certain representations, warranties, covenants and agreements in connection with the purchase of the assets and the Business and also to prescribe various conditions to such transaction.

Accordingly, and in consideration of the representations, warranties, covenants, agreements and conditions herein contained, the parties hereto agree as follows:

## 1. PURCHASE OF ASSETS.

### 1.1. *Assets to be Purchased.*

(a) Upon the terms and subject to the conditions of this Agreement, the Seller will sell, transfer, convey, assign and deliver to the Purchaser, and the Purchaser will purchase, as a going concern, from the Seller, at the Closing, all of the businesses, assets, properties, goodwill and rights of the Seller, of every nature, kind and description, tangible and intangible, real, personal or mixed, wheresoever located and whether or not carried or reflected on the books and records of the Seller, including, without limitation, real and personal property that is now owned or leased by the Seller or in which the Seller has any right or interest; franchises; all right, title and interest in and to the use of Seller's corporate or entity names and any derivatives or combinations thereof (in accordance with Section 4.16 herein), including, without limitation, those listed in Exhibit 1.1(a) hereto; logos, trademarks, trademark registrations and trademark applications or registrations thereof, including the goodwill associated therewith; the goodwill of the Seller's business; copyrights, copyright applications and copyright registrations, patents and patent applications; rights under or pursuant to licenses by or to the Seller; development and prototype hardware, software, processes, formula, trade secrets, inventories and royalties, including all rights to sue for past infringements; leaseholds and other interests in land, inventory (accumulated costs of jobs and supplies), equipment,

TRADEMARK

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machinery, furniture, fixtures, motor vehicles and supplies; cash, money and deposits with financial institutions and others, certificates of deposit, commercial paper, notes, evidences of indebtedness, stocks, bonds and other investments; accounts receivables; prepaid expenses; insurance policies, contracts, purchase orders, customers, lists of customers and suppliers, sales representative agreements, and all favorable business relationships, causes of action, judgments, claims and demands of whatever nature; telephone, telefax and telex numbers; all listings in all telephone books and directories; all credit balances of or inuring to the Seller under any state unemployment compensation plan or fund; employment contracts (except for those employment contracts specifically excluded herein); obligations of the present and former officers and employees and of individuals and corporations; rights under joint venture agreements or arrangements; files, papers and records relating to the Seller's businesses and assets; and the assets as reflected on the Latest Balance Sheet, with only such dispositions of such assets reflected on the Latest Balance Sheet as shall have occurred in the ordinary course of Seller's businesses between the date thereof and the Closing and which are permitted by the terms hereof (the foregoing are sometimes collectively called the "Assets").

(b) Notwithstanding the foregoing, the Seller will not sell, transfer, convey, assign or deliver to the Purchaser, and the Purchaser will not purchase from the Seller, the following assets (the "Excluded Assets"):

(i) the consideration delivered to the Seller pursuant to this Agreement for the Assets;

(ii) the minute books (and any documents related to the Seller's organization or foreign qualification contained in such minute books), corporate seal and limited partnership records;

(iii) limited and general partnership interests or other interests representing the ownership of the Seller;

(iv) amounts owing to the Seller by: (A) the Owners; and (B) officers and directors of the Seller;

(v) all documentation pertaining to any liability of the Seller not assumed by Purchaser;

(vi) all rights to seek contribution from any responsible persons pursuant to Massachusetts General Laws Chapter 21E for the costs Owners incur in their performance of any environmental remediation, monitoring or other work;

(vii) the Seller Employment Agreements and the Seller Severance Agreements as those terms are defined in Section 1.2(c) herein;

(viii) cash equal to the amount of the reserves reflected on the Latest Balance Sheet set forth in Section 1.3(a)(iii) herein;

(ix) the Key Man Life Insurance Policies issued by Mass Mutual and Northwest Mutual insuring the life of Grover B. Daniels II;

(x) all amounts collected from customers or employees in respect of Taxes relating to Tax Returns due after the date hereof for which the Seller is responsible to remit such Taxes to an Authority;

