

JUN 21 2021

S 215903

NO. _____
VANCOUVER REGISTRY



**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF SECTION 288 OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, C. 57, AS AMENDED**

AND

IN THE MATTER OF A PROPOSED ARRANGEMENT INVOLVING
VERT INFRASTRUCTURE LTD.

AND

VERT INFRASTRUCTURE LTD.

PETITIONER

PETITION TO THE COURT

This proceeding has been started by the Petitioner for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the Petitioner,

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or

(d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is:	800 Smithe Street Vancouver, BC V6Z 2E1
(2)	The address for service of the Petitioner is:	2100-1040 West Georgia Street Vancouver, BC V6E 4H1
	Fax number address for service (if any) of the Petitioner:	N/A
	E-mail address for service (if any) of the Petitioner:	abjornson@litigationchambers.com

CLAIM OF THE PETITIONER

Part 1: ORDERS SOUGHT

1. KSV Restructuring Inc. (formerly KSV Kofman Inc.) ("**KSV**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") of the assets, undertakings and properties of Vert Infrastructure Ltd. ("**Vert**"), applies to this Court pursuant to sections 288 and 291 of the *Business Corporations Act*, SBC 2002, c 57, as amended (the "**BCBCA**"), Rules 2-1(2)(b), 4-4, 4-5, and 16-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of this Court for:
 - (a) an order (the "**Arrangement Order**") in the form attached as **Appendix "A"** to this Petition to the Court; and
 - (b) such further and other relief as counsel may advise and this Court deems just.

Part 2: FACTUAL BASIS

2. On June 16, 2020, KSV was appointed by the Ontario Superior Court of Justice as the Receiver of the assets, undertakings, and properties of Vert.

June 16, 2021 Order of the Honourable Madam Justice Conway (Appendix "A" to Receiver's Second Report to Court), Meier Affidavit #1 at Exhibit "D"
3. On June 8, 2021, KSV was authorized and directed by the Ontario Superior Court of Justice to bring this application in the Supreme Court of British Columbia.

June 8, 2021 Order of the Honourable Madam Justice Conway, Meier Affidavit #1 at Exhibit "E"

A. Parties to the Arrangement

I. VERT

4. Vert is a corporation existing under the laws of British Columbia with its registered and records office located at 605 – 815 Hornby Street, Vancouver, BC V6Z 2E6.

Meier Affidavit #1 at Exhibit "A"

5. Vert's common shares (the "**Shares**") were listed on the Canadian Securities Exchange under the symbol "VVV", on the OTC in the United States under the symbol "CRXPF", and on the Frankfurt Stock Exchange under the symbol "2FR". The Shares are subject to a cease trade order (the "**CTO**") issued by the British Columbia Securities Commission's Corporate Finance Division (the "**Securities Commission**").

Receiver's Second Report at 2.0, para 2, Meier Affidavit #1 at Exhibit "D"

6. Vert was in the business of raising capital which it used to incorporate subsidiaries in the United States to develop and operate licensed cannabis and hemp businesses. It established, and retained an ownership interest in, a number of limited liability companies in the United States (the "**LLCs**").

Receiver's Second Report at 2.0, paras 3 - 5

7. As at June 16, 2020, Vert owed approximately \$5.2 million to KW Capital Partners Limited ("**KW Capital**"), Plazacorp Investments Limited, and Jesse Kaplan (collectively, the "**Secured Lenders**") pursuant to various debentures (the "**Debentures**"). Vert also granted general security agreements to the Secured Lenders as security for its obligations under the Debentures.

Receiver's Second Report at 1.0, para 3 and at 2.0, para 6

8. As at June 16, 2020, none of the LLCs were operating. None have recommenced operations since the pronouncement of the Receivership Order (defined below). The Receiver is of the view that the realizable value of all of Vert's assets, undertakings, and properties (together, the "**Property**") will be insufficient to repay the amounts owing to the Secured Lenders and that, consequently, the Secured Lenders will suffer a material shortfall.

