# ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

#### IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c. C-43, AS AMENDED

AND IN THE MATTER OF A PROPOSED COMPROMISE AND ARRANGEMENT IN RESPECT OF TAHERA DIAMOND CORPORATION and BENACHEE RESOURCES INC.

**Applicants** 

## FOURTH REPORT TO THE COURT OF A. FARBER & PARTNERS INC. AS MONITOR

April 24, 2009

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# TAHERA DIAMOND CORPORATION AND BENACHEE RESOURCES INC.

FOURTH REPORT TO THE COURT OF A. FARBER & PARTNERS INC. AS MONITOR

**April 24, 2009** 

### ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF

TAHERA DIAMOND CORPORATION BENACHEE RESOURCES INC.

## NEW MONITOR'S FOURTH REPORT TO THE COURT SUBMITTED BY A. FARBER & PARTNERS INC. IN ITS CAPACITY AS MONITOR

#### INTRODUCTION

- 1. On January 16, 2008, Tahera Diamond Corporation ("Tahera") and its wholly owned subsidiary, Benachee Resources Inc. ("Benachee") (collectively, referred to herein as the "Applicants" or the "Company"), made an application under the Companies' Creditors Arrangement Act (the "CCAA") and an initial order (the "Initial Order") was granted by the Honourable Mr. Justice Spence of the Ontario Superior Court of Justice (Commercial List) (the "Court") providing for, inter alia, a stay of proceedings against the Company until February 14, 2008 (the "Stay Period") and appointing PricewaterhouseCoopers Inc. ("PWC") as monitor. By Order dated December 12, 2008 (the "December 12 Order") the Court, inter alia, appointed A. Farber & Partners Inc. as Monitor ("Farber" or the "Monitor") in place of PWC. The proceedings commenced by the Company under the CCAA will be referred to herein as the "CCAA Proceedings".
- 2. The Stay Period has been extended on a number of occasions since the date of the Initial Order and presently expires May 29, 2009.

- 3. The former Monitor, PWC, filed its seventh report (the "Seventh Report") with this Honourable Court on September 26, 2008, which, among other things, described the Company's progress with respect to the development of a plan of arrangement pursuant to the CCAA.
- 4. The former Monitor, PWC, filed its eighth report (the "Eighth Report") with this Honourable Court on November 26, 2008, which, among other things, informed the Court of the termination of the Plan Sponsorship Agreement by the Plan Sponsor (both as defined in the Monitor's Seventh Report), the Company's consequent inability to complete a plan of arrangement under the CCAA Proceedings (the "Plan"), and the Company's diminishing cash reserves. These developments resulted in the Company and the Monitor engaging in discussions with Department of Indian and Northern Affairs Canada ("INAC") regarding the possibility of INAC's Intervention (as defined in the Eighth Report) at the Company's Jericho mine site (the "Jericho Mine"). In the Eighth Report, PWC also advised the Court of the assignment by Laurelton Diamonds Inc. (together with Tiffany & Co.) (the "Tiffany Debt and Security") of its debt and security in the Applicants to CAZ Petroleum Inc. ("CAZ").
- 5. The December 12 Order among other matters provides: (i) that commencing December 13, 2008 at 12:01 a.m. the Crown, represented by INAC and its agent Deloitte & Touche Inc., are authorized, pursuant to an Intervention for the ongoing care and maintenance of the Jericho Mine site, to utilize any of the Applicants' supplies, chattels, machinery or equipment including all fuel or supplies at no cost, pending further Order of the Court; (ii) for the appointment of Farber as Monitor in place of PWC; (iii) for the appointment of 2192640 Ontario Inc. (Mr. Andrew Gottwald) as Chief Restructuring Officer ("CRO"); (iv) the Applicant's retention of Champco Capital Corp. ("Champco") as advisor for the purpose of assisting the CRO and the Applicants in the performance of their duties and the consideration of any plan of arrangement, to the extent needed; and (v) for the extension of the Stay Period to January 23, 2009.

- 6. On January 23, 2009, the Court granted an Order (the "January 23 Order") for the extension of the Stay Period to February 27, 2009 while the Company and its advisors continued to explore strategic alternatives not explored to date with respect to formulating a plan of arrangement, including dealing with proposals to utilize non-strategic assets of the Company.
- 7. On February 26, 2009, the Court granted an Order ("February 26 Order") for, among other things, the extension of the Stay Period to March 6, 2009 to allow more time for the Company and its advisors to negotiate with potential bidders, who had provided letters of intent, for the purpose of reaching an acceptable letter of intent ("LOI"), as well as to arrange for additional financing for the CCAA Proceeding.
- 8. On March 6, 2009 the Court granted an Order (the "March 6 Order") amongst other matters approving a Final Letter of Intent ("Final LOI") with AG Growth Income Fund (the "AG Fund") (originally ordered sealed but now able to be disclosed) as well as an interim DIP financing loan ("AG DIP Loan"), in an amount sufficient to allow time for due diligence to be completed under the Final LOI, a definitive agreement be entered into, and thereafter provide time to close a transaction. In addition, the March 6 Order extended the Stay Period to May 29, 2009.
- 9. Since around December 12, 2008, the Company, CRO, Champco and their advisors have been involved in what is described as the Current Marketing Process regarding efforts to seek offers to sell or otherwise realize value from the assets of the Company. This followed what is defined in prior motion materials as the First Marketing Process which ran from around February to November 2008, which did not culminate in any transaction
- 10. On April 19, 2009 the Applicants and their advisors confirmed that they had entered into a definitive agreement with AG Fund, hereinafter referred to as the

"CBCA Arrangement Agreement". The transaction contemplated in the CBCA Arrangement Agreement will be referred to herein as the "Transaction".