(xi) annuity contract with respect to Rita C. Benullo, policy number 1,881,852;

(xii) a sufficient amount of cash to make the Seller's required matching contribution to the 401(k) Plan (as defined in Section 4.17) with respect to the payroll paid (or payable) through the Closing Date, provided that Seller will make a good faith estimate of this amount at least three (3) days prior to the Closing Date and provide such estimate to Purchaser. Within ten (10) days after the Closing Date Seller will provide Purchaser with an accounting of such contribution actually made and shall pay the excess, if any, of the estimated amount to Purchaser;

(xiii) the whole life insurance policy with respect to the Life of Joseph Honyotski issued by Massachusetts Mutual Life Insurance Company, Policy Number 8,598,301 in the amount of \$100,000; and

(xiv) the assets specifically described on Exhibit 1.1(b) hereto.

## 1.2. *Liabilities Assumed.*

Upon satisfaction of all conditions to the obligations of the parties contained herein (other than such conditions as have been made in accordance with the terms hereof), the Purchaser will assume all liabilities of the Seller (the "Assumed Liabilities"), including those set forth on Exhibit 1.2 (the "Liabilities Undertaking"), other than the Retained Liabilities (as defined below). The Seller expressly understands and agrees that, except as expressly assumed by the Purchaser, the Purchaser has not agreed to pay, will not be required to assume and will have no liability or obligation, direct or indirect, absolute or contingent, for the liabilities of the Seller or any respective affiliates or associates, which are retained by Seller, which liabilities will, as between the Seller and the Owners, on the one hand, and the Purchaser, on the other hand, remain the sole responsibility of, and will be satisfied by, the Seller (the "Retained Liabilities"), which Retained Liabilities are:

(a) any debt, liability or obligation of the Seller or any affiliates or associates, direct or indirect, known or unknown, fixed, contingent or otherwise, that (i) is unrelated to the Assets or the Business; or (ii) relates to the Assets and is based upon or arises from any act, omission, transaction, circumstance, sale of goods or services, state of facts or other condition occurring or existing on or before the Closing Date, and known by the Seller or the Owners and not disclosed to the Purchaser in writing on or prior to the Closing Date (other than any debt, liability or obligation of the Seller arising after the

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

MERRILL DANIELS, INC.

DANIELS PRINTING, LIMITED  
PARTNERSHIP

By: Daniels Printing Corp.  
Its: General Partner

By: Steven J. Wachow  
Its: Secretary

By: \_\_\_\_\_  
Its: \_\_\_\_\_

MERRILL CORPORATION

DANIELS PRINTING CORP.

By: Steven J. Wachow  
Its: Vice President, General Counsel  
& Secretary

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Grover B. Daniels II

\_\_\_\_\_  
Lee S. Daniels

\_\_\_\_\_  
James E. Gately

THE LEE AND JOAN DANIELS FAMILY  
TRUST

By: \_\_\_\_\_  
Its: Trustee, as Trustee thereunder and not  
individually

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

MERRILL DANIELS, INC.

DANIELS PRINTING, LIMITED  
PARTNERSHIP

By: Daniels Printing Corp.  
Its: General Partner

By: \_\_\_\_\_

By: Grover B. Daniels II

Its: \_\_\_\_\_

Its: President

MERRILL CORPORATION

DANIELS PRINTING CORP.

By: \_\_\_\_\_

By: Grover B. Daniels II

Its: \_\_\_\_\_

Its: President

Grover B. Daniels II

Grover B. Daniels II

Lee S. Daniels

Lee S. Daniels

James E. Gately

THE LEE AND JOAN DANIELS FAMILY  
TRUST

By: \_\_\_\_\_

Its: Trustee, as Trustee thereunder and not  
individually

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

MERRILL DANIELS, INC.

DANIELS PRINTING, LIMITED  
PARTNERSHIP

By: Daniels Printing Corp.  
Its: General Partner

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

MERRILL CORPORATION

DANIELS PRINTING CORP.

