

**Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, New Delhi – 110001.**

1st September, 2020

Guidelines on Use of Caveats, Limitations and Disclaimers by the Registered Valuers in Valuation Reports

1. Short title and commencement.

- (a) These Guidelines may be called the Insolvency and Bankruptcy Board of India (Use of Caveats, Limitations, and Disclaimers in Valuation Reports) Guidelines, 2020.
- (b) These Guidelines shall come into force in respect of valuation reports in respect of valuations completed by Registered Valuers (RVs) on or after 1st October, 2020.

2. Background

- (a) The Companies (Registered Valuers and Valuation) Rules, 2017 (Rules) provides a comprehensive framework for development and regulation of the profession of valuers. These Rules set standards of professional conduct and performance for the valuation profession in the interest of stakeholders.
- (b) Rule 8 of the Rules mandates that the Registered Valuers (RVs) shall state 'caveats, limitations and disclaimers' to the extent they explain or elucidate the limitations faced by valuer, which shall not be for the purpose of limiting his responsibility for the valuation report. This Rule aims to ensure that a valuation report does not carry a disclaimer, which has the potential to dilute the responsibility of the RV or make the valuation unsuitable for the purpose for which the valuation was conducted. However, the scope of 'caveats, limitations and disclaimers' is not clear to everyone, including users and RVs, and consequently, the RVs are having different practices in presentation of caveats, limitations and disclaimers in valuation reports.

- (c) The Authority constituted a Committee of Experts comprising Mr. Rajan Wadhawan, Mr. Sunil Agarwal and Mr. Jigesh Mehta to develop a standard template for disclaimers. The secretarial support to the committee was provided by Mr. Harish C. Dhamija, member ICSI RVO. The Committee of Experts submitted its report to the Authority on 07th April, 2020, which was considered by the Authority in consultation with the Registered Valuers Organisations (RVOs) for finalisation of these Guidelines.

3. Objective

These Guidelines provide guidance to the RVs in the use of Caveats, Limitations, and Disclaimers in the interest of credibility of the valuation reports. These also provide an illustrative list of the Caveats, Limitations, and Disclaimers which shall not be used in a valuation report.

4. Adherence

- (a) An RV shall prepare valuations reports under rule 8 of the Rules in adherence to these Guidelines.
- (b) An RVO shall monitor adherence to these Guidelines through scrutiny of the valuation reports.

5. Structure

These Guidelines are divided into three sections, as presented in the annexure. The first section elaborates on the need for Caveats, Limitations, and Disclaimers in a valuation report. The second section provides a guidance note on the use of Caveats, Limitations, and Disclaimers, while the third section provides an illustrative list of Caveats, Limitations, and Disclaimers for each asset class provided in the Rules.

6. These Guidelines have been prepared in consultation with the RVOs.
7. These Guidelines are issued in exercise of the powers under Rule 14(i) of the Companies (Registered Valuers and Valuation) Rules, 2017.
8. These Guidelines will be reviewed by the Authority from time to time.

Annexure

I. Need for Caveats, Limitations, and Disclaimers

1. The valuation of an asset is an estimate of the worth of that asset which is arrived at after factoring in multiple parameters and externalities. This may not be the actual price of that asset and the market may discover a different price for that asset. Sometimes different RVs arrive at different estimates of value for the same asset. While this may be possible when the purposes of valuation are different, such variance is often observed even when the purposes as also the circumstances in which the valuation is undertaken are the same. In such a situation, the market may question the ability of the RVs and the integrity of the valuation process. This is not in the interest of the stakeholders where crucial economic and commercial decisions are taken on the basis of the valuation reports.
2. A limitation arises if the RV is unable to obtain sufficient information and explanations considered necessary for the purpose of the valuation. Where such limitation results in the RV being unable to carry out the valuation in accordance with the normal approach to valuation, the valuation report shall be modified with a paragraph setting out the nature of circumstances, giving rise to the limitation.
3. A disclaimer is required in a valuation report to mitigate the potential risk of the RV. The reasons for providing disclaimers in a valuation report are as under:
 - (a) A disclaimer protects the rights of a RV by cautioning and dissuading others when using the contents of a valuation report.
 - (b) A disclaimer limits the liability of a RV since it serves both as a warning and a way to mitigate risk, a disclaimer protects a RV from liability. Anyone who reads the disclaimers should understand the risks involved in using the valuation report or acting upon the information that it contains.
 - (c) A disclaimer protects the RV from incurring liability or limits the liability of the RV from the actions of the company or management or insolvency professional at whose instructions the valuation has been carried out.
4. A valuation report should not carry a disclaimer, which has potential to dilute the responsibility of the RV or makes the valuation unsuitable for the purpose for which the valuation was conducted. The valuation reports should be capable of being tested through the

crucible of legal evidence in judicial proceedings. The following points may be considered while providing disclaimers in a valuation report. An RV may:

- (a) identify the rights he/she wants to protect;
- (b) identify the areas where he/she might be subject to liability;
- (c) clarify that the contents of the valuation report pertain to specific use by the company; and
- (d) caution the reader of the potential risks.