Receiver's Second Report at 2.0, paras 4, 7

II. THE RECEIVERSHIP

9. KW Capital, as agent for the Secured Lenders (in such capacity, the "**Agent**") brought an application for an order appointing a receiver over the Property. On June 16, 2020, the Ontario Superior Court of Justice (the "**ONSC**") pronounced an order (the "**Receivership Order**") that, *inter alia*, appointed KSV as the Receiver pursuant to, *inter alia*, section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 (the "**BIA**"), which appointment has national effect (the "**Receivership Proceedings**").

Receiver's Second Report at 1.0, paras 2 - 3

III. **EMPRISE**

10. Emprise Capital Corp. ("**Emprise**") is a private merchant bank, founded in 2004, principally focused on the restructuring and reorganizing of troubled, insolvent, underperforming or distressed public and private corporations in Canada.

Meier Affidavit #1 at Exhibit "B"

B. The Agreement Between the Receiver and Emprise

11. Emprise approached the Receiver in late November 2020 to acquire Vert's public listing. The Receiver and Emprise corresponded concerning the terms of a transaction. Those discussions led to an agreement (the "**Agreement**") incorporating a plan of arrangement (the "**Arrangement**") that provides for, in summary, the following:
- (a) both the Property and Vert's liabilities (excluding the Initial Loan and the Funding Loan (defined below), but including the proceeds of the Funding Loan) (the "**Liabilities**") will be transferred to a trust (the "**Trust**");
 - (b) KSV will be appointed as the trustee of the Trust with the same duties, obligations and protections as set out in the Receivership Order;
 - (c) the Liabilities channeled to the Trust will retain their priority as against the Property; and
 - (d) Emprise will restructure Vert's share capital to take advantage of its public listing.

Receiver's Second Report at 3.0, para 1

12. Further details regarding the Agreement are described in the Receiver's Second Report at 3.0, para 2.
13. On June 8, 2021, the Ontario Superior Court of Justice pronounced an Order that, *inter alia*, approved the Agreement, directed the Receiver to bring this petition to approve the Arrangement, and authorized the transfer all of the Property and the Liabilities into the Trust upon the filing of the Transaction Certificate (defined below) by the Receiver.

June 16, 2021 Order of the Honourable Madam Justice Conway (Appendix "A" to Receiver's Second Report), Meier Affidavit #1 at Exhibit "D"

C. The Arrangement

14. The effect of the Arrangement will be to restructure Vert such that:
- (a) Emprise will pay the costs of the Arrangement with the funds advanced pursuant to a March 23, 2021 loan to Vert of \$100,000 plus HST the "**Initial Loan**";
 - (b) the Receiver will receive a subsequent loan of \$200,000 plus HST (the "**Funding Loan**") as consideration for the Arrangement, which will realise value for the Vert "corporate shell" and improve recoveries to creditors of Vert that would otherwise be unavailable; and

- (c) on completion of the Arrangement, Vert will have no assets and no liabilities other than the Initial Loan and the Funding Loan.

15. Subject to the terms of the Arrangement Order, the following transactions will occur:

- (i) two business days following the expiry of all appeal periods if no appeals are initiated, or upon the final dismissal of any appeals in relation to the Arrangement Order, the Funding Loan will be made and secured by a Receiver's Certificate, and the Property and the Liabilities will be transferred to the Trust. Upon settlement of the Trust pursuant to the Ontario Order, Vert will have no further liabilities or assets, other than the Initial Loan and Funding Loan and the Receiver will be discharged over Vert;
- (ii) Scott Ackerman will be appointed as the sole member of Vert's board of directors (the "**Board**"), with the authority to fill two vacancies on the Board following the permanent lifting of the CTO;
- (iii) Vert will proceed with an application to the Securities Commission to have the CTO temporarily lifted to allow a private placement into Vert. The costs of this process will be funded by Emprise;
- (iv) The Shares will be consolidated on a 15 to 1 basis and all other equity interests in Vert will be cancelled;
- (v) Vert will undertake a private placement for gross proceeds of \$500,000.