#### PURPOSE OF REPORT

- 11. The purpose of this, the Fourth Report to the Court of A. Farber & Partners Inc. (the "Fourth Report"), is to inform the Court of the following:
  - Efforts of the Applicants, their advisors and the AG Fund to negotiate and enter into a definitive agreement, the CBCA Arrangement Agreement, consistent with the terms and conditions set out in the Final LOI;
  - The Monitor's recommendation of the CBCA Arrangement Agreement and the Transaction from the perspective of the CCAA Applicants and their stakeholders;
  - The Company's receipts and disbursements for the period March 1 to April 11, 2009; and
  - The Company's cash flow forecast for the period from April 12 to May 30, 2009 and adequacy of funding to allow time for the Transaction to be progressed towards a closing.

#### TERMS OF REFERENCE

12. In preparing this Fourth Report, the Monitor has relied upon unaudited, internally prepared financial information, the Applicant's records and discussions with management of the Applicant. The Monitor has not performed an audit, review or other verification of such other information. An examination of the financial forecast as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information relied upon in this report is based on the Company's assumptions regarding future events and actual results achieved will vary from this information and the variations may be material. Unless otherwise stated, dollars referenced in these materials are in Canadian funds.

#### DEFINITIVE AGREEMENT - CBCA ARRANGEMENT AGREEMENT

- 13. As previously reported, the finite cash resources and liquidity of the Company, the life blood of any restructuring, were constraining factors in any effort to provide time to effect a transaction related to realization of non-strategic assets, to in turn secure additional financing to provide more time to fully explore the ultimate goal of restarting of the Jericho Mine. A restart of the Jericho Mine, by way of a refinancing and recapitalization or sale or combination thereof, would prospectively be for the benefit of all stakeholders, including the creditors as it may permit the Company to put forward a CCAA Plan.
- 14. The Company summarizes this approach in the form of two goals: (i) the first to close the transaction contemplated by the Final LOI, through realization of non strategic assets, and coincident with and as part of a transaction, securing sufficient and immediate financing to allow the Final LOI transaction to close; and (ii) second to secure additional financing to permit a restart of the Jericho Mine.
- 15. As more fully reported in the motion materials filed by the Applicants, and in particular the Affidavit of the Andrew Gottwald dated April 20, 2009 (the "April 20 Gottwald Affidavit") as part of the first goal, an important milestone has recently been achieved in the form of a definitive agreement having been entered into, consistent with the terms and conditions set out in the Final LOI. Under the Final LOI, due diligence was to be completed by March 31, 2009. That deadline was extended by agreement of the parties to April 15, 2009 to allow AG Fund more time to complete due diligence and the parties to negotiate and finalize a definitive agreement. This culminated in the parties entering into the CBCA Arrangement Agreement on April 19, 2009. As a result of the extension of the due diligence deadline, the outside target date for closing the Transaction was extended from May 31 to June 30, 2009 and the AG DIP Loan commitment was increased from \$500,000 to \$700,000.

- 16. Although the structure of the Transaction contemplated by the CBCA Arrangement Agreement is somewhat complex in nature, the April 20 Gottwald Affidavit explains the Transaction in a coherent and satisfactory manner.
- 17. The Transaction includes a requirement for Court approval in this CCAA proceeding, in so far as the Transaction relates to the Applicants, and a CBCA plan of arrangement, in so far as the Transaction relates to the AG Fund and its subsidiaries.
- 18. A key term and condition negotiated by the Applicants and its advisors, is that where there normally would have been a prohibition around dealing with matters deemed out of the ordinary course in a transaction of this nature, the Applicants are in this instances able to continue dealing with parties interested in restarting the Jericho Mine, while the Transaction is finalized.
- 19. The CBCA Arrangement Agreement has a number of conditions precedent, in addition to Court approval in this CCAA proceeding, including the AG Fund's requirements to obtain an interim order establishing a vote of its security holders, to obtain the necessary approvals from such security holders at a meeting and to obtain a final order approving the CBCA Plan. The Monitor understands that AG Fund intends to commence the process of satisfying these conditions immediately and to that end, intends to bring an Application under the CBCA after the return of the motion in the CCAA proceedings.
- 20. The Applicants' legal and financial advisors are satisfied that the Transaction is effective to provide the benefits anticipated by all parties. The AG Fund is hopeful that the necessary approvals will be obtained on its side of the Transaction.
- 21. The Monitor and its legal counsel have reviewed the CBCA Arrangement Agreement and discussed its terms with the Applicants and CAZ and their advisors regarding the structure, terms and conditions of the Transaction and its

impact on Tahera and Benachee's creditors. Based upon its review and these discussions, the Monitor is satisfied that the Transaction substantially conforms with the Final LOI terms as approved in the March 6 Order and does not appear to be prejudicial to any of the creditors of the Company. Further, the Transaction and corresponding funding commitments provide much needed funding to the Applicants to progress towards closing the Transaction over the next few months, combined with providing funding to keep alive the prospect of restarting the Jericho Mine, the second goal profiled above.

