

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K  
Current Report

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (date of earliest event reported): May 27, 2020

**IOVANCE BIOTHERAPEUTICS, INC.**  
(Exact Name of Registrant as Specified in Charter)

**Delaware**  
(State of Incorporation)

**001-36860**

Commission File Number

**75-3254381**

(I.R.S. Employer Identification No.)

**999 Skyway Road, Suite 150  
San Carlos, California**

(Address of Principal Executive Offices)

**94070**

(Zip Code)

**(650) 260-7120**

(Registrant's Telephone Number, Including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425).
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12).
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b)).
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c)).

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter). Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.000041666 per share	IOVA	The Nasdaq Stock Market, LLC

## **Item 8.01 Other Events**

On May 28, 2020, Iovance Biotherapeutics, Inc. (the “Company”) entered into an underwriting agreement (the “Underwriting Agreement”) with Jefferies LLC, Goldman Sachs & Co. LLC and Wells Fargo Securities, LLC, as representatives of the several underwriters named therein (the “Underwriters”), relating to the issuance and sale in a public offering of 16,935,484 shares (the “Shares”) of the Company’s common stock to the Underwriters (the “Offering”). The Shares were sold at a price to the public of \$31.00 per Share and were purchased by the Underwriters from the Company at a price of \$29.14 per Share. The Company also granted the Underwriters a 30-day option to purchase up to 2,540,322 additional Shares of its common stock at the public offering price, less underwriting discounts and commissions. The net proceeds to the Company from the Offering, excluding any exercise by the Underwriters of their 30-day option to purchase additional shares, are expected to be approximately \$493.0 million after deducting the underwriting discounts and commissions and estimated offering expenses payable by the Company. The offering is expected to close on or about June 2, 2020, subject to the satisfaction of customary closing conditions.

The Underwriting Agreement contains customary representations, warranties, covenants and agreements by the Company, indemnification obligations of the Company and the Underwriters, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions. The representations, warranties and covenants contained in the Underwriting Agreement were made only for purposes of such agreement and as of specific dates, were solely for the benefit of the parties to the Underwriting Agreement, and may be subject to limitations agreed upon by the contracting parties.

The Offering is being made pursuant to the Company’s shelf registration statement on Form S-3 (Registration Statement No. 333-238724) and an accompanying prospectus, that became automatically effective on May 27, 2020 when filed by the Company with the Securities and Exchange Commission, and a preliminary and final prospectus supplement thereunder. The Underwriting Agreement is attached as Exhibit 1.1 hereto, and the description of the terms of the Underwriting Agreement is qualified in its entirety by reference to such exhibit. A copy of the opinion of DLA Piper LLP (US) relating to the legality of the issuance and sale of the shares in the Offering is attached as Exhibit 5.1 hereto.

On May 27, 2020, the Company issued a press release announcing that it had commenced the Offering. On May 28, 2020, the Company issued a press release announcing the pricing of the Offering. Copies of these press releases are attached as Exhibits 99.1 and 99.2 hereto, respectively.

Neither the disclosures on this Current Report on Form 8-K nor the attached press releases shall constitute an offer to sell or the solicitation of an offer to buy these securities, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

### ***Forward-Looking Statements***

This Current Report on Form 8-K contains forward-looking statements, all of which are subject to risks and uncertainties. Forward-looking statements can be identified by the use of words such as “expects,” “plans,” “will,” “projects,” “intends,” “estimates,” and other words of similar meaning. These forward-looking statements include statements regarding the completion of the Offering and the expected net proceeds therefrom. Each forward-looking statement is subject to risks and uncertainties that could cause actual results to differ materially from those expressed or implied in such statement. Readers should carefully consider any such statement and should understand that many factors could cause actual results to differ from these forward-looking statements. These factors may include risks associated with market conditions and the satisfaction of customary closing conditions related to the Offering, as well as risks and uncertainties inherent in the Company’s business, including some that are known and some that are not. No forward-looking statement can be guaranteed, and actual future results may vary materially. Except as required by law, the Company does not assume any obligation to update any forward-looking statement.

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**Item 9.01. Financial Statements and Exhibits.**

**(d) Exhibits.**

<b>Exhibit Number</b>	<b>Description</b>
<a href="#">1.1</a>	<a href="#">Underwriting Agreement dated May 28, 2020</a>
<a href="#">5.1</a>	<a href="#">Opinion of DLA Piper LLP (US)</a>
<a href="#">23.1</a>	<a href="#">Consent of DLA Piper LLP (US) (included in Exhibit 5.1)</a>
<a href="#">99.1</a>	<a href="#">Press Release dated May 27, 2020</a>
<a href="#">99.2</a>	<a href="#">Press Release dated May 28, 2020</a>
104	Cover Page Interactive Data File, formatted in Inline XBRL and included as Exhibit 101

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Company has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**Iovance Biotherapeutics, Inc.**

Dated: May 29, 2020

By: /s/ Maria Fardis

Name: Maria Fardis

Title: Chief Executive Officer

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16,935,484 Shares

Iovance Biotherapeutics, Inc.

UNDERWRITING AGREEMENT

May 28, 2020

JEFFERIES LLC  
GOLDMAN SACHS & CO. LLC  
WELLS FARGO SECURITIES, LLC  
As Representatives of the several Underwriters

c/o JEFFERIES LLC  
520 Madison Avenue  
New York, New York 10022

c/o GOLDMAN SACHS & CO. LLC  
200 West Street  
New York, New York 10282

c/o WELLS FARGO SECURITIES, LLC  
500 West 33rd Street, 14th Floor  
New York, New York 10001

Ladies and Gentlemen:

**Introductory.** Iovance Biotherapeutics, Inc., a Delaware corporation (the “**Company**”), proposes to issue and sell to the several underwriters named in Schedule A (the “**Underwriters**”) an aggregate of 16,935,484 shares of its common stock, par value \$0.000041666 per share (the “**Shares**”). The 16,935,484 Shares to be sold by the Company are called the “**Firm Shares**.” In addition, the Company has granted to the Underwriters an option to purchase up to an additional 2,540,322 Shares as provided in Section 2. The additional 2,540,322 Shares to be sold by the Company pursuant to such option are called the “**Optional Shares**.” The Firm Shares and, if and to the extent such option is exercised, the Optional Shares are collectively called the “**Offered Shares**.” Jefferies LLC (“**Jefferies**”), Goldman Sachs & Co. LLC (“**Goldman**”) and Wells Fargo Securities, LLC (“**Wells Fargo**”) have agreed to act as representatives of the several Underwriters (in such capacity, the “**Representatives**”) in connection with the offering and sale of the Offered Shares. To the extent there are no additional underwriters listed on Schedule A, the term “Representatives” as used herein shall mean you, as Underwriters, and the term “Underwriters” shall mean either the singular or the plural, as the context requires.

The Company has prepared and filed with the Securities and Exchange Commission (the “**Commission**”) a shelf registration statement on Form S-3, File No. 333-238724, including a base prospectus (the “**Base Prospectus**”) to be used in connection with the public offering and sale of the Offered Shares. Such registration statement, as amended, including the financial statements, exhibits and schedules thereto, in the form in which it became effective under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Securities Act**”), including all documents incorporated or deemed to be incorporated by reference therein and any information deemed to be a part thereof at the time of effectiveness pursuant to Rule 430A or 430B under the Securities Act, is called the “**Registration Statement**.” Any registration statement filed by the Company pursuant to Rule 462(b) under the Securities Act in connection with the offer and sale of the Offered Shares is called the “**Rule 462(b) Registration Statement**,” and from and after the date and time of filing of any such Rule 462(b) Registration Statement the term “Registration Statement” shall include the Rule 462(b) Registration Statement. The preliminary prospectus supplement dated May 27, 2020 describing the Offered Shares and the offering thereof (the “**Preliminary Prospectus Supplement**”), together with the Base Prospectus, is called the “**Preliminary Prospectus**,” and the Preliminary Prospectus and any other prospectus supplement to the Base Prospectus in preliminary form that describes the Offered Shares and the offering thereof and is used prior to the filing of the Prospectus (as defined below), together with the Base Prospectus, is called a “**preliminary prospectus**.” As used herein, the term “**Prospectus**” shall mean the final prospectus supplement to the Base Prospectus that describes the Offered Shares and the offering thereof (the “**Final Prospectus Supplement**”), together with the Base Prospectus, in the form first used by the Underwriters to confirm sales of the Offered Shares or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act. References herein to the Preliminary Prospectus, any preliminary prospectus and the Prospectus shall refer to both the prospectus supplement and the Base Prospectus components of such prospectus. As used herein, “**Applicable Time**” is 5:25 p.m. (New York City time) on May 28, 2020. As used herein, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, and “**Time of Sale Prospectus**” means the Preliminary Prospectus, as amended or supplemented immediately prior to the Applicable Time, together with the free writing prospectuses, if any, identified in Schedule B hereto. As used herein, “**Road Show**” means a “road show” (as defined in Rule 433 under the Securities Act) relating to the offering of the Offered Shares contemplated hereby that is a “written communication” (as defined in Rule 405 under the Securities Act).

All references in this Agreement to the Registration Statement, the Preliminary Prospectus, any preliminary prospectus, the Base Prospectus and the Prospectus shall include the documents incorporated or deemed to be incorporated by reference therein. All references in this Agreement to financial statements and schedules and other information which are “contained,” “included” or “stated” in, or “part of” the Registration Statement, the Rule 462(b) Registration Statement, the Preliminary Prospectus, any preliminary prospectus, the Base Prospectus, the Time of Sale Prospectus or the Prospectus, and all other references of like import, shall be deemed to mean and include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in the Registration Statement, the Rule 462(b) Registration Statement, the Preliminary Prospectus, any preliminary prospectus, the Base Prospectus, the Time of Sale Prospectus or the Prospectus, as the case may be. All references in this Agreement to amendments or supplements to the Registration Statement, the Preliminary Prospectus, any preliminary prospectus, the Base Prospectus, the Time of Sale Prospectus or the Prospectus shall be deemed to mean and include the filing of any document under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Exchange Act**”) that is or is deemed to be incorporated by reference in the Registration Statement, the Preliminary Prospectus, any preliminary prospectus, the Base Prospectus, or the Prospectus, as the case may be. All references in this Agreement to (i) the Registration Statement, the Preliminary Prospectus, any preliminary prospectus, the Base Prospectus or the Prospectus, any amendments or supplements to any of the foregoing, or any free writing prospectus, shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis, and Retrieval System (“**EDGAR**”) and (ii) the Prospectus shall be deemed to include any “electronic Prospectus” provided for use in connection with the offering of the Offered Shares as contemplated by Section 3(n) of this Agreement.

In the event that the Company has only one subsidiary, then all references herein to “subsidiaries” of the Company shall be deemed to refer to such single subsidiary, mutatis mutandis.

The Company hereby confirms its agreements with the Underwriters as follows:

### **Section 1. Representations and Warranties of the Company.**

The Company hereby represents, warrants and covenants to each Underwriter, as of the date of this Agreement, as of the First Closing Date (as defined below) and as of each Option Closing Date (as defined below), if any, as follows:

**(a) Compliance with Registration Requirements.** The Registration Statement has become effective under the Securities Act. The Company has complied, to the Commission’s satisfaction with all requests of the Commission for additional or supplemental information, if any. No stop order suspending the effectiveness of the Registration Statement is in effect and no proceedings for such purpose have been instituted or are pending or, to the best knowledge of the Company, are contemplated or threatened by the Commission. At the time the Company’s Annual Report on Form 10-K for the year ended December 31, 2019 (the “**Annual Report**”) was filed with the Commission, or, if later, at the time the Registration Statement was originally filed with the Commission, the Company met the then-applicable requirements for use of Form S-3 under the Securities Act. The Company meets the requirements for use of Form S-3 under the Securities Act specified in the Financial Industry Regulatory Authority (“**FINRA**”) Conduct Rule 5110(B)(7)(C)(i). The documents incorporated or deemed to be incorporated by reference in the Registration Statement, the Time of Sale Prospectus and the Prospectus, at the time they were or hereafter are filed with the Commission, or became effective under the Exchange Act, as the case may be, complied and will comply in all material respects with the requirements of the Exchange Act.

**(b) Disclosure.** Each preliminary prospectus and the Prospectus when filed complied in all material respects with the Securities Act and, if filed by electronic transmission pursuant to EDGAR, was identical (except as may be permitted by Regulation S-T under the Securities Act) to the copy thereof delivered to the Underwriters for use in connection with the offer and sale of the Offered Shares. Each of the Registration Statement and any post-effective amendment thereto, at the time it became or becomes effective, complied and will comply in all material respects with the Securities Act and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. As of the Applicable Time, the Time of Sale Prospectus (including any preliminary prospectus wrapper) did not, and at the First Closing Date (as defined in Section 2) and at each applicable Option Closing Date (as defined in Section 2), will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Prospectus (including any Prospectus wrapper), as of its date, did not, and at the First Closing Date and at each applicable Option Closing Date, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties set forth in the three immediately preceding sentences do not apply to statements in or omissions from the Registration Statement or any post-effective amendment thereto, or the Prospectus or the Time of Sale Prospectus, or any amendments or supplements thereto, made in reliance upon and in conformity with written information relating to any Underwriter furnished to the Company in writing by the Representatives expressly for use therein, it being understood and agreed that the only such information consists of the information described in Section 9(b) below. There are no contracts or other documents required to be described in the Time of Sale Prospectus or the Prospectus or to be filed as an exhibit to the Registration Statement which have not been described or filed as required.

**(c) Free Writing Prospectuses; Road Show.** As of the determination date referenced in Rule 164(h) under the Securities Act, the Company was not, is not or will not be (as applicable) an “ineligible issuer” in connection with the offering of the Offered Shares pursuant to Rules 164, 405 and 433 under the Securities Act. Each free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of Rule 433 under the Securities Act, including timely filing with the Commission, retention and legending, as applicable, and each such free writing prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Offered Shares did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, the Prospectus or any preliminary prospectus unless such information has been superseded or modified as of such time. Except for the free writing prospectuses, if any, identified in Schedule B, and electronic road shows, if any, furnished to you before first use, the Company has not prepared, used or referred to, and will not, without your prior written consent, prepare, use or refer to, any free writing prospectus. Each Road Show, when considered together with the Time of Sale Prospectus, did not, as of the Applicable Time, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) **Distribution of Offering Material By the Company.** Prior to the later of (i) the expiration or termination of the option granted to the several Underwriters in Section 2, and (ii) the completion of the Underwriters' distribution of the Offered Shares, the Company has not distributed and will not distribute any offering material in connection with the offering and sale of the Offered Shares other than the Registration Statement, the Time of Sale Prospectus, the Prospectus or any free writing prospectus reviewed and consented to by the Representatives and the free writing prospectuses, if any, identified on Schedule B hereto.

(e) **The Underwriting Agreement.** This Agreement has been duly authorized, executed and delivered by the Company.

(f) **Authorization of the Offered Shares.** The Offered Shares have been duly authorized for issuance and sale pursuant to this Agreement and, when issued and delivered by the Company against payment therefor pursuant to this Agreement, will be validly issued, fully paid and nonassessable, and the issuance and sale of the Offered Shares is not subject to any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase the Offered Shares.

(g) **No Applicable Registration or Other Similar Rights.** There are no persons with registration or other similar rights to have any equity or debt securities registered for sale under the Registration Statement or included in the offering contemplated by this Agreement, except for such rights as have been duly waived.

(h) **No Material Adverse Change.** Except as otherwise disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement, the Time of Sale Prospectus and the Prospectus: (i) there has been no material adverse change, or any development that could reasonably be expected to result in a material adverse change, in the condition, financial or otherwise, or in the earnings, business, properties, operations, assets, liabilities or prospects, whether or not arising from transactions in the ordinary course of business, of the Company and its subsidiaries, considered as one entity (any such change being referred to herein as a "**Material Adverse Change**"); (ii) the Company and its subsidiaries, considered as one entity, have not incurred any material liability or obligation, indirect, direct or contingent, including without limitation any losses or interference with their business from fire, explosion, flood, earthquakes, accident or other calamity, whether or not covered by insurance, or from any strike, labor dispute or court or governmental action, order or decree, that are material, individually or in the aggregate, to the Company and its subsidiaries, considered as one entity, and have not entered into any material transactions not in the ordinary course of business; and (iii) there has not been any material decrease in the capital stock or any material increase in any short-term or long-term indebtedness of the Company or its subsidiaries and there has been no dividend or distribution of any kind declared, paid or made by the Company or, except for dividends paid to the Company or other subsidiaries, by any of the Company's subsidiaries on any class of capital stock, or any repurchase or redemption by the Company or any of its subsidiaries of any class of capital stock.

