

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N :

FIRST COMMERCIAL BANK

Applicant

- and -

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)**

AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended

**MOTION RECORD OF THE RECEIVER
(VOLUME I of III)**

May 12, 2021

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Lawyers for msi Spergel inc., in its capacity as
Court-appointed receiver

TO: **THE SERVICE LIST**

**ONTARIO
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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

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Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
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AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended

NOTICE OF MOTION

MSI SPERGEL INC. (“Spergel”), in its capacity as Court-appointed receiver (in such capacity, the “**Receiver**”) of, among other property, all of the assets, undertakings and properties of ZM Global Inc. (“**ZM Global**”) and Hong Lou Xu (a/k/a Honglou Xu) (together with ZM Global, the “**Debtors**”), and all proceeds thereof, will make a motion to a judge of the Commercial List on Friday, May 21, 2021 at 10:30 a.m., or as soon after that time as the motion can be heard, by Zoom videoconference at the Court House at 330 University Avenue, Toronto, Ontario. The Zoom meeting details are attached as Schedule “A” hereto. Please advise Daniel Richer by email (dricher@fasken.com) if you intend to attend the hearing.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

- (a) an order substantially in the form attached hereto as Schedule “B” (the “**Sale Approval and Vesting Order**”), among other things, approving the transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and 1759364 Ontario Ltd. (the “**Purchaser**”) dated as of April 7, 2021, and vesting all of ZM Global’s rights, title and interest in and to the Purchased Assets, as set out and described in the Purchase Agreement, in the Purchaser, free and clear of and from all Claims and Encumbrances (each as defined in the Sale Approval and Vesting Order), except for those permitted encumbrances, easements and restrictive covenants listed on Schedule “D” to the Sale Approval and Vesting Order;
- (b) an order substantially in the form attached hereto as Schedule “C”, among other things:
 - (i) abridging the time for service of the Notice of Motion and the Motion Record herein, if necessary, and validating service thereof;
 - (ii) approving the Report of the Receiver dated May 12, 2021 and the appendices thereto (the “**First Report**”), and the conduct and activities of the Receiver described therein;
 - (iii) approving the Receiver’s interim statement of receipts and disbursements;

- (iv) approving the fees and disbursements of the Receiver and of its legal counsel, Fasken Martineau DuMoulin LLP (“**Fasken**”) and MacDonald Sager Manis LLP, as set out in the First Report and in Appendices “12”, “13” and “14” thereto;
- (v) approving the anticipated further fees and disbursements of the Receiver and Fasken in connection with the completion by the Receiver of its remaining duties and administration of this receivership proceeding, estimated not to exceed \$100,000;
- (vi) sealing the confidential appendices to the First Report, being Confidential Appendices “1”, “2” and “3”, pending the closing of the Transaction or further order of the Court;
- (vii) subject to the payment of the fees and disbursements of the Receiver and its legal counsel, authorizing the Receiver to distribute to First Commercial Bank (“**FCB**”), or as it may in writing direct, first in repayment of the Receiver’s borrowing from FCB and then in partial satisfaction of FCB’s secured claims against the Debtors, such amounts as the Receiver may determine from time to time are available for distribution to FCB without further Order of the Court, provided the aggregate distributions to FCB do not exceed the sum of the Receiver’s borrowing from FCB and the secured indebtedness owed to FCB by the Debtors;
- (viii) discharging the Receiver upon the Receiver filing a certificate certifying that the proposed distributions have been made and that it has completed

the administration of the Debtors' estates (the "**Receiver's Discharge Certificate**");

(ix) releasing Spergel from any and all liability while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct; and

(c) such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

(a) the grounds set out in the First Report and the appendices thereto;

(b) the provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;

(c) the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

(d) the inherent and equitable jurisdiction of this Court;

(e) Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and

(f) such further other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(a) the First Report and the appendices thereto; and

(b) such other material as counsel may advise and this Court may permit.

Date: May 12, 2021

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
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Toronto, ON M5H 2T6

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Fax: 416 364 7813

Lawyers for msi Spergel inc., in its capacity as
Court-appointed receiver

TO: **THE SERVICE LIST**

SCHEDULE “A”

ZOOM MEETING DETAILS

Please advise if you intend to join the hearing of the motion by emailing Daniel Richer at dricher@fasken.com

Join Zoom Meeting

Phone one-tap: Canada: +14388097799,,97344912989# or +15873281099,,97344912989#

Meeting URL: <https://fasken.zoom.us/j/97344912989>

Meeting ID: 973 4491 2989

Join by Telephone

For higher quality, dial a number based on your current location.

Canada: +1 438 809 7799 or +1 587 328 1099 or +1 647 374 4685 or +1 647 558 0588 or +1 778 907 2071 or +1 204 272 7920

Meeting ID: 973 4491 2989

SCHEDULE “B”

DRAFT APPROVAL AND VESTING ORDER

[see attached]

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 21st

JUSTICE HAINEY

)

DAY OF MAY, 2021

)

BETWEEN:

FIRST COMMERCIAL BANK

Applicant

- and -

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
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AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended

APPROVAL AND VESTING ORDER

THIS MOTION made by msi Spergel inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of, among other property, all of the assets, undertakings and properties of ZM Global Inc. (the “**Debtor**”), and all proceeds thereof, for, among other things, an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and 1759364 Ontario Ltd. (the “**Purchaser**”)

dated as of April 7, 2021 and appended to the Report of the Receiver dated May 12, 2021 (the “**First Report**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement, including, without limitation, the real property listed in Schedule “B” hereto (the “**Purchased Assets**”), was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the First Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver and the Applicant, and such other counsel who were present, no one else appearing for any other person on the service list, although duly served as appears from the affidavit of Mitchell Stephenson sworn May 12, 2021, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver be and is hereby authorized, ratified and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Receiver’s Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely and exclusively in and with the Purchaser in accordance with the terms of the Sale Agreement, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies,

charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice McEwen dated January 15, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule “C” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “D”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that upon the registration in Land Registry Office 65 for York Region of an Application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario), the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule “B” hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule “C” hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the

possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of

this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule “A” – Form of Receiver’s Certificate

Court File No. CV-20-00654057-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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FIRST COMMERCIAL BANK

Applicant

- and -

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RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (the “**Court**”) dated January 15, 2021, msi Spergel inc. was appointed as the receiver (the “**Receiver**”) of, among other property, all of the assets, undertakings and properties of ZM Global Inc. (the “**Debtor**”), and all proceeds thereof.

B. Pursuant to an Order of the Court dated May 21, 2021, the Court approved the agreement of purchase and sale dated as of April 7, 2021 (the “**Sale Agreement**”) between the Receiver and

1759364 Ontario Ltd. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 11 and 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the sale transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 11 and 12 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, 20__.

