

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**MOTION RECORD**

March 11, 2019

**HARRISON PENZA** <sup>LLP</sup>  
Barristers and Solicitors  
450 Talbot Street  
London ON N6A 4K3

**Melinda Vine**  
LSUC #53612R  
Phone: (519) 679-9660  
Fax: (519) 667-3362

Lawyers for BDO Canada Limited

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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SIRIUS CONCRETE INC. OF THE CITY OF  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF MOTION  
(Returnable March 12, 2019)**

BDO Canada Limited, in its capacity as Trustee (the "**Trustee**") of the estate of Sirius Concrete Inc. ("**Sirius**" or the "**Company**"), will make a motion to a Judge of the Superior Court of Justice in Bankruptcy and Insolvency at 10:00 a.m, on March 12, 2019, or as soon after that time as the Motion can be heard at 80 Dundas St., London, Ontario.

PROPOSED METHOD OF HEARING: The motion will be heard orally.

THIS MOTION IS FOR ORDERS in the forms attached hereto as Schedule A and Schedule B:

- (a) Abridging the time for service of the Notice of Motion and the Motion Record herein and dispensing with the further service thereof;
- (b) Approving the First Report of the Trustee dated March 11, 2019 (the "**First Report**");

- (c) Approving the Service Protocol as detailed in the First Report and the attached Order and deeming service in accordance with the Service Protocol as effective and valid;
- (d) Approving a claims process for construction lien and trust claims that have been or may be asserted by the sub-trades of Sirius against various properties upon which Sirius worked in the Kitchener area and accounts receivables due to Sirius (the "**Claims Administration Procedure**");
- (e) Directing the customers of Sirius to make payment to the Trustee;
- (f) Such further and other relief as counsel may request and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) Sirius made an assignment into Bankruptcy on March 4, 2019;
- (b) Sirius has over 100 creditors and interested parties ("**Interested Parties**"). It is impractical to serve hard copies of the within Motion Record on the Interested Parties.
- (c) The Trustee is in the process of registering liens pursuant to the *Construction Act R.S.O. 1990, c. C.30* (the "**CA**") against the construction projects worked on by Sirius.
- (d) Most of Sirius' customers (the "**Customers**") have not paid their outstanding balances because there are unpaid Sirius suppliers and sub-trades (the "**Claimants**") who have completed work in relation to the specific contracts/jobs between Sirius and the Customers. The Customers are concerned they will be required to satisfy the unpaid invoices of the Claimants;

- (e) Some of the Claimants have registered liens pursuant to the CA;
- (f) The Claims Administration Procedure is a fair and equitable mechanism to deal with the collection of receivables from Customers and the related amounts due to the Claimants;
- (g) A formal claims process is necessary to provide for equitable and cost efficient treatment of claims, and that the recommended Claims Administration Procedure outlined in the First Report will resolve these issues;
- (h) The grounds as further set out in the First Report;
- (i) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) The First Report of the Trustee; and
- (b) Such further and other material as counsel may advise and this Honourable Court may permit.

Date: March 11, 2019

**HARRISON PENSA LLP**  
450 Talbot St.  
London, Ontario N6A 4K3

Melinda Vine

Tel: 416-449-1400  
Fax: 416-449-7071

Lawyers for BDO Canada Inc. Trustee of  
Sirius Concrete Inc.

Schedule "A"

Bankruptcy Court File No: 35-2481393

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

THE HONOURABLE ) THE DAY OF  
M JUSTICE ) MARCH, 2019

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC.  
OF THE CITY OF WATERLOO, IN THE PROVINCE OF ONTARIO**

**SERVICE ORDER**

**THIS MOTION**, made by BDO Canada Limited, in its capacity as Trustee ("**BDO**" or the "**Trustee**") of the estate of Sirius Concrete Inc. ("**Sirius**" or the "**Company**"), for, *inter alia*, approval of the service protocol, was heard *ex parte* this day at 80 Dundas St., London, Ontario.

**ON READING** the First Report of the Trustee dated March 11, 2019; filed; and on hearing the submissions of counsel for Trustee and no one else being served or appearing,

1. **THIS COURT GRANTS** the Trustee leave to serve the Motion Record dated March 11, 2019 (the "**Motion Record**") by substituted service upon all creditors and interested parties in the following manner:
  - a. The Trustee shall publish the Motion Record and any and all subsequent materials in the within proceedings and all future proceedings involving the Company on the Trustee's website, including, without limitation, any document in relation to or affecting these or any future proceedings

involving the Company (collectively the "**Materials**").

b. The Trustee shall provide notice to the creditors and interested parties of Sirius (the "**Interested Parties**") of the Motion Record by sending a letter to the Interested Parties by regular lettermail and, where available, by electronic mail advising of the Motion Record and relief sought therein and directing any interested party to view/download the Motion Record from the Trustee's website.

2. **THIS COURT ORDERS** service in the manner as set out at paragraph 1 above will be effective the third day following mailing.
3. **THIS COURT GRANTS** leave to the Trustee to serve any future court documents or materials in the accordance with the service protocol detailed herein.

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Justice, Ontario Superior Court of Justice



**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**Court File No. 35-2481393**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT  
LONDON, ONTARIO**

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**ORDER**

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Harrison Pensa <sup>LLP</sup>  
Barristers and Solicitors  
450 Talbot Street, 1<sup>st</sup> Floor  
P.O. Box 3237  
London, Ontario N6A 4K3

Melinda Vine  
LSUC #53612R

Tel: (519) 679-9660

Fax: (519) 667-3362

Solicitors for the Trustee,  
BDO Canada Limited

Schedule "B"

Court File No. 35-2481393

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) TUESDAY THE \_\_\_ DAY  
JUSTICE ) OF MARCH, 2019

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**CLAIMS PROCEDURE ORDER**

**THIS MOTION**, made by **BDO CANADA LIMITED** in its capacity as Trustee (the "**Trustee**") of **Sirius Concrete Inc.** ("**Sirius**" or the "**Company**") for, *inter alia*, an Order establishing a claims procedure was heard this day at 80 Dundas Street, London, Ontario.

ON READING the First Report of the Trustee to the Court dated March 11, 2019 and on hearing the submissions for counsel for the Trustee, and such other counsel as were present.