(i) **Independent Accountants.** Marcum LLP, which has expressed its opinion with respect to the financial statements (which term as used in this Agreement includes the related notes thereto) filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus, is (i) an independent registered public accounting firm as required by the Securities Act, the Exchange Act, and the rules of the Public Company Accounting Oversight Board (“PCAOB”), (ii) in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X under the Securities Act and (iii) a registered public accounting firm as defined by the PCAOB whose registration has not been suspended or revoked and who has not requested such registration to be withdrawn.

(j) **Financial Statements.** The financial statements filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus present fairly the consolidated financial position of the Company and its subsidiaries as of the dates indicated and the results of their operations, changes in stockholders’ equity and cash flows for the periods specified. Such financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods involved, except as may be expressly stated in the related notes thereto. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission’s rules and guidelines applicable thereto. No other financial statements or supporting schedules are required to be included in the Registration Statement, the Time of Sale Prospectus or the Prospectus. To the Company’s knowledge, no person who has been suspended or barred from being associated with a registered public accounting firm, or who has failed to comply with any sanction pursuant to Rule 5300 promulgated by the PCAOB, has participated in or otherwise aided the preparation of, or audited, the financial statements, supporting schedules or other financial data filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(k) **Company’s Accounting System.** The Company and each of its subsidiaries make and keep accurate books and records and maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management’s general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) the interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement, the Time of Sale Prospectus and the Prospectus fairly presents the information called for in all material respects and is prepared in accordance with the Commission’s rules and guidelines applicable thereto.

(l) **Disclosure Controls and Procedures; Deficiencies in or Changes to Internal Control Over Financial Reporting.** The Company has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Exchange Act), which (i) are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company’s principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the Exchange Act are being prepared; (ii) have been evaluated by management of the Company for effectiveness as of the end of the Company’s most recent fiscal quarter; and (iii) are effective in all material respects to perform the functions for which they were established. Since the end of the Company’s most recent audited fiscal year, there have been no significant deficiencies or material weakness in the Company’s internal control over financial reporting (whether or not remediated) and no change in the Company’s internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting. The Company is not aware of any change in its internal control over financial reporting that has occurred during its most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting.



(m) ***Incorporation and Good Standing of the Company.*** The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation and has the corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus and to enter into and perform its obligations under this Agreement. The Company is duly qualified as a foreign corporation to transact business and is in good standing in the States of California, New York, Pennsylvania and Florida and each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to be so qualified and in good standing would not, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect.

(n) ***Subsidiaries.*** Each of the Company's "subsidiaries" (for purposes of this Agreement, as defined in Rule 405 under the Securities Act) has been duly incorporated or organized, as the case may be, and is validly existing as a corporation, partnership or limited liability company, as applicable, in good standing under the laws of the jurisdiction of its incorporation or organization and has the power and authority (corporate or other) to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. Each of the Company's subsidiaries is duly qualified as a foreign corporation, partnership or limited liability company, as applicable, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business. All of the issued and outstanding capital stock or other equity or ownership interests of each of the Company's subsidiaries have been duly authorized and validly issued, are fully paid and nonassessable and are owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance or adverse claim. The Company does not own or control, directly or indirectly, any corporation, association or other entity, other than Iovance Biotherapeutics GmbH (formerly Lion Biotechnologies GmbH) and Iovance Biotherapeutics Manufacturing LLC.

(o) ***Capitalization and Other Capital Stock Matters.*** The authorized, issued and outstanding capital stock of the Company is as set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption "Capitalization" (other than for subsequent issuances, if any, pursuant to employee benefit plans, or upon the exercise of outstanding options or warrants, in each case described in the Registration Statement, the Time of Sale Prospectus and the Prospectus). The Shares (including the Offered Shares) conform in all material respects to the description thereof contained in the Time of Sale Prospectus. All of the issued and outstanding Shares have been duly authorized and validly issued, are fully paid and nonassessable and have been issued in compliance with all federal and state securities laws. None of the outstanding Shares was issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its subsidiaries other than those described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The descriptions of the Company's stock option, restricted stock units, restricted stock agreements and other stock plans or arrangements, and the options or other rights granted thereunder, set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus accurately and fairly presents the information required to be shown with respect to such plans, arrangements, options and rights.

(p) **Stock Exchange Listing.** The Shares are registered pursuant to Section 12(b) or 12(g) of the Exchange Act and are listed on The Nasdaq Global Market (the “**Nasdaq**”), and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Shares under the Exchange Act or delisting the Shares from the Nasdaq, nor has the Company received any notification that the Commission or the Nasdaq is contemplating terminating such registration or listing. To the Company’s knowledge, it is in compliance with all applicable listing requirements of Nasdaq.

(q) **Non-Contravention of Existing Instruments; No Further Authorizations or Approvals Required.** Neither the Company nor any of its subsidiaries is in violation of its charter or by-laws, partnership agreement or operating agreement or similar organizational documents, as applicable, or is in default (or, with the giving of notice or lapse of time, would be in default) (“**Default**”) under any indenture, loan, credit agreement, note, lease, license agreement, contract, franchise or other instrument (including, without limitation, any pledge agreement, security agreement, mortgage or other instrument or agreement evidencing, guaranteeing, securing or relating to indebtedness) to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound, or to which any of their respective properties or assets are subject (each, an “**Existing Instrument**”), except for such Defaults as could not reasonably be expected, individually or in the aggregate, to have a material adverse effect on the condition (financial or other), earnings, business, properties, operations, assets, liabilities or prospects of the Company and its subsidiaries, considered as one entity (a “**Material Adverse Effect**”). The Company’s execution, delivery and performance of this Agreement, consummation of the transactions contemplated hereby and by the Registration Statement, the Time of Sale Prospectus and the Prospectus and the issuance and sale of the Offered Shares (including the use of proceeds from the sale of the Offered Shares as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption “Use of Proceeds”) (i) have been duly authorized by all necessary corporate action and will not result in any violation of the provisions of the charter or by-laws, partnership agreement or operating agreement or similar organizational documents, as applicable, of the Company or any subsidiary (ii) will not conflict with or constitute a breach of, or Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, or require the consent of any other party to, any Existing Instrument and (iii) will not result in any violation of any law, administrative regulation or administrative or court decree applicable to the Company or any of its subsidiaries, except, in the case of clauses (ii) and (iii), for any such conflict, breach, violation, Default, Debt Repayment Triggering Event, lien, charge or encumbrance that would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency, is required for the Company’s execution, delivery and performance of this Agreement and consummation of the transactions contemplated hereby and by the Registration Statement, the Time of Sale Prospectus and the Prospectus, except such as have been obtained or made by the Company and are in full force and effect under the Securities Act and such as may be required under applicable state or foreign securities or blue sky laws or FINRA. As used herein, a “**Debt Repayment Triggering Event**” means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(r) **Compliance with Laws.** The Company and its subsidiaries have been and are in compliance with all applicable laws, rules and regulations, except where failure to be so in compliance could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(s) **No Material Actions or Proceedings.** Except as otherwise disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, there is no action, suit, proceeding, inquiry or investigation brought by or before any governmental entity now pending or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect or materially and adversely affect the consummation of the transactions contemplated by this Agreement or the performance by the Company of its obligations hereunder; and the aggregate of all pending legal or governmental proceedings to which the Company or any such subsidiary is a party or of which any of their respective properties or assets is the subject, including ordinary routine litigation incidental to the business, if determined adversely to the Company, could not reasonably be expected to have a Material Adverse Effect. No material labor dispute with the employees of the Company or any of its subsidiaries, or with the employees of any principal supplier, manufacturer, customer or contractor of the Company, exists or, to the knowledge of the Company, is threatened or imminent.

(t) **Intellectual Property Rights.** The Company and its subsidiaries own, or have obtained valid and enforceable non-exclusive licenses for, the inventions, patent applications, patents, trademarks, trade names, service names, copyrights, trade secrets and other intellectual property described in the Registration Statement, the Time of Sale Prospectus and the Prospectus as being owned or licensed by them or which are necessary for the conduct of their respective businesses as currently conducted or as currently proposed to be conducted (collectively, "**Intellectual Property**"). To the Company's knowledge, there is no infringement by third parties of any Intellectual Property. There is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others: (i) challenging the Company's rights in or to any Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim; (ii) challenging the validity, enforceability or scope of any Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim; or (iii) asserting that the Company or any of its subsidiaries infringes or otherwise violates, or would, upon the commercialization of any product or service described in the Registration Statement, the Time of Sale Prospectus or the Prospectus as under development, infringe or violate, any patent, trademark, trade name, service name, copyright, trade secret or other proprietary rights of others, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim. The Company and its subsidiaries have complied in all material respects with the terms of each agreement pursuant to which Intellectual Property has been licensed to the Company or any subsidiary, and all such agreements are in full force and effect. The product candidates described in the Registration Statement, the Time of Sale Prospectus and the Prospectus as under development by the Company or any subsidiary fall within the scope of the claims of one or more patents owned by, or non-exclusively licensed to, the Company or any subsidiary.

(u) **Clinical Data and Regulatory Compliance.** The preclinical tests and clinical trials, and other studies (collectively, "**studies**") conducted by the Company that are described in, or the results of which are referred to in, the Registration Statement, the Time of Sale Prospectus or the Prospectus were and, if still pending, are, and with respect to those studies not conducted by the Company are to the Company's knowledge, being conducted in all material respects in accordance with standard medical and scientific research procedures, the protocols, procedures and controls designed and approved for such studies, and all applicable Health Care Laws (as defined below), including, but not limited to, the Federal Food, Drug and Cosmetic Act and its applicable implementing regulations at 21 C.F.R. Parts 50, 54, 56, 58 and 312; each description of the results of such studies is accurate and complete in all material respects and fairly presents the data derived from such studies, and the Company and its subsidiaries have no knowledge of any other studies the results of which are inconsistent with, or otherwise call into question, the results described or referred to in the Registration Statement, the Time of Sale Prospectus or the Prospectus; the Company and its subsidiaries have made all such filings and obtained all such approvals as may be required by the Food and Drug Administration of the U.S. Department of Health and Human Services or any committee thereof or from any other U.S. or foreign government or drug or medical device regulatory agency, or health care facility Institutional Review Board; no investigational new drug application filed by or on behalf of the Company with the FDA has been terminated or suspended by the FDA, and neither the FDA nor any applicable foreign governmental or regulatory authority or agency has commenced, or, to the knowledge of the Company, threatened to initiate, any action to place a clinical hold order on, or otherwise terminate, delay or suspend, any proposed or ongoing clinical investigation conducted or proposed to be conducted by or on behalf of the Company or any of its subsidiaries.

(v) **All Necessary Permits, etc.** The Company and its subsidiaries possess such valid and current certificates, authorizations, grants, licenses, permits, easements, variances, exceptions, exemptions consents, certificates, clearances, approvals, registrations and orders of any state, federal or foreign regulatory agencies or bodies necessary for the Company and its subsidiaries to conduct their respective businesses as currently conducted and as described in the Registration Statement, the Time of Sale Prospectus or the Prospectus (“**Permits**”), except where the failure to so possess would not reasonably be expected to result in a Material Adverse Change. All Permits are in full force and effect, and neither the Company nor any of its subsidiaries is in violation of, or in default under, any of the Permits or has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such Permits that, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(w) **Submission of Data to FDA or Other Governmental Authorities.** All applications, notifications, submissions, information, claims, reports and statistics, and other data and conclusions derived therefrom, utilized as the basis for or submitted in connection with any and all requests for a Permit from the FDA or other governmental or regulatory authority or agency relating to the Company, its business and the Company products, when submitted to the FDA or other governmental or regulatory authority or agency were true, complete and correct in all material respects as of the date of submission and any necessary or required updates, changes, corrections or modification to such applications, submissions, information and data have been submitted to the FDA or other governmental or regulatory authority or agency.

(x) **Compliance with Health Care Laws.** The Company is, and at all times has been, in compliance with all applicable Health Care Laws, and has not engaged in activities which are, as applicable, cause for false claims liability civil penalties, or mandatory or permissive exclusion from Medicare, Medicaid, or any other state health care program or federal health care program. For purposes of this Agreement, “**Health Care Laws**” means all health care laws applicable to the Company, including, but not limited to: the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, the Controlled Substances Act, the Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)), the Civil Monetary Penalties Law (42 U.S.C. § 1320a-7a), the Physician Payment Sunshine Act (42 U.S.C. § 1320a-7h), the Civil False Claims Act (31 U.S.C. Section 3729 et seq.), the criminal False Claims Law (42 U.S.C. § 1320a-7b(a)), all criminal laws relating to health care fraud and abuse, including but not limited to 18 U.S.C. Sections 286 and 287, and the health care fraud criminal provisions under the U.S. Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) (42 U.S.C. Section 1320d et seq.), the exclusion laws (42 U.S.C. § 1320a-7), HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. Section 17921 et seq.), Medicare (Title XVIII of the Social Security Act), Medicaid (Title XIX of the Social Security Act), and any and all other comparable state and local laws, the regulations promulgated pursuant to such laws, each as amended from time to time. Neither the Company nor any of its subsidiaries has received written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any court or arbitrator or governmental or regulatory authority or third party alleging that any product operation or activity is in material violation of any Health Care Laws, and, to the Company’s knowledge, no such claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action is threatened. Neither the Company nor any of its subsidiaries is a party to or has any ongoing reporting obligations pursuant to any corporate integrity agreements, deferred prosecution agreements, monitoring agreements, consent decrees, settlement orders, plans of correction or similar agreements with or imposed by any governmental or regulatory authority. Additionally, none of the Company, any of its subsidiaries, or any of its respective employees, officers or directors has been excluded, suspended or debarred from participation in any U.S. federal health care program or human clinical research or, to the knowledge of the Company, is subject to a governmental inquiry, investigation, proceeding, or other similar action that could reasonably be expected to result in debarment, suspension, or exclusion.

(y) **Title to Properties.** The Company and its subsidiaries have good and marketable title to all of the real and personal property and other assets reflected as owned in the financial statements referred to in Section 1(j) above (or elsewhere in the Registration Statement, the Time of Sale Prospectus or the Prospectus), in each case free and clear of any security interests, mortgages, liens, encumbrances, equities, adverse claims and other defects. The real property, improvements, equipment and personal property held under lease by the Company or any of its subsidiaries are held under valid and enforceable leases, with such exceptions as are not material and do not materially interfere with the use made or proposed to be made of such real property, improvements, equipment or personal property by the Company or such subsidiary.

(z) **Tax Law Compliance.** The Company and its subsidiaries have filed all necessary federal, state and foreign income and franchise tax returns and any other material tax returns or have properly requested extensions thereof and all such tax returns are true, complete and correct in all material respects. The Company and its subsidiaries have paid all taxes required to be paid by any of them and, if due and payable, any related or similar assessment, fine or penalty levied against any of them except as may be being contested in good faith and by appropriate proceedings and as to which adequate reserves in conformity with generally accepted accounting principles have been provided. The Company has made adequate charges, accruals and reserves in conformity with generally accepted accounting principles in the applicable financial statements referred to in Section 1(j) above in respect of all federal, state and foreign income and franchise taxes for all periods as to which the tax liability of the Company or any of its subsidiaries has not been finally determined.

(aa) **Insurance.** The Company is insured by recognized, financially sound and reputable institutions with policies in such amounts and with such deductibles and covering such risks as are generally deemed adequate by the Company and customary for their businesses including, but not limited to, policies covering real and personal property owned or leased by the Company against theft, damage, destruction, and acts of vandalism and policies covering the Company for product liability claims and clinical trial liability claims. The Company has no reason to believe that it will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that could not reasonably be expected to have a Material Adverse Effect. The Company has not been denied any insurance coverage which it has sought or for which it has applied.