#### **DIP LOANS AND FUNDING**

- 22. A critical component of the Final LOI was the financing component. AG Fund agreed to provide immediate DIP Financing to Tahera on a priority basis. Specifically AG Fund agreed to cause a subsidiary to loan to Tahera:
  - \$100,000 upon signing the Final LOI;
  - \$100,000 when the due diligence condition was satisfied and a definitive agreement signed; and
  - \$100,000 every two weeks thereafter up to a maximum amount of \$500,000.
- 23. The financing component of the Final LOI was of critical importance to the Applicants and was a significant factor in the decision to enter into the Final LOI with the AG Fund as opposed to other interested parties.
- 24. As a result of the extension of the due diligence timeline referred to above and resulting delay, further costs are required to be funded prior to completion of the Transaction. To address this factor, the Company and its advisors successfully negotiated an increase of the AG Fund DIP Loan from \$500,000 to \$700,000. All other terms of the AG DIP Loan remain the same, as that approved in the March 6 Order.

25. Related to the AG DIP Loan under the Final LOI, was a further DIP Loan Commitment from CAZ (the "CAZ DIP Loan"), which contemplates additional financing of up to \$5 million on a priority basis, which was also approved in the March 6 Order. Funding by CAZ under the CAZ DIP Loan commences upon closing of the Transaction with AG Fund, with CAZ acquiring the AG DIP Loan (projected to be \$700,000 at closing), and directing cash proceeds received from the AG transactions to settle this loan. CAZ has advised that it intends thereafter to make further advances to Tahera to advance the process of restarting the Jericho Mine.

## RECEIPTS & DISBURSEMENTS FOR THE PERIOD FROM MARCH 1 TO APRIL 11, 2009

26. The Company's actual cash flows for the period from March 1 to April 11, 2009 (the "Period") compared to the February 28, 2009 Forecast (the "February 28 Forecast") (per Appendix B to the New Monitor's Third Report to the Court) are summarized as follows (all amounts in Canadian Dollars unless otherwise noted):

	Cumulative for the Period from March 1, 2009 to April 11, 2009		
11 12 12 12 12 12 12 12 12 12 12 12 12 1	Actual	Forecast	Variance
Receipts			
Other	100,000	200,000	(100,000)
Total Reccipts	100,000	200,000	(100,000)
Disbursements			
Overhead	10,883	340,237	329,354
Total Jericho Operation	10,883	340,237	329,354
Corporate Costs and Other	78,726	51,978	(26,748)
KERP Payments	25,000	25,000	-
Legal and Professional Fees	124,849	248,712	123,863
Total Disbursements	239,457	665,927	426,469
Net Cash Flow	(139,457)	(465,927)	326,469
Cash Segregated for Lien Holders	2,019,845	2,019,845	<u> </u>
Opening Cash	505,179	505,179	-
Ending Cash	2,385,566	2,059,097	326,469
Add: Cash on Deposit in Monitor's Trust Account	-		
Add: Cash Held for Benefit of Lien Holders (Including Interest)	(2,019,845)	(2,019,845)	
Adjusted Ending Cash	365,722	39,253	326,469

Effective April 11, 2009 the cash held by the Company totaled \$365,722 compared to forecast of \$39,253. This variance is primarily attributable to timing of payment of post filing obligations and the extension to the Final LOI due diligence deadline, which delayed receipt of the next \$100,000 tranche under the AIG DIP Loan. With a definitive agreement now finalized, \$100,000 was deposited on April 20, 2009 and post filing accruals are now being paid by the Company.

The delay in completing the due diligence will result in extra costs prior to completion of the Transaction. As a consequence, the AIG DIP Loan has been increased from \$500,000 to \$700,000. Of that amount, \$200,000 was advanced as of April 20, 2009.

#### FORECAST CASH FLOW - APRIL 12 TO MAY 30, 2009

27. The Company has prepared a revised cash flow forecast for the period April 12 to May 30, 2009 (the "April 12 Forecast") which is attached hereto as Appendix A. The April 12 Forecast shows an opening cash position of \$365,722 with a projected balance of \$4,462 at May 30, 2009. During this time two further \$100,000 tranches of the AG DIP Loan are forecast to provide total advances under the AG DIP facility of \$400,000. Depending on the timing of closing the Transaction, remaining advances totaling \$300,000 would be provided through June 2009 to finance the Company and assist with the closing of the Transaction. This will see the AG DIP Facility fully drawn in the amount of \$700,000 by the end of June 2009.

#### DEBT AND SECURITY

- 28. The Transaction contemplates, in effect, a partial reduction of CAZ's secured debt in the amount of \$13 million (in cash and securities).
- 29. As reported in the Third Report of Farber, as Monitor, PWC previously obtained legal opinions with respect to validity and enforceability of the Tiffany Debt and

Security, now held by CAZ. With respect to the Province of Ontario, Bennett Jones LLP opined that the security is valid, binding and enforceable against the Company, subject to the customary assumptions and qualifications. With respect to the Territory of Nunavut, Dubuc Osland LLP provided a legal opinion to PWC dated April 14, 2008, that the Tiffany Debt and Security is valid and enforceable in that territory subject to customary assumptions and qualifications. The Monitor has obtained the consent of Bennett Jones and of Dubuc Osland to rely on the opinions previously provided to PWC. The Monitor has also received confirmation from Tiffany's counsel that its entire debt and security has been assigned to CAZ. The Monitor is advised that the Company is indebted to CAZ in an amount exceeding \$50 million.

30. Attached hereto and marked as Appendix B are the results PPSA searches conducted in respect of the Applicants on April 24, 2009.