**DEFINITIONS**

1. **THIS COURT ORDERS** that for the purposes of this Order the following terms shall have the following meanings:
  - a) "**Business Day**" means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in London, Ontario;
  - b) "**Claim**" means a Lien Claim or Trust Claim collectively or individually;
  - c) "**Claims Bar Date**" means 30 days after the date of this Order;

- d) "**Claims Package**" means the document package which shall include a copy of the Instruction Letter, a Proof of Claim and such other materials as the Trustee considers necessary or appropriate;
- e) "**Claims Administration Procedure**" means the procedure as may be amended from time to time, for determining of Lien Claims and Trust Claims for distribution purposes;
- f) "**Court**" means the *Ontario* Superior Court of Justice;
- g) "**Construction Projects**" means the construction projects which the Company was involved in up to March 4, 2019;
- h) "**Dispute Package**" means, with respect to any Lien Claim or Trust Claim, a copy of the related Proof of Claim, Notice of Revision or Disallowance and Notice of Dispute;
- i) "**Instruction Letter**" means the Instruction letter to Lien Claimants and Trust Claimants pertaining to proving the Lien Claims and Trust Claims for distribution purposes, substantially in the form attached hereto as Schedule "A";
- j) "**Lien Claim**" means any lien claims registered and lien actions commenced pursuant to the *Construction Act*, R.S.O. 1990. Chapter c.30 (the "**Act**") with respect to the Construction Projects which the Company was involved in up to March 4, 2019;
- k) "**Lien Claimant**" means any Person having preserved a lien pursuant to the Act with respect to any of the Construction Projects;
- l) "**Notice of Dispute**" means the notice that may be delivered by a Lien Claimant or Trust Claimant who has received a Notice of Revision or Disallowance disputing such Notice of Revision or Disallowance, which notice shall be substantially in the Form attached hereto as Schedule "B";
- m) "**Notice of Revision or Disallowance**" means the notice that may be delivered to a Lien Claimant or Trust Claimant revising or rejecting such Lien Claimants' or Trust Claimants' claim as set out in the Proof of Claim in whole or in part which notice shall be substantially in the form attached hereto as Schedule "C";
- n) "**Notice to Lien Claimants and Trust Claimants**" means the notice substantially in the form attached hereto as Schedule "D";
- o) "**Person**" means any individual, partnership, firm, joint venture, trust, entity, corporation, unincorporated organization, trade union, employee or other association and any federal, provincial or municipal government or similar entity, howsoever designated or constituted;

- p) "**Proof of Claim**" means the form to be completed and filed by a Lien Claimant or Trust Claimant setting forth its purported Claim which shall be substantially in the form attached hereto as Schedule "E";
- q) "**Proven Lien Claim or Proven Trust Claim**" means the amount and status of the claim of a Lien Claimant or Trust Claimant as determined in accordance with the Claims Administration Procedure;
- r) "**Trust Claim**" means any claim for materials or services delivered to a Construction Project for which a lien has not been registered;
- s) "**Trust Claimant**" means any party who has not registered a Lien against a Construction Project but who may have a trust claim against a Construction Project under the Act by virtue of supplying materials or services to a Construction Project; and
- t) "**Trustee**" means BDO Canada Limited, in its capacity as Trustee of the Estate of Sirius Concrete Inc.

### **NOTICE OF CLAIMS**

2. **THIS COURT ORDERS** that the Trustee shall cause a Claims Package to be sent to each known Lien Claimant, Trust Claimant and/or counsel for each Lien Claimant or Trust Claimant by regular prepaid mail or electronic mail within 7 business days of the date of this Order.
3. **THIS COURT ORDERS** that the Trustee shall cause the Notice to Lien Claimants and Trust Claimants to be placed in the local papers where the Construction Projects were situated within 15 days of the date of this Order.
4. **THIS COURT ORDERS** that the Trustee shall cause the Notice to Lien Claimants and Trust Claimants and the Claims Package to be posted on the Trustee's website as soon as reasonably practicable after the date of this Order.
5. **THIS COURT ORDERS** that the Trustee shall cause a copy of the Claims Package to be sent to any Person requesting such material as soon as practicable.

**PAYMENT FROM CUSTOMERS**

6. **THIS COURT ORDERS AND DECLARES** that all Sirius customers (the “**Customers**”) who are indebted to Sirius for services (whether construction or any other services) provided by Sirius for the period prior to March 4, 2019 are hereby directed to make payment of any and all such debts to the Trustee and, in that regard:

- i. the Trustee be and it is hereby directed to retain, in its bankruptcy estate trust account, the funds received by the Customers relating to the Sirius invoice(s) being paid by the Customers, which funds shall not be distributed by the Trustee to any party without further Order of this Court on notice to all Customers who have made payment to the Trustee; provided, however, that nothing in the Order nor the retention of funds referred to in this paragraph shall have the effect of giving rights to Customers which did not exist up to the making of this Order;
- ii. no Sirius supplier or sub-contractor with a valid Claim shall have any recourse against the Customers for having made such payment to the Trustee, and all Customers making such payment to the Trustee shall be deemed to have satisfied in full any and all obligations they may have had to Sirius.

7. **THIS COURT ORDERS** that in the event the Customer claims set-off, the Customer shall file a Proof of Claim for the set-off by the Claims Bar Date for consideration by the Trustee in accordance with this Order.

**FILING OF PROOFS OF CLAIM**

8. **THIS COURT ORDERS** that Proofs of Claim shall be filed with the Trustee on or before April 26, 2019 (“**Claims Bar Date**”).

9. **THIS COURT ORDERS** that the time for filing a Proof of Claim may be extended with the Trustee's consent in writing or by further order of the Court.
10. **THIS COURT ORDERS** that each Lien Claimant and Trust Claimant shall file a separate Proof of Claim in respect of each Construction Project to which the Lien Claimant or Trust Claimant provided materials or services.
11. **THIS COURT ORDERS** that any Lien Claimant or Trust Claimant who does not deliver a Proof of Claim in respect of a Lien Claim or Trust Claim on or before the Claims Bar Date shall be forever barred from asserting such a Lien Claim or Trust Claims against Sirius, the Trustee, the Construction Projects and the "owners" of such Construction Projects under the Act and such Lien Claim or Trust Claim shall be forever discharged and extinguished and any holder of such Lien Claim or Trust Claim shall not be entitled to receive any distribution from Sirius or the Trustee on behalf of Sirius or from the proceeds of the sale of the Sirius assets.
12. **THIS COURT ORDERS** that any Lien Claimant or Trust Claimant who does not deliver a Proof of Claim in respect of a Lien Claim or Trust Claim on or before the Claims Bar Date shall not be entitled to any further notice of any Orders made or steps taken in these proceedings.