(bb) **Compliance with Environmental Laws.** Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) neither the Company nor any of its subsidiaries is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, “**Hazardous Materials**”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, “**Environmental Laws**”); (ii) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements; (iii) there are no pending or, to the Company’s knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries; and (iv) there are no events or circumstances that might reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

(cc) **Periodic Review of Costs of Environmental Compliance.** No facts or circumstances have come to the Company's attention that could result in costs or liabilities that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(dd) **ERISA Compliance.** The Company and its subsidiaries and any "employee benefit plan" (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, "ERISA")) established or maintained by the Company, its subsidiaries or their "ERISA Affiliates" (as defined below) are in compliance in all material respects with ERISA. "ERISA Affiliate" means, with respect to the Company or any of its subsidiaries, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (the "Code") of which the Company or such subsidiary is a member. No "reportable event" (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any "employee benefit plan" established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates. No "employee benefit plan" established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates, if such "employee benefit plan" were terminated, would have any "amount of unfunded benefit liabilities" (as defined under ERISA). Neither the Company, its subsidiaries nor any of their ERISA Affiliates has incurred or reasonably expects to incur any liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any "employee benefit plan" or (ii) Sections 412, 4971, 4975 or 4980B of the Code. Each employee benefit plan established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or failure to act, which would cause the loss of such qualification.

(ee) **Company Not an "Investment Company."** The Company is not, and will not be, either after receipt of payment for the Offered Shares or after the application of the proceeds therefrom as described under "Use of Proceeds" in the Registration Statement, the Time of Sale Prospectus or the Prospectus, required to register as an "investment company" under the Investment Company Act of 1940, as amended (the "Investment Company Act").

(ff) **No Price Stabilization or Manipulation; Compliance with Regulation M.** Neither the Company nor any of its subsidiaries has taken, directly or indirectly, any action designed to or that might cause or result in stabilization or manipulation of the price of the Shares or of any "reference security" (as defined in Rule 100 of Regulation M under the Exchange Act ("Regulation M")) with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and has taken no action which would directly or indirectly violate Regulation M.

(gg) **Related-Party Transactions.** There are no business relationships or related-party transactions involving the Company or any of its subsidiaries or any other person required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus that have not been described as required.

(hh) **FINRA Matters.** All of the information provided to the Underwriters or to counsel for the Underwriters by the Company, its counsel, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with the offering of the Offered Shares is true, complete, correct and compliant with FINRA's rules and any letters, filings or other supplemental information provided to FINRA pursuant to FINRA Rules or NASD Conduct Rules is true, complete and correct.

(ii) **Parties to Lock-Up Agreements.** The Company has furnished to the Underwriters a letter agreement in the form attached hereto as Exhibit C (the "Lock-up Agreement") from each of the persons listed on Exhibit D. Such Exhibit D lists under an appropriate caption the directors and officers of the Company. If any additional persons shall become directors or officers of the Company prior to the end of the Lock-up Period (as defined below), the Company shall cause each such person, prior to or contemporaneously with their appointment or election as a director or officer of the Company, to execute and deliver to the Representatives a Lock-up Agreement. "Lock-up Period" means the period commencing on and including the date hereof and continuing through and including the 60th day following the date of the Prospectus.

(jj) **Statistical and Market-Related Data.** All statistical, demographic and market-related data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus are based on or derived from sources that the Company believes after reasonable inquiry, to be reliable and accurate. To the extent required, the Company has obtained the written consent to the use of such data from such sources.

(kk) **Sarbanes-Oxley Act.** There is, and has been, no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any applicable provision of the Sarbanes-Oxley Act of 2002, as amended and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(ll) **No Unlawful Contributions or Other Payments.** Neither the Company nor any of its subsidiaries nor, to the best of the Company's knowledge, any employee or agent of the Company or any subsidiary, has made any contribution or other payment to any official of, or candidate for, any federal, state or foreign office in violation of any law or of the character required to be disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus.

(mm) **Foreign Corrupt Practices Act.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries has, in the course of its actions for, or on behalf of, the Company or any of its subsidiaries (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment or benefit to any domestic government official, "foreign official" (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder, collectively, the "FCPA") or employee from corporate funds; (iii) violated or is in violation of any provision of the FCPA or any applicable non-U.S. anti-bribery statute or regulation; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment or benefit to any domestic government official, such foreign official or employee; and the Company and its subsidiaries and, to the knowledge of the Company, the Company's affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

**(nn) Money Laundering Laws.** The operations of the Company and its subsidiaries are, and have been conducted at all times, in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

**(oo) Sanctions.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, after due inquiry, any director, officer, agent, employee, affiliate or person acting on behalf of the Company or any of its subsidiaries is currently the subject or the target of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty’s Treasury of the United Kingdom, or other relevant sanctions authority (collectively, “**Sanctions**”); nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject or the target of Sanctions, including, without limitation, Crimea, Cuba, Iran, North Korea, and Syria (collectively, “**Sanctioned Countries**”); and the Company will not directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, or any joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory, that currently is the subject or the target of Sanctions or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as underwriter, advisor, investor or otherwise) of applicable Sanctions. For the past five years, the Company and its subsidiaries have not knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

**(pp) Brokers.** Except pursuant to this Agreement, there is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder’s fee or other fee or commission as a result of any transactions contemplated by this Agreement.

**(qq) Forward-Looking Statements.** Each financial or operational projection or other “forward-looking statement” (as defined by Section 27A of the Securities Act or Section 21E of the Exchange Act) contained in the Registration Statement, the Time of Sale Prospectus or the Prospectus (i) was so included by the Company in good faith and with reasonable basis after due consideration by the Company of the underlying assumptions, estimates and other applicable facts and circumstances and (ii) is accompanied by meaningful cautionary statements identifying those factors that could cause actual results to differ materially from those in such forward-looking statement. No such statement was made with the knowledge of an executive officer or director of the Company that it was false or misleading.

**(rr) Cybersecurity; Data Protection.** The Company and its subsidiaries’ information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, “**IT Systems**”) are adequate in all material respects for the operation and performance for the operation of the business of the Company and its subsidiaries as currently conducted, and, to the Company’s knowledge, the IT Systems are free and clear of all bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants, that would reasonably be likely to have a Material Adverse Effect. The Company and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including Personal Data) used in connection with their businesses. “**Personal Data**” means (i) a natural person’s name, street address, telephone number, e-mail address, photograph, social security number or tax identification number, driver’s license number, passport number, credit card number, bank information, or customer or account number; (ii) any information which would qualify as “personally identifying information” under the Federal Trade Commission Act, as amended; (iii) “personal data” as defined by European Union General Data Protection Regulation; (iv) any information which would qualify as “protected health information” under the Health Insurance Portability and Accountability Act of 1996, as amended by the HIPAA; and (v) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any data related to an identified person’s health or sexual orientation. To the Company’s knowledge, there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same, that, in each case, would reasonably be likely to have a Material Adverse Effect. The Company and its subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

**(ss) No Rights to Purchase Preferred Stock.** The issuance and sale of the Shares to be sold by the Company as contemplated hereby will not cause any holder of any shares of capital stock, securities convertible into or exchangeable or exercisable for capital stock or options, warrants or other rights to purchase capital stock or any other securities of the Company to have any right to acquire any shares of preferred stock of the Company.

**(tt) No Contract Terminations.** Neither the Company nor any of its subsidiaries has sent or received any communication regarding termination of, or intent not to renew, any of the contracts or agreements referred to or described in the Time of Sale Prospectus, the Prospectus or any free writing prospectus, or referred to or described in, or filed as an exhibit to, the Registration Statement, or any document incorporated by reference therein, and no such termination or non-renewal has been threatened by the Company or any of its subsidiaries or, to the Company’s knowledge, any other party to any such contract or agreement, which threat of termination or non-renewal has not been rescinded as of the date hereof.

**(uu) Dividend Restrictions.** No subsidiary of the Company is prohibited or restricted, directly or indirectly, from paying dividends to the Company, or from making any other distribution with respect to such subsidiary’s equity securities or from repaying to the Company or any other subsidiary of the Company any amounts that may from time to time become due under any loans or advances to such subsidiary from the Company or from transferring any property or assets to the Company or to any other subsidiary.

Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to any Underwriter or to counsel for the Underwriters in connection with the offering, or the purchase and sale, of the Offered Shares shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

The Company has a reasonable basis for making each of the representations set forth in this Section 1. The Company acknowledges that the Underwriters and, for purposes of the opinions to be delivered pursuant to Section 6 hereof, counsel to the Company and counsel to the Underwriters, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

**Section 2.** Purchase, Sale and Delivery of the Offered Shares.

(a) **The Firm Shares.** Upon the terms herein set forth, the Company agrees to issue and sell to the several Underwriters an aggregate of 16,935,484 Firm Shares. On the basis of the representations, warranties and agreements herein contained, and upon the terms but subject to the conditions herein set forth, the Underwriters agree, severally and not jointly, to purchase from the Company the respective number of Firm Shares set forth opposite their names on Schedule A. The purchase price per Firm Share to be paid by the several Underwriters to the Company shall be \$29.14 per share.

(b) **The First Closing Date.** Delivery of certificates for the Firm Shares to be purchased by the Underwriters and payment therefor shall be made at the offices of Latham & Watkins LLP, 12670 High Bluff Drive, San Diego, CA 92130 (or such other place as may be agreed to by the Company and the Representatives) at 9:00 a.m. New York City time, on June 2, 2020 or such other time and date not later than 1:30 p.m. New York City time, on June 16, 2020 as the Representatives shall designate by notice to the Company (the time and date of such closing are called the “**First Closing Date**”). The Company hereby acknowledges that circumstances under which the Representatives may provide notice to postpone the First Closing Date as originally scheduled include, but are not limited to, any determination by the Company or the Representatives to recirculate to the public copies of an amended or supplemented Prospectus or a delay as contemplated by the provisions of Section 11.

(c) **The Optional Shares; Option Closing Date.** In addition, on the basis of the representations, warranties and agreements herein contained, and upon the terms but subject to the conditions herein set forth, the Company hereby grants an option to the several Underwriters to purchase, severally and not jointly, up to an aggregate of 2,540,322 Optional Shares from the Company at the purchase price per share to be paid by the Underwriters for the Firm Shares, less an amount per share equal to any dividend or distribution declared by the Company and payable on the Firm Shares but not payable on Optional Shares. The option granted hereunder may be exercised at any time and from time to time in whole or in part upon notice by the Representatives to the Company, which notice may be given at any time within 30 days from the date of this Agreement. Such notice shall set forth (i) the aggregate number of Optional Shares as to which the Underwriters are exercising the option and (ii) the time, date and place at which certificates for the Optional Shares will be delivered (which time and date may be simultaneous with, but not earlier than, the First Closing Date; and in the event that such time and date are simultaneous with the First Closing Date, the term “**First Closing Date**” shall refer to the time and date of delivery of certificates for the Firm Shares and such Optional Shares). Any such time and date of delivery, if subsequent to the First Closing Date, is called an “**Option Closing Date**,” and shall be determined by the Representatives and shall not be earlier than two or later than five full business days after delivery of such notice of exercise. If any Optional Shares are to be purchased, each Underwriter agrees, severally and not jointly, to purchase the number of Optional Shares (subject to such adjustments to eliminate fractional shares as the Representatives may determine) that bears the same proportion to the total number of Optional Shares to be purchased as the number of Firm Shares set forth on Schedule A opposite the name of such Underwriter bears to the total number of Firm Shares. The Representatives may cancel the option at any time prior to its expiration by giving written notice of such cancellation to the Company.

(d) **Public Offering of the Offered Shares.** The Representatives hereby advise the Company that the Underwriters intend to offer for sale to the public, initially on the terms set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus, their respective portions of the Offered Shares as soon after this Agreement has been executed as the Representatives, in their sole judgment, have determined is advisable and practicable.



(e) **Payment for the Offered Shares.** (i) Payment for the Offered Shares shall be made at the First Closing Date (and, if applicable, at each Option Closing Date) by wire transfer of immediately available funds to the order of the Company.

(ii) It is understood that the Representatives have been authorized, for their own account and the accounts of the several Underwriters, to accept delivery of and receipt for, and make payment of the purchase price for, the Firm Shares and any Optional Shares the Underwriters have agreed to purchase. Each of Jefferies, Goldman and Wells Fargo, individually and not as the Representatives of the Underwriters, may (but shall not be obligated to) make payment for any Offered Shares to be purchased by any Underwriter whose funds shall not have been received by the Representatives by the First Closing Date or the applicable Option Closing Date, as the case may be, for the account of such Underwriter, but any such payment shall not relieve such Underwriter from any of its obligations under this Agreement.

(f) **Delivery of the Offered Shares.** The Company shall deliver, or cause to be delivered to the Representatives for the accounts of the several Underwriters certificates for the Firm Shares at the First Closing Date, against release of a wire transfer of immediately available funds for the amount of the purchase price therefor. The Company shall also deliver, or cause to be delivered to the Representatives for the accounts of the several Underwriters, certificates for the Optional Shares the Underwriters have agreed to purchase at the First Closing Date or the applicable Option Closing Date, as the case may be, against the release of a wire transfer of immediately available funds for the amount of the purchase price therefor. If Jefferies so elects, delivery of the Offered Shares may be made by credit to the accounts designated by Jefferies through The Depository Trust Company's full fast transfer or DWAC programs. If Jefferies so elects, the certificates for the Offered Shares shall be registered in such names and denominations as the Representatives shall have requested at least two full business days prior to the First Closing Date (or the applicable Option Closing Date, as the case may be) and shall be made available for inspection on the business day preceding the First Closing Date (or the applicable Option Closing Date, as the case may be) at a location in New York City as the Representatives may designate. Time shall be of the essence, and delivery at the time and place specified in this Agreement is a further condition to the obligations of the Underwriters.

### **Section 3. Additional Covenants of the Company.**

The Company further covenants and agrees with each Underwriter as follows:

(a) **Delivery of Registration Statement, Time of Sale Prospectus and Prospectus.** The Company shall furnish to you in New York City, without charge, prior to 10:00 a.m. New York City time on the business day next succeeding the date of this Agreement and during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) in connection with sales of the Offered Shares, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as you may reasonably request.

(b) **Representatives' Review of Proposed Amendments and Supplements.** During the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), the Company (i) will furnish to the Representatives for review, a reasonable period of time prior to the proposed time of filing of any proposed amendment or supplement to the Registration Statement, a copy of each such amendment or supplement and (ii) will not amend or supplement the Registration Statement (including any amendment or supplement through incorporation of any report filed under the Exchange Act) without the Representatives' prior written consent. Prior to amending or supplementing any preliminary prospectus, the Time of Sale Prospectus or the Prospectus (including any amendment or supplement through incorporation of any report filed under the Exchange Act), the Company shall furnish to the Representatives for review, a reasonable amount of time prior to the time of filing or use of the proposed amendment or supplement, a copy of each such proposed amendment or supplement. The Company shall not file or use any such proposed amendment or supplement without the Representatives' prior written consent. The Company shall file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

(c) **Free Writing Prospectuses.** The Company shall furnish to the Representatives for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of each proposed free writing prospectus or any amendment or supplement thereto prepared by or on behalf of, used by, or referred to by the Company, and the Company shall not file, use or refer to any proposed free writing prospectus or any amendment or supplement thereto without the Representatives' prior written consent. The Company shall furnish to each Underwriter, without charge, as many copies of any free writing prospectus prepared by or on behalf of, used by or referred to by the Company as such Underwriter may reasonably request. If at any time when a prospectus is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) in connection with sales of the Offered Shares (but in any event if at any time through and including the First Closing Date) there occurred or occurs an event or development as a result of which any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company conflicted or would conflict with the information contained in the Registration Statement or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at such time, not misleading, the Company shall promptly amend or supplement such free writing prospectus to eliminate or correct such conflict or so that the statements in such free writing prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at such time, not misleading, as the case may be; *provided, however*, that prior to amending or supplementing any such free writing prospectus, the Company shall furnish to the Representatives for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of such proposed amended or supplemented free writing prospectus, and the Company shall not file, use or refer to any such amended or supplemented free writing prospectus without the Representatives' prior written consent.

(d) **Filing of Underwriter Free Writing Prospectuses.** The Company shall not take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of such Underwriter that such Underwriter otherwise would not have been required to file thereunder.