Plan of Arrangement, Meier Affidavit #1 at Exhibit "F"

16. On completion of the Arrangement, Vert will operate as an independent entity under direction from the Board.

D. Conditions

17. The obligations of Vert and Emprise to complete the Arrangement are subject to the satisfaction or waiver of the following conditions:

- (a) the advance of the Initial Loan by Emprise;
- (b) the pronouncement of the Ontario Order;
- (c) the advance of the Funding Loan by Emprise;
- (d) the transfer of all of the Property and the Liabilities into the Trust; and
- (e) the pronouncement of the Arrangement Order sought in this petition.

E. Fairness

18. Vert is currently insolvent and the Receiver has been appointed as a court-officer over the Property.

Receiver's Second Report at 1.0, paras 1 – 2

19. The Receiver, as this Court's officer, has determined that the value of the Property is insufficient to repay the amounts owing to the Secured Lenders, who will, consequently, suffer a material shortfall. Accordingly, the Secured Lenders are the only stakeholder with an economic interest in Vert. The Arrangement will realise value for the Secured Lenders by monetising the value of Vert's public listing.

Receiver's Second Report at 2.0, paras 6 - 7

20. In granting the Ontario Order, the ONSC was required to conclude that the transaction to be given effect by the Arrangement is fair and reasonable to Vert's stakeholders and creditors, which it did.
21. There are no factors that would weigh against this Court also determining that the Arrangement and related transactions are fair and reasonable.

F. Approval

22. The Agent, as agent for the Secured Lenders, has approved the Arrangement in writing by virtue of its motion to the Ontario court.
23. The Receiver approves the Arrangement.
24. The Secured Lenders are the only stakeholders of Vert with an economic interest. Accordingly, approval of the remaining creditors or shareholders of Vert is not appropriate or necessary in the circumstances.

Part 3: LEGAL BASIS

A. The Receiver may bring this Petition

I. The Receiver has national jurisdiction

25. The Receiver was appointed pursuant to, *inter alia*, section 243 of the *BIA*. This section was introduced by Parliament to create a "national receiver" and to eliminate "the need to apply for the appointment of a receiver in multiple jurisdictions."

Saskatchewan (Attorney General) v Lemare Lake Logging Ltd, 2015 SCC 53 at para 45

26. Accordingly, the Receiver is a "national receiver" and has the jurisdiction to bring this Petition in British Columbia.

II. The Receiver is expressly authorised and directed to bring this Petition

27. The Ontario Order provides, *inter alia*, that the Receiver is authorised and directed to bring this Petition.

III. The Receiver's role is to maximise the return to Vert's creditors

28. As a court-appointed receiver, the Receiver's role is to realise on the value of Vert's assets in order to maximise the return to Vert's creditors:

The purpose of a receivership is to "enhance and facilitate the preservation and realization of the assets for the benefit of creditors". Such a purpose is generally achieved through the liquidation of the debtor's assets. As the Appeal Division of the Nova Scotia Supreme Court noted in *Bayhold Financial Corp. v. Clarkson Co. Ltd. and Scouler* (1991), 108 N.S.R. (2d) 198 (N.S.C.A.), at para. 34, "the essence of a receiver's powers is to liquidate the assets". The receiver's "primary task is to ensure that the highest value is received for the assets so as to maximise the return to the creditors".

Third Eye Capital Corporation v Ressources Dianor Inc/Dianor Resources Inc,
2019 ONCA 508 at para 73 (case references omitted)

29. Vert's public listing has value and the Arrangement will realise on that value for the benefit of the Secured Lenders as the fulcrum creditors of Vert.
30. Accordingly, it is appropriate for the Receiver to bring this Petition.

B. This Court should approve the Arrangement

31. In deciding whether to exercise its discretion to approve a plan of arrangement, Canadian courts have adopted the following three-part test:
- (a) have the statutory procedures been complied with?
 - (b) has the petition been put forward in good faith? and
 - (c) is the arrangement fair and reasonable?

BCE Inc v 1976 Debentureholders, 2008 SCC 69 at para 137

I. The statutory procedures have been complied with

32. Section 288 of the *BCBCA* provides that a company may propose an arrangement with shareholders, creditors or other persons. The arrangement must be adopted in accordance with s. 289 and approved by the court under s. 291.
33. Section 289 provides for the adoption mechanisms of an arrangement; these encompass the court's ability to make any order it considers appropriate under s. 291(2), including a meeting of the persons the court considers appropriate.
34. Section 291 provides for the court power to approve the proposed arrangement.