**FORM OF PROOFS OF CLAIM**

13. **THIS COURT ORDERS** that the Trustee is hereby authorized and directed to use reasonable discretion as to the adequacy of compliance with the manner in which Proofs of Claim are completed and executed and may, where it is satisfied that a Lien Claim or a Trust Claim has been adequately proven, waive strict compliance with the requirements of this Order as to the completion and execution of the Proof of Claim.

## DETERMINATION OF CLAIMS

14. **THIS COURT ORDERS** that the Trustee shall review each Proof of Claim received on or before the Claims Bar Date and shall, on or before 60 days from the Claims Bar Date, accept, revise or disallow the Claim. The Trustee is empowered and authorized to:
  - a. Investigate, review and verify the validity and quantum of any Lien Claims registered or delivered or given and lien actions commenced with respect to the Construction Projects;
  - b. Retain a consultant to review and assist in the review of any Claim;
  - c. do such acts as the Trustee in its sole discretion deem appropriate to facilitate the Claims Administration Procedure; and
  - d. receive payment of all monies owing and payable to the Debtor in respect of the Construction Projects, to the exclusion of all others, which funds are to be held in trust in separate accounts for each of the Construction Projects.
  
15. **THIS COURT ORDERS** that the Trustee may attempt to consensually resolve the amount of any Lien Claim or Trust Claim with the Lien Claimant or Trust Claimant prior to accepting, revising or disallowing such Claim.
  
16. **THIS COURT ORDERS** that if the Trustee accepts a Claim, the Trustee shall advise the Lien Claimant or Trust Claimant of such acceptance by ordinary mail or email to the address set out in the applicable Proof of Claim.
  
17. **THIS COURT ORDERS** that if the Trustee revises or disallows a Claim, the Trustee shall send a Notice of Revision or Disallowance to the Lien Claimant or Trust Claimant by ordinary mail or email to the address set out in the applicable Proof of Claim.
  
18. **THIS COURT ORDERS** that any Lien Claimant or Trust Claimant who disputes the amount of its Claim as set forth in a Notice of Revision or Disallowance

shall deliver a Notice of Dispute to the Trustee by 5:00 p.m. (Eastern Standard Time) on the day which is twenty calendar days after the date of the Notice of Revision or Disallowance or such later date as the Trustee and the Lien Claimant or Trust Claimant may agree in writing.

19. **THIS COURT ORDERS** that any Lien Claimant or Trust Claimant who fails to deliver a Notice of Dispute by the deadline set forth in paragraph 18 shall be deemed to accept the amount of its Claim as set out in the Notice of Revision or Disallowance and such Claim as set out in the Notice of Revision or Disallowance shall constitute a Proven Lien Claim or Proven Trust Claim.
20. **THIS COURT ORDERS** notwithstanding the foregoing but subject to paragraph 11, no acceptance, revision or disallowance of a Lien Claim by the Trustee, or action taken with respect to the investigation, review or verification of the validity and quantum of any Lien Claim shall affect the rights or obligations of any "owner" under the Act.

#### **RESOLUTION OF CLAIMS**

21. **THIS COURT ORDERS** that upon receipt of a Notice of Dispute the Trustee may:
  - i. Attempt to consensually resolve the amount or the Claim with the Lien Claimant or Trust Claimant; and/or
  - ii. Schedule a motion before a judge of the Court to resolve the Claim.

#### **TRUSTEE'S ROLE IN CLAIMS PROCESS**

22. **THIS COURT ORDERS** that the Trustee, in addition to its prescribed rights, duties, responsibilities and obligations under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, shall implement and oversee the Claims Administration Procedure provided for herein, and is hereby directed and



empowered to take such actions and fulfill such other roles as are contemplated by this Order.

23. **THIS COURT ORDERS** that the Trustee may apply to the Court for directions regarding the carrying out of the Claims Administration Procedure.

#### **FEES AND EXPENSES**

24. **THIS COURT ORDERS** that the fees and expenses incurred by the Trustee in connection with the carrying out of this Order and the Claims Administration Procedure shall form a first charge on funds collected.

#### **NO DEFAULT PROCEEDINGS OR DEFENCES**

25. **THIS COURT ORDERS** that no default or enforcement proceedings shall be commenced against any defendant in any Lien Action unless authorized by further Order of this Court.
26. **THIS COURT ORDERS** that the requirement for BDO or any defendant in any Lien Action to file a statement of defence is hereby dispensed with subject to any further Order of this Court.

#### **GENERAL PROVISIONS**

27. **THIS COURT ORDERS** that any notice or other communication to be given under this Order by a Lien Claimant or Trust Claimant to the Trustee shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by facsimile transmission, personal delivery, electronic communication or prepaid mail addressed to:

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn

51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

with a copy to:

HARRISON PENSA LLP  
Barristers & Solicitors

Attention: Melinda Vine  
450 Talbot St.  
Toronto ON M3C 3E9  
Tel: 519-661-6705  
Email: [mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

Any such notice or other communication delivered by a Lien Claimant or Trust Claimant shall be deemed to be received upon actual receipt by the Trustee thereof during normal business hours on a Business Day or if delivered outside of normal business hours, on the next Business Day.

28. **THIS COURT ORDERS** that any notice or other communication to be given under this Order to a Lien Claimant or Trust Claimant shall be addressed to either: (i) the last recorded address appearing in the books and records of Sirius or in any claim for lien or Proof of Claim filed by the Lien Claimant or Trust Claimant; (ii) the Lien Claimant's or Trust Claimant's legal counsel; or (iii) electronically to the email address provided by the Lien Claimant, Trust Claimant or their respective counsels.
29. **THIS COURT ORDERS** that reference to the singular shall include the plural; references to the plural shall include the singular and to any gender shall include the other gender.

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Justice, Ontario Superior Court of Justice

**SCHEDULE "A"**  
**INSTRUCTION LETTER FOR THE CLAIMS AGAINST SIRIUS CONCRETE INC.**  
(hereinafter referred to as "Sirius")

A. – Claims Process

By order of the Honourable • Justice • dated • the "**Claims Procedure Order**") the Ontario Superior Court of Justice approved a claims procedure for determining claims against Sirius (the "**Claims Procedure**").