(e) **Amendments and Supplements to Time of Sale Prospectus.** If the Time of Sale Prospectus is being used to solicit offers to buy the Offered Shares at a time when the Prospectus is not yet available to prospective purchasers, and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus so that the Time of Sale Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when delivered to a prospective purchaser, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, the Company shall (subject to Section 3(b) and Section 3(c) hereof) promptly prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when delivered to a prospective purchaser, not misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the information contained in the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

**(f) Certain Notifications and Required Actions.** After the date of this Agreement, the Company shall promptly advise the Representatives in writing of: (i) the receipt of any comments of, or requests for additional or supplemental information from, the Commission; (ii) the time and date of any filing of any post-effective amendment to the Registration Statement or any amendment or supplement to any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus or the Prospectus; (iii) the time and date that any post-effective amendment to the Registration Statement becomes effective; and (iv) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto or any amendment or supplement to any preliminary prospectus, the Time of Sale Prospectus or the Prospectus or of any order preventing or suspending the use of any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus or the Prospectus, or of any proceedings to remove, suspend or terminate from listing or quotation the Shares from any securities exchange upon which they are listed for trading or included or designated for quotation, or of the threatening or initiation of any proceedings for any of such purposes. If the Commission shall enter any such stop order at any time, the Company will use its best efforts to obtain the lifting of such order at the earliest possible moment. Additionally, the Company agrees that it shall comply with all applicable provisions of Rule 424(b), Rule 433 and Rule 430B under the Securities Act and will use its reasonable efforts to confirm that any filings made by the Company under Rule 424(b) or Rule 433 were received in a timely manner by the Commission.

**(g) Amendments and Supplements to the Prospectus and Other Securities Act Matters.** If any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus so that the Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) to a purchaser, not misleading, or if in the opinion of the Representatives or counsel for the Underwriters it is otherwise necessary to amend or supplement the Prospectus to comply with applicable law, the Company agrees (subject to Section 3(b) and Section 3(c)) hereof to promptly prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) to a purchaser, not misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law. Neither the Representatives' consent to, nor delivery of, any such amendment or supplement shall constitute a waiver of any of the Company's obligations under Section 3(b) or Section 3(c).

**(h) Blue Sky Compliance.** The Company shall cooperate with the Representatives and counsel for the Underwriters to qualify or register the Offered Shares for sale under (or obtain exemptions from the application of) the state securities or blue sky laws or Canadian provincial securities laws (or other foreign laws) of those jurisdictions designated by the Representatives, shall comply with such laws and shall continue such qualifications, registrations and exemptions in effect so long as required for the distribution of the Offered Shares. The Company shall not be required to qualify as a foreign corporation or to take any action that would subject it to general service of process in any such jurisdiction where it is not presently qualified or where it would be subject to taxation as a foreign corporation. The Company will advise the Representatives promptly of the suspension of the qualification or registration of (or any such exemption relating to) the Offered Shares for offering, sale or trading in any jurisdiction or any initiation or threat of any proceeding for any such purpose, and in the event of the issuance of any order suspending such qualification, registration or exemption, the Company shall use its best efforts to obtain the withdrawal thereof at the earliest possible moment.

(i) **Use of Proceeds.** The Company shall apply the net proceeds from the sale of the Offered Shares sold by it in the manner described under the caption “Use of Proceeds” in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(j) **Transfer Agent.** The Company shall engage and maintain, at its expense, a registrar and transfer agent for the Shares.

(k) **Earnings Statement.** The Company will make generally available to its security holders and to the Representatives as soon as practicable an earnings statement (which need not be audited) covering a period of at least twelve months beginning with the first fiscal quarter of the Company commencing after the date of this Agreement that will satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder. To the extent the Company has filed an earnings release or press release, such earnings release or press release shall qualify as being made generally available by the Company.

(l) **Continued Compliance with Securities Laws.** The Company will comply with the Securities Act and the Exchange Act so as to permit the completion of the distribution of the Offered Shares as contemplated by this Agreement, the Registration Statement, the Time of Sale Prospectus and the Prospectus. Without limiting the generality of the foregoing, the Company will, during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), file on a timely basis with the Commission and the Nasdaq all reports and documents required to be filed under the Exchange Act.

(m) **Listing.** The Company will use its best efforts to list, subject to notice of issuance, the Offered Shares on the Nasdaq and to maintain the listing of the Shares on Nasdaq.

(n) **Company to Provide Copy of the Prospectus in Form That May be Downloaded from the Internet.** If requested by the Representatives, the Company shall cause to be prepared and delivered, at its expense, within one business day from the effective date of this Agreement, to the Representatives an “**electronic Prospectus**” to be used by the Underwriters in connection with the offering and sale of the Offered Shares. As used herein, the term “**electronic Prospectus**” means a form of Prospectus, and any amendment or supplement thereto, that meets each of the following conditions: (i) it shall be encoded in an electronic format, satisfactory to the Representatives, that may be transmitted electronically by the Representatives and the other Underwriters to offerees and purchasers of the Offered Shares; (ii) it shall disclose the same information as the paper Prospectus, except to the extent that graphic and image material cannot be disseminated electronically, in which case such graphic and image material shall be replaced in the electronic Prospectus with a fair and accurate narrative description or tabular representation of such material, as appropriate; and (iii) it shall be in or convertible into a paper format or an electronic format, satisfactory to Jefferies, that will allow investors to store and have continuously ready access to the Prospectus at any future time, without charge to investors (other than any fee charged for subscription to the Internet as a whole and for on-line time). The Company hereby confirms that it has included or will include in the Prospectus filed pursuant to EDGAR or otherwise with the Commission and in the Registration Statement at the time it was declared effective an undertaking that, upon receipt of a request by an investor or his or her representative, the Company shall transmit or cause to be transmitted promptly, without charge, a paper copy of the Prospectus.

(o) **Agreement Not to Offer or Sell Additional Shares.** During the period commencing on and including the date hereof and continuing through and including the 90th day following the date of the Prospectus (such period, as extended as described below, being referred to herein as the “**Company Lock-up Period**”), the Company will not, without the prior written consent of Jefferies and Goldman (which consent may be withheld in their sole discretion), directly or indirectly: (i) sell, offer to sell, contract to sell or lend any Shares or Related Securities (as defined below); (ii) effect any short sale, or establish or increase any “put equivalent position” (as defined in Rule 16a-1(h) under the Exchange Act) or liquidate or decrease any “call equivalent position” (as defined in Rule 16a-1(b) under the Exchange Act) of any Shares or Related Securities; (iii) pledge, hypothecate or grant any security interest in any Shares or Related Securities; (iv) in any other way transfer or dispose of any Shares or Related Securities; (v) enter into any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of any Shares or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise; (vi) announce the offering of any Shares or Related Securities; (vii) submit or file any registration statement under the Securities Act in respect of any Shares or Related Securities (other than as contemplated by this Agreement with respect to the Offered Shares or for registration statements on Form S-8 with respect to Shares or Related Securities to be issued pursuant to stock option, stock bonus or other stock plans or arrangements described in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus and the Prospectus); (viii) effect a reverse stock split, recapitalization, share consolidation, reclassification or similar transaction affecting the outstanding Shares; or (ix) publicly announce the intention to do any of the foregoing; *provided, however*, that the Company may (A) effect the transactions contemplated hereby, (B) issue Shares, options to purchase Shares or other Related Securities, or issue Shares upon exercise of options or other Related Securities, pursuant to one or more stock option, restricted stock unit, restricted stock agreement or other stock plans or arrangements described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, (C) issue Shares or Related Securities pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options, in each case outstanding on the date hereof, and (D) issue Shares or Related Securities in connection with one or more joint ventures or commercial, strategic, consulting or collaborative relationships or acquisitions or licenses by the Company of the securities, business, property or other assets of one or more persons or entities or pursuant to any employee benefit plans assumed by the Company in connection with any such acquisitions, but only if the holders of such Shares, options or other Related Securities agree in writing with Jefferies and Goldman not to sell, offer, dispose of or otherwise transfer any such Shares or options during such Company Lock-up Period without the prior written consent of Jefferies and Goldman (which consent may be withheld in their sole discretion) and in the case of clause (D), the sum of the aggregate number of Shares or Related Securities so issued shall not exceed 5% of the total outstanding Shares. For purposes of the foregoing, “**Related Securities**” shall mean any options or warrants or other rights to acquire Shares or any securities exchangeable or exercisable for or convertible into Shares, or to acquire other securities or rights ultimately exchangeable or exercisable for, or convertible into, Shares. The Company will provide Jefferies and Goldman with prior notice of any such announcement that gives rise to an extension of the Company Lock-up Period.

(p) **Future Reports to the Representatives.** During the period of five years hereafter, the Company will furnish to the Representatives, c/o Jefferies, at 520 Madison Avenue, New York, New York 10022, Attention: Global Head of Syndicate, c/o Goldman, at 200 West Street, New York, New York 10282, Attention: Registration Department, c/o Wells Fargo, at 500 West 33rd Street, New York, New York 10001, Attention: Equity Syndicate Department: (i) as soon as practicable after the end of each fiscal year, copies of the Annual Report of the Company containing the balance sheet of the Company as of the close of such fiscal year and statements of income, stockholders’ equity and cash flows for the year then ended and the opinion thereon of the Company’s independent public or certified public accountants; (ii) as soon as practicable after the filing thereof, copies of each proxy statement, Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other report filed by the Company with the Commission, FINRA or any securities exchange; and (iii) as soon as available, copies of any report or communication of the Company furnished or made available generally to holders of its capital stock; *provided, however*, that the requirements of this Section 3(p) shall be satisfied to the extent that such reports, statement, communications, financial statements or other documents are available on EDGAR.

(q) **Investment Limitation.** The Company shall not invest or otherwise use the proceeds received by the Company from its sale of the Offered Shares in such a manner as would require the Company or any of its subsidiaries to register as an investment company under the Investment Company Act.

(r) **No Stabilization or Manipulation; Compliance with Regulation M.** The Company will not take, and will ensure that no affiliate of the Company will take, directly or indirectly, any action designed to or that might cause or result in stabilization or manipulation of the price of the Shares or any reference security with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and the Company will, and shall cause each of its affiliates to, comply with all applicable provisions of Regulation M.

(s) **Enforce Lock-Up Agreements.** During the Lock-up Period, the Company will enforce all agreements between the Company and any of its securityholders that restrict or prohibit, expressly or in operation, the offer, sale or transfer of Shares or Related Securities or any of the other actions restricted or prohibited under the terms of the form of Lock-up Agreement. In addition, the Company will direct the transfer agent to place stop transfer restrictions upon any such securities of the Company that are bound by such “lock-up” agreements for the duration of the periods contemplated in such agreements, including, without limitation, “lock-up” agreements entered into by the Company’s officers and directors pursuant to Section 6(j) hereof.

(t) **Company to Provide Interim Financial Statements.** Prior to the First Closing Date and each applicable Option Closing Date, the Company will furnish the Underwriters, as soon as they have been prepared by or are available to the Company, a copy of any unaudited interim financial statements of the Company for any period subsequent to the period covered by the most recent financial statements appearing in the Registration Statement and the Prospectus.

(u) **Announcement Regarding Lock-ups.** The Company agrees to announce the Underwriters’ intention to release any director or “officer” (within the meaning of Rule 16a-1(f) under the Exchange Act) of the Company from any of the restrictions imposed by any Lock-up Agreement, by issuing, through a major news service, a press release in form and substance satisfactory to the Representatives or, if consented to by the Representatives, in a registration statement that is publicly filed in connection with a secondary offering of the Company’s shares promptly following the Company’s receipt of any notification from the Representatives in which such intention is indicated, but in any case not later than the close of the third business day prior to the date on which such release or waiver is to become effective; *provided, however*, that nothing shall prevent the Representatives, on behalf of the Underwriters, from announcing the same through a major news service, irrespective of whether the Company has made the required announcement; and *provided, further*, that no such announcement shall be made of any release or waiver granted solely to permit a transfer of securities that is not for consideration and where the transferee has agreed in writing to be bound by the terms of a Lock-up Agreement in the form set forth as Exhibit C hereto.

**Section 4. Payment of Expenses.** The Company agrees to pay all costs, fees and expenses incurred in connection with the performance of its obligations hereunder and in connection with the transactions contemplated hereby, including without limitation (i) all expenses incident to the issuance and delivery of the Offered Shares (including all printing and engraving costs), (ii) all fees and expenses of the registrar and transfer agent of the Shares, (iii) all necessary issue, transfer and other stamp taxes in connection with the issuance and sale of the Offered Shares to the Underwriters, (iv) all fees and expenses of the Company's counsel, independent public or certified public accountants and other advisors, (v) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Registration Statement (including financial statements, exhibits, schedules, consents and certificates of experts), the Time of Sale Prospectus, the Prospectus, each free writing prospectus prepared by or on behalf of, used by, or referred to by the Company, and each preliminary prospectus, and all amendments and supplements thereto, and this Agreement, (vi) up to an aggregate of \$10,000 of all filing fees, attorneys' fees and expenses incurred by the Underwriters in connection with qualifying or registering (or obtaining exemptions from the qualification or registration of) all or any part of the Offered Shares for offer and sale under the state securities or blue sky laws or the provincial securities laws of Canada, and, if requested by the Representatives, preparing and printing a "Blue Sky Survey" or memorandum and a "Canadian wrapper", and any supplements thereto, advising the Underwriters of such qualifications, registrations and exemptions, (vii) up to an aggregate of \$30,000 of the costs, fees and expenses incurred by the Underwriters in connection with determining their compliance with the rules and regulations of FINRA related to the Underwriters' participation in the offering and distribution of the Offered Shares, including any related filing fees and the legal fees of, and disbursements by, counsel to the Underwriters, (viii) the costs and expenses of the Company relating to investor presentations on any "road show", undertaken in connection with the offering of the Offered Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the representatives, employees and officers of the Company and any such consultants, and up to fifty percent of the cost of any aircraft chartered in connection with the road show with the Company's prior consent, and (ix) all other fees, costs and expenses of the nature referred to in Item 14 of Part II of the Registration Statement. Except as expressly provided in this Section 4 or in Section 7, Section 9 or Section 10 hereof, the Underwriters shall pay their own expenses, including the fees and disbursements of their counsel.

**Section 5. Covenant of the Underwriters.** Each Underwriter severally and not jointly covenants with the Company not to take any action that would result in the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not, but for such actions, be required to be filed by the Company under Rule 433(d).

**Section 6. Conditions of the Obligations of the Underwriters.** The respective obligations of the several Underwriters hereunder to purchase and pay for the Offered Shares as provided herein on the First Closing Date and, with respect to the Optional Shares, each Option Closing Date, shall be subject to the accuracy of the representations and warranties on the part of the Company set forth in Section 1 hereof as of the date hereof and as of the First Closing Date as though then made and, with respect to the Optional Shares, as of each Option Closing Date as though then made, to the timely performance by the Company of its covenants and other obligations hereunder, and to each of the following additional conditions:

(a) **Comfort Letter.** On the date hereof, the Representatives shall have received from Marcum LLP, independent registered public accountants for the Company, a letter dated the date hereof addressed to the Underwriters, in form and substance satisfactory to the Representatives, containing statements and information of the type ordinarily included in accountant's "comfort letters" to underwriters, delivered according to Statement of Auditing Standards No. 72 (or any successor bulletin), with respect to the audited and unaudited financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus, and each free writing prospectus, if any.

**(b) Compliance with Registration Requirements; No Stop Order; No Objection from FINRA.** For the period from and after the date of this Agreement and through and including the First Closing Date and, with respect to any Optional Shares purchased after the First Closing Date, each Option Closing Date:

(i) The Company shall have filed the Prospectus with the Commission (including the information previously omitted from the Registration Statement pursuant to Rule 430B under the Securities Act) in the manner and within the time period required by Rule 424(b) under the Securities Act.

(ii) No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment to the Registration Statement shall be in effect, and no proceedings for such purpose shall have been instituted or threatened by the Commission.

(iii) If a filing has been made with FINRA, FINRA shall have raised no objection to the fairness and reasonableness of the underwriting terms and arrangements.