However, a disclaimer will not, by itself, be able to exclude an RV's liability in respect of negligence in performance of his duties.

5. The Rules notified under the Companies Act, 2013 designates IBBI as the authority for development and regulation of the valuation profession. Rule 7 (m) provides that a RV shall comply with such other conditions as may be imposed by the authority. Rule 8 (3) (l) provides that the RV shall include caveats, limitations and disclaimers in the valuation report, to the extent that they explain or elucidate the limitations faced by the RV, which shall not be for the purpose of limiting his responsibility for the valuation report.

II. Guidance Note on Caveats, Limitations, and Disclaimers

1. In general, valuation is required in the context of the following:

- a) Consummation of certain transactions like acquisition, disposal, merger, amalgamation;
- b) Internal decision making/Corporate Governance;
- c) Regulatory Compliance: Companies Act, SEBI Regulations, Income Tax, Wealth Tax, FEMA, etc.;
- d) Fund Mobilisation - both equity and debt;
- e) Disputes (within and outside the courts);
- f) Borrowing and lending decisions; and
- g) Insolvency and Bankruptcy proceedings.

Rule 10 read with section 247 of the Companies Act, 2013 (Act) require that a RV shall conduct valuations required under the Act. The Insolvency and Bankruptcy Code (Code) read with the regulations mandates that the valuations required under the Code or any of the regulations made thereunder shall be conducted by a registered valuer.

2. In the recent past there has been public concern on valuation and its impact on a company's shareholders, creditors and other stakeholders. Fund providers, both equity and debt, have been active in asking for enquiries into valuations submitted by companies for mobilizing funds and restructuring. Regulators have also been raising questions on the valuations submitted in the context of transactions entailing purchase/sale, income tax assessment, fund mobilization and corporate restructurings. Banks and financial institutions are concerned at the sharp dip in valuation of the assets of the borrower when the borrowers' accounts are stressed and become a nonperforming asset in their books. In the context of the Code, the Adjudicating Authority has on several occasions raised concern about the sharp difference between the valuations arrived at by two different RVs or the variation between the amount offered by a successful resolution applicant and the amount stated in the valuation report.

3. A detailed and fully reasoned valuation report should be prepared in every case of valuation done in respect of both mandatory and discretionary valuation, where an RV is appointed. The following aspects need to be considered during the preparation of a valuation report.

3.1 Contents of a Valuation Report

Considering the interests of stakeholders and the need for transparency and principles of good corporate governance, the under noted matters should compulsorily be covered in the Valuation Report, in a clear, unambiguous and non-misleading manner, consistent with the need to maintain confidentiality:

- (a) Background Information of the asset being valued;
- (b) Purpose of valuation and appointing authority;
- (c) Bases of Value;
- (d) Premise of Value;
- (e) Identity of the RV and any other experts involved in the valuation;
- (f) Intended Users of the Valuation;
- (g) Disclosure of RV interest or conflict, if any;
- (h) Date of appointment, valuation date and date of report;
- (i) Inspections and /or investigations undertaken;
- (j) Business interest, ownership characteristics;
- (k) Nature and sources of information;
- (l) Significant Assumptions, if any;
- (m) Procedures adopted in carrying out the valuation and valuation standards followed;
- (n) Restrictions on use of report, if any;
- (o) Major factors that were taken into account during valuation;
- (p) Conclusion; and
- (q) Caveats, limitations and disclaimers.

3.2 Procedures involved in preparation of a valuation report

i. The procedures adopted in carrying out a valuation may vary with circumstances, nature and purpose of valuation as well as information and time available. The principal procedures adopted by the RV in carrying out the valuation should be set out briefly in the report. Such procedures may typically include:

- Review of past financials;
- Review and analysis of financial projections;
- Industry analysis;
- SWOT analysis;
- Comparison with similar transactions;
- Comparison with other similar listed companies;
- Discussions with the management;
- Review of principal agreements/documents etc;
- Site visit (external, internal or both) or desktop valuation;
- Any assumption made for internal condition must be stated like in case of desktop valuation, a RV must state that the basis of the report is photographs and documents provided and secondary research only; and
- Process of site identification, i.e., self-identified or with the help of clients representative or client itself.

ii. The RV should also include in his report:

- an affirmative statement that information provided and assumptions used by management/others in developing projections have been appropriately reviewed,

- enquiries made regarding basis of key assumptions in context of business being valued and the industry/economy; and
- an affirmative statement on adequacy of information and time for carrying out the valuations;

iii. The RV should mention any key factors which have a material impact on the valuation, including inter alia the size or number of the assets or shares of the company, its/their materiality or significance, minority or majority holding and changes on account of the transaction, any impacts on controlling interest, diminution or augmentation therein and marketability or lack thereof; prevailing market conditions and government policy in the specified industry as a disclaimer depending upon the factor.

iv. In case of valuation of tangible assets, there may be impact on the value due to faulty structural design or contamination. Based on the individual circumstances, the RV may decide on how to use such information in the valuation report.