#### CONCLUSION AND RECOMMENDATIONS

- 31. Based on its review of the CBCA Arrangement Agreement with the Company and CAZ and its advisors, the Monitor is of the view that the CBCA Arrangement substantially conforms to the Final LOI approved on March 6, 2009, does not appear to prejudice the creditors of the Applicants, and provides time and funding to allow for the Transaction to close. The Transaction also enhances the prospect of restarting the Jericho Mine, through provision of DIP loans, as well as not prohibiting the Applicant and advisors from continuing to deal with parties interested in restarting the mine.
- 32. Having regard to the above, the Monitor recommends this Honourable Court approve the CBCA Arrangement Agreement and the Transaction contemplated therein.

The Monitor respectfully submits to the Court this, its Fourth Report.

Dated this 24th day of April, 2009.

A. Farber & Partners Inc. in its capacity as Monitor of Tahera Diamond Corporation and Benachee Resources Inc.

A. Fabor & Pontrus Inz.

# Appendix A

TAHERA CASH FLOW PROJECTION - APRIL 12 TO MAY 30, 2009	Current Budget - Wheek 1 0
TAHERA CASH FL	

	Week from Filing Days per week	- 66 7	2 67 7	ი 88 ~	4 69 6	5 02 6	9 77 0	7 72
Account Description	Total	12-Apr-09 18-Apr-09	19-Apr-09 25-Apr-09	26-Apr-09 2-May-09	3-May-09 9-May-09	10-May-09 16-May-09	17-May-09 23-May-09	24-May-09
CASH INFLOWS Other Cash Flow	334,125 334,125	, 1	134,125 134,125	, 1	100,000 100,000	, ,	100,000	, ,
TOTAL CASH OUTFLOW	695,385	131,393	136,750	50,963	12,638	27,863	12,638	323,142
TOTAL JERICHO OPERATION Regulatory Other Overhead	329,354 329,354		85,000 85,000					244,354 244,354
CORPORATE COSTS	139,908	53.658	3 500	30.250	4	, I		
Labour	50,000	12,500		12,500	06 <b>2</b> ,r	15,750	1,250	34,250
Office & General	50,000	12,500	1	12,500	ı	12,500	1 1	12,500
	46,300	32,550	3,500	1,250	1,250	1,250	1,250	5,250
Rent / Storage	11,500	7,500	20,1	7	nez -	0¢7 ,	250	250
Orner Regulatory	30,800	24,800	1,000	1,000	1,000	1,000	1,000	4,000
Other Expenses	33,500	2,000	t :	1,750	ì		•	1,750
Vancouver Rent	15,500	i i		7.750	ı :	2,000		14,750
Jericho Project Review	10,000	ŧ	r	5.000	<b>;</b> (	1 1	ı	7,750
Other	8,000	2,000	ż	2,000	ı	2,000	r ı	2,000
INTEREST (INCOME) / EXPENSE	(21,847)	(11,047)	(1,800)	(1,800)	(1,800)	(1,800)	(1,800)	(1,800)
PROFESSIONAL FEES	229,500	82,000	47,500	20,000	12,500	12,500	12.500	42.500
Legal Costs	42,500	5,000	7,500	10,000	2,500	2,500	2,500	12,500
Advisors	45,000	15,000	35,000 5,000	5,000 5,000	5,000 5,000	5,000	5,000	25,000
KERP PAYMENTS	•	•	,	i	•	•	. 1	
GST	18,470	6,783	2,550	2,513	688	1,413	688	3,838
NET CASH FLOW	(361,260)	(131,393)	(2,625)	(50,963)	87,363	(27,863)	87,363	(323,142)
OPENING CASH	365,722	365,722	234,329	231,704	180,741	268,104	240,241	327,604
ENDING CASH	4,462	234,329	231,704	180,741	268,104	240,241	327,604	4,462
CUMULATIVE CASH FLOW	(361,260)	(131,393)	(134,018)	(184,981)	(97,618)	(125,481)	(38,118)	(361,260)

# Appendix B

RUN NUMBER : 113 RUN DATE : 2009/04/23 ID : 20090423121338.21

# PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

CERTIFICATE

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REPORT : PSSR060 PAGE : 1

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

: BUSINESS DEBTOR TYPE OF SEARCH

\* BENACHEE RESOURCES INC. SEARCH CONDUCTED ON

FILE CURRENCY

: 22APR 2009

FAMILY (IES). ๓ PAGE(S), 1 BNQUIRY NUMBER 20090423121338.21 CONTAINS

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME RECISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

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REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÜRETES MOBILIÈRES

PASKEN MARTINEAU DUMOULIN LLP

SHELDON/SBROTMAN 66 WELLINGTON ST. W. TORONTO ON MSK IN6

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RUN DATE: 2009/04/23 ID: 20090423121338.21

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

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REPORT : PSSR060 PAGE : 2

TYPE OF SEARCH # BUSINESS DEBTOR SEARCH CONDUCATED ON # BENACHEE RESOURCES INC. FIRS CORMENCY 22APR 2009

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50	DATE OF PERTE	FIRST GIVEN NAME INTITAL SCROWNE
90	Parents.	BENACHEE RESOURCES INC.
07	ALIDARS	PO BOX 1020, TDC POSTAL STATION 77 KING TORONTO ON MAK 1P2
90		AG GROWTH INCOME FUND
60	ADDRESS	1301 KENASTON BLVD. MINNIPEG MB R3P 2P2
10	COLLANDERAL CLASSIFICATION CONSUMER COOLS LINFRICORY 600: PHEN	PENNIC ACCOUNTS OTHER ENGINEED ANOTHER BATTERING OF MAINTERN DATE
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1400 350 - 7 AVENUE SW

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\*1. FOR FIRTERS INFORMATION, CONTACT THE SECTION FAX.