35. With respect to adoption by those affected, generally section 289 would require that the Arrangement be adopted at meetings of Vert's shareholders and creditors.
36. However, subsection 289(3) provides that this Court may grant an order substituting those meetings with a meeting of the persons this Court considers appropriate.

(3) If the court orders, under section 291(2)(b)(i), that a meeting be held to adopt an arrangement in addition to or in substitution for a meeting contemplated by subsection (1) of this section, the arrangement must not be submitted to the court for approval until after

(a) the arrangement has been adopted at that court ordered meeting, or

(b) all of the persons who were entitled to vote at that meeting consent to the arrangement in writing.

BCBCA, s. 289

37. Subsection 289(3) requires that the power is exercised in conjunction with an order under subsection 291(2)(b)(i), which provides that:

(2) The court may, in respect of a proposed arrangement, make any order it considers appropriate, including any of the following orders:

...

(b) an order requiring the company to do one or both of the following in the manner and with the notice the court directs:

(i) call, hold and conduct one or more meetings of the persons the court considers appropriate;

BCBCA, s. 291(2)

38. This Court held in *TELUS Corporation (Re)* that section 291(2) provides this Court with considerable discretion in making orders in relation to a proposed arrangement, including with respect to "substantive matters such as the level of approvals required in respect of persons other than those to whom the arrangement is proposed":

I do not consider that interpreting the *Act* in this fashion results in a conflict, either in form or in substance, with other provisions of the *Act* and in particular s. 289. The focus of that specific section is to prescribe the level of voting approvals "in respect of an arrangement proposed with the shareholders" or "in respect of an arrangement proposed with the shareholders holding shares of a class or series of shares". So long as the arrangement is not proposed with a class of shareholders, such as with the Common Shareholders here, s. 289 is not engaged and the court retains a discretion in respect of any meeting and vote by such class of shareholders under s. 291(2)(b).

TELUS Corporation (Re), 2012 BCSC 1919 at para 300

39. Where a company is insolvent, courts have held that only the creditors “maintain a meaningful stake in its assets” and, accordingly, that “[t]he expectations of creditors and shareholders must be viewed and measured against an altered financial and legal landscape”. Essentially, when a company is insolvent, shareholders do not have “a true interest to be protected” because they have no reasonable prospect of realising any economic value.

Canadian Airlines Corp (Re), 2000 ABQB 442 at para 143

40. Albeit in the context of shareholder rights in *Companies’ Creditors Arrangement Act* proceedings, this Court has held that where shareholders no longer hold an economic interest, it can remove the requirement for a shareholders’ meeting as “[t]o do otherwise, so that a meeting is held, would cause persons who no longer have an economic interest in the company to acquire a functional veto”. The same principle ought to apply here.

Angiotech Pharmaceuticals Inc, Re, 2011 BCSC 450 at paras 10 - 11

TLC The Land Conservancy of British Columbia, Inc No S36826, Re, 2015 BCSC 1890
at paras 58 - 60

41. The Arrangement as sought is within the scope of the broad discretion afforded this Court by section 291(2) of the *BCBCA*. For all practical purposes, a “meeting” of the only relevant parties - the Receiver, the insolvent, and the creditors - has taken place by virtue of those parties seeking the Ontario order and the present order. Alternatively, a meeting can be dispensed with altogether under s. 291(2) given those parties’ consent because a meeting would be redundant.

II. This Petition has been put forward in good faith

42. The Receiver, as a “national receiver”, is an officer of this Court. It has brought this Petition in that capacity and not in any other capacity.
43. Pursuant to the Ontario Order, the Receiver has been expressly authorised and directed to bring this Petition. In doing so, the Receiver is complying with a direction of the ONSC.
44. As outlined above, the Receiver’s role is to realise on the value of the Property in order to maximise the return to Vert’s creditors. The Arrangement sees a realisation of the value of Vert’s public listing for Vert’s fulcrum creditors: the Secured Lenders. Consequently, this Petition is brought in good faith pursuant to the Receiver’s role *qua* receiver.