**msi Spergel inc., in its capacity as Receiver of,
among other property, all of the assets,
undertakings and properties of ZM Global
Inc., and not in its personal capacity**

Per: _____

Name:

Title:

Schedule “B” – Purchased Assets

1. PIN 29842-0055 (LT)

Unit 55, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

2. PIN 29842-0102 (LT)

Unit 102, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

3. PIN 29842-0103 (LT)

Unit 103, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

4. PIN 29842-0392 (LT)

Unit 392, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

5. PIN 29842-0393 (LT)

Unit 393, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

6. PIN 29842-0394 (LT)

Unit 394, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

7. PIN 29842-0395 (LT)

Unit 395, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

8. PIN 29842-0396 (LT)

Unit 396, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

9. PIN 29842-0397 (LT)

Unit 397, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

10. PIN 29842-0398 (LT)

Unit 398, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

Schedule “C” – Claims to be deleted and expunged from title to Real Property

1. PIN 29842-0055 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

2. PIN 29842-0102 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

3. PIN 29842-0103 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

4. PIN 29842-0392 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;

- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
 - (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.
- 5. PIN 29842-0393 (LT)
 - (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
 - (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
 - (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.
- 6. PIN 29842-0394 (LT)
 - (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
 - (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
 - (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.
- 7. PIN 29842-0395 (LT)
 - (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
 - (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
 - (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

8. PIN 29842-0396 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

9. PIN 29842-0397 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

10. PIN 29842-0398 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

Schedule "D" – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property (unaffected by the Vesting Order)

1. All encumbrances registered against the Real Property (this and all other capitalized terms set out in this Schedule "D" shall be defined in accordance with the definitions therefor set out in the Approval and Vesting Order to which this Schedule "D" is attached (hereinafter, the "**Vesting Order**")) as of the date of the Vesting Order, save and except those encumbrances listed in Schedule "C" attached to the Vesting Order.
2. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in the original grant(s) of the Real Property from the Crown.
3. All applicable municipal by-laws and regulations provided, in each case, the same do not materially adversely affect the use and/or value of the Purchased Assets.
4. All unregistered or inchoate statutory liens, charges and encumbrances affecting title to the Real Property for taxes, assessments, governmental charges and levies not yet due and all other unregistered statutory liens.
5. The exceptions and qualifications contained in paragraphs 1, 4, 6, 7, 8, 9, 10, 12 and 14 of Subsection 44 (1) of the *Land Titles Act* (Ontario).
6. All defects and deficiencies which an up-to-date building location survey of the Real Property might reveal.
7. All easements, rights-of-way and licenses registered for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television and/or any other service(s) to or for the benefit of the Real Property (collectively, the "**Utility Easements**"), together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with adjacent or neighboring property owners or any crane access agreements or tieback or shoring agreements provided, in each case the same do not materially adversely affect the use or value of the Purchased Assets.
8. All registered municipal agreements and registered agreements with publicly regulated utilities including, without limitation, all development, site plan, subdivision, engineering, heritage easement agreements and other municipal agreements (or similar agreements entered into with any governmental authorities), (with all of such agreements being hereinafter collectively referred to as the "**Development Agreements**") provided, in each case, the terms and conditions of each such Development Agreement have been complied with in all

material respects and do not materially adversely affect the use of the Purchased Assets.

9. All agreements relating to any metering, submetering and/or check metering equipment, or relating to the supply of utility services to the Real Property and/or the project of which the Real Property forms a part.
10. All shared facilities agreements, reciprocal and/or cost sharing agreements, all other agreements, easements and rights-of-way provided, in each case, the terms and conditions of each such agreement have been complied with in all material respects and do not materially adversely affect the use of the Purchased Assets.
11. The specific encumbrances listed on **Exhibit "1"** attached hereto.

EXHIBIT “1” to SCHEDULE “D” – SPECIFIC ENCUMBRANCES

1. PIN 29842-0055 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister’s transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.

- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

2. PIN 29842-0102 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.

- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
 - (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
 - (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.
3. PIN 29842-0103 (LT)
- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
 - (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
 - (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
 - (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
 - (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
 - (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
 - (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
 - (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
 - (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
 - (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
 - (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.

- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
 - (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
 - (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
 - (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.
4. PIN 29842-0392 (LT)
- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
 - (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
 - (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
 - (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
 - (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
 - (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
 - (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
 - (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
 - (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
 - (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.

- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

5. PIN 29842-0393 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.

- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
 - (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
 - (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
 - (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
 - (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
 - (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.
6. PIN 29842-0394 (LT)
- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
 - (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
 - (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
 - (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
 - (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
 - (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
 - (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
 - (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.

- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

7. PIN 29842-0395 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
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- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.

- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

8. PIN 29842-0396 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.

- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

9. PIN 29842-0397 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.

- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
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- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

10. PIN 29842-0398 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.

- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
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- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

FIRST COMMERCIAL BANK

Applicant

-and-

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

Court File No. CV-20-00654057-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

**Proceeding commenced at
Toronto**

APPROVAL AND VESTING ORDER

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Lawyers for msi Spergel inc., in its capacity as Court-
appointed receiver

Court File No. ~~_____~~ CV-20-00654057-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE ~~_____~~) ~~WEEKDAY~~ FRIDAY, THE # 21st
JUSTICE ~~_____~~ HAINES)
DAY OF ~~MONTH~~ MAY, ~~20YR~~ 2021

BETWEEN:

PLAINTIFF

Plaintiff

FIRST COMMERCIAL BANK

Applicant

- and -

DEFENDANT

Defendant

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)**

**AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy
and Insolvency Act*, R.S.C., 1985, c. B-3 as amended, and section 101 of the
Courts of Justice Act, RSO 1990, c C.43, as amended**

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME]~~msi Spergel inc. in its capacity as the Court-appointed receiver (the "Receiver") of ~~the undertaking, among other property and, all of the assets of [DEBTOR], undertakings and properties of ZM Global Inc. (the "Debtor") for, and all proceeds thereof, for, among other things,~~ an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and ~~[NAME OF PURCHASER]~~1759364 Ontario Ltd. (the "Purchaser") dated ~~[DATE]~~as of April 7, 2021 and appended to the Report of the Receiver dated ~~[DATE]~~May 12, 2021 (the "First Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement, including, without limitation, the real property listed in Schedule "B" hereto (the "Purchased Assets"), was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the First Report and the appendices thereto, and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~ and the Applicant, and such other counsel who were present, no one else appearing for any other person on the service list, although ~~properly~~duly served as appears from the affidavit of ~~[NAME]~~Mitchell Stephenson sworn ~~[DATE]~~May 12, 2021, filed⁺:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and the execution of the Sale Agreement by the Receiver³ be and is hereby authorized.

