



RUA BIOSCIENCE LTD  
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NEW ZEALAND  
[www.ruabio.com](http://www.ruabio.com)

## Other material information relating to the Offer of ordinary shares in Rua Bioscience Limited

Dated 25 September 2020

### About this document

The information contained in this document should be read in conjunction with Rua Bioscience Limited's (**Rua**) Product Disclosure Statement dated 25 September 2020 (**PDS**) and other information presented on the Offer Register.

Capitalised terms used but not defined in this document have the meaning given to those terms in Section 13 (*Glossary*) of the PDS.

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## 1. OTHER TERMS OF THE OFFER

### 1.1 Selling restrictions

The Offer is only being made to:

- eligible persons under the Priority Offer who are residents in the Gisborne constituency which makes up the Gisborne District Council region (in the postcodes 4000-4099), shareholders of WIL and any other person invited by Rua to participate in the Priority Offer (whom Rua determines in its sole discretion to be eligible); and
- New Zealand resident clients of selected NZX Firms who have received a firm allocation of Shares from that NZX Firm under the Broker Firm Offer.

The PDS and Offer Register documents do not constitute, or form any part of, an offer to sell, or a solicitation of an offer to buy, securities in any jurisdiction in which it would be unlawful to do so. In particular, the PDS and Offer Register documents may not be distributed to any person, and the Shares may not be offered or sold, in any country outside New Zealand.

Unless otherwise agreed with Rua, any person or entity subscribing for the Offer Shares in the Offer will, by virtue of such subscription, be deemed to represent that he, she or it is not in a jurisdiction that does not permit the making of an offer or invitation of the kind contained in the PDS and is not acting for the account or benefit of a person within such a jurisdiction.

None of Rua, the Lead Manager, nor any of their respective directors, officers, employees, consultants, agents, partners or advisers accepts any liability or responsibility to determine whether a person is able to participate in the Offer.

### 1.2 Ownership restrictions

#### *Takeovers Code*

Once the Shares are quoted on the NZX Main Board (expected to occur on 22 October 2020), Rua will become a "Code Company" under the Takeovers Code. The Takeovers Code prohibits, amongst other things, any person (together with their associates (as defined in the Takeovers Code) from becoming the holder or controller of 20% or more of the voting rights in Rua other than in compliance with the requirements of the Takeovers Code.

You should seek legal advice in relation to any act, omission or circumstance that may result in you breaching any provision of the Takeovers Code.

#### *Overseas Investment Act 2005*

Any person who is an "overseas person" for the purposes of the Overseas Investment Act 2005 and who intends (together with their associates<sup>1</sup>) to acquire more than 25% of the Shares (or make any other acquisition regulated by that Act) will be required to obtain any necessary consent under the Overseas Investment Act 2005.

Rua holds an interest in "sensitive land" for the purposes of the Overseas Investment Act 2005 as at the date of the PDS. Therefore, Rua intends to allocate Shares under the Offer to such number of investors who are not "overseas persons" that ensures it

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<sup>1</sup> The Overseas Investment Act 2005 defines "associates" broadly to include a person that acts jointly or in concert with the overseas person in relation to an investment or other matter or who acts subject to or as a consequence of any arrangement or understanding with the overseas person.

does not become an "overseas person" as a result of the Offer, which would otherwise require consent under the Overseas Investment Act 2005.

You should seek legal advice in relation to any act, omission or circumstance that may result in you breaching any provision of the Overseas Investment Act 2005.

## 2. MATERIAL CONTRACTS

### 2.1 Escrow deeds summary

Fang Group Investment Limited, Tailorspace Capital Limited, Andrew Charles Williams, Hikurangi Bioactives Limited Partnership (**HBLP**), and the directors and senior managers who currently own Shares or who intend to subscribe for Shares under the Offer (together, the **Escrowed Shareholders**) have entered into escrow arrangements with Rua under which each Escrowed Shareholder has agreed not to sell or otherwise dispose of:

- 2.1.1 any of the Shares held by them upon completion of the Offer until the first day after the date on which Rua releases to NZX its results announcement in respect of the half year ended 31 December 2020; and
- 2.1.2 75% of the Shares held by them upon completion of the Offer until the first day after the date on which Rua releases to NZX its results announcement in respect of the full financial year ended 30 June 2021,

subject to limited exceptions set out below.