By: \_\_\_\_\_

By: \_\_\_\_\_

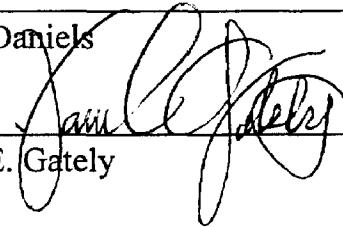
Its: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Grover B. Daniels II

\_\_\_\_\_  
Lee S. Daniels

\_\_\_\_\_  
James E. Gately



THE LEE AND JOAN DANIELS FAMILY  
TRUST

By: \_\_\_\_\_

Its: Trustee, as Trustee thereunder and not  
individually



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

MERRILL DANIELS, INC.

DANIELS PRINTING, LIMITED  
PARTNERSHIP

By: Daniels Printing Corp.  
Its: General Partner

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

MERRILL CORPORATION

DANIELS PRINTING CORP.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Grover B. Daniels II

\_\_\_\_\_  
Lee S. Daniels

\_\_\_\_\_  
James E. Gately

THE LEE AND JOAN DANIELS FAMILY  
TRUST

By: *James E. Gately*  
Its: Trustee, as Trustee thereunder and not  
individually

## DISCLOSURE SCHEDULE

### Section 2.2. Corporate Organization.

The Seller is qualified to do business in the District of Columbia, Massachusetts and New York.

### Section 2.3. Capitalization.

1. Limited Partnership Percentage (99% of the Partnership Interests):

<u>Partner</u>	<u>Limited Partnership Percentage</u>
Grover B. Daniels II	65.00%
Lee S. Daniels	14.32%
The Lee and Joan Daniels Family Trust dated 9/1/94	14.32%
James E. Gately	<u>6.36%</u>
TOTAL	<u>100.00%</u>

2. General Partnership Percentage (1% of the Partnership Interests):

<u>Partner</u>	<u>General Partnership Percentage</u>
Daniels Printing Corp.	100.00%

### Section 2.5. Non-Contravention.

(a) The consummation of the transactions contemplated by the Agreement, and in particular, the sale of substantially all of the Assets, will constitute a default under or a breach or violation of the following agreements to which the Seller is a party:

WD2: 512034-5

27. Secured Party: Scitex America Corp. \*\*  
Filing Number: 95-3  
Date Filed: January 9, 1995  
Jurisdiction: City of Everett (City Clerk)

28. Secured Party: Scitex America Corp. \*\*  
Filing Number: 99-3  
Date Filed: January 7, 1999  
Jurisdiction: City of Everett (City Clerk)

\* Security interest will be released upon payment in full of the term loan and the revolving line of credit under the Master Credit Agreement described in Section 2.5(a), Item 4.

\*\* Security interest will be released prior to closing.

Attached as Exhibit 2.10(d) are copies of leases pursuant to which the Seller leases any real property. The attached leases include legal descriptions of the real property leased thereby, termination/renewal provisions of such leasehold interests and the amount of rent and/or royalty to be paid under the terms of such leases.

**Section 2.11. Inventories.**

None.

**Section 2.12. Receivables and Payables.**

See Summary attached hereto as Exhibit 2.12.

**Section 2.13. Intellectual Property.**

(a) The Seller has common law copyrights with respect to general marketing material created and used by Seller in the ordinary course of its business. Additionally, the Seller owns the following trademarks:

MARK	SN	CTRY	NEXT ACTION DUE
	RN		DUE DATE
ANYONE, ANYWHERE, ANYTIME, ANYWAY	75/393725	USA	Request for Extension of Time to file an Opposition filed
ANYONE, ANYWHERE, ANYTIME, ANYWAY	75/393452	USA	Request for Extension of Time to file an Opposition filed
DANIELSPRESS	75/300395	USA	Statement of Use Due 3/17/99