III. The Arrangement is fair and reasonable

45. This Court’s decision to approve a plan of arrangement on the basis that it is fair and reasonable is an exercise of judicial discretion.

12178711 Canada Inc v Wilks Brothers, LLC, 2020 ABCA 430 at para 33

Arrangement relatif à 9323-7055 Québec Inc (Aquadis International Inc), 2020 QCCA
659 at para 91

46. The Arrangement has a valid business purpose. Vert is insolvent and its public listing has value. In exchange for Vert's public listing, Emprise has agreed to pay the proceeds of the Funding Loan to the Receiver for the benefit of Vert's creditors.
47. In addition, the Receiver has determined that the assets of Vert are insufficient to repay the obligations of Vert, other than to partially repay Vert's first-secured creditors, the Secured Lenders. The Secured Lenders are the only parties with an economic interest in Vert and are the fulcrum creditors. The interests of the other creditors and the equityholders of Vert, including the holders of the Shares, have no value.
48. This Court has the discretion to approve this Arrangement, as proposed, without requiring further approvals from the shareholders and/or other creditors which, in the circumstances would not be proper and would in practice be affording a veto right to parties who have no economic interest in the Arrangement.
49. The Receiver further relies on the following:
 - (a) Sections 288 – 291 of the *BCBCA*, as amended;
 - (b) *Supreme Court Civil Rules* 2-1(2)(b), 4-4, 4-5 and 16-1; and
 - (c) The inherent jurisdiction of this Court.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Karlene Meier made June 21, 2021; and
2. Such further affidavits and other documents as counsel may advise.

The Petitioner estimates that the hearing of this Petition will take 30 minutes.

Date: JUNE 21, 2021

Alexander Bjornson
Signature of Lawyer for Petitioner
Alexander Bjornson

To be completed by the Court only:

Order made

- in the terms requested in paragraphs _____ of Part 1 of this petition
- with the following variations and additional terms:

Date: _____

Signature of Judge Master

THIS PETITION TO THE COURT was prepared by Alexander Bjornson of the firm of Hunter Litigation Chambers whose place of business and address for delivery is 2100-1040 West Georgia Street, Vancouver, B.C. Telephone: 604-647-4555

Appendix "A"

NO. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF SECTION 288 OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, C. 57, AS AMENDED

AND

IN THE MATTER OF A PROPOSED ARRANGEMENT INVOLVING
VERT INFRASTRUCTURE LTD.

AND

VERT INFRASTRUCTURE LTD.

PETITIONER

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE

)
)
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THE _____
DAY OF JUNE, 2021

ON THE APPLICATION of KSV Restructuring Inc., in its capacity as court-appointed receiver (the "Receiver") of the assets, undertakings and properties of Vert Infrastructure Ltd. ("Vert") coming on for hearing at 800 Smithe Street, Vancouver, British Columbia, on June ___, 2021, via Microsoft Teams videoconference or telephone; AND UPON HEARING , Alexander C. Bjornson, counsel for the Receiver, and H. Lance Williams, counsel for Emprise Capital Corp., and no one else appearing; AND UPON READING the Petition to the Court herein dated June ___, 2021; AND UPON CONSIDERING the fairness to the parties affected thereby of the terms and conditions of the Arrangement and of the transactions contemplated by the Arrangement;

THIS COURT ORDERS that:

1. Pursuant to the provisions of s. 291(1)(a) of the *Business Corporations Act*, S.B.C. 2002, c. 57, as amended, (the "BCBCA"), notice of these proceedings and of the plan of arrangement, a copy of which is attached hereto as Schedule "A" (the "Plan of Arrangement") to parties other than KW Capital Partners Limited ("KW"), is hereby dispensed with;