RUN DATE: 2009/04/23 ID: 20090423121338.21

PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

: PSSR060 REPORT

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RUN NUMBER: 113 RUN DATE: 2009/04/23 ID: 20090423121338.21

PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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REPORT : PSSR060 PAGE : 4 5930)

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BUSINESS DEBTOR BENACHEE RESOURCES INC. 22APR 2009

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RUN NUMBER: 113 RUN DATE: 2009/04/23 ID: 20090423121338.21

PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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REPORT : PSSR060 PAGE : 5

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TYPE OF BEARGH \* BUSINESS DEBTOR SEARCH CONDUCTED ON : BENACHER RESOURCES INC. FILE CLEARINGS : 22APR 2009

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X X X X X TNINI GOODMANS LLP (S. KRESAK/HDW) BENACHEE RESOURCES INC. LAURELTON DIAMONDS INC. 2400 250 YONGE STREET MODEL 600 MADISON AVENUE FIRST GIVEN NAME PERST CEVEN NAME CAUTION PAGE TOTAL ADDRESS AMMRESS BUSTNESS NAME SSANCOR BUSINESS NAME ADDRESS COLLINERAL CUMES IPLOSTICO DATE OF BIRTH DATE OF STRIE SEAT MAKE THE TAXE LEGIT AS DEEN CLATHAM 615141936 GENERAL DESCRIPTION RECIETERING COLLANDRAL. DRETOR NAME OF THE PERSON NAME OF THE P ACENT MOTOR 00 5 90 90 9 93 10 127 13

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RUN DATE: 2009/04/23 ID: 20090423121338.21

IYPE OF SEARCH \* BUSINESS DEBTOR SEARCH COMDUCATO ON : BENACHEE RESOURCES INC. FILE CORRENCY : 22APR 2009

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PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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: PSSR060 REPORT

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THER LINGUISHE AMOUNT OF MATURITY OF MATURITY DATE. INC., AND BENACHEE RESOURCES INC., AS AMENDED, MODIFIED, RESTATED OR REPLACED FROM TIME TO TIME (THE "CREDIT AGREEMENT"), INCLUDING ALL PERSONAL PROPERTY LOCATED ON OR RELATING TO THE REAL PROPERTY LOCATED 20050516 1225 1590 8480 STRVAME SURNAME BORM : C. FINANCING STATRHENT / CLAIM BOR LIERN INTUITAL INITIAL CONSTRUCT CONSTRUCT FOUNDARY FOUNDARY ACCOUNTS OTHER INCLINED MODE EIRET GIVEN NAME FIRST CIVEN NAME CRUTILON PAGE TOTAL ELIEN CLADANT ADDRESS BUSINESS NAME ADDRESS BUSINESS NAME ADDRESS COLLEATERAL CLASSIFICATION DATE OF BIRTH DATE OF SERTE KEKR BAKE 007 FILE MUMBER 615141936 RECISTORING COLLANSPAL DESCRIPTION DESTOR GENERAL DEBTOR ROBIN VEHICLE MARE

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\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY \*\*\*\*

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RUN DATE : 2009/04/23 ID : 20090423121338.21 RUN NUMBER : 113

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

CERTIFICATE

BUSINESS DEBTOR BENACHEE RESOURCES INC. 22APR 2009

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: PSSR060 5933) REPORT

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> Ontario

RUN NUMBER: 113 RUN DATE: 2009/04/23 ID: 20090423121338.21

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PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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REPORT : PSSR060

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BUSINESS DEBTOR BENACHEE RESOURCES INC. 22APR 2009

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: PSSR060 5935) REPORT

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\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECTIRED PRITY. \*\*\*

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RUN DATE : 2009/04/23 ID : 20090423121338.21 RUN NUMBER : 113

TYPE OF SBARCH
SEARCH CONDUCTED OR BENACHER RESOURCES INC.
FILE CHERENCY : 22APR 2009

PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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REPORT : PSSR060

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PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

CERTIFICATE

REPORT : PSSR060 PAGE : 11 ( 5937)

TYPE OF SEARCH : BUSINESS DEBTOR SEARCH CONDUCTED ON : BENACHEE RESOURCES INC. FILE CURRENCY : 22APR 2009

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

REGISTRATION NUMBER REGISTRATION NUMBER REGISTRATION NUMBER 20090306 1347 1590 2970 20060207 1450 1530 3766 20050516 1225 1590 8480 REGISTRATION NUMBER FILE NUMBER 651898656 622568655 615141936

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4 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE

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REPORT : PSSR060 PAGE

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THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

: BUSINESS DEBTOR TYPE OF SEARCH

: TAHERA DIAMOND CORPORATION SEARCH CONDUCTED ON

FILE CURRENCY

: 22APR 2009

FAMILY (IES). 10 PAGE(S), 33 ENQUIRY NUMBER 20090423120930.15 CONTAINS

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

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PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÜHETES MOBILIÉRES

FASKEN MARTINEAU DUMOULIN LLP

SHELDON/SBROTMAN 66 WELLINGTON ST. W. TORONTO ON MSK 1N6

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PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
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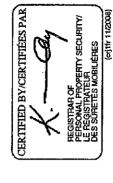
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REPORT : PSSR060 PAGE : 2

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TYPE OF SEARCH E BUSINESS DEBTOR
SEARCH CONDUCTED DW : TAHERA DIAMOND CORPORATION
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BURNET, DUCKWORTH & PALMER LLP