- (b) The Seller's Media Asset Management offering, Content Manager, was not developed by the Seller. The Seller paid for a license and an annual maintenance agreement for the server-based application. The Seller, in turn, has allowed to-date two customers to access the application on a service bureau basis. The License and the Service Maintenance Agreements have not been executed. The Seller is currently in dispute regarding the economic terms for the custom development. The amount in dispute is \$125,000 and the dispute involves whether a portion of such amount, up to \$62,500, should be paid immediately or the total amount should be on a revenue sharing basis.
- (c) None.
- (d) No exception taken.
- (e) Content Manager is owned by the third-party consultant who developed the code.
- (f) Please see attached Exhibit 2.13(f) for a list of off-the-shelf licenses.
- (g) None.
- (h) The Seller does not require its employees to enter into such agreements.
- (i) Seller's year 2000 testing and remediation is complete with respect to all accounting, shop floor data collection, estimating, electronic prepress production, all server systems and raid storage, network hubs, switches and routers.

10N-740



MINNESOTA SECRETARY OF STATE

11946

AMENDMENT OF ARTICLES OF INCORPORATION

READ INSTRUCTIONS LISTED BELOW, BEFORE COMPLETING THIS FORM.

- 1. Type or print in black ink.
- 2. There is a \$35.00 fee payable to the Secretary of State for filing this "Amendment of Articles of Incorporation".
- 3. Return Completed Amendment Form and Fee to the address listed on the bottom of the form.

CORPORATE NAME: (List the name of the company prior to any desired name change)

MERRILL DANIELS, INC.

This amendment is effective on the day it is filed with the Secretary of State, unless you indicate another date, no later than 30 days after filing with the Secretary of State.

The following amendment(s) to articles regulating the above corporation were adopted: (Insert full text of newly amended article(s) indicating which article(s) is (are) being amended or added.) If the full text of the amendment will not fit in the space provided, attach additional numbered pages. (Total number of pages including this form\_\_\_\_\_)

ARTICLE I

Article I of the Company's Articles of Incorporation is amended in its entirety to read as follows:

The name of this corporation is Merrill/Daniels, Inc. (the "Company").

Handwritten initials

This amendment has been approved pursuant to Minnesota Statutes chapter 302A or 317A. I certify that I am authorized to execute this amendment and I further certify that I understand that by signing this amendment, I am subject to the penalties of perjury as set forth in section 609.48 as if I had signed this amendment under oath.

Signature of Rick Atterbury, Vice President

Name and telephone number of contact person: Norma Williams (651) 632.1426 Please print legibly

All of the information on this form is public and required in order to process this filing. Failure to provide the requested information will prevent the Office from approving or further processing this filing.

If you have any questions please contact the Secretary of State's office at (651)296-2803.

STATE OF MINNESOTA FILED

RETURN TO: Secretary of State 180 State Office Bldg., 100 Constitution Ave. St. Paul, MN 55155-1299, (651)296-2803

AUG 20 1999

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024690

Signature of Mary Hoffmeyer, Secretary of State

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Daniels Printing, Limited

Title: ANYONE, ANYWHERE, ANYTIME, ANY WAY

Docket No.: 1032.033US1; 1032.033US2

Filed: November 20, 1997

Examiner: Unknown

Serial No.: 75/393,725; 75/393,452

Due Date: N/A

Group Art Unit: Unknown

Attn: Box Assignment

Hon. Commissioner for Patents and Trademarks

Washington, D.C. 20231

We are transmitting herewith the attached:

Documents affecting title to two trademark applications (12 pgs.) and Recordation Form Cover Sheet (1 pg.).

A check in the amount of \$65.00 to cover the Assignment Recording Fees.

A return postcard.

Other: \_\_\_\_.

**Please charge any additional required fees or credit overpayment to Deposit Account No. 19-0743.**

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described above, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Attn: Box Assignment, Hon. Commissioner for Patents and Trademarks, Washington, D.C. 20231, on this 7<sup>th</sup> day of January, 2000.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938, Minneapolis, MN 55402 (612-373-6900)

By:   
Name: Gillian B. Uecker