This letter provides instructions for responding to or completing the Proof of Claim enclosed hereto. Defined terms which are not defined herein shall have the meaning ascribed thereto in the Claims Procedure Order. A copy of the Claims Procedure Order can be obtained from the Trustee's website at <http://extranets.bdo.ca/siriusconcreteinc>.

Please note that this letter is intended as a guide only and that in the event of any inconsistency between the terms of this letter and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

The Claims Procedure is intended for any Person asserting a Lien or Trust Claim against Sirius. If you have any questions regarding the Claims Procedure, please contact BDO Canada Limited, in its capacity the Trustee of the Estate of Sirius (the "**Trustee**") at the address provided below.

All enquiries with respect to the Claims Procedure should be addressed to:

The Trustee  
c.o. BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

with a copy to:

HARRISON PENSA LLP  
Barristers & Solicitors

Attention: Melinda Vine  
450 Talbot St.  
Toronto ON M3C 3E9  
Tel: 519-661-6705

Email: [mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

B. – For Creditors Submitting a Proof of Claim

If you supplied materials and/or services to Sirius in respect of a the construction project Sirius was involved in prior to March 4, 2019, would you please complete the Proof of Claim enclosed and attach it to your account showing full particulars of the materials and/or services supplied. After you have had the Proof of Claim sworn, would you please return it to the undersigned at the address above or via email to [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca). Please do not include your account with respect to other materials and or services that you may have rendered to Sirius on other projects, and for which you have not received payment.

The purpose of submitting a Proof of Claim is to determine whether or not you have a claim under the *Construction Act R.S.O, 1990. C. 30* ("CA") and, if you do, the extent of such claim. Please cooperate by returning your claim form promptly.

Proofs of Claim against Sirius must be received by 5:00p.m. (Eastern Standard Time) on **April 26, 2019** or such later date as the Trustee may consent to in writing.

Additional Proof of Claim forms can be found on the Trustee's website at [www.bdo.ca](http://www.bdo.ca) or obtained by contacting the Trustee at the address indicated above and providing particulars us to your name, address, facsimile number and email address. Once the Trustee has this information, you will receive, as soon as practicable, additional Proof of Claim forms.

**Failure to file your Proof of Claim so that it is received by the Trustee by the relevant Claims Bar Date will result in *your claim* being barred and you will be prevented from making or enforcing a Claim against Sirius. In addition. you shall not be entitled to further notice in and shall not be entitled to participate as a creditor in these proceedings.**

**SCHEDULE "B"**  
**NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM AGAINST SIRIUS  
 CONCRETE INC.**  
 (hereinafter referred to as "Sirius")

NAME OF CLAIMANT: \_\_\_\_\_

NAME OF OWNER: \_\_\_\_\_

NAME OF CONSTRUCTION PROJECT: \_\_\_\_\_

Pursuant to the Order of the Honourable Justice \_\_\_\_\_, dated March \_\_\_\_\_, 2019, we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance dated \_\_\_\_\_ issued by BDO Canada Limited in its capacity as Claims Administrator of Sirius in respect of our Claim.

**Lien Claim**

Construction Project	Lien Claim Accepted	Lien Claim Disputed
<b>Total Lien Claim</b>		

**Trust Claim**

Construction Project	Trust Claim Accepted	Trust Claim Disputed
<b>Total Lien Claim</b>		

*Reasons for Dispute* (attach additional sheet and copies of all supporting documents if necessary):

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Signature of Individual (I have authority to bind the Corporation)

Date: \_\_\_\_\_

Please Print name: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

Facsimile Number: (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_

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**THIS FORM AND SUPPORTING DOCUMENTATION TO BE RETURNED BY FACSIMILE TRANSMISSION, PERSONAL DELIVERY, ELECTRONIC COMMUNICATION OR PREPAID MAIL TO THE ADDRESS INDICATED HEREIN AND TO BE RECEIVED BY 5:00 P.M. (EASTERN STANDARD TIME) ON THE DAY WHICH IS TWENTY (20) CALENDAR DAYS AFTER THE DATE OF THE NOTICE OF REVISION OR DISALLOWANCE, OR SUCH LATER DATE AS THE TRUSTEE AND THE CREDITOR MAY AGREE IN WRITING OR THE COURT MAY ORDER.**

*Address for Service of Dispute Notices:*

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

**SCHEDULE "C"**  
**NOTICE OF REVISION OR DISALLOWANCE OF CLAIM AGAINST SIRIUS CONCRETE INC.**  
 (hereinafter referred to as "Sirius")

NAME OF CLAIMANT: \_\_\_\_\_

NAME OF OWNER: \_\_\_\_\_

NAME OF CONSTRUCTION PROJECT: \_\_\_\_\_

Pursuant to the Order of the Honourable Justice \_\_\_\_\_, dated March \_\_\_\_, 2019, BDO Canada Limited in its capacity as Trustee of the Estate of Sirius and Claims Administrator of Sirius in respect of the Construction Projects, hereby gives you notice that it has reviewed your Proof of Claim and has revised your Claim as follows:

**Lien Claim**

Construction Project	Lien Claim Accepted	Lien Claim Disputed
<b>Total Lien Claim</b>		

**Trust Claim**

Construction Project	Trust Claim Accepted	Trust Claim Disputed
<b>Total Lien Claim</b>		

*Reasons for Revision or Disallowance:*

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If you do not agree with this Notice of Revision or Disallowance, please take notice of the following:

1. If you intend to dispute a Notice of Revision or Disallowance you must, by 5:00 p.m. (Eastern Standard Time) on the day which is twenty (20) days after the date of this Notice or Revision or Disallowance, deliver a Notice of Dispute by personal service, mail or courier to the address indicated herein. The form of Notice of Dispute k attached to this Notice.
2. If you do not deliver a Notice of Dispute, the value or your Claim shall be deemed to be as set out in this Notice or Revision or Disallowance.

*Address for Service of Dispute Notices:*

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

**IF YOU FAIL TO RESPOND AS REQUIRED HEREIN WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.

**BDO CANADA LIMITED**

In its capacity as Trustee of the Estate of Sirius Concrete Inc.

Per: \_\_\_\_\_

Encl.