⁺ This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

ratified and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~⁴ shall vest absolutely and exclusively in and with the Purchaser in accordance with the terms of the Sale Agreement, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ McEwen dated ~~[DATE]~~ January 15, 2021; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

system; and (iii) those Claims listed on Schedule “C” hereto (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “D”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that upon the registration in ~~the~~ Land Registry Office 65 for ~~the [Registry Division of {LOCATION} of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}]~~ York Region of an Application for Vesting Order in the form prescribed by the *Land Titles Act* ~~and/or the Land Registration Reform Act~~⁶ (Ontario), the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule “B” hereto (the **“Real Property”**) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule “C” hereto.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s² Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets

⁶ ~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

⁷ ~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at “net proceeds”.~~

immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

~~6. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

6. ~~7.~~ THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or

⁸ ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the ~~*Bankruptcy and Insolvency Act (Canada)*~~ BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. — THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act (Ontario)*.~~

7. ~~9.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule "A" – Form of Receiver's Certificate

Court File No. CV-20-00654057-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N :

PLAINTIFF

Plaintiff

FIRST COMMERCIAL BANK

Applicant

- and -

DEFENDANT

Defendant

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

IN THE MATTER OF THE RECEIVERSHIP OF
ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy*
and Insolvency Act, R.S.C., 1985, c. B-3 as amended, and section 101 of the
Courts of Justice Act, RSO 1990, c C.43, as amended

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~Justice McEwen of the Ontario Superior Court of Justice (the "~~Court~~") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~January 15, 2021, ~~msi Spergel inc.~~ was appointed as the receiver (the "~~Receiver~~") of ~~the undertaking, among other property and, all of the~~ assets ~~of [DEBTOR]~~, ~~undertakings and properties of ZM Global Inc.~~ (the "~~Debtor~~"), ~~and all proceeds thereof.~~

B. Pursuant to an Order of the Court dated ~~[DATE]~~May 21, 2021, the Court approved the agreement of purchase and sale ~~made~~dated as of ~~[DATE OF AGREEMENT]~~April 7, 2021 (the "~~Sale Agreement~~") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~1759364 Ontario Ltd. (the "~~Purchaser~~") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~•~~sections 11 and 12~~ of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the ~~Transactions~~sale transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section~~•~~sections 11 and 12~~ of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____~~[TIME]~~ on _____
~~[DATE]~~_____, 20__.

~~{NAME OF RECEIVER}~~ msi Spergel inc., in its capacity as Receiver of ~~the undertaking,~~ among other property ~~and, all of the~~ assets ~~of~~ ~~{DEBTOR}~~, undertakings and properties of ZM Global Inc., and not in its personal capacity

Per: _____

Name:

Title:

Schedule "B" – Purchased Assets

1. PIN 29842-0055 (LT)

Unit 55, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

2. PIN 29842-0102 (LT)

Unit 102, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

3. PIN 29842-0103 (LT)

Unit 103, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

4. PIN 29842-0392 (LT)

Unit 392, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

5. PIN 29842-0393 (LT)

Unit 393, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

6. PIN 29842-0394 (LT)

Unit 394, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

7. PIN 29842-0395 (LT)

Unit 395, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

8. PIN 29842-0396 (LT)

Unit 396, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

9. PIN 29842-0397 (LT)

Unit 397, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

10. PIN 29842-0398 (LT)

Unit 398, Level 1, York Region Standard Condominium Plan No. 1311 and its appurtenant interest; subject to and together with easements as set out in Schedule A as in YR2466166, City of Vaughan.

Schedule “C” – Claims to be deleted and expunged from title to Real Property

1. PIN 29842-0055 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

2. PIN 29842-0102 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

3. PIN 29842-0103 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

4. PIN 29842-0392 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

5. PIN 29842-0393 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

6. PIN 29842-0394 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

7. PIN 29842-0395 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and

- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

8. PIN 29842-0396 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

9. PIN 29842-0397 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

10. PIN 29842-0398 (LT)

- (a) Instrument YR2537052, being a charge registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank;
- (b) Instrument YR2537066, being a notice of assignment of rents - general registered on September 1, 2016 from ZM Global Inc. to First Commercial Bank; and
- (c) Instrument YR2989500, being a condominium lien registered on July 30, 2019 in favour of York Region Standard Condominium Corporation No. 1311.

Schedule “D” – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property (unaffected by the Vesting Order)

1. All encumbrances registered against the Real Property (this and all other capitalized terms set out in this Schedule “D” shall be defined in accordance with the definitions therefor set out in the Approval and Vesting Order to which this Schedule “D” is attached (hereinafter, the “Vesting Order”)) as of the date of the Vesting Order, save and except those encumbrances listed in Schedule “C” attached to the Vesting Order.
2. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in the original grant(s) of the Real Property from the Crown.
3. All applicable municipal by-laws and regulations provided, in each case, the same do not materially adversely affect the use and/or value of the Purchased Assets.
4. All unregistered or inchoate statutory liens, charges and encumbrances affecting title to the Real Property for taxes, assessments, governmental charges and levies not yet due and all other unregistered statutory liens.
5. The exceptions and qualifications contained in paragraphs 1, 4, 6, 7, 8, 9, 10, 12 and 14 of Subsection 44 (1) of the *Land Titles Act* (Ontario).
6. All defects and deficiencies which an up-to-date building location survey of the Real Property might reveal.
7. All easements, rights-of-way and licenses registered for the supply and installation of utility services, drainage, telephone services, electricity, gas, storm and/or sanitary sewers, water, cable television and/or any other service(s) to or for the benefit of the Real Property (collectively, the “Utility Easements”), together with any easement and cost-sharing agreement(s) or reciprocal agreement(s) confirming (or pertaining to) any easement or right-of-way for access, egress, support and/or servicing purposes, and/or pertaining to the sharing of any services, facilities and/or amenities with adjacent or neighboring property owners or any crane access agreements or tieback or shoring agreements provided, in each case the same do not materially adversely affect the use or value of the Purchased Assets.
8. All registered municipal agreements and registered agreements with publicly regulated utilities including, without limitation, all development, site plan, subdivision, engineering, heritage easement agreements and other municipal agreements (or similar agreements entered into with any governmental authorities), (with all of such agreements being hereinafter collectively referred to as the “Development Agreements”) provided, in each case, the terms and conditions of each such Development Agreement have been complied with in all material respects and do not materially adversely affect the use of the Purchased Assets.

9. All agreements relating to any metering, submetering and/or check metering equipment, or relating to the supply of utility services to the Real Property and/or the project of which the Real Property forms a part.
10. All shared facilities agreements, reciprocal and/or cost sharing agreements, all other agreements, easements and rights-of-way provided, in each case, the terms and conditions of each such agreement have been complied with in all material respects and do not materially adversely affect the use of the Purchased Assets.
11. The specific encumbrances listed on **Exhibit "1"** attached hereto.

EXHIBIT “1” to SCHEDULE “D” – SPECIFIC ENCUMBRANCES

1. PIN 29842-0055 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.**
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.**
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.**
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister’s transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.**
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.**
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.**
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.**
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.**
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.**
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.**
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.**
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.**
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.**

- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

2. PIN 29842-0102 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
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- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.

- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

3. PIN 29842-0103 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
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- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
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- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.

- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

4. PIN 29842-0392 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
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- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
- (e) Instrument YR1953124 registered on March 7, 2013, being a transfer of easement in favour of The Regional Municipality of York.
- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.

- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

5. PIN 29842-0393 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
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- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

6. PIN 29842-0394 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
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- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
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- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

7. PIN 29842-0395 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
- (b) Instrument R309927 registered on February 16, 1983, being a transfer of easement in favour of Her Majesty the Queen in Right of Ontario represented by the Minister of the Environment.
- (c) Instrument LT1463623 registered on March 27, 2000, being a notice of Pearson Airport zoning regulations.
- (d) Instrument YR62960 registered on October 19, 2001, being an application (general) (Minister's transfer order with respect to multiple easements) from the Ontario Clean Water Agency in favour of The Regional Municipality of York.
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- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.

- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
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- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

8. PIN 29842-0396 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
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- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

9. PIN 29842-0397 (LT)

- (a) Instrument VA71588 registered on January 29, 1973, being a notice of amendment of airport zoning regulations.
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- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
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- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

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- (f) Instrument YR1953816 registered on March 11, 2013, being a notice of site plan agreement with The Regional Municipality of York.
- (g) Instrument YR2247428 registered on January 26, 2015, being an application for absolute title.
- (h) Instrument YR2447057 registered on March 22, 2016, being a notice of agreement between The Corporation of the City of Vaughan and Improve Inc.
- (i) Instrument YRCP1311 registered on May 2, 2016, being a condominium plan.
- (j) Instrument YR2466166 registered on May 2, 2016, being a condominium declaration.
- (k) Instrument YR2479036 registered on May 31, 2016, being condominium by-law #1.
- (l) Instrument YR2479045 registered on May 31, 2016, being condominium by-law #2.
- (m) Instrument YR2479048 registered on May 31, 2016, being an application to annex restrictive covenants.
- (n) Instrument YR2481766 registered on June 3, 2016, being a condominium declaration amending YR2466166.
- (o) Instrument YR2772818 registered on December 13, 2017, being condominium by-law #3.

FIRST COMMERCIAL BANK

Applicant

-and-

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

Court File No. CV-20-00654057-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at
Toronto

APPROVAL AND VESTING ORDER

11.

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5H 2T6

Stuart Brotman (LSO: 43430D)

sbrotman@fasken.com

Daniel Richer (LSO: 75225G)

dricher@fasken.com

Tel: 416 865 4445

Fax: 416 364 7813

Lawyers for msi Spergel inc., in its capacity as
Court-appointed receiver

SCHEDULE “C”

DRAFT ORDER

[see attached]

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 21st

JUSTICE HAINEY

)

DAY OF MAY, 2021

)

B E T W E E N :

FIRST COMMERCIAL BANK

Applicant

- and -

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)**

AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended

ORDER

THIS MOTION made by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of, among other property, all of the assets, undertakings and properties of ZM Global Inc. and Hong Lou Xu (a/k/a Honglou Xu) (together, the “**Debtors**”), and all proceeds thereof, was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the Report of the Receiver dated May 12, 2021 and the appendices thereto (the “**First Report**”), and on hearing the submissions of counsel for the Receiver and the applicant, First Commercial Bank (“**FCB**”), and such other counsel who were present, no one else appearing for any other person on the service list, although duly served as appears from the affidavit of Mitchell Stephenson sworn May 12, 2021, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

REPORT AND ACTIVITIES OF THE RECEIVER

2. THIS COURT ORDERS that the First Report, and the conduct and activities of the Receiver described therein, be and are hereby approved, provided, however, that only the Receiver, in its personal capacity only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

3. THIS COURT ORDERS that the Receiver’s interim statement of receipts and disbursements for the period from January 15, 2021 to April 30, 2021, as set out in the First Report, be and is hereby approved.

FEES AND DISBURSEMENTS

4. THIS COURT ORDERS that the fees and disbursements of the Receiver and of its legal counsel, Fasken Martineau DuMoulin LLP ("**Fasken**") and MacDonald Sager Manis LLP , for the period from January 15, 2021 to May 7, 2021, in the total amount of \$46,551.95, \$22,666.78 and \$1,500.00, respectively, as set out in the First Report and in Appendices "12", "13" and "14" thereto, be and are hereby approved.

5. THIS COURT ORDERS that the anticipated further fees and disbursements of the Receiver and Fasken in connection with the completion by the Receiver of its remaining duties and administration of this receivership proceeding, estimated not to exceed \$100,000 (the "**Remaining Fees and Disbursements**"), all as set out in the First Report, be and are hereby approved, and that the Receiver and Fasken shall not be required to pass their accounts in respect of any further activities in connection with the administration of this receivership proceeding.

6. THIS COURT ORDERS that, if the Remaining Fees and Disbursements exceed the above estimate, the Receiver shall be authorized to pay those Remaining Fees and Disbursements with either (i) the consent of FCB or (ii) pursuant to a further Order of the Court.

SEALING

7. THIS COURT ORDERS that the confidential appendices to the First Report, being Confidential Appendices "1", "2" and "3", shall be sealed and shall not form part of the public record pending the closing of the sale transaction contemplated by an agreement of purchase and sale between the Receiver and 1759364 Ontario Ltd. dated as of April 7, 2021 (the "**Transaction**") or further Order of the Court.

DISTRIBUTION

8. THIS COURT ORDERS AND DIRECTS that, subject to the payment of the fees and disbursements herein approved by paragraphs 4, 5 and 6 of this Order, the Receiver be and is hereby authorized and directed to distribute to FCB, or as it may in writing direct, first in repayment of the Receiver's borrowing from FCB and then in partial satisfaction of FCB's secured claims against the Debtors such amounts as the Receiver may determine from time to time are available for distribution to FCB without further Order of the Court until the Receivership Termination Time (as defined below), provided the aggregate distributions to FCB do not exceed the sum of the Receiver's borrowing from FCB and the secured indebtedness owed to FCB by the Debtors. For greater clarity, notwithstanding anything in this Order, FCB shall retain all of its claims, rights and remedies against the Debtors in respect of any indebtedness owed to FCB by the Debtors that has not been satisfied by distributions made in accordance with this paragraph 8.

DISCHARGE AS RECEIVER

9. THIS COURT ORDERS that, upon the Receiver filing a certificate substantially in the form attached hereto as Schedule "A" (the "**Receiver's Discharge Certificate**") certifying that the distributions set out in paragraph 8 of this Order have been made, the investigation into the Dispositions (as defined in the First Report) has concluded or been discontinued by the Receiver in consultation with FCB, and that the Receiver has completed the other activities described in the First Report, Spergel shall be discharged as Receiver effective as of the date and time set out in the Receiver's Discharge Certificate (the "**Receivership Termination Time**"), provided, however, that notwithstanding its discharge herein (i) the Receiver shall remain

Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein and (ii) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Spergel in its capacity as Receiver.