**(c) No Material Adverse Change or Ratings Agency Change.** For the period from and after the date of this Agreement and through and including the First Closing Date and, with respect to any Optional Shares purchased after the First Closing Date, each Option Closing Date:

(i) in the judgment of the Representatives there shall not have occurred any Material Adverse Change; and

(ii) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any securities of the Company or any of its subsidiaries by any “nationally recognized statistical rating organization” as that term is used in Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act.

**(d) Opinion of Counsel for the Company.** On each of the First Closing Date and each Option Closing Date, the Representatives shall have received the opinion and negative assurance letter of DLA Piper LLP, counsel for the Company, dated as of such date, in the form attached hereto as Exhibit A and to such further effect as the Representatives shall reasonably request.

**(e) Opinion of Intellectual Property Counsel.** On each of the First Closing Date and each Option Closing Date, the Representatives shall have received the opinion of Morgan, Lewis & Bockius LLP, counsel for the Company with respect to intellectual property matters, dated as of such date, in the form attached hereto as Exhibit B and to such further effect as the Representatives shall reasonably request.

**(f) Opinion of Counsel for the Underwriters.** On each of the First Closing Date and each Option Closing Date the Representatives shall have received the opinion and negative assurance letter of Latham & Watkins LLP, counsel for the Underwriters in connection with the offer and sale of the Offered Shares, in form and substance satisfactory to the Underwriters, dated as of such date.



(g) **Officers' Certificate.** On each of the First Closing Date and each Option Closing Date, the Representatives shall have received a certificate executed by the Chief Executive Officer or President of the Company and the Chief Financial Officer of the Company, dated as of such date, to the effect set forth in Section 6(b)(ii) and further to the effect that:

(i) for the period from and including the date of this Agreement through and including such date, there has not occurred any Material Adverse Change;

(ii) the representations, warranties and covenants of the Company set forth in Section 1 of this Agreement are true and correct with the same force and effect as though expressly made on and as of such date; and

(iii) the Company has complied with all the agreements hereunder and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to such date.

(h) **Bring-down Comfort Letter.** On each of the First Closing Date and each Option Closing Date, the Representatives shall have received from Marcum LLP, independent registered public accountants for the Company, a letter dated such date, in form and substance satisfactory to the Representatives, which letter shall: (i) reaffirm the statements made in the letter furnished by them pursuant to Section 6(a), except that the specified date referred to therein for the carrying out of procedures shall be no more than three business days prior to the First Closing Date or the applicable Option Closing Date, as the case may be; and (ii) cover certain financial information contained in the Prospectus.

(i) **Lock-Up Agreements.** On or prior to the date hereof, the Company shall have furnished to the Representatives an agreement in the form of Exhibit C hereto from each of the persons listed on Exhibit D hereto, and each such agreement shall be in full force and effect on each of the First Closing Date and each Option Closing Date.

(j) **Rule 462(b) Registration Statement.** In the event that a Rule 462(b) Registration Statement is filed in connection with the offering contemplated by this Agreement, such Rule 462(b) Registration Statement shall have been filed with the Commission on the date of this Agreement and shall have become effective automatically upon such filing.

(k) **Additional Documents.** On or before each of the First Closing Date and each Option Closing Date, the Representatives and counsel for the Underwriters shall have received such information, documents and opinions as they may reasonably request for the purposes of enabling them to pass upon the issuance and sale of the Offered Shares as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Offered Shares as contemplated herein and in connection with the other transactions contemplated by this Agreement shall be reasonably satisfactory in form and substance to the Representatives and counsel for the Underwriters.

If any condition specified in this Section 6 is not satisfied when and as required to be satisfied, this Agreement may be terminated by the Representatives by notice from Jefferies to the Company at any time on or prior to the First Closing Date and, with respect to the Optional Shares, at any time on or prior to the applicable Option Closing Date, which termination shall be without liability on the part of any party to any other party, except that Section 4, Section 7, Section 9 and Section 10 shall at all times be effective and shall survive such termination.

**Section 7. Reimbursement of Underwriters' Expenses.** If this Agreement is terminated by the Representatives pursuant to Section 6, Section 11 or Section 12, or if the sale to the Underwriters of the Offered Shares on the First Closing Date is not consummated because of any refusal, inability or failure on the part of the Company to perform any agreement herein or to comply with any provision hereof, the Company agrees to reimburse the Representatives and the other Underwriters (or such Underwriters as have terminated this Agreement with respect to themselves), severally, upon demand for all out-of-pocket expenses that shall have been reasonably incurred by the Representatives and the Underwriters in connection with the proposed purchase and the offering and sale of the Offered Shares, including, but not limited to, fees and disbursements of counsel, printing expenses, travel expenses, postage, facsimile and telephone charges.

**Section 8. Effectiveness of this Agreement.** This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

**Section 9. Indemnification.**

**(a) Indemnification of the Underwriters.** The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors, officers, employees and agents, and each person, if any, who controls any Underwriter within the meaning of the Securities Act or the Exchange Act against any loss, claim, damage, liability or expense, as incurred, to which such Underwriter or such affiliate, director, officer, employee, agent or controlling person may become subject, under the Securities Act, the Exchange Act, other federal or state statutory law or regulation, or the laws or regulations of foreign jurisdictions where Offered Shares have been offered or sold or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Company), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433(d) of the Securities Act or the Prospectus (or any amendment or supplement to the foregoing), or the omission or alleged omission to state therein a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading; or (iii) any act or failure to act or any alleged act or failure to act by any Underwriter in connection with, or relating in any manner to, the Shares or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, damage, liability or action arising out of or based upon any matter covered by clause (i) or (ii) above; and to reimburse each Underwriter and each such affiliate, director, officer, employee, agent and controlling person for any and all expenses (including the reasonable fees and disbursements of counsel) as such expenses are incurred by such Underwriter or such affiliate, director, officer, employee, agent or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action; *provided, however*, that the foregoing indemnity agreement shall not apply to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company by the Representatives in writing expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any such free writing prospectus or the Prospectus (or any amendment or supplement thereto), it being understood and agreed that the only such information consists of the information described in Section 9(b) below. The indemnity agreement set forth in this Section 9(a) shall be in addition to any liabilities that the Company may otherwise have.

**(b) Indemnification of the Company, its Directors and its Officers.** Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors, each of its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, against any loss, claim, damage, liability or expense, as incurred, to which the Company, or any such director, officer or controlling person may become subject, under the Securities Act, the Exchange Act, or other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Underwriter), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433(d) of the Securities Act or the Prospectus (or any such amendment or supplement) or the omission or alleged omission to state therein a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, such preliminary prospectus, the Time of Sale Prospectus, such free writing prospectus or the Prospectus (or any such amendment or supplement), in reliance upon and in conformity with information relating to such Underwriter furnished to the Company by the Representatives in writing expressly for use therein; and to reimburse the Company, or any such director, officer or controlling person for any and all expenses (including the fees and disbursements of counsel) as such expenses are incurred by the Company, or any such director, officer or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action. The Company hereby acknowledges that the only information that the Representatives have furnished to the Company expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) of the Securities Act or the Prospectus (or any amendment or supplement to the foregoing) are the statements set forth in the first sentence of the third paragraph under the caption “Underwriting,” the first three sentences of the first paragraph under the caption “Underwriting—Commission and Expenses” and the first sentence of the first paragraph under the caption “Underwriting—Stabilization” in each of the Preliminary Prospectus Supplement and the Final Prospectus Supplement. The indemnity agreement set forth in this Section 9(b) shall be in addition to any liabilities that each Underwriter may otherwise have.

**(c) Notifications and Other Indemnification Procedures.** Promptly after receipt by an indemnified party under this Section 9 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under this Section 9, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which it may have to any indemnified party to the extent the indemnifying party is not materially prejudiced as a proximate result of such failure and shall not in any event relieve the indemnifying party from any liability that it may have otherwise than on account of this indemnity agreement. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; *provided, however*, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party’s election to so assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 9 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the fees and expenses of more than one separate counsel (together with local counsel), representing the indemnified parties who are parties to such action), which counsel (together with any local counsel) for the indemnified parties shall be selected by Jefferies (in the case of counsel for the indemnified parties referred to in Section 9(a) above) or by the Company (in the case of counsel for the indemnified parties referred to in Section 9(b) above) or (ii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized in writing the employment of counsel for the indemnified party at the expense of the indemnifying party, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party and shall be paid as they are incurred.

**(d) Settlements.** The indemnifying party under this Section 9 shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by Section 9(c) hereof, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and does not include an admission of fault or culpability or a failure to act by or on behalf of such indemnified party.

**Section 10. Contribution.** If the indemnification provided for in Section 9 is for any reason held to be unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any losses, claims, damages, liabilities or expenses referred to therein (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Offered Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and the Underwriters, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Offered Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as the total proceeds from the offering of the Offered Shares pursuant to this Agreement (before deducting expenses) received by the Company, and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth on the front cover page of the Prospectus, bear to the aggregate initial public offering price of the Offered Shares as set forth on such cover. The relative fault of the Company, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or the Underwriters, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 9(c), any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim. The provisions set forth in Section 9(c) with respect to notice of commencement of any action shall apply if a claim for contribution is to be made under this Section 10; *provided, however*, that no additional notice shall be required with respect to any action for which notice has been given under Section 9(c) for purposes of indemnification.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 10 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 10.

Notwithstanding the provisions of this Section 10, no Underwriter shall be required to contribute any amount in excess of the underwriting discounts and commissions received by such Underwriter in connection with the Offered Shares underwritten by it and distributed to the public. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 10 are several, and not joint, in proportion to their respective underwriting commitments as set forth opposite their respective names on Schedule A. For purposes of this Section 10, each affiliate, director, officer, employee and agent of an Underwriter and each person, if any, who controls an Underwriter within the meaning of the Securities Act or the Exchange Act shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act shall have the same rights to contribution as the Company.

**Section 11. Default of One or More of the Several Underwriters.** If, on the First Closing Date or any Option Closing Date any one or more of the several Underwriters shall fail or refuse to purchase Offered Shares that it or they have agreed to purchase hereunder on such date, and the aggregate number of Offered Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase does not exceed 10% of the aggregate number of the Offered Shares to be purchased on such date, the Representatives may make arrangements satisfactory to the Company for the purchase of such Offered Shares by other persons, including any of the Underwriters, but if no such arrangements are made by such date, the other Underwriters shall be obligated, severally and not jointly, in the proportions that the number of Firm Shares set forth opposite their respective names on Schedule A bears to the aggregate number of Firm Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as may be specified by the Representatives with the consent of the non-defaulting Underwriters, to purchase the Offered Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date. If, on the First Closing Date or any Option Closing Date any one or more of the Underwriters shall fail or refuse to purchase Offered Shares and the aggregate number of Offered Shares with respect to which such default occurs exceeds 10% of the aggregate number of Offered Shares to be purchased on such date, and arrangements satisfactory to the Representatives and the Company for the purchase of such Offered Shares are not made within 48 hours after such default, this Agreement shall terminate without liability of any party to any other party except that the provisions of Section 4, Section 7, Section 9 and Section 10 shall at all times be effective and shall survive such termination. In any such case either the Representatives or the Company shall have the right to postpone the First Closing Date or the applicable Option Closing Date, as the case may be, but in no event for longer than seven days in order that the required changes, if any, to the Registration Statement and the Prospectus or any other documents or arrangements may be effected.

As used in this Agreement, the term “**Underwriter**” shall be deemed to include any person substituted for a defaulting Underwriter under this Section 11. Any action taken under this Section 11 shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

**Section 12. Termination of this Agreement.** Prior to the purchase of the Firm Shares by the Underwriters on the First Closing Date, this Agreement may be terminated by Jefferies, Goldman and Wells Fargo by notice given to the Company if at any time: (i) trading or quotation in any of the Company’s securities shall have been suspended or limited by the Commission or by the Nasdaq, or trading in securities generally on either the Nasdaq or the NYSE shall have been suspended or limited, or minimum or maximum prices shall have been generally established on any of such stock exchanges; (ii) a general banking moratorium shall have been declared by any of federal, New York or California authorities; (iii) there shall have occurred any outbreak or escalation of national or international hostilities or any crisis or calamity, or any change in the United States or international financial markets, or any substantial change or development involving a prospective substantial change in United States’ or international political, financial or economic conditions, as in the judgment of Jefferies, Goldman and Wells Fargo is material and adverse and makes it impracticable to market the Offered Shares in the manner and on the terms described in the Time of Sale Prospectus or the Prospectus or to enforce contracts for the sale of securities; (iv) in the judgment of Jefferies, Goldman and Wells Fargo there shall have occurred any Material Adverse Change; or (v) the Company shall have sustained a loss by strike, fire, flood, earthquake, accident or other calamity of such character as in the judgment of Jefferies, Goldman and Wells Fargo may interfere materially with the conduct of the business and operations of the Company regardless of whether or not such loss shall have been insured. Any termination pursuant to this Section 12 shall be without liability on the part of (a) the Company to any Underwriter, except that the Company shall be obligated to reimburse the expenses of the Representatives and the Underwriters pursuant to Section 4 or Section 7 hereof or (b) any Underwriter to the Company; *provided, however*, that the provisions of Section 9 and Section 10 shall at all times be effective and shall survive such termination.

**Section 13. No Advisory or Fiduciary Relationship.** The Company acknowledges and agrees that (a) the purchase and sale of the Offered Shares pursuant to this Agreement, including the determination of the public offering price of the Offered Shares and any related discounts and commissions, is an arm’s-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering contemplated hereby and the process leading to such transaction, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company or its stockholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, and (e) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

**Section 14. Representations and Indemnities to Survive Delivery.** The respective indemnities, agreements, representations, warranties and other statements of the Company, of its officers and of the several Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or the Company or any of its or their partners, officers or directors or any controlling person, as the case may be, and, anything herein to the contrary notwithstanding, will survive delivery of and payment for the Offered Shares sold hereunder and any termination of this Agreement.

**Section 15. Notices.** All communications hereunder shall be in writing and shall be mailed, hand delivered or telecopied and confirmed to the parties hereto as follows:

If to the Representatives:

Jefferies LLC  
520 Madison Avenue  
New York, New York 10022  
Facsimile: (646) 619-4437  
Attention: General Counsel

Goldman Sachs & Co. LLC  
200 West Street  
New York, New York 10282  
Attention: Registration Department

Wells Fargo Securities, LLC  
500 West 33rd Street  
New York, New York 10001  
Facsimile: (212) 214-5918  
Attention: Equity Syndicate Department

with a copy to:

Latham & Watkins LLP  
12670 High Bluff Drive  
San Diego, CA 92130  
Facsimile: (858) 523-5450  
Attn: Cheston J. Larson, Esq.

If to the Company:

Iovance Biotherapeutics, Inc.  
999 Skyway Road, Suite 150  
San Carlos, CA 94070  
Facsimile: (650) 260-7126  
Attention: Legal Department

with an electronic copy to: [legal@iovance.com](mailto:legal@iovance.com)

with a copy to:

DLA Piper LLP  
51 John F. Kennedy Parkway, Suite 120  
Short Hills, New Jersey 07078  
Facsimile: (973) 215-2804  
Attention: Emilio Ragosa

Any party hereto may change the address for receipt of communications by giving written notice to the others.

**Section 16. Successors.** This Agreement will inure to the benefit of and be binding upon the parties hereto, including any substitute Underwriters pursuant to Section 11 hereof, and to the benefit of the affiliates, directors, officers, employees, agents and controlling persons referred to in Section 9 and Section 10, and in each case their respective successors, and personal representatives, and no other person will have any right or obligation hereunder. The term “**successors**” shall not include any purchaser of the Offered Shares as such from any of the Underwriters merely by reason of such purchase.

**Section 17. Partial Unenforceability.** The invalidity or unenforceability of any section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph or provision hereof. If any section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

**Section 18. Recognition of the U.S. Special Resolution Regimes.**

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Agreement, (A) “**BHC Act Affiliate**” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); (B) “**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b); (C) “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable; and (D) “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

**Section 19. Governing Law Provisions.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in such state. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the Borough of Manhattan in the City of New York or the courts of the State of New York in each case located in the Borough of Manhattan in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party’s address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.



**Section 20. General Provisions.** This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. This Agreement may not be amended or modified unless in writing by all of the parties hereto, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit. The section headings herein are for the convenience of the parties only and shall not affect the construction or interpretation of this Agreement.