**SCHEDULE "D"**  
**NOTICE TO LIEN AND TRUST CLAIMANTS OF SIRIUS CONCRETE INC.**  
(hereinafter referred to as "Sirius")

**RE: NOTICE OF CLAIMS PROCEDURE FOR SIRIUS**

PLEASE TAKE NOTICE that this notice is being published pursuant to an Order of the Honourable • of the *Ontario Superior Court of Justice* dated March \_\_\_\_, 2019 (the "**Claims Procedure Order**"). Any person who believes that it has a Claim against Sirius should send a Proof of Claim to BDO Canada Limited in its capacity as Trustee of the Estate of Sirius Concrete Inc (the "Trustee") to be received by 5:00 pm (Eastern Standard Time) on April 26, 2019 or such other date as the Trustee and the Claimant agree to in writing (the "**Claims Bar Date**").

**CLAIMS WHICH ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE FOREVER BARRED AND EXTINGUISHED.**

Claimants who require a Proof of Claim form should contact the Trustee (**Attention: Robyn Duwyn, tel: 519-570-4000 x5881, fax: 519-576-5227, or Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)**) to obtain a Claims Package. Additional Proof of Claim forms can be found on the Trustee's website at [www.bdo.ca](http://www.bdo.ca).

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.

**SCHEDULE "E"**  
**PROOF OF CLAIM**  
**FOR THE CLAIMS AGAINST SIRIUS CONCRETE INC.**  
(hereinafter referred to as "Sirius")

**Please read the enclosed Instruction Letter carefully prior to completing this Proof of Claim.** Defined terms which are not defined herein shall have the meaning ascribed thereto in the Instruction Letter.

**A. PARTICULARS OF CLAIMANT**

1. Full legal name of the Lien or Trust Claimant \_\_\_\_\_ (the "Claimant") (*Full legal name should be the name of the Claimant against Sirius*).

2. Full Mailing address of the claimant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

**B. PROOF OF CLAIM**

**THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:**

1. That I \_\_\_\_\_ (state name, position and title) residing at the \_\_\_\_\_, in the \_\_\_\_\_, in the Province of \_\_\_\_\_, do solemnly declare and say:
2. That I am or am the authorized representative of a Lien Claimant or Trust Claimant against Sirius and have knowledge of all the circumstances connected with the debt hereinafter referred to.
3. That at the date of Bankruptcy of Sirius, by March 4, 2019, was, and still is indebted to the Claimant for materials and services supplied on the following contract or contracts in the amounts noted herein. (*specify the particular contract or contracts on which materials and services were supplied, the amounts owing and, in detail, the amount of material and services supplied to each Construction Project*).

### **C. PARTICULARS OF CLAIM**

Other than as already set out herein, the particulars of the undersigned's total Lien or Trust Claim are attached hereto.

*(Provide all particulars of the claims and supporting documentation that you feel will assist in the determination of your Claim, including: identifying whether your claim is in respect to a Lien or Trust Claim, if a lien has been registered and provide a copy of the lien, amount of your claim, description of transaction(s) or agreement(s) giving rise to the claims; identify each project to which materials and services were provided, amount of invoices, particulars of all credits, discounts, etc.)*

### **D. FILING OF CLAIM**

Proof of Claim **must be received** by 5:00pm. (Eastern Standard Time) on April 26, 2019 or such later date as the Trustee may consent to in writing.

Failure to file your Proof of Claim as directed by the relevant Claims Bar Date will result in your claim being barred and you will be prohibited from making or enforcing a Claim against Sirius.

**This Proof of Claim must be delivered by facsimile transmission, personal delivery, electronic communication or prepaid mail addressed to:**

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

Any such notice or other communication delivered by Claimant shall be deemed to be received upon actual receipt by the Trustee thereof during normal business hours on a Business Day or, if delivered outside of normal business hours on the next Business Day.

I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.

Per \_\_\_\_\_ *[Signature of Claimant]*  
*Authorized Signing Officer*

Per \_\_\_\_\_ *[Signature of Claimant]*  
*Authorized Signing Officer*

IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO

Court File No. 35-2481393

ONTARIO  
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT  
LONDON, ONTARIO

---

ORDER

---

Harrison Pensa <sup>LLP</sup>  
Barristers and Solicitors  
450 Talbot Street, 1<sup>st</sup> Floor  
P.O. Box 3237  
London, Ontario N6A 4K3

Melinda Vine  
LSUC #53612R

Tel: (519) 679-9660  
Fax: (519) 667-3362

Solicitors for the Trustee,  
BDO Canada Limited

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**Court File No. 35-2481393**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT  
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**ORDER**

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**IN THE MATTER OF THE BANKRUPTCY OF  
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**Court File No. 35-2481393**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT  
LONDON, ONTARIO**

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**NOTICE OF MOTION**

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Harrison Pensa LLP  
Barristers and Solicitors  
450 Talbot Street, 1<sup>st</sup> Floor  
P.O. Box 3237  
London, Ontario N6A 4K3

Melinda Vine  
LSUC #53612R

Tel: (519) 679-9660  
Fax: (519) 667-3362

Solicitors for the Trustee,  
BDO Canada Limited





District of ONTARIO  
Division No. 08 - Waterloo  
Court File No. 35-2481393  
Estate No. 35-2481393

ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF  
THE BANKRUPTCY OF

SIRIUS CONCRETE INC.  
OF THE CITY OF WATERLOO,  
IN THE PROVINCE OF ONTARIO

FIRST REPORT TO THE COURT  
SUBMITTED BY BDO CANADA LIMITED

March 11, 2019

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- Appendix B - Advertisement
- Appendix C - Sample Notice of Revision and Disallowance
- Appendix D - Sample Notice of Dispute

**1.1 Introduction**

- 1.1.1 Sirius Concrete Inc. (“**Sirius**” or the “**Company**”) was incorporated on June 13, 2016 in the province of Ontario and has been operating under the Sirius name since its inception. The Company operated out of leased premises located at 589 Colby Drive, Waterloo, Ontario.
- 1.1.2 Sirius was a subcontracting firm that specialized in modern super-structures throughout Southwestern Ontario. Sirius provided insulated concrete forms, pre-cast paneling installation, structural block, and cast in place concrete.
- 1.1.3 Sirius began experiencing financial difficulty in the fourth quarter of 2018 and into 2019. Sirius made a voluntary assignment in bankruptcy on March 4, 2019 and BDO Canada Limited was appointed as the trustee in Bankruptcy (“**BDO**” or the “**Trustee**”)
- 1.1.4 The Trustee is not aware of any creditor with a General Security Agreement registered against Sirius.
- 1.1.5 The first meeting of creditors will be held at the offices of the Trustee on March 20, 2019.
- 1.1.6 Following its appointment the Trustee took possession of the Sirius’ assets, which included vehicles, job trailers, office trailers, concrete buckets, forms, hand tools and accounts receivable. The Trustee has obtained insurance coverage on the assets in its possession.