3.3 Caveats, Limitations and Disclaimers

i. Caveats are warnings or cautions to the client/user of services.

ii. Limitation is a restriction on the scope of the RV's work including inspection or investigation of the data available for analysis that may be present and known to the RV at the outset of the valuation engagement or that may arise during the course of a valuation assignment.

iii. A disclaimer is a statement intended to specify or delimit the scope of rights and obligations that may be exercised and enforced by parties in a legally recognized relationship. It is a statement denying responsibility intended to prevent civil liability arising for particular acts or omissions.

iv. While caveat, limitations and disclaimers have different connotation, in the context of a valuation, the clauses may get used in an interchangeable manner as limitation or a disclaimer by a RV could be caveat for the user of the report. Hence it is imperative that the users of the report are familiarized about the same to enable them to assess the impact of the disclaimer/caveat/limitation on the credibility and reliability of the report.

v. Any caveats, limiting condition or other disclaimers to the report must be clearly stated with appropriate specificity.

vi. In the preparation of a valuation report, the RV shall not disclaim liability for his expertise or deny his duty of "due care". However, it is recognized that a RV, shall prepare the valuation report of the company based on information and records concerned as provided by the management. The management remains liable for the correctness and veracity thereof. However, significant inputs provided to the RV by the management/owners should be considered, investigated and /or corroborated. In cases where credibility of information supplied cannot be supported, consideration should be given as to whether or how such information is used.

vii. The RV does not make or calibrate the projections but factors his response and the valuation assessment on the reliability and credibility of the information. The various projections of business growth, profitability, and cash flows etc, which are used in the

valuation report are the company's estimates. The RV should consider the reliability and credibility of projections after testing the assumptions made by the management / owners / company in given market conditions and after sufficient inspection, enquiry, computation and analysis. The extent of evidence requires professional judgements and RV has to ensure that it is adequate for the purpose of valuation. The RV may disagree with the projections if they are conjectural or bordering on the unreal and accordingly make necessary modifications.

viii. A RV has the right to demand relevant information and basis of the projections before commenting thereon. It is the duty of the entity being valued to be fair and to provide accurate information about the subject asset.

ix. In a valuation report, the RV can state that the assumptions are statements of fact provided by the company and not generated by the RV. This warning statement is necessary as data provided by the company is often construed be a part of the valuation report. Notwithstanding this, the RV has to carry out sufficient inspection, enquiry, computations and analysis to ensure that valuation is properly supported.

x. All valuations are to be carried out in sufficient detail to comply with the requirements of "due care". However, it can be reasonably expected that circumstances may place certain limitations regarding access to information or the time available. Hence, one has to recognize limitations of time and context in valuations, as it cannot constrain business need and flexibility.

xi. Keeping in view business needs and circumstances and, in the interest of transparency, any significant concerns regarding the justification, the information or the time available to complete the valuation be stated in the valuation report, together with appropriate explanation and implications.

xii. The effort, diligence and level of expertise applied by the relevant Registered Valuer, need to be stated in the valuation report.

3.4 Illustrative Caveats, Limitations and Disclaimers in a Valuation Report

An illustrative list, which is common for all types of assets, is provided below:

i. Restriction on use of Valuation Report

This document has been prepared for the purposes stated herein and should not be relied upon for any other purpose. Our client is the only authorized user of this report and is restricted for the purpose indicated in the engagement letter. This restriction does not preclude the client from providing a copy of the report to third-party advisors whose review would be consistent with the intended use. I/we do not take any responsibility for the unauthorized use of this report.

ii. Responsibility of RV

I/We owe responsibility to only to the authority/client that has appointed me/us under the terms of the engagement letters. We will not be liable for any losses, claims, damages or liabilities arising out of the actions taken, omissions or advice given by any other person. In no event shall we be liable for any loss, damages, cost or expenses arising in any way from fraudulent acts, misrepresentations or wilful default on part of the client or companies, their directors, employees or agents.

iii. Accuracy of Information

While our work has involved an analysis of financial information and accounting records, our engagement does not include an audit in accordance with generally accepted auditing standards of the clients existing business records. Accordingly, we express no audit opinion or any other form of assurance on this information.

iv. Achievability of the forecast results

We do not provide assurance on the achievability of the results forecast by the management/owners as events and circumstances do not occur as expected; differences between actual and expected results may be material. We express no opinion as to how closely the actual results will correspond to those projected/forecast as the achievement of the forecast results is dependent on actions, plans and assumptions of management.

v. Post Valuation Date Events (This should be disclosed while defining valuation date)

The user to which this valuation is addressed should read the basis upon which the valuation has been done and be aware of the potential for later variations in value due to factors that are unforeseen at the valuation date. Due to possible changes in market forces and circumstances, this valuation report can only be regarded as relevant as at the valuation date.