10. THIS COURT ORDERS AND DECLARES that Spergel be and is hereby released and discharged from any and all liability that Spergel now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Spergel while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Spergel is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

11. THIS COURT ORDERS that the Receiver's Charge and the Receiver's Borrowing Charge (as defined in the Order of the Honourable Justice McEwen dated January 15, 2021) shall be terminated, released and discharged at the Receivership Termination Time.

Schedule “A” – Form of Receiver’s Discharge Certificate

Court File No. CV-20-00654057-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

FIRST COMMERCIAL BANK

Applicant

- and -

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)**

AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended

RECEIVER’S DISCHARGE CERTIFICATE

RECITALS

A. msi Spergel inc. (“**Spergel**”) was appointed as Court-appointed receiver (in such capacity, the “**Receiver**”) of, among other property, all of the assets, undertakings and properties of ZM Global Inc. and Hong Lou Xu (a/k/a Honglou Xu) (together, the “**Debtors**”), and all proceeds thereof (collectively referred to herein as the “**Property**”) pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated January 15, 2021;

B. Pursuant to an Order of the Court dated May 21, 2021 (the “**Receivership Termination Order**”) the Receiver shall be discharged as Receiver of the Property upon the filing of this Receiver’s Discharge Certificate with the Court;

C. Unless otherwise indicated herein, capitalized terms used in this Receiver’s Discharge Certificate shall have the meanings ascribed thereto in the Receivership Termination Order.

THE RECEIVER CERTIFIES the following:

1. The distributions contemplated at paragraph 8 of the Receivership Termination Order have been made.
2. The Receiver has completed the activities in connection with the receivership proceeding described in the First Report, including, without limitation, the Transaction and the investigation into the Dispositions (as defined in the First Report).
3. Accordingly, the Receivership Termination Time has occurred.
4. This Certificate was delivered by the Receiver at _____ on _____, 20__.

**msi Spergel inc., in its capacity as Receiver of,
among other property, all of the assets,
undertakings and properties of ZM Global
Inc. and Hong Lou Xu (a/k/a Honglou Xu),
and not in its personal capacity**

Per: _____

Name:

Title:

FIRST COMMERCIAL BANK

Applicant

-and-

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

Court File No. CV-20-00654057-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

**Proceeding commenced at
Toronto**

ORDER

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
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Toronto, ON M5H 2T6

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Lawyers for msi Spergel inc., in its capacity as Court-
appointed receiver

FIRST COMMERCIAL BANK

Applicant

-and- ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

Court File No. CV-20-00654057-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

**Proceeding commenced at
Toronto**

NOTICE OF MOTION

FASKEN MARTINEAU DuMOULIN LLP

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Lawyers for msi Spergel inc., in its capacity as Court-
appointed receiver

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

FIRST COMMERCIAL BANK

Applicant

- and -

ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

**IN THE MATTER OF THE RECEIVERSHIP OF
ZM GLOBAL INC. AND HONG LOU XU (A/K/A HONGLOU XU)**

**AND IN THE MATTER OF AN APPLICATION UNDER section 243(1) of the
Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3 as amended, and
section 101 of the *Courts of Justice Act*, RSO 1990, c C.43, as amended**

**FIRST REPORT OF MSI SPERGEL INC.,
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER OF
ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)**

May 12, 2021

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APPENDICES

1. Receivership Order of the Honourable Justice McEwen dated January 15, 2021
2. Copy of email request from Receiver to the Debtors requesting books and records
3. Listing Proposal submitted by Intercity Realty Inc.
4. MLS Listing Agreement with Intercity Realty Inc.
5. Parcel Abstracts for the Real Property
6. PPSA search against ZM Global
7. PPSA and real estate name searches against Honglou
8. Transfer instruments evidencing the Dispositions
9. Letters sent in furtherance of the Investigation dated February 17, 2021
10. Responses to Letters sent in furtherance of the Investigation
11. Receiver's Interim Statements of Receipts and Disbursements as of April 30, 2021
12. Fee Affidavit of Philip Gennis sworn May 11, 2021
13. Fee Affidavit of Mark Brennan sworn May 11, 2021
14. Fee Affidavit of Howard Manis sworn May 8, 2021
15. Copies of Receiver's Borrowing Certificates
16. Payout Statement with respect to Receiver's Borrowing
17. Copy of Security Opinion
18. Payout Statement from FCB with respect to ZM Global and Honglou debt

CONFIDENTIAL APPENDICES

1. Appraisal of Colliers International dated February 16, 2021
2. Comparative Summary of the Offers received
3. Copy of the 1759 Offer

APPOINTMENT AND BACKGROUND

1. This first report (this "**First Report**") is filed by msi Spergel inc. ("**Spergel**") in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of, among other property, all of the assets, undertakings and properties of ZM Global Inc. ("**ZM Global**") and Hong Lou Xu (a/k/a Honglou Xu) ("**Honglou**" and, together with ZM Global, the "**Debtors**"), and all proceeds thereof.
2. ZM Global is a Canadian owned, private corporation which carried on business as a real estate holding company and importer of tea and wooden furniture for sale in Canada. ZM Global operated from premises located at 7250 Keele Street, Vaughan, Ontario (the "**Business Premises**"), which ZM Global used as a showroom.
3. ZM Global owns the Business Premises, being commercial condominium units municipally known as 7250 Keele Street, Units 55, 102 – 103, and 392 – 398, Vaughan, Ontario (the "**Real Property**").
4. ZM Global is indebted to the applicant, First Commercial Bank ("**FCB**"), in these receivership proceedings on account of, among other things, principal and interest owing in respect of a secured non-revolving loan, which indebtedness, as at April 30, 2021, was in the amount of \$2,100,777.74.
5. Honglou guaranteed all debts, liabilities and obligations of or owing by ZM Global to FCB.
6. ZM Global's obligations to FCB are secured by a Mortgage registered in favour of FCB and both Debtors' obligations to FCB are secured by a General Security Agreement executed in favour of FCB.
7. ZM Global is also indebted on a priority basis to York Region Standard Condominium Corporation No. 1311 on account of condominium fee arrears and the City of Vaughan on account of realty taxes (collectively, the "**Priority Indebtedness**").

8. Spergel was appointed as the Receiver of all the assets, undertakings and properties of the Debtors, including without limitation the Real Property (the "**Secured Assets**"), by Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made January 15, 2021 (the "**Receivership Order**"). Attached as **Appendix "1"** to this First Report is a copy of the Receivership Order.
9. The Receivership Order authorized and permitted the Receiver to:
 - (a) market and sell any or all of the Secured Assets;
 - (b) to investigate a number of real property transfers made by Honglou, apparently at undervalue (the "**Dispositions**"); and
 - (c) to borrow funds on a priority basis to fund the costs of the receivership.
10. Additionally, the Receivership Order specifically authorized and permitted the Receiver to retain Fasken Martineau DuMoulin LLP ("**Fasken**"), which is also retained by FCB in this matter, as its own legal counsel in respect of any matter where there is no conflict of interest. The Receivership Order provides that, in respect of any legal advice or issue where a conflict may exist or arise in respect of FCB and the Receiver or a third party, the Receiver shall utilize independent legal counsel.
11. For all matters save and except for an opinion on the security held by FCB, the Receiver retained the services of Fasken. For the opinion on the security held by FCB, the Receiver retained the firm of MacDonald Sager Manis LLP ("**MSM**") as its independent legal counsel.