**1.2 Purpose of Trustee’s First Report**

- 1.2.1 This constitutes the Trustee’s first report (the “**First Report**”) to the Court in this matter and is filed to obtain an order:

Approving the Service Protocol as defined and detailed in the First Report and deeming service in accordance with the Service Protocol as effective and valid;

Approving a claims process for construction lien and trust claims that have been or may be asserted by the sub-trades of Sirius against various properties upon which Sirius worked and accounts receiving due to Sirius (the “**Claims Administration Procedure**”); and,

Directing the customers of Sirius to make payment to the Trustee.

## Accounts Receivable

- 1.2.2 As at the date of bankruptcy the books and records of the Company indicated there were outstanding accounts receivable of \$632,710 and an additional \$758,064 in holdback receivables.
- 1.2.3 There are 124 creditors of Sirius and other interested parties who will require notice of the Claims Administration Procedure.
- 1.2.4 Most of Sirius's customers (the "Customers") have not paid their outstanding balance because there are unpaid Sirius suppliers and sub-trades (the "Claimants") who have completed work in relation to the specific contracts/jobs between Sirius and the Customers. The Customers are concerned they will be required to satisfy the unpaid invoices of the Claimants.
- 1.2.5 Consequently, this may result in payment to the Claimants directly by the Customers from proceeds due to Sirius but not necessarily on a pari passu basis and without notice to all potential claimants. Disputes could lead to prolonged and expensive litigation between each of the Trustee, the Customer and the Claimants.
- 1.2.6 The Trustee believes that a formal claims process is necessary to provide for equitable and cost efficient treatment of all claims. The total outstanding claims for each of Sirius's jobs/contracts has not yet been determined and the Trustee believes that the recommended Claims Administration Procedure discussed below will resolve these issues.

## 2.0

## Claims Administration Procedure

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- 2.1.1 The Construction Act (“CA”) provides for a process whereby a Claimant with a bona fide claim can register a lien on title to preserve its claim. The Claimant has a 45 day period from the last day that services were provided or supplies delivered to register its lien on title to the subject property. Upon expiry of the 45 day period the Claimant loses its ability to register on title and preserve its lien.
- 2.1.2 If a Claimant has lost its ability to file a lien under the CA, the CA provides for a trust claim in favour of creditors for unpaid services rendered or supplies delivered to a specific job/contract against the funds outstanding from the customer for that specific job/contract after payment of any perfected liens under the CA from the customers holdback. The funds due to Sirius from the Customers are imbued with that trust.
- 2.1.3 The CA does not provide a formal process for dealing with the distribution of funds to Claimants who hold a valid trust claim against Sirius and whose lien rights have expired.
- 2.1.4 It would be in the best interest of the estate for the Trustee to establish and implement a formal claims process in order to deal with the collection of receivables and hold backs from Customers and the related amounts due to the Claimants.
- 2.1.5 Accordingly, the Trustee proposes the following Claims Administration Procedure:
- (i) The Trustee will provide a claim package to the Claimants within 7 days of receiving the approval order which will include an Instruction Letter and Proof of Claim substantially in the form as at Appendix “A” to this Report.
  - (ii) The Trustee will publish a Notice to Lien Claimants in the local papers where the contract/job were situated substantially in the form as at Appendix “B” to this Report.
  - (iii) Proof of Claims must be filed with the Trustee not later than April 26, 2019 (“**Claims Bar Date**”). If a Proof of Claim is not filed by the Claims Bar Date the Claimant will be barred from asserting a lien claim or trust claim against the project, the trustee, the owner or Sirius.
  - (iv) The Trustee will review each Proof of Claim within 60 days of the Claims Bar Date and provide written notice of acceptance of the claim or provide a Notice of Revision or Disallowance, substantially in the form at Appendix “C” to this Report.
  - (v) A Claimant who disputes the Notice of Revision or Disallowance may deliver a Notice of Dispute, substantially in the form at Appendix “D” to this Report, to the Trustee within 20 days of receiving the Notice of Revision or Disallowance.
  - (vi) A Notice of Revision or Disallowance dispute will be resolved consensually between the parties or by way of motion to the Ontario Superior Court of Justice.
  - (vii) That all Customers who are indebted to Sirius for services (whether construction or any other services) provided by Sirius for the period prior to March 4, 2019 are hereby directed to make payment of any and all such debts to the Trustee. The amount payable to the Trustee will be the outstanding receivable balance plus the outstanding holdback balance less any proven claim by the Customer for set-off. In order to prove a valid set-off the Customer must file a Proof of Claim with the Trustee by the Claims Bar Date with sufficient supporting documentation to prove the set-off claim. Under no

circumstance will the set-off reduce the amount payable below the lesser of the hold back, as at March 4, 2019, and the amount owing to the Claimants on the contract/job;

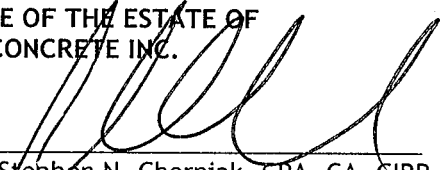
- (viii) That the Trustee will retain, in its bankruptcy estate trust account, the funds received from the Customers relating to the Sirius invoice(s) being paid by the Customers, which funds shall not be distributed by the Trustee to any party without further Order of this Court on notice to all Customers who have made payment to the Trustee; provided, however, that nothing in the Order nor the retention of funds referred to in this paragraph shall have the effect of giving rights to Customers which did not exist up to the filing of this First Report;
- (ix) That no Sirius supplier or sub-contractor with a valid Claim shall have any recourse against the Customers for having made such payment to the Trustee, and all Customers making such payment to the Trustee shall be deemed to have satisfied in full any and all obligations they may have had to Sirius;
- (x) Any excess funds collected from the Customers after the payment of all fees, expenses and claims of the Claimants on a particular job/contract will form part of the general pool of funds that are available to Sirius creditors that did not qualify to file a claim in the Claim Administration Procedure;
- (xi) Any Claimant whose claim is not fully paid through the Claims Administration Procedure will be eligible to file a claim for their shortfall in the general pool of creditors; and,
- (xii) Any Customer who incurs a loss on a Sirius job/contract that was ongoing as at March 4, 2019 is eligible to file a claim for the loss in the general pool of creditors.