vi. Range of Value Estimate

The valuation of companies and assets is made based on the available facts and circumstances and the conclusions arrived at in many cases will be subjective and dependent on the exercise of individual judgment. Although every scientific method has been employed in systematically arriving at the value, there is no indisputable single value and the estimate of the value is normally expressed as falling within a likely range. To comply with the client/RP's request, I/we have provided a single value for the overall Liquidation Value and Fair Value of the assets of [company], derived as an arithmetic average of the range of Liquidation and Fair Values. Whilst, I / we consider the valuation to be both reasonable and defensible based on the information available, others may place a different value.

vii. No Responsibility to the Actual Price of the subject asset if sold or transferred/exchanged

The actual market price achieved may be higher or lower than our estimate of value (or range of value) depending upon the circumstances of the transaction (for example the competitive bidding environment), the nature of the business (for example the purchaser's perception of potential synergies). The knowledge, negotiating ability and motivation of the buyers and sellers and the applicability of a discount or premium for control will also affect actual market price achieved. Accordingly, our valuation conclusion will not necessarily be the price at which actual transaction will take place.

viii. Reliance on the representations of the owners/clients, their management and other third parties

The client/owner and its management/representatives warranted to us that the information they supplied was complete, accurate and true and correct to the best of their knowledge. We have relied upon the representations of the owners/clients, their management and other third parties concerning the financial data, operational data and maintenance schedule of all plant-machinery-equipment-tools-vehicles, real estate investments and any other investments in tangible assets except as specifically stated to the contrary in the report. I/We shall not be liable for any loss, damages, cost or expenses arising from fraudulent acts,

misrepresentations, or wilful default on part of the companies, their directors, employee or agents.

ix. No procedure performed to corroborate information taken from reliable external sources

We have relied on data from external sources also to conclude the valuation. These sources are believed to be reliable and therefore, we assume no liability for the truth or accuracy of any data, opinions or estimates furnished by others that have been used in this analysis. Where we have relied on data, opinions or estimates from external sources, reasonable care has been taken to ensure that such data has been correctly extracted from those sources and /or reproduced in its proper form and context.

x. Compliance with relevant laws

The report assumes that the company/business/asset complies fully with relevant laws and regulations applicable in its area of operations and usage unless otherwise stated, and that the companies/business/assets will be managed in a competent and responsible manner. Further, as specifically stated to the contrary, this report has given no consideration to matters of a legal nature, including issues of legal title and compliance with local laws, and litigations and other contingent liabilities that are not recorded/reflected in the balance sheet/fixed assets register provided to us.

xi. Multiple factors affecting the Valuation Report:

The valuation report is tempered by the exercise of judicious discretion by the RV, taking into account the relevant factors. There will always be several factors, e.g. management capability, present and prospective competition, yield on comparable securities, market sentiment, etc. which may not be apparent from the Balance Sheet but could strongly influence the value.

xii. Future services including but not limited to Testimony or attendance in courts/tribunals/ authorities for the opinion of value in the Valuation Report

I/We are fully aware that based on the opinion of value expressed in this report, I/we may be required to give testimony or attend court / judicial proceedings with regard to the subject assets, although it is out of scope of the assignment, unless specific arrangements to do so have been made in advance, or as otherwise required by law. In such event, the party seeking our evidence in the proceedings shall bear the cost/professional fee of attending court / judicial proceedings and my / our tendering evidence before such authority shall be under the applicable laws.

xiii. Unavailability of information as on Valuation Date

The Liquidation Value and Fair Value of assets of the company have been performed on the provisional unaudited standalone balance sheet of [company] provided by management/the RP as of the valuation date. On the other hand, no financial information as of the valuation date was available for subsidiaries and associates, hence we have relied on the latest available financial statements. The management / RP has also confirmed that there has not been any material change in the financials of subsidiaries and associates since the last available financial statements. Hence, due to the lack of financials as of the valuation date and based on representation given by the RP, I /we have considered financials as on the last available financial statements as the proxy for the financial position as of the valuation date, valuation report may change post availability of such information.

3.5 Illustrative Limitations in a Valuation Report specific to Tangible Assets

i. Title deeds of properties

We have not verified the title deeds of the properties with the records of registrar's office as this is beyond the agreed scope of our services stated in our engagement letter.

ii. Legal and other issues

Our valuation is primarily from a business perspective and has not considered various legal and other corporate structures beyond the limited information made available. The scope of work has been limited both in terms of the areas of the business and operations which have been reviewed. There may be matters, other than those noted in this report, which might be relevant in the context of the transaction and which a wider scope might uncover.

iii. Sketch plans and photographs

The RV has endeavoured to visually identify the land boundaries and dimensions; however, he is not a surveyor. So, where there is a doubt about the precise position of the structures, it is recommended that a Licensed Surveyor be contacted.

iv. Latent defects affecting the Value

Physical condition in most instances has been determined by observation or indication by others. Any unknown conditions existing at the time of inspection could alter the value. No responsibility is assumed for latent defects of any nature whatsoever, which may affect value, or for any expertise required to disclose such conditions.