1400 350 - 7 AVENUE SW

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RUN DATE : 2009/04/23 ID : 20090423120930.15 RUN NUMBER : 113

PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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REPORT

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> SEARCH COMPGINED ON \* TAHERA DIAMOND CORPORATION
> FILE CORREROR : 22APR 2009

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PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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SEARCH COMDUCIED ON TAHERA DIAMOND CORPORATION
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REPORT : PSSR060 PAGE : 5899)

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FILE CURRENCY : 22APR 2009

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REPORT : PSSR060 PAGE

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CANADIAN SECURITIES REGISTRATION SYSTEMS

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PROVINCE OF ONTARIO MINISTRY OF GOVERNMENT SERVICES PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM ENQUIRY RESPONSE

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REPORT : PSSR060 PAGE : 17 ( 5911)

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SEARCH COMBUCTED ON - BUSINESS DEPTOR
SEARCH COMBUCTED ON - TAHERA DIAMOND CORPORATION
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REARCH CONDUCTED ON : TAHERA DIAMOND CORPORATION
FILE CORRENCE : 22APR 2009

PROVINCE OF ONTARIO
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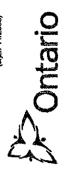
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RUN DATE: 2009/04/23 ID: 20090423120930.15

TKPE OF SEARCH : BUSINESS DEBTOR SEARCH CONDUCTED ON : TAHERA DIAMOND CORPORATION FILE CURRENCY : 12APR 2009

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TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH COMPUCTED ON : TAHERA DIAMOND CORPORATION
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SEARCH CONDUCTED ON : TAHERA DIAMOND CORPORATION
FILE DURRENCY : 22APR 2009

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PAGE

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

TYPE OF SEARCH : BUSINESS DEBTOR SEARCH CONDUCTED ON : TAHERA DIAMOND CORPORATION FILE CURRENCY : 22APR 2009

RUN NUMBER : 113 RUN DATE : 2009/04/23 ID : 20090423120930.15

CERTIFIED BY/CERTIFIÉES PAR REGISTRAR OF PERSONAL PROPERTY SECURITY/ LE REGISTRATEUR DES SÜRETÉS MORY LÉPES

25 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.

This report lists registrations in the Personal Property Registry that match the following search criteria:

Province or Territory Searched: Nunavut

Type of Search: Debtors (Enterprise)

Search Criteria: Benachee Resources Inc.

**Date and Time of Search:** 2009-04-24 09:13

Transaction Number: 4695702 Searched By: H181396

The following table lists records that match the Debtors (Enterprise) you specified.

Exact	Included	Original Registration Number	Enterprise Name	Place
*	*	75947	Benachee Resources Inc.	Toronto
*	*	134890	BENACHEE RESOURCES INC.	TORONTO

An '\*' in the 'Exact' column indicates that the Debtor (Enterprise) exactly matches the search criteria.

An '\*' in the 'Included' column indicates that the registration's details are included within the Search Result Report.

2 registration(s) contained information that **exactly** matched the search criteria you specified.

0 registration(s) contained information that **closely** matched the search criteria you specified.

When reviewing the registrations below, note that a registration which has expired or been discharged within the last 30 days can still be re-registered by the secured party.

For more information concerning the Personal Property Registry, go to www.acol.ca

### Registration Details for Registration Number: 75947

**Province or Territory: Nunavut** 

**Registration Type: PPSA Financing Statement** 

### **Registration History**

Registration Activity	Registration Number	Date/Time	Expiry Date	File Number
Original	75947	2005-05-17 14:46	2015-05-17	242729
Amendment	129726	2008-12-09 16:02	2015-05-17	7101CS1

As listed in the Registration History section above, this registration has been the subject of an Amendment or Global Change to add or delete information. The following registration details provide the registration number for the Amendment that added or deleted information. If no "added by" or "deleted by" registration number is provided, the information was added by the original registration and has not been deleted.

### **Debtors**

Type: Enterprise
Benachee Resources Inc.
121 Richmond Street West Suite 803
Toronto ON M5H 2K1

Canada

### **Secured Parties**

The Secured Party below was deleted by registration number 129726

Type: Enterprise Laurelton Diamonds Inc. 600 Madison Avenue New York NY 10022 USA

The Secured Party below was added by registration number 129726

Type: Enterprise
CAZ PETROLEUM INC.
3200 - 100 WELLINGTON ST W.
TORONTO ON M5K 1K7
Canada

### **General Collateral**

All present and after-acquired personal property of the debtor constituting "Collateral" as defined in a Credit Agreement dated November 5, 2004 among Tahera Diamond Corporation, Laurelton Diamonds Inc., and Benachee Resources Inc., as amended, modified, restated or replaced from time to time (the "Credit Agreement"), including all personal property located on or relating to the real property located at the north end of Contwoyto Lake in West Kitikmeot, Nunavut Territory known as the "Jericho Project", as more particularly described in Schedule 7.9 of the Credit Agreement, and all substitutions therefor and all proceeds from all of the foregoing.

### **Registration Details for Registration Number: 134890**

**Province or Territory: Nunavut** 

**Registration Type: PPSA Financing Statement** 

### **Registration History**

Registration Activity	Registration Number	Date/Time	Expiry Date	File Number
Original	134890	2009-03-06 14:19	2011-03-06	64927-3

This registration has **not** been the subject of an Amendment or Global Change. The following registration information was added by the original registration and has not been deleted.