3.1.1 We submit this First Report to the Court in support of our Motion respectfully requesting this Court to:

- (i) Approve the Claims Procedure Order authorizing and directing the Trustee to administer the Claims Administration Process.

All of which is respectfully submitted this 11<sup>th</sup> day of March, 2019.

BDO CANADA LIMITED.  
SOLELY IN ITS CAPACITY AS  
TRUSTEE OF THE ESTATE OF  
SIRIUS CONCRETE INC.



Per: Stephen N. Cherniak, CPA, CA, CIRP  
Licensed Insolvency Trustee  
Senior Vice President



# **APPENDIX A**

**INSTRUCTION LETTER FOR THE CLAIMS AGAINST SIRIUS CONCRETE INC.**  
(hereinafter referred to as "Sirius")

A. – Claims Process

By order of the Honourable • Justice • dated • the "**Claims Procedure Order**") the Ontario Superior Court of Justice approved a claims procedure for determining claims against Sirius (the "**Claims Procedure**").

This letter provides instructions for responding to or completing the Proof of Claim enclosed hereto. Defined terms which are not defined herein shall have the meaning ascribed thereto in the Claims Procedure Order. A copy of the Claims Procedure Order can be obtained from the Trustee's website at <http://extranets.bdo.ca/siriusconcreteinc>.

Please note that this letter is intended as a guide only and that in the event of any inconsistency between the terms of this letter and the terms of the Claims Procedure Order, the terms of the Claims Procedure Order will govern.

The Claims Procedure is intended for any Person asserting a Lien or Trust Claim against Sirius. If you have any questions regarding the Claims Procedure, please contact BDO Canada Limited, in its capacity the Trustee of the Estate of Sirius (the "**Trustee**") at the address provided below.

All enquiries with respect to the Claims Procedure should be addressed to:

The Trustee  
c.o. BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

with a copy to:

HARRISON PENZA LLP  
Barristers & Solicitors

Attention: Melinda Vine  
450 Talbot St.  
Toronto ON M3C 3E9  
Tel: 519-661-6705  
Email: [mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

B. – For Creditors Submitting a Proof of Claim

If you supplied materials and/or services to Sirius in respect of a the construction project Sirius was involved in prior to March 4, 2019, would you please complete the Proof of Claim enclosed and attach it to your account showing full particulars of the materials and/or services supplied. After you have had the Proof of Claim sworn, would you please return it to the undersigned at the address above or via email to [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca). Please do not include your account with respect to other materials and or services that you may have rendered to Sirius on other projects, and for which you have not received payment.

The purpose of submitting a Proof of Claim is to determine whether or not you have a claim under the *Construction Act R.S.O, 1990. C. 30* ("CA") and, if you do, the extent of such claim. Please cooperate by returning your claim form promptly.

Proofs of Claim against Sirius must be received by 5:00p.m. (Eastern Standard Time) on **April 26, 2019** or such later date as the Trustee may consent to in writing.

Additional Proof of Claim forms can be found on the Trustee's website at [www.bdo.ca](http://www.bdo.ca) or obtained by contacting the Trustee at the address indicated above and providing particulars us to your name, address, facsimile number and email address. Once the Trustee has this information, you will receive, as soon as practicable, additional Proof of Claim forms.

**Failure to file your Proof of Claim so that it is received by the Trustee by the relevant Claims Bar Date will result in *your claim* being barred and you will be prevented from making or enforcing a Claim against Sirius. In addition. you shall not be entitled to further notice in and shall not be entitled to participate as a creditor in these proceedings.**

**PROOF OF CLAIM  
FOR THE CLAIMS AGAINST SIRIUS CONCRETE INC.  
(hereinafter referred to as "Sirius")**

**Please read the enclosed Instruction Letter carefully prior to completing this Proof of Claim.** Defined terms which are not defined herein shall have the meaning ascribed thereto in the Instruction Letter.

**A. PARTICULARS OF CLAIMANT**

1. Full legal name of the Lien or Trust Claimant \_\_\_\_\_ (the "Claimant") *(Full legal name should be the name of the Claimant against Sirius).*

2. Full Mailing address of the claimant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Telephone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

**B. PROOF OF CLAIM**

**THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:**

1. That I \_\_\_\_\_ (state name, position and title) residing at the \_\_\_\_\_, in the \_\_\_\_\_, in the Province of \_\_\_\_\_, do solemnly declare and say:
2. That I am or am the authorized representative of a Lien Claimant or Trust Claimant against Sirius and have knowledge of all the circumstances connected with the debt hereinafter referred to.
3. That at the date of Bankruptcy of Sirius, by March 4, 2019, was, and still is indebted to the Claimant for materials and services supplied on the following contract or contracts in the amounts noted herein. *(specify the particular contract or contracts on which materials and services were supplied, the amounts owing and, in detail, the amount of material and services supplied to each Construction Project).*

**C. PARTICULARS OF CLAIM**

Other than as already set out herein, the particulars of the undersigned's total Lien or Trust Claim are attached hereto.

*(Provide all particulars of the claims and supporting documentation that you feel will assist in the determination of your Claim, including: identifying whether your claim is in respect to a Lien or Trust Claim, if a lien has been registered and provide a copy of the lien, amount of your claim, description of transaction(s) or agreement(s) giving rise to the claims; identify each project to which materials and services were provided, amount of invoices, particulars of all credits, discounts, etc.)*

**D. FILING OF CLAIM**

Proof of Claim **must be received** by 5:00pm. (Eastern Standard Time) on April 26, 2019 or such later date as the Trustee may consent to in writing.

Failure to file your Proof of Claim as directed by the relevant Claims Bar Date will result in your claim being barred and you will be prohibited from making or enforcing a Claim against Sirius.