Each of the parties hereto acknowledges that it is a sophisticated business person who was adequately represented by counsel during negotiations regarding the provisions hereof, including, without limitation, the indemnification provisions of Section 9 and the contribution provisions of Section 10, and is fully informed regarding said provisions. Each of the parties hereto further acknowledges that the provisions of Section 9 and Section 10 hereof fairly allocate the risks in light of the ability of the parties to investigate the Company, its affairs and its business in order to assure that adequate disclosure has been made in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, each free writing prospectus and the Prospectus (and any amendments and supplements to the foregoing), as contemplated by the Securities Act and the Exchange Act.

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to the Company the enclosed copies hereof, whereupon this instrument, along with all counterparts hereof, shall become a binding agreement in accordance with its terms.

Very truly yours,

**IOVANCE BIOTHERAPEUTICS, INC.**

By: /s/ Maria Fardis

Name: Maria Fardis, Ph.D., M.B.A.

Title: President and Chief Executive Officer

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*[Signature Page to Underwriting Agreement]*

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The foregoing Underwriting Agreement is hereby confirmed and accepted by the Representatives in New York, New York as of the date first above written.

**JEFFERIES LLC**

**GOLDMAN SACHS & CO. LLC**

**WELLS FARGO SECURITIES, LLC**

Acting individually and as Representatives  
of the several Underwriters named in  
the attached Schedule A.

**JEFFERIES LLC**

By: /s/ Kevin J. Sheridan

Name: Kevin J. Sheridan

Title: Joint Global Head of Healthcare Investment Banking

**GOLDMAN SACHS & CO. LLC**

By: /s/ Elizabeth Wood

Name: Elizabeth Wood

Title: Managing Director

**WELLS FARGO SECURITIES, LLC**

By: /s/ Geoffrey Goodman

Name: Geoffrey Goodman

Title: Managing Director

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[Signature Page to Underwriting Agreement]

<b>Underwriters</b>	<b>Number of Firm Shares to be Purchased</b>
Jefferies LLC	6,774,194
Goldman Sachs & Co. LLC	6,774,194
Wells Fargo Securities, LLC	1,693,549
Oppenheimer & Co. Inc.	592,742
Robert W. Baird & Co. Incorporated	592,741
H.C. Wainwright & Co., LLC	508,064
Total	<u>16,935,484</u>

**Free Writing Prospectuses Included in the Time of Sale Prospectus**

B-1

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**Form of Opinion and Negative Assurance Statement of DLA Piper LLP**

May [ ], 2020

Jefferies LLC  
Goldman Sachs & Co. LLC  
Wells Fargo Securities, LLC

c/o Jefferies LLC  
520 Madison Avenue  
New York, New York 10022

c/o Goldman Sachs & Co. LLC  
200 West Street  
New York, NY 10282

c/o Wells Fargo Securities, LLC  
500 West 33rd Street, 14th Floor  
New York, New York 10001

Ladies and Gentlemen:

We have acted as counsel to Iovance Biotherapeutics, Inc., a Delaware corporation (the "**Company**"), in connection with the issuance and sale by the Company of [ ] shares (including [ ] shares subject to the exercise of the over-allotment option by the Underwriters (as defined below)) (the "**Shares**") of the Company's common stock, par value \$0.000041666 per share (the "**Common Stock**"), pursuant to that certain Underwriting Agreement (the "**Underwriting Agreement**"), dated May [ ], 2020, by and between the Company and you, as representatives (the "**Representatives**" or the "**Underwriters**").

This opinion is delivered to you at the Company's request pursuant to Section 6(d) of the Underwriting Agreement. Capitalized terms used and not defined in this letter shall have the meanings ascribed to them in the Underwriting Agreement.

#### **Documents Examined**

In rendering the opinions set forth herein, we have examined originals or copies identified to our satisfaction of (i) the certificate of incorporation of the Company, as amended (the "**Charter**"), (ii) the bylaws of the Company, as amended (the "**Bylaws**"), (iii) the Underwriting Agreement, (iv) the registration statement on Form S-3 (Reg. No. 333-[ ]) (the "**Registration Statement**") filed by the Company with the Securities and Exchange Commission (the "**Commission**") under the Securities Act of 1933, as amended (the "**Securities Act**") on May [ ], 2020, which became automatically effective upon filing, (v) the preliminary prospectus supplement of the Company dated May [ ], 2020, which was filed by the Company with the Commission on May [ ], 2020 pursuant to Rule 424(b)(5) promulgated under the Securities Act (the "**Preliminary Prospectus Supplement**"), including the accompanying base prospectus dated May [ ], 2020 (the "**Base Prospectus**") which was filed by the Company with the Commission on May [ ], 2020 pursuant to Rule 424(b)(5) promulgated under the Securities Act, (vi) the "Disclosure Package" as of the Applicable Time (which, for purposes of this letter, includes only the Preliminary Prospectus Supplement), (vii) the final prospectus supplement of the Company dated May [ ], 2020 (together with the Base Prospectus, the "**Prospectus** ") which was filed by the Company with the Commission on May [ ], 2020 pursuant to Rule 424(b)(5) promulgated under the Securities Act. We have also examined such other corporate documents and records of the Company and made such other investigation as we have deemed necessary or appropriate to render the opinions set forth below. As to matters of fact material to our opinions set forth below, we have relied, without independent investigation or inquiry, on representations made in the Underwriting Agreement and on certificates and other inquiries of officers or agents of the Company. We have also relied upon certificates of public officials and relevant public records.

## Opinions

Based on the foregoing, and subject to the assumptions, qualifications, and limitations set forth below, it is our opinion that:

The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware, with the requisite corporate power and authority to own, lease and operate its properties and to conduct its business as described in each of the Registration Statement, Disclosure Package and the Prospectus, to execute and deliver the Underwriting Agreement, and to issue, sell and deliver the Shares as contemplated by the Underwriting Agreement. The Company is duly qualified to do business as a foreign corporation in the State of California, Florida, New York and Pennsylvania.

The Underwriting Agreement has been duly authorized, executed and delivered by the Company.

The Shares have been duly authorized by the Company and, when issued and sold by the Company, and delivered by the Company to, and paid for by, the Underwriters in accordance with the terms of the Underwriting Agreement, will be validly issued, fully paid and non-assessable.

The Shares will not have been issued in violation of any preemptive rights pursuant to law or in the Charter or the By-laws of the Company or other similar rights of any securityholder of the Company pursuant to the laws of the State of Delaware and the Delaware General Corporation Law or any agreement filed as an exhibit to (a) the Registration Statement or (b) the documents filed by the Company pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") prior to the date hereof, and incorporated by reference in the Preliminary Prospectus Supplement and the Prospectus (the "**Incorporated Documents**").

As of the date hereof, the Company has authorized and issued capital stock as set forth in each of the Registration Statement, Disclosure Package and the Prospectus, and the issued shares of capital stock of the Company as of the date hereof have been duly authorized and validly issued, and are fully paid and non-assessable.

No consent, authorization, approval or order of or filing with any federal or state governmental or regulatory commission, board, body, authority or agency is required to be obtained or made by the Company in connection with the consummation by the Company of the issuance and sale of the Shares pursuant to the Underwriting Agreement, other than such as previously have been obtained or made, including, without limitation, registration of the Shares under the Securities Act and of the Common Stock under the Exchange Act; provided, however, that we express no opinion as to state securities or blue sky laws or foreign securities laws of the various jurisdictions in which the Shares are being offered by the Underwriters thereof.

The execution and delivery of the Underwriting Agreement by the Company do not, and the performance by the Company of its obligations thereunder will not (a) result in a violation of the Charter or By-laws of the Company, (b) breach or result in a default under any provision of any agreement or instrument filed as an exhibit to the Registration Statement or the Incorporated Documents; (c) result in a violation of the Delaware General Corporation Law, or any U.S. federal, or New York state law, rule or regulation, or (d) to our knowledge, result in a violation of any decree, judgment or order of any U.S., or New York court to which the Company is a named party, except that we express no opinion in this paragraph regarding any federal securities laws, any state securities or "Blue Sky" laws or the provisions of Section 9 of the Underwriting Agreement.



To our knowledge, there are no contracts, licenses, agreements, leases or documents of a character that are required to be filed as exhibits to the Registration Statement or the Incorporated Documents, or to be summarized or described in the Registration Statement and the Prospectus, which have not been so filed, summarized, or described as required.

To our knowledge, there is no pending or threatened action, suit, investigation or proceeding before or by any United States or state court, government agency or authority against the Company that are required to be described in the Registration Statement, Disclosure Package and the Prospectus and that are not so described as required.

The Company is not and, after giving effect to the offering and sale of the Shares, will not be, an "investment company," as such term is defined in the Investment Company Act of 1940, as amended.

We have read the statements in the Prospectus under the captions "Description of Capital Stock" and "Material U.S. Federal Income Tax Consequences to Non-U.S. Holders," and insofar as such statements constitute summaries of legal matters, contracts, agreements, documents or proceedings referred to therein, or refer to statements of law or legal conclusions, they fairly present the information required to be shown by Form S-3.

To our knowledge and based upon our review of the agreements filed as exhibits to the Registration Statement or the Incorporated Documents, except as described in the Registration Statement, Disclosure Package and the Prospectus, no person is entitled to require the Company to register shares of capital stock or other securities of the Company under the Securities Act in connection with the offering contemplated by the Registration Statement. All rights known to us to register the resales of shares of capital stock or other securities of the Company have, with respect to the offering contemplated by the Registration Statement, been waived or such rights have expired by reason of lapse of time following notification of the Company's intent to file the Registration Statement.

### **Confirmations**

1. The Registration Statement became automatically effective under the Securities Act upon filing on May [ ], 2020; the filing of each of the Preliminary Prospectus Supplement and the Prospectus has been made in the manner and within the time period required by Rule 424(b) (without reference to Rule 424(b)(8)); and, to our knowledge, no order suspending the effectiveness of the Registration Statement has been issued under the Securities Act and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or in connection with the offering is pending or, to our knowledge, threatened by the Commission.

2. The Common Stock has been duly registered as a class pursuant to Section 12 of the Exchange Act.

### **Assumptions**

With your permission, in rendering the foregoing opinions, we have made the following assumptions. We have made these assumptions without independent verification, and with the understanding that we are under no duty to inquire about or perform any investigation regarding such matters.

The genuineness of all signatures not witnessed.

Each person who is a natural person, and who is executing the Underwriting Agreement, or otherwise involved in the transactions contemplated by the Underwriting Agreement, possesses the legal competency and capacity necessary for such individual to execute such documents and/or to carry out such individual's obligations thereunder.

The representations and warranties as to factual matters made by the Company in the Underwriting Agreement are true, correct and complete.

### **Qualifications and Limitations**

The opinions set forth above are subject to the following qualifications and limitations:

The opinions expressed in Paragraph B.1 above as to the valid existence and good standing of the Company are based solely on our review of the good standing or similar certificates issued by appropriate authorities in the subject jurisdictions, copies of which have been made available to you and your counsel, and our opinions with respect to such matters are limited accordingly.

With respect to our opinion in Paragraph B.5 that the authorized and issued capital stock of the Company is as set forth in the Registration Statement, the Disclosure Package and the Prospectus under the heading "Description of Capital Stock", we have relied upon our review of the Delaware General Corporation Law, our review of the Company's charter as to the number of shares of each authorized series and class of capital stock set forth under the caption "Description of Capital Stock" in the Prospectus, and the respective rights, preferences, privileges, and restrictions thereof, and on certificates of officers.

With respect to our opinion in Paragraphs B.6 and B.7 regarding (i) consents, approvals, authorizations and orders or, or filings with any federal, Delaware corporate, Delaware state or New York state governmental or regulatory agency or body, and (ii) any court orders, judgments or decrees, we have relied solely upon written representations made to us by an officer of the Company and we have not conducted any special investigation of laws, statutes, rules or regulations, and our opinion with respect thereto is limited to the laws, statutes, rules and regulations of the United States and the State of New York, the State of Delaware and provisions of Delaware General Corporation Law.

With respect to our opinion in Paragraph B.7, we express no opinion on compliance by the Company with any financial covenants contained in any the agreements or instruments specified therein.

With respect to our opinion in Paragraph B.10, we have relied as to certain factual matters upon a certificate of an officer of the Company and have assumed that, pending their uses as identified in the Prospectus, the net proceeds of the offering contemplated by the Prospectus will be invested in government securities within the meaning of the Investment Company Act, to the extent necessary to ensure that the Company will not hold "investment securities" (within the meaning of the Investment Company Act) having a value exceeding 40% of the Company's total assets (exclusive of government securities and cash items) on an unconsolidated basis. We have also not considered the effect on such opinion of the identity, business or control of any of the Company's stockholders and have assumed that none of the Company's stockholders that exercises control over the Company would be deemed an "investment company" within the meaning of the Investment Company Act.

With respect to our statement in Paragraph C.1 concerning the effectiveness of the Registration Statement, the filing of the Preliminary Prospectus Supplement and the Prospectus, and the absence of stop order suspending the effectiveness of a Registration Statement on any part thereof, we have relied upon information posted by the Commission on its EDGAR website on May [ ], 2020, filing confirmations generated by the Commission's EDGAR filing system, and such other matters as we have deemed appropriate.

Our opinion is limited to the Delaware General Corporation Law and to such federal, New York and Delaware laws as in our experience are of general application to transactions of the sort contemplated by the Underwriting Agreement. We express no opinion regarding how any court would address any questions of choice of law, choice of venue or conflict of law.

As used in this opinion, the phrase "to our knowledge," or words of similar import, mean, as to matters of fact, that, to the actual knowledge of the attorneys within our firm who have performed substantive legal services for the Company, but, except as expressly stated herein, without any independent factual investigation or verification of any kind, such matters are factually correct.

We express no opinion with respect to (i) the effect of applicable bankruptcy, insolvency, reorganization, liquidation, conservatorship, readjustment of debt, fraudulent conveyance, moratorium or other similar laws relating to or affecting the rights of creditors generally, (ii) the availability of equitable remedies, including specific performance and (iii) the compliance or noncompliance with the antifraud provisions of state or federal laws, rules and regulations concerning the issuance of securities.

To the extent that any of the agreements that we have reviewed are governed by the laws of any jurisdiction other than the State of California, our opinion relating to those agreements and instruments is based solely upon the plain meaning of their language without regard to interpretation or construction that might be indicated by the laws governing those agreements and instruments and without consideration of any parol evidence. Moreover, we have not considered, and we express no opinion on the effect of provisions relating to the occurrence of a "material adverse effect" or words of similar import contained in any such agreement or instrument.

This opinion does not cover any intellectual property matters, for which the Underwriters are receiving a similar opinion from Morgan Lewis & Bockius LLP.

The opinions and confirmations included in this letter are intended for the sole use of the Underwriters in connection with the transaction described above and are not to be made available to or relied upon by any other person or entity (including, without limitation, any person or entity who acquires the Shares from an Underwriter), nor may this letter be relied upon or used by the Underwriters for any other purpose, without our prior express written consent. The opinions expressed in this letter are limited to the matters set forth in this letter, and no other opinion should be inferred beyond the matters expressly stated. This letter is rendered as of the date hereof and we disclaim any undertaking to advise you hereafter of any facts, circumstances, events or developments hereafter occurring or coming to our attention which may alter, affect or modify the opinions or confirmations expressed herein.

Very truly yours,

**DLA Piper LLP (US)**

May [ ], 2020

Jefferies LLC  
Goldman Sachs & Co. LLC  
Wells Fargo Securities, LLC

c/o Jefferies LLC  
520 Madison Avenue  
New York, New York 10022

c/o Goldman Sachs & Co. LLC  
200 West Street  
New York, NY 10282

c/o Wells Fargo Securities, LLC  
500 West 33rd Street, 14th Floor  
New York, New York 10001

**Re: Offering of Shares of Common Stock of Iovance Biotherapeutics, Inc.**

Ladies and Gentlemen:

We have acted as counsel to Iovance Biotherapeutics, Inc., a Delaware corporation (the “**Company**”), in connection with the issuance and sale by the Company of [ ] shares (including [ ] shares subject to the exercise of the over-allotment option by the Underwriters (as defined below)) (the “**Shares**”) of the Company’s common stock, par value \$0.000041666 per share (the “**Common Stock**”), pursuant to that certain Underwriting Agreement (the “**Underwriting Agreement**”), dated May [ ], 2020, by and between the Company and you, as representatives (the “**Representatives**” or the “**Underwriters**”). Capitalized terms used and not defined in this letter shall have the meanings ascribed to them in the Underwriting Agreement.