### **Debtors**

Type: Enterprise
TAHERA DIAMOND CORPORATION
PO BOX 1020
TDC POSTAL STATION
77 KING STREET WEST
TORONTO ON M5K 1P2
Canada

Type: Enterprise
BENACHEE RESOURCES INC.
PO BOX 1020
TDC POSTAL STATION
77 KING STREET WEST
TORONTO ON M5K 1P2
Canada

### **Secured Parties**

Type: Enterprise
AG GROWTH INCOME FUND
1301 KENASTON BLVD.
WINNIPEG MB R3P 2P2
Canada

### **General Collateral**

ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

### **END OF REPORT**

This report lists registrations in the Personal Property Registry that match the following search criteria:

Province or Territory Searched: Nunavut

Type of Search: Debtors (Enterprise)

Search Criteria: Tahera Diamond Corporation

**Date and Time of Search:** 2009-04-24 09:12

Transaction Number: 4695695 Searched By: H181396

The following table lists records that match the Debtors (Enterprise) you specified.

Exact	Included	Original Registration Number	Enterprise Name	Place
*	*	73235	TAHERA DIAMOND CORPORATION	TORONTO
*	*	73235	TAHERA DIAMOND CORPORATION	JERICHO
*	*	75956	Tahera Diamond Corporation	Toronto
*	*	111377	TAHERA DIAMOND CORPORATION	TORONTO
*	*	134890	TAHERA DIAMOND CORPORATION	TORONTO

An '\*' in the 'Exact' column indicates that the Debtor (Enterprise) exactly matches the search criteria.

An '\*' in the 'Included' column indicates that the registration's details are included within the Search Result Report.

5 registration(s) contained information that **exactly** matched the search criteria you specified.

0 registration(s) contained information that **closely** matched the search criteria you specified.

When reviewing the registrations below, note that a registration which has expired or been discharged within the last 30 days can still be re-registered by the secured party.

For more information concerning the Personal Property Registry, go to www.acol.ca

### **Registration Details for Registration Number: 73235**

**Province or Territory: Nunavut** 

**Registration Type: PPSA Financing Statement** 

### **Registration History**

Registration Activity	Registration Number	Date/Time	Expiry Date	File Number
Original	73235	2005-03-01 17:13	2011-03-01	69848

This registration has **not** been the subject of an Amendment or Global Change. The following registration information was added by the original registration and has not been deleted.

### **Debtors**

Type: Enterprise

TAHERA DIAMOND CORPORATION STE 803 121 RICHMOND STREET W TORONTO ON M5H 2K1 CANADA

Type: Enterprise
TAHERA DIAMOND CORPORATION
JERICHO DIAMOND MINE SITE
JERICHO NU X0B 0C0
CANADA

### **Secured Parties**

Type: Enterprise
CATERPILLAR FINANCIAL SERVICES LIMITED
6735-11TH STREET N.E., STE 200
CALGARY AB T2E 7H9
CANADA

### **General Collateral**

ONE NEW CATERPILLAR SKID MOUNTED PRIME POWER GENERATOR SET TOGETHER WITH

ONE (1) CATERPILLAR 3512B ENGINE, SERIAL NUMBER CMC01343

ONE (1) CATERPILLAR 3512B ENGINE, SERIAL NUMBER CMC01344

ONE (1) CATERPILLAR 3512B ENGINE, SERIAL NUMBER CMC01345

ONE (1) CATERPILLAR 3512B ENGINE, SERIAL NUMBER CMC01346

ONE (1) CATERPILLAR 3412 DITTA ENGINE, SERIAL NUMBER 81Z22467

ONE (1) CATERPILLAR 3412 DITTA ENGINE, SERIAL NUMBER 81Z25467

ONE (1) CATERPILLAR 3406C ENGINE, SERIAL NUMBER 4ZR07535

FOUR (4) CATERPILLAR EMCPII + CONTROL PANELS

ONE (1) FINNING SWITCHGEAR

ALL PROCEEDS INCLUDING ACCOUNTS, MONEY, CHATTEL PAPER, INTANGIBLES, GOODS, DOCUMENTS OF TITLE, LICENSES, INSTRUMENTS, SECURITIES, SUBSTITUTIONS, TRADE-INS, INSURANCE PROCEEDS AND ANY OTHER FORM OF PROCEEDS

### **Registration Details for Registration Number: 75956**

**Province or Territory: Nunavut** 

**Registration Type: PPSA Financing Statement** 

### **Registration History**

Registration Activity	Registration Number	Date/Time	Expiry Date	File Number
Original	75956	2005-05-17 14:50	2015-05-17	242729
Amendment	129718	2008-12-09 16:00	2015-05-17	7100-CS1

As listed in the Registration History section above, this registration has been the subject of an Amendment or Global Change to add or delete information. The following registration details provide the registration number for the Amendment that added or deleted information. If no "added by" or "deleted by" registration number is provided, the information was added by the original registration and has not been deleted.

### **Debtors**

Type: Enterprise

**Tahera Diamond Corporation** 

121 Richmond Street West Suite 803

Toronto ON M5H 2K1

Canada

### **Secured Parties**

The Secured Party below was deleted by registration number 129718

Type: Enterprise Laurelton Diamonds Inc. 600 Madison Avenue New York NY 10022

USA

The Secured Party below was added by registration number 129718

Type: Enterprise
CAZ PETROLEUM INC.
3200 - 100 WELLINGTON ST W.
TORONTO ON M5K 1K7
Canada

### **General Collateral**

All present and after-acquired personal property of the debtor constituting "Collateral" as defined in a Credit Agreement dated November 5, 2004 among Tahera Diamond Corporation, Laurelton Diamonds Inc., and Benachee Resources Inc., as amended, modified, restated or replaced from time to time (the "Credit Agreement"), including all personal property located on or relating to the real property located at the north end of Contwoyto Lake in West Kitikmeot, Nunavut Territory known as the "Jericho Project", as more particularly described in Schedule 7.9 of the Credit Agreement, and all substitutions therefor and all proceeds from all of the foregoing.