v. RVs observations are not a warranty

We have examined the assets described herein exclusively for the purposes of identification and description of the property. The RV's observations and reporting of the subject improvements are for the valuation process and purposes only and should not be considered as a warranty of any component of the property. This valuation assumes unless otherwise specifically stated, that the subject is structurally sound and all components are in working condition.

vi. Hazardous conditions/material

In the absence of a statement to the contrary, we have assumed that no hazardous conditions or materials exist which could affect the subject business or the assets. We are not qualified to establish the absence of such conditions or materials, nor do we assume the responsibility for discovering the same. Our valuation takes no such liabilities into account, except as they have been reported to the RV by the client or by an environmental consultant of the client, and then only to the extent that the liability was reported to us in an actual or estimated amount. To the extent such information has been reported to us, the RV has relied on it without verification and offers no warranty or representation as to its accuracy or completeness.

vii. Accuracy of architectural plans

Where a sketched plan is attached to this report, it does not purport to represent accurate architectural plans. Sketch plans and photographs are provided as general illustrations only.

viii. Validity of permits and licenses:

Unless otherwise stated as part of the terms of engagement, the RV has not made a specific compliance survey or analysis of the various permits and licenses under central, state and local laws / regulations applicable to the operation and use of the subject property, and this valuation does not consider the effect, if any, of non-compliance.

ix. Continuation of subject business

We have assumed that the business continues normally without any disruptions due to statutory or other external/internal occurrences.

x. Independent Third Party

We have acted as an independent third party and, as such, shall not be considered an advocate for any concerned party for any dispute. The valuation has been carried out independently to assess the valuation services. We have no present or planned future interest in [company] or any of its group companies and the fee for this report is not contingent upon outcome of the transaction. Our valuation should not be construed as investment advice; specifically, we do not express any opinion on the suitability or otherwise of entering into any transaction with [company].

xi. Valuation assumptions made by us:

We have made certain assumptions in relation to facts, conditions or situations affecting the subject of, or approach to, this exercise that has not been verified as part of the engagement rather, treated as “a supposition taken to be true”. If any of these assumptions prove to be incorrect then our estimate on value will need to be reviewed.

3.6 Illustrative Caveats, Limitations, and Disclaimers in a Valuation Report not to be used

i. **Business Plan/forecasts received from client:** RV giving a disclaimer for the business plan/forecasts received from client without applying test of reasonability and due diligence.

ii. **Physical Verification:** RV giving a disclaimer that he has not physically verified the tangible assets in case where engagement is for providing liquidation value.

iii. **Market related data:** RV giving disclaimer for the market related data employed in his reports e.g. beta, discounting factor, comparable companies, comparable transactions, valuation metrics without testing appropriateness of the same.

iv. **Historical analysis:** RV giving disclaimer that he has not done any historical analysis while conducting valuation exercise of listed/unlisted entities although the historical data could have been arranged with reasonable effort.

v. **One approach:** RV giving valuation conclusion based on only one approach without giving any reasoning as to why the other two approaches were not considered in his valuation.

vi. **Another expert:** RV giving disclaimer for work done by any other expert and the findings of the same does not form part of report of RV.

3.7. Examples specific to difficult situations in valuation of land and building

Some examples of qualification statements which may be relevant to situations commonly encountered by RVs are provided below. These examples are designed to address limitations

in the RV's role, instructions or expertise. They may assist to draft specific disclaimer statements to address particular circumstances or reports, however they should be used only as a guide.

i. **Site Survey:** RVs are generally not qualified as surveyors. The RV is often expected to state that the improvements on a property are located within the boundaries of the site. Generally, the RV is not qualified to make that certification, unless also qualified and registered as a Surveyor

ii. **Survey Qualification:** If a RV was not provided a land survey report, the RV may state that the valuation is made on the basis that there are no encroachments by or upon the property and this should be confirmed by a current survey report and/or advice from a Registered Surveyor. If any encroachments are noted subsequently by the survey report, the RV should be consulted to reassess any effect on the value stated in this report.

iii. **Town Planning/Resource Management:** In most instances a RV will only make verbal enquiries of the Local Authority or the State Planning Department as to the zoning or planning area of a property. In some locations it is not possible to obtain a 'zoning or planning area certificate' and obtaining written confirmation of zoning can take considerably more time than is generally available to the RV and/or the user of valuation services.

iv. **Extent and Nature of Enquiries:** It is necessary to set out the extent and nature of the enquiries made in ascertaining the zoning and development requirements of the subject property. For example: Town planning information was verbally obtained from offices of the Town Planning Department, however, we recommend that this zoning or planning area should be verified by application to appropriate authority for the issue of a zoning certificate.

v. **Environmental / Contamination Issues:** An increased awareness of environmental issues in the community today has brought about a need for the valuation report to take cognisance of environmental issues that may affect the value of a particular property at the time of reporting or at some time in the future. Those issues may include:

- contamination - through petroleum or chemical products;
- impact of flooding for properties adjacent to rivers/ streams or over underground water supply sources;
- conservation - including rare flora and fauna species; and
- title claims in case of conversion of agricultural land.