In the above capacity, we have reviewed the Registration Statement on Form S-3 (Reg. No. 333-[ ]) filed by the Company, including the materials filed by the Company with the Commission that are incorporated by reference into the Registration Statement, the Preliminary Prospectus and the Prospectus.

The establishment or confirmation of factual matters or financial or quantitative information is beyond the scope and purpose of our professional engagement in this matter. Therefore, we are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Registration Statement, the Preliminary Prospectus or the Prospectus (except for those specifically referred to in Paragraph B.11 of our opinion to you of even date), and we have not made any independent check or verification thereof. However, in the course of acting as counsel to the Company in connection with the preparation by the Company of the Registration Statement, the Preliminary Prospectus or the Prospectus we have participated in conferences with certain officers and other representatives of the Company, the Underwriters, counsel for the Underwriters and the independent registered public accounting firm for the Company during which conferences the contents of the Registration Statement, the Preliminary Prospectus and Prospectus and related matters were discussed.

Based upon our participation described above, we advise you that no facts have come to our attention that caused us to believe that (i) the Registration Statement (other than the financial statements and related schedules and other financial and accounting information contained therein or omitted therefrom, as to which we express no belief), at the time such Registration Statement became effective and as of its most recent effective date insofar as it relates to the offering of the Shares, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) that the Preliminary Prospectus (other than the financial statements and related schedules and other financial and accounting information contained therein or omitted therefrom, as to which we express no belief), as of the Applicable Time, included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading or (iii) that the Prospectus (other than the financial statements and related schedules and other financial and accounting information contained therein or omitted therefrom, as to which we express no belief), as of the date hereof, included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The confirmations expressed in this letter are limited to the matters stated herein, and no other confirmations should be inferred beyond the matters expressly stated herein. This letter does not cover any intellectual property matters, for which the Underwriters are receiving a similar letter from Morgan Lewis & Bockius LLP.

This letter is intended for your sole use in connection with the transaction described above and is not to be made available to or relied upon by any other person or entity (including without limitation any person or entity who acquires shares of the common stock from you), nor may this letter be relied upon or used by you for any other purpose, without our prior express written consent. This letter is rendered as of the date hereof and we disclaim any undertaking to advise you hereafter of any facts, circumstances, events or developments hereafter occurring or coming to our attention which may alter, affect or modify the confirmations expressed herein.

Very truly yours,

**DLA Piper LLP (US)**

Form of Intellectual Property Opinion of Morgan, Lewis & Bockius LLP

, 2020

JEFFERIES LLC  
GOLDMAN SACHS & CO. LLC  
WELLS FARGO SECURITIES, LLC  
As Representative of the Several Underwriters

c/o JEFFERIES LLC  
520 Madison Avenue  
New York, New York 10022

c/o GOLDMAN SACHS & CO. LLC  
200 West Street  
New York, New York 10282

c/o WELLS FARGO SECURITIES, LLC  
500 West 33rd Street, 14th Floor  
New York, New York 10001

RE: Iovance Biotherapeutics, Inc.

Ladies and Gentlemen:

We have acted as patent counsel to Iovance Biotherapeutics, Inc., a Delaware corporation (the “Company”), with respect to the U.S. Patents and Applications (as defined below). We are providing this letter to you pursuant to Section 6(e) of the Underwriting Agreement, dated May 28, 2020 (the “Agreement”), by and between the Company and Jefferies LLC, Goldman Sachs & Co. LLC and Wells Fargo Securities, LLC, as representatives of the several underwriters named on Schedule A to the Agreement (the “Underwriters”). Capitalized terms used but not defined herein have the meanings given to them in the Agreement.

In connection with this letter, we have limited our review to examination of originals, or copies certified or otherwise identified to our satisfaction, of the following: (i) the United States patents and pending applications that were prosecuted or are being prosecuted by us on behalf of the Company, which patents and applications are listed in Schedule A attached hereto (collectively, the “U.S. Patents and Applications”); (ii) our prosecution files pertaining to the U.S. Patents and Applications; (iii) documents contained in the U.S. Patent and Trademark Office Online Assignment Database for the U.S. Patents and Applications as of May 26, 2020 and (iv) the statements in the Company’s (a) Annual Report on Form 10-K for the fiscal year ended December 31, 2019, (b) Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2020, filed on May 5, 2020, (c) registration statement on Form S-3 (Reg. No. 333-238724) (the “Shelf Registration Statement”) filed by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Securities Act”) on May 27, 2020, which became automatically effective upon filing, (d) preliminary prospectus supplement dated May 27, 2020, which was filed by the Company with the Commission on May 27, 2020 pursuant to Rule 424(b)(5) promulgated under the Securities Act (the “Preliminary Prospectus Supplement”), including the accompanying base prospectus dated May 27, 2020 (the “Base Prospectus”) which was filed by the Company with the Commission on May 27, 2020 pursuant to Rule 424(b)(5) promulgated under the Securities Act, (e) “Disclosure Package” as of the Applicable Time (which, for purposes of this letter, includes only the Preliminary Prospectus Supplement), and (f) final prospectus supplement dated May 28, 2020 (the “Final Prospectus Supplement”) which was filed by the Company with the Commission on May 29, 2020, pursuant to Rule 424(b)(5) promulgated under the Securities Act (the “Prospectus”), each as with the Commission under the caption:

"RISK FACTORS - Risks Related to Our Intellectual Property - We may be involved in lawsuits to protect or enforce our patents or the patents of our licensors, or lawsuits accusing our products of patent infringement, which could be expensive, time-consuming and unsuccessful.";

"RISK FACTORS - Risks Related to Our Intellectual Property - We may incur substantial costs as a result of litigation or other proceedings relating to patent and other intellectual property rights.";

"RISK FACTORS - Risks Related to Our Intellectual Property –Issued patents covering our product candidates could be found invalid or unenforceable if challenged in court or the USPTO”;

"RISK FACTORS - Risks Related to Our Intellectual Property - If we are unable to protect our proprietary rights, we may not be able to compete effectively or operate profitably.”;

"RISK FACTORS - Risks Related to Our Intellectual Property - We currently cannot prevent other companies from licensing the same intellectual properties that we have licensed or from otherwise duplicating our business model and operations.”;

"RISK FACTORS - Risks Related to Our Intellectual Property - The use of our technologies could potentially conflict with the rights of others.”;

"RISK FACTORS - Risks Related to Our Intellectual Property – Changes in U.S. patent law could diminish the value of patents in general, thereby impairing our ability to protect our products.”;

" RISK FACTORS -Risks Related to Our Intellectual Property –We have limited foreign intellectual property rights and may not be able to protect our intellectual property rights throughout the world.”; and

"RISK FACTORS - Risks Related to Our Intellectual Property -We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information of third parties.”

(collectively, the “Covered IP Statements”), and have reviewed these sections only to the extent they relate to certain patent matters on which we have advised the Company. We express no opinion as to (1) litigation matters including but not limited to patent, trademark, and trade secret litigation; (2) trademark matters; (3) trade secret matters; (4) intellectual property agreements such as those with officers, employees and consultants of the Company; or (5) prosecution of intellectual property matters that are the subject of such licensing matters or intellectual property agreements.

We have assumed the genuineness of all signatures; the authenticity and completeness of all documents submitted to us as originals; the conformity to the original documents of all documents submitted to us as certified, facsimile, photostatic or electronic media copies; and the legal competence of each individual executing any document. We have also assumed the accuracy, completeness and authenticity of certificates of public officials; and the due authorization, execution and delivery of all documents, where such authorization, execution and delivery are prerequisites to the effectiveness of such documents. We have further assumed that all individuals executing and delivering documents in their individual capacities had the legal capacity to so execute and deliver and that you have received all documents you were to receive under the Agreement. As to any facts that are material to the opinions hereinafter expressed, we have relied without investigation upon the representations of the Company contained in the Agreement and upon certificates and representations of officers of the Company and have not sought independently to verify such matters.



In rendering the opinions set forth herein, whenever a statement or opinion herein is qualified by “to our knowledge,” “known to us” or by words of similar import, it is intended to indicate that, during the course of our representation of the Company in connection with the prosecution of the U.S. Patents and Applications, no information has come to the attention of those lawyers in our firm who have rendered substantive legal services in connection therewith that gives us current, actual knowledge of the inaccuracy of such statement or opinion. Except as specifically set forth herein, we have not undertaken any independent investigation to determine the accuracy of facts material to any such statement or opinion, and no inference as to such statement or opinion should be drawn from the fact of our representation of the Company. Moreover, in assessing the scope of this opinion, particularly, but not exclusively, with regard to opinions “to our knowledge” or concerning an item “known to us” or which otherwise refers to knowledge, please be advised that the extent of our involvement with each of the U.S. Patents and Applications varies from file to file. Some of the U.S. Patents and Applications, and their respective prosecution files, were transferred to us from other law firms that previously handled the files on behalf of the Company. For these transferred U.S. Patents and Applications, our involvement and knowledge is limited to any review of those files conducted in connection with our representation of the Company and any file activity after such transfer related to our handling of correspondence, file maintenance and prosecution.

Our opinion is expressed only with respect to the federal patent laws of the United States of America. We express no opinion as to whether the laws of any particular jurisdiction apply and no opinion as to the extent that the laws of any jurisdiction other than the jurisdiction identified herein are applicable to the subject matter hereof. We express no opinion with respect to other matters that may be considered as being related to the Company’s intellectual property, such as copyrights, licenses, trademarks, trade secrets or employment/confidentiality agreements.

With regard to our opinion in paragraph 2 below, we have relied on the results of searches of the records of the United States Patent and Trademark Office relevant to the ownership of the U.S. Patents and Applications, which searches were conducted on or about May 26, 2020.

With regard to our opinions in paragraphs 5 and 6 below, the term “claim” refers to a pending legal or government proceeding (including without limitation a proceeding before the USPTO). A legal or government proceeding is considered to be threatened if a third party has manifested to the Company, in writing, a present intention to bring such a proceeding against the Company in the near future and has not subsequently indicated otherwise by communication or conduct, and the Company has notified us thereof in writing. An offer to license a patent, without more, is not considered to manifest a present intention to bring a proceeding against the Company.

We have assumed the conformity of the documents filed with the Commission via EDGAR, except for required EDGAR formatting changes and exhibits filed in interactive data format, to physical copies of the documents delivered to, or prepared by, the Company and submitted for our examination.

Based upon the foregoing, we are of the opinion that:

1. The statements in the Covered IP Statements, insofar as such statements constitute summaries of the federal patent laws of the United States of America, legal proceedings or legal conclusions, in each case relating to the U.S. Patents and Applications, fairly summarize the matters described therein in all material respects.
2. The Company is listed in the records of the United States Patent and Trademark Office as the sole holder of record of the Company’s owned U.S. Patents and Applications, and counsel is not aware of any facts that would preclude the Company from having clear and sole title to the Company’s owned U.S. Patents, free and clear of all liens, defects and encumbrances.

3. To our knowledge, the Company has complied with and is complying with the required duty of candor and good faith in dealing with the U.S. Patent and Trademark Office.
4. To our knowledge, the applications in Schedule A are pending, are being pursued by the Company or the licensor, and have not lapsed, expired, or been abandoned by the Company, and the U.S. Patent and Trademark Office has not identified any material defects in the preparation or filing of any patent application listed in the Schedule.
5. To our knowledge, there is no pending or overtly threatened claim by third parties that the Company is infringing any patent.
6. To our knowledge, there are no pending or overtly threatened claims of third parties relating to any ownership or inventorship interest with respect to any of the U.S. Patents and Applications.
7. To our knowledge, other than proceedings in the normal course of patent prosecution, (i) there are no legal or governmental proceedings pending relating to the U.S. Patents and Applications, and (ii) no such proceedings are threatened, except as set forth on Schedule B.

This letter is limited to the matters expressly set forth in this letter, and no opinion has been implied, or may be inferred, beyond the matters expressly stated herein. This letter is effective only as of the date hereof. We do not assume responsibility for updating this letter as of any date subsequent to its date, and we assume no responsibility for advising you of any changes with respect to any matters described in this letter that may occur, or facts that may come to our attention, subsequent to the date hereof.

This letter is furnished to you in your capacity as representatives of the several Underwriters solely for the benefit of the Underwriters in connection with the sale of the Company's common stock, \$0.000041666 par value per share, to the Underwriters pursuant to the Underwriting Agreement and may not be relied upon by the Underwriters for any other purpose, nor may it be furnished to or relied upon by any other person or entity (including any person, firm or other entity that acquires securities of the Company from the Underwriters or any other person) for any purpose whatsoever. This letter is not to be quoted in whole or in part or otherwise referred to or used, nor is it to be filed with any governmental agency or any other person, without our express written consent.

Very truly yours,

MORGAN, LEWIS & BOCKIUS, LLP

Form of Lock-up Agreement

, 2020

Jefferies LLC  
Goldman Sachs & Co. LLC  
As Representatives of the Several Underwriters

c/o Jefferies LLC  
520 Madison Avenue  
New York, New York 10022

c/o Goldman Sachs & Co. LLC  
200 West Street  
New York, New York 10282

RE: Iovance Biotherapeutics, Inc. (the “**Company**”)

Ladies & Gentlemen:

The undersigned is an owner of shares of common stock, par value \$0.000041666 per share, of the Company (“**Shares**”) or of securities convertible into or exchangeable or exercisable for Shares. The Company proposes to conduct a public offering of Shares (the “**Offering**”) for which Jefferies LLC and Goldman Sachs & Co. LLC will act as the representatives (the “**Representatives**”) of the Underwriters (as defined in the Underwriting Agreement). The undersigned recognizes that the Offering will benefit each of the Company and the undersigned. The undersigned acknowledges that you are relying on the representations and agreements of the undersigned contained in this letter agreement in conducting the Offering and, at a subsequent date, in entering into an underwriting agreement (the “**Underwriting Agreement**”) and other underwriting arrangements with the Company with respect to the Offering. Annex A sets forth definitions for capitalized terms used in this letter agreement that are not defined in the body of this letter agreement. Those definitions are a part of this letter agreement.

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agrees that, during the Lock-up Period, the undersigned will not (and will cause any Family Member not to), without the prior written consent of the Representatives, which may withhold their consent in their sole discretion:

- Sell or Offer to Sell any Shares or Related Securities currently or hereafter owned either of record or beneficially (as defined in Rule 13d-3 under the Exchange Act) by the undersigned or such Family Member,
- enter into any Swap,
- make any demand for, or exercise any right with respect to, the registration under the Securities Act of the offer and sale of any Shares or Related Securities, or cause to be filed a registration statement, prospectus or prospectus supplement (or an amendment or supplement thereto) with respect to any such registration, or
- publicly announce any intention to do any of the foregoing.

The foregoing will not apply to (i) the registration of the offer and sale of the Shares, and the sale of the Shares to you, in each case as contemplated by the Underwriting Agreement, (ii) the exercise of any option, warrant or other right to acquire shares of common stock of the Company, the settlement of any stock-settled stock appreciation rights, restricted stock or restricted stock units, or the conversion of any convertible security into securities of the Company, provided that any securities received as a result thereof by the undersigned will also be subject to the restrictions in this letter agreement, or (iii) establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of Shares, provided that such plan does not provide for any sales or transfers of Shares during the Lock-up Period and the entry into such plan is not publicly disclosed, including in any filing under the Exchange Act, during the Lock-up Period. In addition, the foregoing restrictions shall not apply to the transfer of Shares or Related Securities by gift, or by will or intestate succession to a Family Member or to a trust whose beneficiaries consist exclusively of one or more of the undersigned and/or a Family Member; *provided, however*, that in any such case, it shall be a condition to such transfer that:

- each transferee executes and delivers to the Representatives an agreement in form and substance satisfactory to the Representatives stating that such transferee is receiving and holding such Shares and/or Related Securities subject to the provisions of this letter agreement and agrees not to Sell or Offer to Sell such Shares and/or Related Securities, engage in any Swap or engage in any other activities restricted under this letter agreement except in accordance with this letter agreement (as if such transferee had been an original signatory hereto), and
- prior to the expiration of the Lock-up Period, no public disclosure or filing under the Exchange Act by any party to the transfer (donor, donee, transferor or transferee) shall be required, or made voluntarily, reporting a reduction in beneficial ownership of Shares in connection with such transfer.