### **Registration Details for Registration Number: 111377**

**Province or Territory: Nunavut** 

**Registration Type: PPSA Financing Statement** 

### **Registration History**

Registration Activity	Registration Number	Date/Time	Expiry Date	File Number
Original	111377	2007-12-20 15:44	2015-12-20	6055-CS1

This registration has **not** been the subject of an Amendment or Global Change. The following registration information was added by the original registration and has not been deleted.

### **Debtors**

Type: Enterprise

TAHERA DIAMOND CORPORATION

SUITE 803, 121 RICHMOND ST. W. TORONTO ON M5H 2K1 Canada

### **Secured Parties**

Type: Enterprise
DYNO NOBEL NUNAVUT INC.
3200 114 AVENUE SE
CALGARY AB T2Z 3V6
Canada

### **General Collateral**

MCC TRAILER - INSULATED SEA CAN BOILER TRAILER - INSULATED SEA CAN WORK/SHOP TRAILER - INSULATED SEA CAN OFFICE TRAILER (ATCO) MANUFACTURING EQUIPMENT AIR COMPRESSOR AIR DRYER & RECEIVER BARREL TIPPER BLEND TABLE BOILER #1 - 588F WEIL MCLAIN BOILER #1 - 588F WEIL MCLAIN CONDENSATE PUMP #1 CONDENSATE PUMP #2 CONDENSATE SKID CONDENSATE TANK EDUCTOR #1 EMULSION BLENDER EMULSION PUMP -TO STORAGE EMULSION PUMP - TO TRUCK EMULSION STORAGE SILO EMULSION STORAGE SILO FUEL DAY TANK (54TK058) FUEL WARMING TANK PUMP FUEL PHASE - TANK #1 FUEL PUMP - TRUCK FILL FUEL PUMP - TO FUEL BLEND FUEL PUMP - TO FUEL PHASE MIXER - FUEL PHASE TANK MIXER - SOLUTION TANK #1 MIXER - SOLUTION TANK #2 MIXER - TRACE MIXER (SOD THIO) PRESSURE WASHER PUMP - FUEL PHASE TANK #1 PUMP - TRACE TANK #1 PUMP -TRACE TANK #2 SEA CANS FOR RAW MATERIAL STORAGE 4 UNITS SEA CA - 40' CONTAINER WITH DOORS SODIUM THIO TANK SOLUTION PUMP SOLUTION TANK #1 & #2 SOLUTION TANK #1 & #2 SOLUTION TANK #1 & #2 SOLUTION TANK #1 & 2 - LEVEL INDICATOR STATIC MIXER TOOLS TRACE TANK #1 TRACE TANK #2 WATER METER SOLUTION TANK (MODEL M-120) WATER METER TRACE TANK (MODEL M-70) WATER PUMP -PROCESS WATER TANK CAP MAGAZINES TYPE 4- STEEL CONSTRUCTION (10 FT X 40 FT) TYEP 4- STEEL CONSTRUCTION (10 FT X 24 FT) TYPE 4- STEEL CONSTRUCTION (10 FT X 40 FT) TYPE 4- STEEL CONSTRUCTION (8 FT X 40 FT) EXPLOSIVES MAGAZINES TYPE 4- STEEL CONSTRUCTION (10FT X 40 FT) OFFICE REQUIREMENTS LAB EQUIPMENT OFFICE FURNITURE & LUNCH ROOM TABLE COMPUTERS WASHER/DRIVER & INSTALLATION MAINTENANCE TEMPORARY TRUCK SHELTER-24 FEET X 44 FEET EXPLOSION PROOF HEATERS & STANDS EXPLOSION PROOF LIGHTS TEST & SERVICE **BOILERS TEST & SERVICE BOILERS** 

### Registration Details for Registration Number: 134890

**Province or Territory: Nunavut** 

**Registration Type: PPSA Financing Statement** 

### **Registration History**

Registration Activity	Registration Number	Date/Time	Expiry Date	File Number
Original	134890	2009-03-06 14:19	2011-03-06	64927-3

This registration has **not** been the subject of an Amendment or Global Change. The following registration information was added by the original registration and has not been deleted.

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77 KING STREET WEST
TORONTO ON M5K 1P2
Canada

Type: Enterprise
BENACHEE RESOURCES INC.
PO BOX 1020
TDC POSTAL STATION
77 KING STREET WEST
TORONTO ON M5K 1P2
Canada

### **Secured Parties**

Type: Enterprise
AG GROWTH INCOME FUND
1301 KENASTON BLVD.
WINNIPEG MB R3P 2P2
Canada

### **General Collateral**

ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

**END OF REPORT** 

### Applicants IN THE MATTER OF A PROPOSED COMPROMISE AND ARRANGEMENT IN RESPECT OF TAHERA DIAMOND CORPORATION and BENACHEE RESOURCES INC.

Court File No. 08-CL-7355

### SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceedings commenced at Toronto

# FOURTH REPORT TO COURT OF A. FARBER & PARTNERS INC. AS MONITOR

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M5K 1N6

### Stuart Brotman [43430D]

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