**This Proof of Claim must be delivered by facsimile transmission, personal delivery, electronic communication or prepaid mail addressed to:**

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

Any such notice or other communication delivered by Claimant shall be deemed to be received upon actual receipt by the Trustee thereof during normal business hours on a Business Day or, if delivered outside of normal business hours on the next Business Day.

I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.

Per \_\_\_\_\_ *[Signature of Claimant]*  
*Authorized Signing Officer*

Per \_\_\_\_\_ *[Signature of Claimant]*  
*Authorized Signing Officer*

# **APPENDIX B**

**NOTICE TO LIEN AND TRUST CLAIMANTS OF SIRIUS CONCRETE INC.**  
(hereinafter referred to as "Sirius")

**RE: NOTICE OF CLAIMS PROCEDURE FOR SIRIUS**

PLEASE TAKE NOTICE that this notice is being published pursuant to an Order of the Honourable • of the *Ontario Superior Court of Justice* dated March \_\_\_\_, 2019 (the "**Claims Procedure Order**"). Any person who believes that it has a Claim against Sirius should send a Proof of Claim to BDO Canada Limited in its capacity as Trustee of the Estate of Sirius Concrete Inc (the "Trustee") to be received by 5:00 pm (Eastern Standard Time) on April 26, 2019 or such other date as the Trustee and the Claimant agree to in writing (the "**Claims Bar Date**").

**CLAIMS WHICH ARE NOT RECEIVED BY THE CLAIMS BAR DATE WILL BE FOREVER BARRED AND EXTINGUISHED.**

Claimants who require a Proof of Claim form should contact the Trustee (**Attention: Robyn Duwyn, tel: 519-570-4000 x5881, fax: 519-576-5227, or Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)**) to obtain a Claims Package. Additional Proof of Claim forms can be found on the Trustee's website at [www.bdo.ca](http://www.bdo.ca).

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.



# **APPENDIX C**

**NOTICE OF REVISION OR DISALLOWANCE OF CLAIM AGAINST SIRIUS CONCRETE INC.**  
(hereinafter referred to as "Sirius")

NAME OF CLAIMANT: \_\_\_\_\_

NAME OF OWNER: \_\_\_\_\_

NAME OF CONSTRUCTION PROJECT: \_\_\_\_\_

Pursuant to the Order of the Honourable Justice \_\_\_\_\_, dated March \_\_\_\_, 2019, BDO Canada Limited in its capacity as Trustee of the Estate of Sirius and Claims Administrator of Sirius in respect of the Construction Projects, hereby gives you notice that it has reviewed your Proof of Claim and has revised your Claim as follows:

**Lien Claim**

Construction Project	Lien Claim Accepted	Lien Claim Disputed
<b>Total Lien Claim</b>		

**Trust Claim**

Construction Project	Trust Claim Accepted	Trust Claim Disputed
<b>Total Lien Claim</b>		

*Reasons for Revision or Disallowance:*

If you do not agree with this Notice of Revision or Disallowance, please take notice of the following:

1. If you intend to dispute a Notice of Revision or Disallowance you must, by 5:00 p.m. (Eastern Standard Time) on the day which is twenty (20) days after the date of this Notice or Revision or Disallowance, deliver a Notice of Dispute by personal service, mail or courier to the address indicated herein. The form of Notice of Dispute k attached to this Notice.

2. If you do not deliver a Notice of Dispute, the value or your Claim shall be deemed to be as set out in this Notice or Revision or Disallowance.

*Address for Service of Dispute Notices:*

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

**IF YOU FAIL TO RESPOND AS REQUIRED HEREIN WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019.

**BDO CANADA LIMITED**

In its capacity as Trustee of the Estate of Sirius Concrete Inc.

Per: \_\_\_\_\_

Encl.

# **APPENDIX D**

**NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM AGAINST SIRIUS  
CONCRETE INC.**  
(hereinafter referred to as "Sirius")

NAME OF CLAIMANT: \_\_\_\_\_

NAME OF OWNER: \_\_\_\_\_

NAME OF CONSTRUCTION PROJECT: \_\_\_\_\_

Pursuant to the Order of the Honourable Justice \_\_\_\_\_, dated March \_\_\_\_\_, 2019, we hereby give you notice of our intention to dispute the Notice of Revision or Disallowance dated \_\_\_\_\_ issued by BDO Canada Limited in its capacity as Claims Administrator of Sirius in respect of our Claim.

**Lien Claim**

Construction Project	Lien Claim Accepted	Lien Claim Disputed
<b>Total Lien Claim</b>		

**Trust Claim**

Construction Project	Trust Claim Accepted	Trust Claim Disputed
<b>Total Lien Claim</b>		

*Reasons for Dispute* (attach additional sheet and copies of all supporting documents if necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Signature of Individual* (I have authority to bind the Corporation)

---

Date: \_\_\_\_\_

Please Print name: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

Facsimile Number: (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_

---

**THIS FORM AND SUPPORTING DOCUMENTATION TO BE RETURNED BY FACSIMILE TRANSMISSION, PERSONAL DELIVERY, ELECTRONIC COMMUNICATION OR PREPAID MAIL TO THE ADDRESS INDICATED HEREIN AND TO BE RECEIVED BY 5:00 P.M. (EASTERN STANDARD TIME) ON THE DAY WHICH IS TWENTY (20) CALENDAR DAYS AFTER TILE DATE OF THE NOTICE OF REVISION OR DISALLOWANCE. OR SUCH LATER DATE AS THE TRUSTEE AND THE CREDITOR MAY AGREE IN WRITING OR THE COURT MAY ORDER.**

*Address for Service of Dispute Notices:*

BDO CANADA LIMITED  
Trustee of the Estate of Sirius Concrete Inc.

Attention: Robyn Duwyn  
51 Breithaupt Street, Suite 300  
Kitchener, ON N2H 5G5  
Tel: 519-570-4000 Ext 5881  
Fax: 519-576-5227  
Email: [rduwyn@bdo.ca](mailto:rduwyn@bdo.ca)

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**Court File No. 35-2481393**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT  
LONDON, ONTARIO**

---

**FIRST REPORT**

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BDO Canada Limited

**IN THE MATTER OF THE BANKRUPTCY OF  
SIRIUS CONCRETE INC. OF THE CITY OF  
WATERLOO, IN THE PROVINCE OF ONTARIO**

**Court File No. 35-2481393**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT  
LONDON, ONTARIO**

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**MOTION RECORD**

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