The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of Shares or Related Securities held by the undersigned and the undersigned's Family Members, if any, except in compliance with the foregoing restrictions.

With respect to the Offering only, the undersigned waives any registration rights relating to registration under the Securities Act of the offer and sale of any Shares and/or any Related Securities owned either of record or beneficially by the undersigned, including any rights to receive notice of the Offering.

The undersigned confirms that the undersigned has not, and has no knowledge that any Family Member has, directly or indirectly, taken any action designed to or that might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale of the Shares. The undersigned will not, and will cause any Family Member not to take, directly or indirectly, any such action.

Whether or not the Offering occurs as currently contemplated or at all depends on market conditions and other factors. The Offering will only be made pursuant to the Underwriting Agreement, the terms of which are subject to negotiation between the Company and you.

The undersigned hereby represents and warrants that the undersigned has full power, capacity and authority to enter into this letter agreement. This letter agreement is irrevocable and will be binding on the undersigned and the successors, heirs, personal representatives and assigns of the undersigned.

The undersigned shall be released from all obligations under this letter agreement (i) if the Underwriting Agreement does not become effective on or before June 30, 2020, (ii) if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the securities to be sold thereunder, or (iii) if the Underwriters, on the one hand, or the Company, on the other hand, informs the other, prior to the execution of the Underwriting Agreement, that it has determined not to proceed with the Offering.

This letter agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[Remainder of page intentionally left blank]

Very truly yours,

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Name of Share Holder (*Print exact name*)

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Signature

If not signing in an individual capacity:

---

Name of Authorized Signatory (*Print*)

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Title of Authorized Signatory (*Print*)

## Annex A

### **Certain Defined Terms Used in Lock-up Agreement**

For purposes of the letter agreement to which this Annex A is attached and of which it is made a part:

- “**Call Equivalent Position**” shall have the meaning set forth in Rule 16a-1(b) under the Exchange Act.
- “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.
- “**Family Member**” shall mean the spouse of the undersigned, an immediate family member of the undersigned or an immediate family member of the undersigned’s spouse, in each case living in the undersigned’s household or whose principal residence is the undersigned’s household (regardless of whether such spouse or family member may at the time be living elsewhere due to educational activities, health care treatment, military service, temporary internship or employment or otherwise). “**Immediate family member**” as used above shall have the meaning set forth in Rule 16a-1(e) under the Exchange Act.
- “**Lock-up Period**” shall mean the period beginning on the date hereof and continuing through the close of trading on the date that is 90 days after the date of the Prospectus (as defined in the Underwriting Agreement).
- “**Put Equivalent Position**” shall have the meaning set forth in Rule 16a-1(h) under the Exchange Act.
- “**Related Securities**” shall mean any options or warrants or other rights to acquire Shares or any securities exchangeable or exercisable for or convertible into Shares, or to acquire other securities or rights ultimately exchangeable or exercisable for or convertible into Shares.
- “**Securities Act**” shall mean the Securities Act of 1933, as amended.
- “**Sell or Offer to Sell**” shall mean to:
  - sell, offer to sell, contract to sell or lend,
  - effect any short sale or establish or increase a Put Equivalent Position or liquidate or decrease any Call Equivalent Position,
  - pledge, hypothecate or grant any security interest in, or
  - in any other way transfer or dispose of,in each case whether effected directly or indirectly.
- “**Swap**” shall mean any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of Shares or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise.

Capitalized terms not defined in this Annex A shall have the meanings given to them in the body of this letter agreement.

**Directors and Officers**  
**Signing Lock-up Agreement**

Directors:

Iain Dukes, D. Phil.

Maria Fardis, Ph.D.

Athena Countouriotis, M.D.

Ryan Maynard

General Merrill A. McPeak

Wayne P. Rothbaum

Michael Weiser, M.D., Ph.D.

Executive Officers:

Maria Fardis, Ph.D.

Timothy E. Morris

Friedrich Graf Finckenstein, M.D.

Frederick G. Vogt, Ph.D., Esq.



DLA Piper LLP (US)  
51 John F. Kennedy Parkway, Suite 120  
Short Hills, New Jersey 07078  
www.dlapiper.com

T: 973-520-2550  
F: 973-520-2551

Attorneys Responsible for Short Hills Office:

Andrew P. Gilbert  
Michael E. Helmer

May 28, 2020

Iovance Biotherapeutics, Inc.  
999 Skyway Road, Suite 150  
San Carlos, California 94070

Re: Iovance Biotherapeutics, Inc., Registration Statement on Form S-3ASR (333-238724)

Ladies and Gentlemen:

We have acted as counsel to Iovance Biotherapeutics, Inc., a Delaware corporation (the “Company”), in connection with the offering by the Company of up to 19,475,806 shares of common stock, par value \$0.000041666 per share (the “Shares”), including up to 2,540,322 shares that may be sold pursuant to the exercise of an option by the underwriters, pursuant to an underwriting agreement dated May 28, 2020 by and among the Company and Jefferies LLC, Goldman Sachs & Co. LLC and Wells Fargo Securities, LLC, as representatives of the several underwriters named therein (the “Underwriting Agreement”), and the Company’s Registration Statement on Form S-3ASR (File No. 333-238724) and accompanying Prospectus Supplement dated May 28, 2020 (the “Prospectus Supplement”), each filed under the Securities Act of 1933, as amended (the “Act”), with the Securities and Exchange Commission (the “SEC”). The number of Shares shall include all shares of the Company’s common stock registered in connection with the offering contemplated by the Registration Statement, including any additional shares of common stock registered by the Company pursuant to Rule 462(b) under the Act.

In connection with this opinion letter, we have examined the Registration Statement, the Prospectus Supplement, the Underwriting Agreement and originals, or copies certified or otherwise identified to our satisfaction, of the Certificate of Incorporation of the Company as filed with the Secretary of State of the State of Delaware, the Bylaws, as amended and restated, of the Company and the minutes of meetings of the stockholders and the Board of Directors of the Company, and the Pricing Committee thereof, as provided to us by the Company and such other documents, records and other instruments as we have deemed appropriate for purposes of the opinion set forth herein.

We have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of the documents submitted to us as originals, the conformity with the originals of all documents submitted to us as certified, facsimile or photostatic copies and the authenticity of the originals of all documents submitted to us as copies.

Based upon the foregoing, we are of the opinion that the Shares have been duly authorized by the Company and when issued and sold by the Company and delivered by the Company against receipt of the purchase price therefor, in the manner contemplated by the Registration Statement and the Prospectus Supplement, will be validly issued, fully paid and non-assessable.

The opinion expressed herein is limited to the Delaware General Corporation Law.

We hereby consent to the use of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to us under the caption “Legal Matters” in the base prospectus included in the Registration Statement and the Prospectus Supplement. In giving such consent, we do not hereby admit that we are acting within the category of persons whose consent is required under Section 7 of the Act or the rules or regulations of the SEC thereunder.

Very truly yours,

/s/ **DLA Piper LLP (US)**

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## **Iovance Biotherapeutics, Inc. Announces Proposed Public Offering of Common Stock**

SAN CARLOS, CA, May 27, 2020 -- Iovance Biotherapeutics, Inc. (Nasdaq: IOVA) ("Iovance" or "Company"), a late-stage biotechnology company developing novel T cell-based cancer immunotherapies (tumor-infiltrating lymphocyte, TIL and peripheral-blood lymphocyte, PBL), today announced that it intends to offer and sell \$500 million of its common stock, subject to market and other conditions, in an underwritten public offering. All of the shares in the offering are to be sold by Iovance. Iovance intends to grant the underwriters a 30-day option to purchase up to \$75 million of additional shares of common stock at the public offering price, less the underwriting discounts and commissions.

Iovance intends to use the proceeds from this offering to fund the expansion of its organization to support the potential commercial launch of lifileucel for advanced melanoma and LN-145 for advanced cervical cancer, to initiate a program directed at registration of Iovance's tumor infiltrating lymphocyte therapies in non-small cell lung cancer, to continue support of ongoing commercial manufacturing activities, and for the development of Iovance's IL-2 analog, IOV-3001, and for other general corporate purposes. Additional indications or TIL products may be explored with the use of proceeds.

Jefferies LLC and Goldman Sachs & Co. LLC are acting as joint lead book-running managers for the offering. Wells Fargo Securities, LLC is also serving as book-running manager.

The shares of common stock described above are being offered by Iovance pursuant to its shelf registration statement on Form S-3 that became automatically effective upon filing with the Securities and Exchange Commission (the "SEC") on May 27, 2020. The offering may be made only by means of a prospectus supplement and accompanying prospectus, copies of which may be obtained by contacting Jefferies LLC, Attention: Equity Syndicate Prospectus Department, 520 Madison Avenue, 2<sup>nd</sup> Floor New York, New York, 10022, by telephone at (877) 547-6340, or by email at [Prospectus\\_Department@Jefferies.com](mailto:Prospectus_Department@Jefferies.com) or Goldman Sachs & Co. LLC by mail at 200 West Street, New York, NY 10282, Attention: Prospectus Department, by telephone at (866) 471-2526, or by email at [prospectus-ny@ny.email.gs.com](mailto:prospectus-ny@ny.email.gs.com) or Wells Fargo Securities, LLC, Attention: Equity Syndicate Department, 500 West 33rd Street, New York, New York, 10001, at (800) 326-5897 or email a request to [cmclientsupport@wellsfargo.com](mailto:cmclientsupport@wellsfargo.com).

This press release shall not constitute an offer to sell or a solicitation of an offer to buy these securities, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

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**About Iovance Biotherapeutics, Inc.**

Iovance Biotherapeutics, Inc. is a clinical-stage biopharmaceutical company focused on the development and commercialization of cell therapies as novel cancer immunotherapy products designed to harness the power of a patient's own immune system to eradicate cancer cells. The Company's lead product candidates include lifileucel for metastatic melanoma and LN-145 for metastatic cervical cancer. In addition to metastatic melanoma and cervical cancer, the Company is investigating the effectiveness and safety of tumor infiltrating lymphocyte, or TIL, therapy for the treatment of non-small cell lung cancer and squamous cell carcinoma of the head and neck, and peripheral blood lymphocyte, or PBL, therapy for the treatment of chronic lymphocytic leukemia through our sponsored trials, as well as in other oncology indications through collaborations.

**Forward Looking Statements**

Certain matters discussed in this press release are "forward-looking statements". The Company may, in some cases, use terms such as "predicts," "believes," "potential," "continue," "estimates," "anticipates," "expects," "plans," "intends," "may," "could," "might," "will," "should" or other words that convey uncertainty of future events or outcomes to identify these forward-looking statements. The forward-looking statements include, but are not limited to, statements about the Company's anticipated public offering and the anticipated use of proceeds therefrom. Actual results may differ from those set forth in this press release due to the risks and uncertainties inherent in the Company's business, including, without limitation: the uncertainties related to market conditions and the completion of the public offering on the anticipated terms or at all, and the uncertainties inherent in the completion of ongoing clinical trials and the initiation of future clinical trials. The factors discussed herein could cause actual results and developments to be materially different from those expressed in or implied by such statements. A further list and description of the Company's risks, uncertainties and other factors can be found in the Company's most recent Annual Report on Form 10-K and the Company's subsequent filings with the Securities and Exchange Commission. Copies of these filings are available online at [www.sec.gov](http://www.sec.gov). The forward-looking statements are made only as of the date of this press release and the Company undertakes no obligation to publicly update such forward-looking statements to reflect subsequent events or circumstances. All forward-looking statements are qualified in their entirety by this cautionary statement, which is made under the safe harbor provisions of the Private Securities Litigation Reform Act of 1995.

**Contacts:****Iovance Biotherapeutics, Inc.:**

Sara Pellegrino, IRC  
Vice President, Investor Relations & Public Relations  
650-260-7120 ext. 264  
[Sara.Pellegrino@iovance.com](mailto:Sara.Pellegrino@iovance.com)

**Solebury Trout:**

Annie Chang (investors)  
646-378-2972  
[achang@troutgroup.com](mailto:achang@troutgroup.com)

Chad Rubin (investors)  
646-378-2947  
[crubin@troutgroup.com](mailto:crubin@troutgroup.com)

Rich Allan (media)  
646-378-2958  
[rallan@troutgroup.com](mailto:rallan@troutgroup.com)

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## **Iovance Biotherapeutics, Inc. Announces Pricing of Its Public Offering of Approximately \$525 Million of Common Stock**

SAN CARLOS, CA, May 28, 2020 -- Iovance Biotherapeutics, Inc. (Nasdaq:IOVA) ("Iovance" or "Company"), a late-stage biotechnology company developing novel T cell-based cancer immunotherapies (tumor-infiltrating lymphocyte, TIL, and peripheral-blood lymphocyte, PBL), today announced the pricing of an underwritten public offering of 16,935,484 shares of its common stock at a public offering price of \$31.00 per share. The gross proceeds from the offering, before deducting the underwriting discounts and commissions and other estimated offering expenses payable by Iovance, are expected to be approximately \$525 million. In addition, Iovance has granted the underwriters a 30-day option to purchase up to 2,540,322 additional shares of common stock at the public offering price, less the underwriting discounts and commissions. The offering is expected to close on or about June 2, 2020, subject to customary closing conditions.

Iovance intends to use the proceeds from this offering to fund the expansion of its organization to support the potential commercial launch of lifileucel for advanced melanoma and LN-145 for advanced cervical cancer, to initiate a program directed at registration of Iovance's tumor infiltrating lymphocyte therapies in non-small cell lung cancer, to continue support of ongoing commercial manufacturing activities, and for the development of Iovance's IL-2 analog, IOV-3001, and for other general corporate purposes. Additional indications or TIL products may be explored with the use of proceeds.

Jefferies LLC and Goldman Sachs & Co. LLC are acting as joint lead book-running managers for the offering. Wells Fargo Securities, LLC is also serving as book-running manager for the offering. Oppenheimer & Co. Inc. is serving as lead co-manager for the offering. Robert W. Baird & Co. Incorporated and H.C. Wainwright & Co., LLC are serving as co-managers for the offering.

The shares of common stock described above are being offered by Iovance pursuant to its shelf registration statement on Form S-3 that became automatically effective upon filing with the Securities and Exchange Commission (the "SEC") on May 27, 2020. The offering may be made only by means of a prospectus supplement and accompanying prospectus. A preliminary prospectus supplement and accompanying prospectus relating to the offering have been filed with the SEC and are available on the SEC's website at <http://www.sec.gov>. A final prospectus supplement and accompanying prospectus will be filed with the SEC, copies of which may be obtained, when available, by contacting Jefferies LLC, Attention: Equity Syndicate Prospectus Department, 520 Madison Avenue, 2<sup>nd</sup> Floor New York, New York, 10022, by telephone at (877) 547-6340, or by email at [Prospectus\\_Department@Jefferies.com](mailto:Prospectus_Department@Jefferies.com) or Goldman Sachs & Co. LLC by mail at 200 West Street, New York, NY 10282, Attention: Prospectus Department, by telephone at (866) 471-2526, or by email at [prospectus-ny@ny.email.gs.com](mailto:prospectus-ny@ny.email.gs.com) or Wells Fargo Securities, LLC, Attention: Equity Syndicate Department, 500 West 33rd Street, New York, New York, 10001, at (800) 326-5897 or email a request to [cmclientsupport@wellsfargo.com](mailto:cmclientsupport@wellsfargo.com).

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This press release shall not constitute an offer to sell or a solicitation of an offer to buy these securities, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

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#### **Contacts:**

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650-260-7120 ext. 264  
[Sara.Pellegrino@iovance.com](mailto:Sara.Pellegrino@iovance.com)

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646-378-2947  
[crubin@troutgroup.com](mailto:crubin@troutgroup.com)

Rich Allan (media)  
646-378-2958  
[rallan@troutgroup.com](mailto:rallan@troutgroup.com)

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