2. Pursuant to the provisions of s. 291(2)(b), the only party required to vote in relation to the Plan of Arrangement is KW, and this Court is satisfied that KW has voted in favour of the Plan of Arrangement;
3. Pursuant to the provisions of s. 291(4)(a) of the BCBCA the Plan of Arrangement, and the arrangement proposed therein (the "**Arrangement**"), is hereby approved;
4. Pursuant to the provisions of s. 291(4)(c) of the BCBCA, the Arrangement is fair and reasonable, both substantively and procedurally, to the shareholders of Vert;
5. Upon the implementation of the Arrangement as provided for in the Plan of Arrangement, the Arrangement shall be binding upon Vert and the shareholders of Vert and those affected by it and will be effective in accordance with the Plan of Arrangement at such time as agreed to by the parties to the Arrangement; and
6. Vert shall be entitled at any time to seek leave to vary this Order, to seek the advice and direction of this Court as to the implementation of this Order or to apply for such further order or orders as may be appropriate.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Lawyer for Emprise Capital Corp.
H. Lance Williams

Lawyer for KSV Restructuring Inc.
Alexander C. Bjornson

BY THE COURT

REGISTRAR

SCHEDULE "A"

PLAN OF ARRANGEMENT OF VERT INFRASTRUCTURE LTD. UNDER SECTION 288 OF THE *BUSINESS CORPORATIONS ACT* (BRITISH COLUMBIA)

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Plan of Arrangement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the respective meanings set forth below:

"**Approved Expenses**" has the meaning ascribed thereto under section 3.1(a);

"**BCBCA**" means the *Business Corporations Act* (British Columbia);

"**BC Order**" has the meaning ascribed thereto under section 3.1(d);

"**Board**" means the board of directors of Vert;

"**Business Day**" means a day which is not a Saturday, Sunday, or a day when commercial banks are not open for in person business in Vancouver, British Columbia;

"**Cassels**" means Cassels Brock & Blackwell LLP;

"**Court**" means the Supreme Court of British Columbia;

"**CTO**" has the meaning ascribed thereto under section 4.1(d);

"**Depository**" means Computershare Trust Company or such other person that may be appointed by Vert for the purpose of distributing the share certificates following the Post Consolidation;

"**Effective Date**" means the first Business Day after the date upon which the Parties have confirmed in writing (such confirmation not to be unreasonably withheld or delayed) that all conditions to the completion of the Plan of Arrangement have been satisfied or waived in accordance with the Offer Letter and all documents and instruments required under the Offer Letter, the Plan of Arrangement and the Final Order have been delivered;

"**Effective Time**" means 12:01 a.m. on the Effective Date;

"**Emprise**" means Emprise Capital Corp.;

"**Excluded Debt**" means the Initial Loan and the Funding Loan;

"**Final Order**" means the order made after application to the Court pursuant to section 291 of the BCBCA approving the Plan of Arrangement as such order may be amended by the Court (with the consent of the Parties, acting reasonably) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended (with the consent of the Parties, acting reasonably) on appeal;

"**Funding Loan**" has the meaning ascribed thereto under section 4.1(a);

"**HST**" means harmonized sales tax;

“**KW Capital**” means KW Capital Partners Limited;

“**Offer Letter**” means the binding letter of agreement between Emprise and the Receiver dated March 22, 2021;

“**Ontario Order**” has the meaning ascribed thereto under section 3.1(c);

“**Parties**” means Vert, Emprise and the Receiver;

“**Plan of Arrangement**”, “**hereof**”, “**herein**”, “**hereunder**” and similar expressions mean this plan of arrangement and any amendments, variations or supplements hereto made in accordance with the terms hereof and the terms of the Offer Letter or made at the direction of the Court in the Final Order;

“**Private Placement**” has the meaning ascribed thereto under section 4.1(e);

“**Receiver**” means KSV Restructuring Inc.;

“**Receivership**” means the receivership proceedings of Vert pursuant to which the Receiver has been appointed by the Ontario Supreme Court of Justice as receiver over all assets and undertakings of Vert;

“**Receiver’s Certificate**” means a certificate issued by the Receiver to secure borrowings;

“**Securities Commissions**” means the Alberta Securities Commission, the British Columbia Securities Commission and the Ontario Securities Commission and any other securities commissions that governs a jurisdiction to which Vert is a reporting issuer;

“**Share Consolidation**” has the meaning ascribed thereto under section 4.1(d);

“**Vert**” means Vert Infrastructure Ltd.;

“**Vert Creditors**” means any creditor of Vert, other than Emprise, pursuant to the Excluded Debt; and

“**Vert Shareholders**” means the holders of shares of Vert.