PURPOSE OF THIS FIRST REPORT AND DISCLAIMER

12. The purpose of this First Report is to advise the Court as to the steps taken by the Receiver in these receivership proceedings since its appointment and to support the Receiver's motion to the Court (the "**Receiver's Motion**") for Orders, among other things:

- (a) approving the sale transaction (the "**Transaction**") contemplated by the agreement of purchase and sale dated as of April 7, 2021 (the "**Sale Agreement**") between the Receiver, as vendor, and 1759364 Ontario Ltd., as purchaser (the "**Purchaser**" or "**1759**"), and authorizing and directing the Receiver to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets, as set out and described in the Purchase Agreement and which include the Real Property (the "**Purchased Assets**"), to the Purchaser;
- (b) vesting all of ZM Global's rights, title and interest in and to the Purchased Assets in the Purchaser, free and clear of and from all claims and encumbrances, except certain permitted encumbrances, easements and restrictive covenants;
- (c) abridging the time for service of the Notice of Motion and the Motion Record served in connection with the Receiver's Motion, if necessary, and validating service thereof;
- (d) approving this First Report and the appendices hereto, and the conduct and activities of the Receiver described herein;
- (e) approving the Receiver's interim statement of receipts and disbursements as of April 30, 2021;
- (f) approving the fees and disbursements of the Receiver and of its legal counsel, Fasken and MSM, as set out in this First Report and in Appendices "12", "13" and "14" hereto;
- (g) approving the anticipated further fees and disbursements of the Receiver and Fasken in connection with the completion by the Receiver of its remaining duties and administration of this receivership proceeding, including completion of the Transaction and the Investigation (as defined herein), estimated not to exceed \$100,000;

- (h) sealing the Confidential Appendices (as defined herein) to this First Report pending the closing of the Transaction or further Order of the Court;
 - (i) subject to the payment of the fees and disbursements of the Receiver and its legal counsel, authorizing the Receiver to distribute to FCB such amounts as the Receiver may determine from time to time are available for distribution to FCB, first in repayment of the Receiver's borrowing from FCB and then in partial satisfaction of FCB's secured claims against the Debtors, provided the aggregate distributions to FCB do not exceed the sum of the Receiver's borrowing from FCB and the secured indebtedness owed to FCB by the Debtors;
 - (j) discharging the Receiver upon the Receiver filing a certificate certifying that the proposed distributions have been made and that it has completed the administration of the Debtors' estates;
 - (k) releasing Spergel from any and all liability while acting in its capacity as Receiver, save and except for any gross negligence or willful misconduct, and
 - (l) such further and other relief as counsel may advise and this Court may permit.
13. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Report for any other purpose.
14. In preparing this First Report, the Receiver has relied upon certain information provided to it by FCB, having been unsuccessful in its attempts to obtain any material information from ZM Global, Honglou or their representatives, as detailed below. The Receiver has not performed an audit or verification of any information it received for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards.

Accordingly, the Receiver expresses no opinion or other form of assurance with respect to such information.

15. All references to dollars in this First Report are in Canadian currency unless otherwise noted.

CONDUCT AND ACTIVITIES OF THE RECEIVER UPON APPOINTMENT

General

16. A copy of the Receivership Order was provided to the Debtors by Fasken on behalf of FCB and by the Receiver. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with sections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**") and mailed a copy to all creditors of the Debtors known to the Receiver.
17. Requests for the production of books, records and other information of the Debtors were made by the Receiver to one Mr. Timur Zhao ("**Timur**"). Timur had previously informed Fasken that Honglou was out of the country and that Timur was acting as Honglou's representative for matters involving the Debtors. As of the date hereof, no books or records have been provided to the Receiver by ZM Global, Honglou or Timur. Attached hereto as **Appendix "2"** is a copy of an email request sent by the Receiver to Timur on January 15, 2021.
18. Further to its appointment, the Receiver:
 - (a) took possession of any books and records available from third-party sources;
 - (b) attended at the Real Property for the purpose of taking possession and securing same;
 - (c) arranged for insurance coverage and security in respect of the Real Property;

- (d) retained Lock-It Security to assist the Receiver with management and safeguarding of the Real Property;
- (e) undertook investigations into the conduct of Honglou and the Dispositions in an effort to determine the impact of such transfers on the security held by FCB; and
- (f) engaged legal counsel.

Dealings with the Real Property owned by ZM Global

- 19. Since the date that the Receiver took possession of the Real Property, the Receiver's activities relative to the Real Property have been focused primarily on the day-to-day management and safeguarding of the Real Property, including, without limitation, conducting a full clean-up of the Business Premises, conducting regular inspections of the Real Property and addressing any site-specific matters as they arise.
- 20. The Receiver engaged the services of Colliers International to attend at and conduct a full narrative appraisal of the Real Property (the "**Colliers Appraisal**"). Attached hereto as **Confidential Appendix "1"** is a copy of the Colliers Appraisal dated February 16, 2021.
- 21. As noted previously, the Real Property consists of ten commercial condominium units within a larger building called IMPROVE CANADA, which is a commercial shopping mall complex located in Vaughan, Ontario, Canada. The mall has about 400 home improvement stores, which exclusively focus on home improvement products and services.
- 22. The Receiver sought a Listing Proposal for the Real Property from Intercity Realty Inc. ("**Intercity**"). Intercity was selected as a result of its previous success in selling a single unit in the same mall for Spergel, in its capacity as receiver in another matter before this Honourable Court. In the previous receivership, Spergel sought proposals from a number of realtors but Intercity was the only realtor to actually

submit one. Attached hereto as **Appendix "3"** is a copy of the Listing Proposal submitted by Intercity in connection with these receivership proceedings.

23. The Receiver entered into an MLS Listing Agreement with Intercity at a list price of \$1,182,500.00. Attached hereto as **Appendix "4"** is a copy of the Listing Agreement entered into by the Receiver with Intercity dated March 5, 2021.
24. As outlined in its Listing Proposal, Intercity marketed the property using: social media channels (Twitter, Instagram, and website); marketing flyers; signage on the property; E-Blast to Intercity and Agent network of over 300 agents; and in-person showings to contractors and potential buyers.
25. Six Offers were received by Intercity with respect to the Real Property. Attached hereto as **Confidential Appendix "2"** is a comparative summary of the Offers received.
26. On or about the 29th day of April, 2021, the Receiver accepted the Offer submitted by 1759 (the "**1759 Offer**") as being the best of the Offers received. The acceptance of the 1759 Offer is conditional only upon the approval of this Honourable Court and, accordingly, such approval is among the relief being sought on the Receiver's Motion. Attached hereto as **Confidential Appendix "3"** (collectively with Confidential Appendices "1" and "2", the "**Confidential Appendices**") is an unredacted copy of the 1759 Offer.
27. The Receiver is of the view that the sale process was conducted in a commercially reasonable manner and that the market was extensively canvassed pursuant to Intercity's marketing efforts detailed above. There was moderate interest expressed in the Real Property due to the nature and location of the Real Property. Further, the Receiver is of the opinion that Intercity's efforts to publicize the listing of the Real Property on MLS for approximately 45 days and via Intercity's internal network have provided sufficient exposure of the Real Property to the market.
28. In the Receiver's opinion, the terms and conditions contained within the Sale Agreement are commercially reasonable in all respects, the purchase price in the

Sale Agreement corresponds to market value for the Real Property and completion of the Transaction affords the best outcome to the Debtors' estates in the circumstances.