Examples- Some examples of clauses relevant to this issue include the following:

(a) *Environmental Issues* Our enquiries at the town planning department/authority indicate that the site has not previously been utilised for any industrial or manufacturing use or for the storage (either above ground or underground) of any chemical substance. Our verbal enquiries indicate that the town planning department/authority is unaware of the existence of any site contamination. Whilst our inspection of the site surface confirms the results of these enquiries, we have not investigated the site beneath the surface or undertaken vegetation or soil sampling. This valuation is, therefore, subject to a satisfactory contaminated site assessment report from environmental consultants.

Or

The site is (or has been) occupied by an undertaking which, having regard to the nature of process or chemicals used or stored, has a potential to cause soil contamination. Whilst our enquiries indicate that the Town Planning Department/Authority is unaware of contamination, we recommend a site inspection by an Environmental Consultant.

(b) *Petroleum products*: The subject property is operated as a service station and workshop and therefore, fuels, oils and other products capable of causing contamination are used on the site as part of the operation. There are no visible signs of any pollution on the property, however, we are unable to certify that there is no contamination of the property beneath the surface of the soil.

(c) *Asbestos*: Inspection of the improvements showed the use of asbestos products in the building. We must point out that we are not experts in this area and therefore, in the absence of an environmental consultant's report concerning the presence of any asbestos fibre within the subject property, this valuation is made on the assumption that there is no health risk from asbestos within the property. Should it subsequently transpire that an expert report establishes that there is an asbestos related health risk we reserve the right to review this valuation.

(d) *Cost of Decontamination*: The cost of removing the contaminations or environmental hazards have not been incorporated in the report. An environmental consultant's report concerning such costs may be separately obtained. This valuation is made on the assumption that there are no such costs involved in the property.

(e) *Pest Affectation*: The subject property is located in an area considered susceptible to termite infestation. Inspection of the site did not reveal any apparent termite infestation. This should, however, be confirmed by a certified pest control firm.

(f) *Right to Review*: The right is reserved to review and, if necessary, vary, the valuation figure if any contamination or other environmental hazard is found to exist.

vi. **Extent of Investigations in respect of structural integrity**: It is important to highlight in the report the extent of the RV's investigation as to the structural integrity of the building and its plant and equipment. For example:

(a) An inspection of all readily accessible parts of the property has been carried out by the RV.

(b) The RV did not have access to a qualified engineer's structural survey of the property, or its plant and equipment. The RV is not a building construction and/or structural expert and is, therefore, unable to certify as to structural soundness of the property. Users of the report would need to make their own enquiries in this regard.

(c) We do not have access to a structural report on the property nor have we inspected unexposed or inaccessible portions of the premises. We, therefore, cannot comment on the structural integrity, defect, or infestation of the improvements nor can we comment on any knowledge of the use in construction of material such as asbestos or other materials now considered hazardous.

vii. **Tenancy Details**: Extent of Investigation of Lease Details- In reporting the specific lease details of a property it is important to advise the extent of the investigation of lease documents and other supporting documentation undertaken by the RV. When the lease negotiations or preparation of documentation may not have been concluded, it is necessary to specify in the report that the valuation is subject to satisfactory conclusion of those lease negotiations and the taking on record of a stamped lease agreement by the parties. For example: This assessment of Market Value is based on the assumption that the proposed lease agreements outlined earlier in this report are all executed, signed and stamped. Upon being

stamped those documents should be referred to the RV to confirm that the particulars of the document concur with those set out in this report.

viii. **Valuation of under construction properties:** This requires a variety of assumptions-In valuing a under construction property to assess the market value for security purposes, the RV should also take into consideration the market value when the construction is completed. Such a process requires a variety of assumptions to be made, which may include:

- (a) construction and development costs in accordance with plans and specifications at the time of valuation;
- (b) the impact of existing and future competition;
- (c) the level of sale prices; and
- (d) in the case of income properties, the likely level of rents, the lease-up period, rental concessions and commissions, capitalisation rates, discount rates, etc.

ix. Set out in detail the assumptions made and qualifying clauses: It is, therefore, imperative that the RV undertaking valuation of an under construction property sets out in detail the assumptions made and inserts a qualifying clause in the valuation report stating that the valuation is subject to the assumptions outlined in the report, particularly where those assumptions are based on purported lease negotiations or pre-sale contracts. These qualifying clauses could include:

- (a) Satisfactory completion of the construction in accordance with the plans, specifications and details as provided.
- (b) An inspection by the RV following completion of construction.
- (c) Confirmation or variation of the original valuation figure relevant to the original valuation date, following an inspection of the project and any leases after completion of construction.
- (d) Issue of all relevant approvals including a satisfactory building completion certificate under the appropriate legislation.
- (e) Reports from other experts who have provided advice in aspects of the construction of the buildings like that on sewage and plumbing, electrical and fire safety issues etc.
- (f) Such other matters/issues that the RV is of the opinion should be drawn to the attention of the user.
- (g) The right to review and, if necessary, vary the valuation if there are changes in the project itself or leasing. An example of what could be stated “The value of an under-construction property is the market value of the proposed improvements as detailed in the report on the assumption that all construction had been satisfactorily completed in all respects at the date of this report. The valuation reflects the RV’s view of the market conditions existing at the date of the report and does not purport to predict the market conditions and the value at the actual completion of the project because of time lag. Accordingly, the ‘under construction’ valuation must be confirmed by a further inspection by the RV, initiated and instructed by the user, on completion of project. The right is reserved to review and if necessary, vary the valuation in this report if there are any changes in relation to the project itself or in property market conditions and prices”.

III. Asset-class wise sample of Caveats, Limitations, and Disclaimers

The Rules provide for three asset classes of land and building, plant and machinery and securities or financial assets. In this section a few samples of Caveats, Limitations, and Disclaimers have been provided for each asset class.

A. Land and Building

- i. I/We have not verified the title deeds of the properties with the records of registrar's office as this is beyond the agreed scope of our services stated in our engagement letter.
- ii. I/We assume no responsibility for the legal matters including, but not limited to, legal or title concerns. The assets and interests therein have been valued free and clear of any liens or encumbrances unless stated otherwise. No hidden or apparent conditions regarding the subject assets or their ownership are assumed to exist. No opinion of title is rendered by this report and a good title is assumed.
- iii. The RV has endeavoured to visually identify the land boundaries and dimensions; however, he is not a surveyor. So where there is a doubt about the precise position of the structures, it is recommended that a Licensed Surveyor be contacted.
- iv. The physical condition of the improvements was based on visual inspection. No liability is assumed for the soundness of the structure since no engineering tests were made at the site. Any unknown conditions existing at the time of inspection could alter the value. No responsibility is assumed for latent defects of any nature whatsoever, which may affect value, nor for any expertise required to disclose such conditions.
- v. Where a sketched plan is attached to this report, it does not purport to represent accurate architectural plans. Sketch plans and photographs are provided as general illustrations only.
- vi. Unless otherwise stated as part of the terms of engagement, the RV has not made a specific compliance survey or analysis of the various permits and licenses under central, state and local laws / regulations applicable to the operation and use of the subject property, and this valuation does not consider the effect, if any, of non-compliance.
- vii. The sale of the subject property is assumed to be on an all cash basis. Financial arrangements would affect the price at which the property may sell for if placed on the market.
- viii. Value varies with the purpose and date. This report is not to be referred if the purpose is different other than mentioned.
- ix. The actual realizable value that is likely to be fetched upon sale of the property under consideration shall entirely depend on the demand and supply of the same in the market at the time of sale.
- x. In the course of the valuation, we were provided with both written and verbal information. We have however, evaluated the information provided to us by the Company through broad inquiry, analysis and review but have not carried out a due diligence or audit of the information provided for the purpose of this engagement. Our conclusions are based on the assumptions, forecasts and other information given by/on behalf of the Company.
- xi. We are independent of the client/company and have no current or expected interest in the Company or its assets. The fee paid for our services in no way influenced the results of our analysis.

xii. Our report is meant for the purpose mentioned above and should not be used for any purpose other than the purpose mentioned therein. The Report should not be copied or reproduced without obtaining our prior written approval for any purpose other than the purpose for which it is prepared.

B. Plant and Machinery

i. The client/owner and its management/representatives warranted to us that the information they supplied was complete, accurate and true and correct to the best of their knowledge. We have relied upon the representations of the owners/clients, their management and other third parties concerning the financial data, operational data and maintenance schedule of all plant-machinery-equipment-tools-vehicles, real estate investments and any other investments in tangible assets except as specifically stated to the contrary in the report. In no event shall we be liable for any loss, damages, cost or expenses arising any way from fraudulent acts, misrepresentations, or wilful default on part of the companies, their directors, employee or agents.

ii. **Definition and Premise of Value:** It should be noted that Liquidation Value could be significantly different from Fair Value or fair market value. Further, Liquidation Value in an orderly sale can be very different from Liquidation Value in a fire sale transaction and Liquidation Value of a single machine or any individual asset on a standalone basis could be very different from Liquidation Value of a single machine or any individual asset as part of the entire plant and machinery. As such, the premise of Liquidation Value for the said purpose in this report is Liquidation Value of the assets on a standalone basis (in most cases) or in some cases group of assets in an orderly sale.

iii. I/We have examined the assets described herein exclusively for the purposes of identification and description of the property. The RV's observations and reporting of the subject improvements are for the valuation process and purposes only, and should not be considered as a warranty of any component of the property. This valuation assumes (unless otherwise specifically stated) that the subject is structurally sound and all components are in working condition.