1.2 Number, Gender and Persons

In this Plan of Arrangement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, words importing the use of either gender include both genders and neuter and the word person and words importing persons include a natural person, firm, trust, partnership, association, corporation, joint venture or government (including any governmental agency, political subdivision or instrumentality thereof) and any other entity or group of persons of any kind or nature whatsoever.

1.3 Interpretation Not Affected by Headings

The division of this Plan of Arrangement into articles, sections, paragraphs and subparagraphs and the insertion of headings herein are for convenience of reference only and shall not affect the construction or interpretation of this Plan of Arrangement. The terms “**this Plan of Arrangement**”, “**hereof**”, “**herein**”, “**hereto**”, “**hereunder**” and similar expressions refer to this Plan of Arrangement and not to any particular article, section or other portion hereof and include any instrument supplementary or ancillary hereto.

1.4 Date for Any Action

If the date on which any action is required to be taken hereunder is not a Business Day, the action shall be required to be taken on the next day that is a Business Day.

1.5 Time

Time shall be of the essence in every matter or action contemplated hereunder. All times expressed herein are local time in Vancouver, British Columbia unless otherwise stipulated herein.

1.6 Currency

Unless otherwise stated, a reference herein to an amount of money means the amount expressed in lawful money of Canada.

1.7 Statutory References

Any reference in this Plan of Arrangement to a statute includes all regulations and rules made thereunder, all amendments to such statute, rule or regulation in force from time to time and any statute, rule or regulation that supplements or supersedes such statute or regulation.

1.8 Governing Law

This Plan of Arrangement, including its validity, interpretation and effect, shall be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein.

ARTICLE 2 OVERVIEW AND EFFECT OF THE PLAN OF ARRANGEMENT

2.1 Purpose of the Plan of Arrangement

The Plan of Arrangement is made pursuant to, and is subject to, the provisions of the Offer Letter, except that the sequence of steps comprising the Plan of Arrangement shall occur in the order set forth herein unless otherwise indicated. The purpose of the Ontario Order, the BC Order and this Plan of Arrangement is to transfer the assets and liabilities of Vert (other than the Excluded Debt) into a trust (the “Trust”) to be administered for the benefit of Vert’s creditors, while control of Vert will be acquired through the Private Placement in consideration of a payment by Emprise to the Trust. Following the implementation of the Ontario Order, the Vert Creditors will have no interest in Vert, and instead will only have an interest in the Trust. The existing shareholders of Vert will continue to hold common shares of Vert, following the Share Consolidation, and all other equity interests in Vert will be cancelled.

The Receiver, as an officer of the court, has determined that the assets of Vert are insufficient to repay the obligations of Vert, other than to partially repay Vert’s first-secured creditor KW Capital, and accordingly KW Capital is the only party with an economic interest in Vert. The equity of Vert, including the existing shares, have no value.

2.2 Preliminary Steps

- (a) Pursuant to the Offer Letter, Emprise has funded \$100,000 plus HST into trust with the Receiver as a loan (the “Initial Loan”) used solely for the payment of all professional costs incurred by the Receiver in obtaining the Ontario Order and the BC Order (the “Approved Expenses”). The Initial Loan is secured by a Receiver’s Certificate.
- (b) The Receiver has agreed to render separate accounts to Emprise every 30 days for the Approved Expenses and will use the Initial Loan to pay the Approved Expenses. The Receiver will return any unused portions of the Initial Loan to Emprise within 30 days of the completion or termination of the matters forming part of this Plan of Arrangement.