29. Furthermore, provision will be made to pay the Priority Indebtedness in connection with the Transaction.
30. FCB has been consulted with respect to the Transaction and supports the completion of same and the relief sought on the Receiver's Motion.
31. The Receiver recommends that the Court approve the Transaction.
32. Attached hereto as **Appendix "5"** are parcel abstracts for the ten condominium units comprising the Real Property, detailing the interests in the Real Property, including FCB's first charge.
33. Attached hereto as **Appendix "6"** are the results of a search of interests registered under the *Personal Property Security Act* (Ontario) ("**PPSA**") against ZM Global.
34. All parties with an interest in the Real Property are listed on the service list and will be served with the Receiver's Motion.
35. If the closing of the Transaction is approved, the Transaction is to close on the day that is ten business days after the date that the Approval and Vesting Order sought on the Receiver's Motion is granted by the Court.
36. Accordingly, the Receiver is seeking an order from this Honourable Court approving the Transaction.

Ongoing Investigations into the affairs of Honglou

37. Upon a review of public database search results against Honglou and following consultation with FCB, the Receiver undertook investigations into the conduct of Honglou and the Dispositions, in an effort to determine the impact of such transfers on the security held by FCB (the "**Investigation**"). Attached hereto as **Appendix**

"7" are the results of PPSA searches and real estate name searches conducted against Honglou. Attached hereto as **Appendix "8"** are transfer instruments evidencing the Dispositions.

38. In furtherance of the Investigation, the Receiver, through Fasken, sent letters dated February 17, 2021 (each a **"Letter"** and, collectively, the **"Letters"**) to:
- (a) Timur;
 - (b) Xiao Xu (**"Xiao"**), whom the Receiver was advised was the son of Honglou and appears to have benefitted from several of the Dispositions;
 - (c) Ping-Teng Tan (**"Ping-Teng"**), a real estate solicitor who appears to have represented Honglou and/or Xiao in connection with several of the Dispositions; and
 - (d) Shun Wai Willie Cheng (**"Shun"**), a real estate solicitor who appears to have represented Xiao in connection with one of the Dispositions.
39. The Letters each enclosed a copy of the Receivership Order and requested certain documents and information, including information concerning ZM Global, Honglou, Xiao and/or the Dispositions. The Letters addressed to Timur and Xiao also each requested meetings between the receiver and the addressee. Attached hereto as **Appendix "9"** are copies of the Letters.
40. Neither the Receiver nor Fasken ever received complete responses to any of the Letters. The responses received can be summarized as follows:
- (a) by email correspondence, Timur expressed that ZM Global had "given up" the Real Property, owning the Real Property was ZM Global's sole activity and the Receiver was free to manage, profit from and sell the Real Property;
 - (b) by telephone call and email correspondence, Xiao initially sought to schedule the requested meeting and asked that he be permitted to bring someone to the meeting to interpret between English and Mandarin, but

then subsequently ignored Fasken's attempts to select a date and time for the meeting; and

- (c) by email correspondence, Ping-Teng's office sent some of the requested information to Fasken but then ignored follow-up email correspondence requesting the balance of the requested information.

- 41. In addition to sending some of the requested information to Fasken, Ping-Teng's office raised the possibility that Honglou has two children named "Xiao Xu" but did not respond to Fasken's request for information confirming this fact.
- 42. Neither the Receiver nor Fasken ever received a response to the letter addressed to Shun.
- 43. Attached hereto as **Appendix "10"** are copies of the responses that Fasken received to the Letters and all follow-up correspondence that Fasken sent on behalf of the Receiver.
- 44. Given the possibility of there being two people named "Xiao Xu", who may have benefitted separately from the Dispositions, and the general lack of cooperation from the addressees of the Letters with which the Receiver was met, the Receiver, in consultation with FCB, decided to wait until the value realized from the sale of the Real Property were definitively known before expending further of the Debtors' estates' resources on the Investigation.
- 45. Once the Receiver's Motion is heard and any Orders sought thereby are granted, the Receiver will further consult with FCB and decide as to next steps to be taken in furtherance of the Investigation, if any.

RECEIVER'S INTERIM STATEMENTS OF RECEIPTS AND DISBURSEMENTS

- 46. Attached hereto as **Appendix "11"** is a copy of the Receiver's Interim Statement of Receipts and Disbursements for the receivership of the Debtors' estates as of April 30, 2021.

FEES AND DISBURSEMENTS OF THE RECEIVER

47. Attached hereto as **Appendix “12”** is the Affidavit of Philip Gennis, sworn May 11, 2021, which incorporates by reference a copy of the Receiver’s time dockets pertaining to the receivership of the Debtors’ estates, for the period from January 15, 2021 to and including May 7, 2021 in the amount of \$46,551.95 (inclusive of disbursements and HST). This represents a total of 91 hours at an average rate of \$452.38 per hour.
48. The Receiver estimates incurring additional professional fees beyond May 7, 2021 to completion of the receivership in the approximate amount of \$25,000 (inclusive of disbursements and HST) (the “**Receiver’s Fee Accrual**”). The Receiver’s Fee Accrual contemplates the cost of completing the tasks set out at paragraph 62 of this First Report, including closing the Transaction and completing the Investigation.

FEES AND DISBURSEMENTS OF RECEIVER’S LEGAL COUNSEL

49. Attached hereto as **Appendix “13”** is the Affidavit of Mark Brennan sworn May 11, 2021, which incorporates by reference a copy of the accounts rendered by Fasken in relation to the receivership of the Debtors’ estates for the period from January 15, 2021 to and including May 7, 2021 in the amount of \$22,666.78 (inclusive of disbursements and HST).
50. The Receiver has reviewed the accounts of Fasken as Receiver’s legal counsel and, given the Receiver’s involvement in this matter, the Receiver is of the view that all the work set out in the accounts of the Receiver’s legal counsel was carried out and was necessary. The hourly rates of the lawyers who worked on this matter were reasonable in light of the services required, and the services were carried out by lawyers with the appropriate level of experience.
51. Fasken, as legal counsel to the Receiver, estimates incurring additional professional fees beyond May 7, 2021 to completion of the receivership in the amount of \$75,000, inclusive of disbursements and HST (“**Fasken’s Fee**

Accrual"). Fasken's Fee Accrual contemplates the cost of representing and advising the Receiver in connection with the tasks set out at paragraph 62 of this First Report, including closing the Transaction and completing the Investigation.