iv. In the absence of a statement to the contrary, we have assumed that no hazardous conditions or materials exist which could affect the subject business or the assets. We are not qualified to establish the absence of such conditions or materials, nor do we assume the responsibility for discovering the same. Our valuation takes no such liabilities into account, except as they have been reported to the RV by the client or by an environmental consultant of the client. To the extent such information has been reported to us, the RV has relied on it without verification and offers no warranty or representation as to its accuracy or completeness.

v. I/We express no opinion as to how closely the actual results will correspond to those projected/forecast because budgets/projections/forecasts relate to future events and are based on assumptions which may not remain valid for the whole of the relevant period.

vi. The sale of the subject assets is assumed to be on an all cash basis. Financial arrangements would affect the price at which the property may sell for if placed on the market.

vii. Value is an estimated worth equivalent of an asset on a particular date based on certain facts and findings varies with its purpose. The value that is likely to be realised upon sale

shall entirely depend on the demand and supply of the same at the time of sale. The report is not to be referred if the purpose is different other than the mentioned one.

viii. In the course of the valuation, we were provided with both written and verbal information. We have however, evaluated the information provided to us by the Company through broad inquiry, analysis and review but have not carried out a due diligence or audit of the information provided for the purpose of this engagement. Our conclusions are based on the assumptions, forecasts and other information given by/on behalf of the Company.

ix. We are independent of the client/company and have no current or expected interest in the Company or its assets. The fee paid for our services in no way influenced the results of our analysis.

x. Our report is meant for the purpose mentioned above and should not be used for any purpose other than the purpose mentioned therein. The Report should not be copied or reproduced without obtaining our prior written approval for any purpose other than the purpose for which it is prepared.

C. Securities or Financial Assets

i. While our work has involved an analysis of financial information and accounting records, our engagement does not include an audit in accordance with generally accepted auditing standards of the client existing business records. Accordingly, we assume no responsibility and make no representations with respect to the accuracy or completeness of any information provided by and on behalf of you and the client. Our report is subject to the scope and limitations detailed hereinafter. As such the report is to be read in totality, and not in parts, in conjunction with the relevant documents referred to herein and in the context of the purpose for which it is made.

ii. The valuation of companies and businesses is not a precise science and the conclusions arrived at in many cases will be subjective and dependent on the exercise of individual judgment. There is, therefore, no indisputable single value and we normally express our opinion on the value as falling within a likely range. However, as [purpose] requires the expression of a single value, we have adopted a value at the mid-point of our valuation range. Whilst we consider our value/range of values to be both reasonable and defensible based on the information available to us, others may place a different value on the [company/business]

iii. The actual market price achieved may be higher or lower than our estimate of [value/value range] depending upon the circumstances of the transaction (for example the competitive bidding environment), the nature of the business (for example the purchaser's perception of potential synergies). The knowledge, negotiating ability and motivation of the buyers and sellers and the applicability of a discount or premium for control will also affect actual market price achieved. Accordingly, our valuation conclusion will not necessarily be the price at which any agreement proceeds. The final transaction price is something on which the parties themselves have to agree. We also emphasize that our opinion is not the only factor that should be considered by the parties in agreeing the transaction price.

iv. An analysis of such nature is necessarily based on the prevailing stock market, financial, economic and other conditions in general and industry trends in particular as in effect on, and

the information made available to us as of, the date hereof. Events occurring after the date hereof may affect this report and the assumptions used in preparing it, and we do not assume any obligation to update, revise or reaffirm this Report.

v. The ultimate analysis will have to be tempered by the exercise of judicious discretion by the RV and judgment taking into account the relevant factors. There will always be several factors, e.g. management capability, present and prospective competition, yield on comparable securities, market sentiment, etc. which may not be apparent from the face of the Balance Sheet but could strongly influence the value.

vi. Unavailability of information as of valuation date: Please note that the Liquidation Value and Fair Value of assets of the company have been performed as of an earlier date based on the provisional unaudited standalone balance sheet of [company] provided by management (the RP) as of the valuation date. On the other hand, no financial information as of the valuation date was available for subsidiaries and associates; hence we have relied on the latest available financial statements. The management / RP has also confirmed that there has not been any material change in the financials of subsidiaries and associates since the last available financial statements. Hence, due to the lack of financials as of the valuation date and based on representation given by the RP, I /we have considered financials as of XXX as the proxy for the financial position as of the valuation date, valuation report may change post availability of such information.

vii. In the course of the valuation, we were provided with both written and verbal information. We have however, evaluated the information provided to us by the Company through broad inquiry, analysis and review but have not carried out a due diligence or audit of the information provided for the purpose of this engagement. Our conclusions are based on the assumptions, forecasts and other information given by/on behalf of the Company.

viii. We are independent of the client/company and have no current or expected interest in the Company or its assets. The fee paid for our services in no way influenced the results of our analysis.

ix. Our report is meant for the purpose mentioned above and should not be used for any purpose other than the purpose mentioned therein. The Report should not be copied or reproduced without obtaining our prior written approval for any purpose other than the purpose for which it is prepared.