- (c) The Receiver has agreed to bring a motion in the Ontario Superior Court of Justice – Commercial List, seeking an order (the “**Ontario Order**”) on terms acceptable to Emprise, authorizing certain provisions of this Plan of Arrangement as outlined in the Offer Letter. If obtained, the Ontario Order will also authorize the Receiver to seek the BC Order, as well as authorize Vert to transfer all of its assets and liabilities (excluding the Excluded Debt) into a trust (the “**Trust**”) to be administered by the Receiver.
- (d) After obtaining the Ontario Order, on terms satisfactory to Emprise, the Receiver has agreed to bring an application to the Court seeking an order, on terms acceptable to Emprise (the “**BC Order**”) under the BCBCA, approving this Plan of Arrangement, in order to affect the restructuring of Vert.

2.3 Effect of Plan of Arrangement

The Plan of Arrangement will, effective at the Effective Time, become effective and be binding on Vert and the Vert Shareholders, without any further act or formality required on the part of any person except as expressly provided herein. If there is any inconsistency or conflict between the provisions of this Plan of Arrangement and the provisions of the Offer Letter, the provisions of this Plan of Arrangement shall govern.

ARTICLE 3 ARRANGEMENT

3.1 Arrangement

Subject to the terms of the BC Order, commencing at the Effective Time the following transactions will occur and be deemed to occur in the following sequence without further act or formality:

- (a) Within two business days following the expiry of all appeal periods, if no appeals are initiated, or upon the final dismissal of any appeals in relation to the BC Order, Emprise will loan an additional \$200,000 (the “**Funding Loan**”) which will be secured by another Receiver’s Certificate. Upon settlement of the Trust pursuant to the Ontario Order, including vesting all assets and liabilities of Vert (other than the Excluded Debt and including the proceeds of the Funding Loan), the Receiver will be discharged pursuant to the Ontario Order over Vert’s assets and undertakings and Vert will have no further liabilities or assets, other than the Excluded Debt.
- (b) Scott Ackerman will be appointed as the sole member of the Board, pursuant to the BC Order, with the authority to fill two vacancies on the Board following the revocation of the CTO.
- (c) Vert will proceed with an application to the applicable Securities Commissions to have the existing cease trade orders (“**CTO**”) temporary lifted to allow the Private Placement, as outlined below. Emprise will fund the cost of such application as an additional loan to Vert.
- (d) Subject to approval by the Board, and subject to the BC Order, all existing common shares, with no par value, of Vert will be consolidated on a 15:1 basis (the “**Share Consolidation**”), as permitted pursuant to section 9.1 of Vert’s Articles and section 54 of the BCBCA. All other equity interests in Vert will be cancelled.
- (e) Subject to the completion of the Share Consolidation, Vert will undertake a private placement, with accredited investors arranged by Emprise, of 10,000,000 Vert units at an issue price of \$0.05 per unit for gross proceeds of \$500,000 (the “**Private Placement**”). The Private Placement will be structured through the issuance of subscription receipts and all funds will be deposited in trust with legal counsel to Vert. Each unit will consist of one

post-consolidated common share and one warrant. Each warrant will be exercisable into an additional post-consolidation common share at a price of \$0.075 per share, for two years following the closing of the Private Placement. On the obtaining of the revocation of the CTO the units will be issued automatically, on deemed conversion of the subscription receipts. No fees will be payable to Emprise in connection with the Private Placement.

- (f) On completion of the Plan of Arrangement, Vert will operate as an independent entity under direction from the Board.

ARTICLE 4 APPROVAL

4.1 Approval of the Plan of Arrangement

In order for this Plan of Arrangement to be binding on Vert and Vert Shareholders at the Effective Date, it must be:

- (a) approved by KW Capital in writing, with such approval delivered to the Receiver; and
- (b) approved by the Receiver; and
- (c) approved by the Court pursuant to the BCBCA.

ARTICLE 5 AMENDMENTS

5.1 Amendments

The Parties reserve the right to amend, modify and/or supplement this Plan of Arrangement from time to time at any time prior to the Effective Date provided that any such amendment, modification or supplement must be contained in a written document that is filed with the Court and approved by the Board.

5.2 Effectiveness of Amendments

Any amendment, modification or supplement to this Plan of Arrangement, prior to the Effective Date, may be proposed by any of the Parties at any time without prior notice or communication, and if so proposed and accepted by the Board and the Receiver will form part of this Plan of Arrangement for all purposes.