52. As previously advised, the Receivership Order permitted the Receiver to retain the services of Fasken as legal counsel with respect to all matters where there is no conflict of interest and, in respect of any legal advice or issue where a conflict may exist or arise in respect of FCB and the Receiver or a third party, the Receiver shall utilize independent legal counsel.
53. Attached hereto as **Appendix "14"** is the fee affidavit of Howard Manis of MSM which describes the account rendered by MSM in the amount of \$1,500 in relation to these receivership proceedings, more specifically for the provision of a security opinion to the Receiver relative to the security held by FCB.

RECEIVER'S REQUEST FOR A SEALING ORDER

54. The Receiver is seeking a sealing order in respect of the Confidential Appendices to this First Report as they each contain commercially sensitive information, the release of which prior to the completion of the Transaction would be prejudicial to the stakeholders of the Debtors' estates in the event the Transaction does not close.

RECEIVER'S PROPOSED DISTRIBUTION

Receiver's Borrowing

55. Pursuant to Paragraph 21 of the Receivership Order, the Receiver borrowed funds from FCB in the amount of \$16,740.65 to fund its disbursements during the receivership (the "**Receiver's Borrowings**"). Attached hereto as **Appendix "15"** are copies of the Receiver's Borrowing Certificates.
56. Further pursuant to Paragraph 21 of the Receivership Order, the Receiver's Borrowings are secured by a Court-ordered charge over the property of the Debtors in priority to all security interests, trusts, liens, charges and

encumbrances, statutory or otherwise, in favour of any Person (as defined in the Receivership Order) but subordinate to the Receiver's Charge (as defined in the Receivership Order) and the charges set out in subsections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

57. FCB has provided details of the amounts owed by the Receiver to FCB on account of the Receiver's Borrowing Certificates. The balance owing on the Borrowing Certificates totals the sum of \$16,740.65 plus accrued interest to the date of payment as reflected in the payout statement provided by FCB, a copy of which is attached hereto as **Appendix "16"**.

Proceeds of Sale ZM Global and Canada Revenue Agency ("CRA")

58. The Receiver, despite notifying CRA of these receivership proceedings, has not been provided with any claims by CRA for either unpaid source deductions or HST. Nor has the Receiver been able to locate any books and records of ZM Global with which to ascertain if in fact the Company had either a source deduction or HST account with CRA.
59. On May 6, 2021, the Receiver reached out by telephone to the insolvency unit of CRA requesting confirmation of any source deduction and HST arrears owed by ZM Global. The Receiver was advised during this telephone call that there was nothing owing to CRA on account of either source deductions or HST and, accordingly, there are no priority claims to be filed by CRA.

Proceeds of Sale ZM Global and FCB

60. The Receiver has obtained an opinion from its independent legal counsel, MSM, that, subject to the usual assumptions and qualifications contained in an opinion of such nature, FCB has a valid and enforceable mortgage against the Real Property as well as valid and enforceable GSA security over both ZM Global and Honglou (the "**Security Opinion**"). Attached hereto as **Appendix "17"** is a copy of the Security Opinion.

61. FCB has provided to the Receiver details of the amounts due to it by ZM Global and Honglou. As of April 30, 2021, such indebtedness totalled \$2,100,777.74 (inclusive of interest) and continues to accrue interest at a per diem rate of \$171.82. Additionally, FCB has and continues to incur legal fees in connection with such indebtedness. Attached hereto as **Appendix "18"** is a copy of the payout statement from FCB as at April 30, 2021 with respect to the indebtedness of ZM Global and Honglou to FCB. The recoveries in the receivership to date net of all costs and expenses will not be sufficient to discharge the full amount of the debt owing to FCB.
62. The Receiver has a number of matters to attend to prior to its discharge, which, in the event that the Orders sought on the Receiver's Motion are granted, include but are not limited to:
- (a) closing of the Transaction;
 - (b) payment of realty tax and condominium fee arrears;
 - (c) payment of real estate commission;
 - (d) preparing and filing of the Receiver's closing certificate provided for in the Sale Approval and Vesting Order sought from this Honourable Court;
 - (e) continuing the Investigation into the Dispositions;
 - (f) preparing and filing of final BIA notices; and
 - (g) preparing and filing of the Receiver's discharge certificate provided for in the Ancillary Order sought from this Honourable Court.
63. Subject to payment of the fees and disbursements of the Receiver and its legal counsel, including the Receiver's Fee Accrual and Fasken's Fee Accrual, the Receiver recommends that it be authorized and directed by the Court to pay to FCB from the net proceeds garnered during the receivership of the Debtors' estates on deposit with the Receiver. If the Receiver, in consultation with FCB,

determines not to pursue the Investigation further or, in any event, if the actual costs of the Receiver and Fasken are less than the Receiver's Fee Accrual and Fasken's Fee Accrual, respectively, the unused balance thereof will be distributed to FCB.

DISCHARGE OF THE RECEIVER

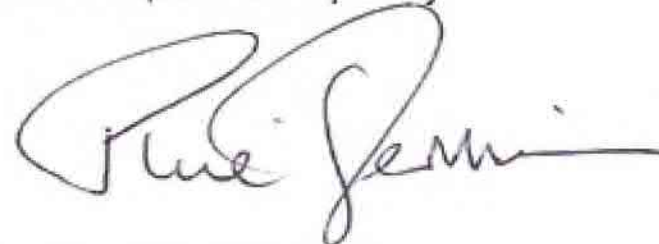
64. In the event that the Order approving the sale of the Real Property is granted by the Court, the Receiver proposes to attend to the matters listed above.
65. The Receiver seeks an Order from the Court approving its activities and conduct described in this First Report and upon the Receiver filing a Certificate with the Court confirming that it has completed the administration of these receivership proceedings, that the Spergel be discharged and released from any and all liability that it has now or may hereafter have by reason of, or in any way arising out of the acts or omissions of Spergel while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part.

RECOMMENDATION

66. Based on the foregoing, the Receiver respectfully recommends that the Court make Orders granting the relief detailed in paragraph 12 of this First Report.

All of which is respectfully submitted to the Court this 12 day of May, 2021.

msi Spergel inc.,
solely in its capacity as court-appointed Receiver of
ZM Global Inc., and Honglou Xu and not in its
personal or corporate capacity



Per:

Name: Philip H. Gennis, JD., CIRP., LIT
Title: Senior Licensed Insolvency Trustee

FIRST COMMERCIAL BANK

Applicant

-and- ZM GLOBAL INC. AND HONG LOU XU (a/k/a HONGLOU XU)

Respondents

Court File No. CV-20-00654057-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

**Proceeding commenced at
Toronto**

**MOTION RECORD OF THE RECEIVER
(Volume I of III)**

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Court-appointed receiver