ANNEXURE

1. Sec. 56(2)(viib)

Finance Act, 2012 introduced clause (viib) in section 56(2) of the Income-tax Act, 1961 ("the Act") with effect from 1 April 2012, which deals with 'Angel tax'. This clauseprovides that the following income shall be taxable under the head "income from other sources":

*"where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person **being a resident**, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:*

Provided that this clause shall not apply where the consideration for issue of shares is received—
(i) by a venture capital undertaking from a venture capital company or a venture capital fund; or
(ii) by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

Explanation.—For the purposes of this clause,—
(a) the fair market value of the shares shall be the value—
- *(i) as may be determined in accordance with such method as may be prescribed; or*
- *(ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature,*

Whichever is higher;"

Rule 11UA of the Income-tax Rules ("Rules"), as they stand today, provides the following options to the taxpayer for calculating the fair market value of unquoted equity shares:
(a) Valuation based on net asset value with certain adjustments ("NAV"); OR
(b) Valuation by a merchant banker as per Discounted Free Cash Flow ("DCF") method

2. Notification issued by Department of Industrial Policy and Promotion (DIPP) in this regard, defines a 'Start-up' as an entity shall be considered as a start-up:

(a) Up to a period of seven years for non-biotechnology sector and ten years for bio-technology sector;
(b) Its turnover should not have exceeded INR 250 million in any of the financial years since incorporation;
(c) It is working towards innovation, development or improvement of products or processes or services, or it is a scalable business model with a high potential of employment generation or wealth creation;

(d) It is not formed by splitting up or reconstruction of an existing business.