These escrow restrictions do not apply, and therefore no approval is needed, for an Escrowed Shareholder to grant a security interest in favour of a bona fide lender to that Escrowed Shareholder. In addition:

- 2.1.3 an Escrowed Shareholder may transfer the shares escrowed as described in paragraphs 2.1.1 and 2.1.2 to an "affiliate" (being a person who owns or controls, or is owned or controlled by, or under common ownership or control with, the Escrowed Shareholder, and in relation to a family trust includes any beneficiary of that trust) of the relevant Escrowed Shareholder, provided that such "affiliate" has agreed to be bound by the terms of the escrow deed; and
- 2.1.4 an Escrowed Shareholder may accept any full or partial takeover offer made in respect of the Shares under the Takeovers Code or similar scheme or arrangement.

In addition to Fang Group Investment Limited, Tailorspace Capital Limited, Andrew Charles Williams and HBLP, the following directors and senior managers (or the trustees of their associated family trusts or their associated investment entity) have entered into restricted security agreements with Rua: Trevor Burt, Anna Stove, Martin Smith, Brett Gamble, Panapa Ehau, Robert Mitchell, Paul Naske and Hamish White. However, the escrow arrangements do not apply to any Shares that may be issued under the Bonus Offer (as further described in paragraph 3.3 (*Share Bonus Offer*) below).

Up to 51.3% of the total number of Shares on issue in Rua immediately following completion of the Offer will be subject to escrow arrangements (based on there being 140,012,225 Shares on issue immediately after Listing).

### 2.2 Hikurangi Bioactives Limited Partnership asset sale to Rua summary

In April 2018, Rua entered into an agreement to purchase from HBLP the right to carry on the businesses of hemp/cannabis cultivation and the research & development of

the exploitation of medicinal cannabis (**Business**), together with assets relating to the Business, on the terms and conditions set out in that agreement. The consideration for the purchase of the Business and the asset was \$3,999,999 (the **Purchase Price**).

Immediately prior to settlement, Rua was a non-trading company and was wholly owned by Hikurangi Hemp Holdings Limited (**HHHL**).HHHL was, in turn, wholly owned by HBLP. On settlement:

- 2.2.1 HHHL assumed Rua's obligation to pay the Purchase Price;
- 2.2.2 in consideration for HHHL assuming Rua's obligation to pay the Purchase Price, Rua issued 3,999,999 Shares at \$1 per share to HHHL; and
- 2.2.3 HHHL satisfied the obligation to pay the Purchase Price to HBLP by issuing 3,999,999 shares in HHHL to HBLP.

This transaction was settled in August 2018.

## 2.3 Sales agreement with Nimbus Health

In March 2020, Rua executed a binding, conditional sales agreement with Nimbus Health GmbH (**Nimbus**), a fully licenced German importer and distributor which is focused on medicinal cannabis products. The sales agreement has a term of three years from 1 March 2020, unless renewed (the **Term**). Any extension or renewal of the sales agreement must be with the agreement of both parties and the agreement is not subject to a sunset termination event in the case EU GMP is not obtained. Key terms and conditions of the sales agreement are summarised below:

- **Exclusive distribution rights in Germany:** Nimbus is granted exclusive right to import, market, distribute, promote and sell in Germany Rua's full suite of pharmaceutical GMP certified medicinal cannabis products that are accepted by EU regulators as medicines in Germany (the **Products**) during the Term. Nimbus is also granted first right of refusal to import, market, distribute, promote and sell within Germany any other product supplied by Rua.
- **First right of supply:** Where a customer of Nimbus does not request a specific brand from Nimbus for a product that is reasonably similar in form, function and/or composition to another product supplied by Rua (a **Like Product**), Nimbus must exclusively offer the applicable Rua Product rather than other Like Product from competing suppliers, subject to Rua confirming it can supply the Product within the forecast period for the order.
- **Exclusive supply rights from New Zealand:** Nimbus must not purchase and supply to its customers products from other suppliers in New Zealand, except with the prior written permission of Rua.
- **Condition:** The obligations of the parties pursuant to the sales agreement are subject to them obtaining and maintaining all required regulatory approvals from the EU and New Zealand authorities that will enable them to fulfil their obligations.
- **Cost reimbursement:** Nimbus must reimburse Rua for its actual production costs, incurred in producing and transporting Products supplied to Nimbus. Production costs are to be determined by the parties and recorded in the commercialisation plan, reviewable bi-annually by the parties.
- **Profit sharing:** Nimbus must pay Rua an agreed share of margin on sales of Products after deducting, among other items, reimbursement costs payable to Rua (summarised above), and the go-to-market costs incurred by Nimbus. In any event, if there is a net loss rather than profit on sales of Products achieved by the

parties, they will share an agreed proportion of the relevant losses suffered and the associated costs incurred by the parties.

## 2.4 Supply agreement with Medbloom

In August 2020 Rua executed a conditional supply agreement with Medbloom Limited (**Medbloom**) an entity associated with Blooming Hill Flowers, one of New Zealand's largest flower growers. The supply agreement has a minimum term of three years from 25 August 2020, after which it will continue to rollover annually unless terminated in accordance with the agreement (the **Term**). Key terms and conditions of the supply agreement are summarised below:

- **Exclusive supply:** Rua is granted an exclusive right to be supplied Medbloom's cannabis products used for medicinal purposes being grown, dried and supplied to Rua and which Rua grades, tests, repackages and supplies to customers (the **Product**), above a minimum weight (as agreed between the parties). The exclusive right to be supplied Product applies unless Medbloom produces Product in excess of the maximum weight (as agreed between the parties), in which case, the excess Product must first be offered to Rua and if Rua does not wish to purchase the excess product, Medbloom may only sell it to a third party which has been pre-approved by Rua.
- **Purchase obligations:** Rua must purchase from Medbloom Product up to the maximum weight (provided certain conditions as to product quality and product specifications are met). If Rua requires glasshouse cultivated Product (the **Glasshouse Product**) over that maximum weight, then subject to Medbloom's ability to supply additional Glasshouse Product and subject to Rua's ability to supply the Product itself (including through building its own glasshouse capacity), Rua will seek to first purchase it from Medbloom. Medbloom agrees to waive Rua's purchase obligations if Rua agrees to provide funding to Medbloom to support the establishment of its facility or the growth of its existing facilities (**Rua Funding**).
- **First right of refusal:** Medbloom is granted a first right to supply Glasshouse Product that has different specifications to those product specifications agreed under the agreement, and the right is subject to Rua's ability to supply the Product itself (that has different specifications from the agreed specifications) and the parties agreeing the terms of supply. If the parties cannot agree on the terms of supply within a reasonable time period Rua may offer the supply arrangement to a third party supplier, but on no more favourable terms than those offered to Medbloom. Medbloom agrees to waive its first right of refusal if the Rua Funding is provided.
- **Condition:** The obligations of the parties pursuant to the supply agreement are subject to them obtaining and maintaining appropriate licences, Medbloom obtaining sufficient funding (the Rua Funding or otherwise) to establish its facility or facilities for the production of medicinal cannabis for supply to Rua as well as Rua confirming that it has secured customers sufficient to enable the sale of minimum quantities of Product grown by Medbloom.
- **Investment and sale:** Rua is granted a first right of refusal in the event that Medbloom seeks further investment or in the event that Medbloom wishes to offer its business for sale.
- **Cultivars:** Rua must provide Medbloom with seeds and cultivars for growing the Product and Medbloom must only obtain seeds and cultivars from Rua or from third parties approved by Rua.

### 3. SHARE OPTION PLAN

Certain Rua directors and employees currently participate in a share option plan (**ESOP**). Under the ESOP, those participating directors and employees are granted options to purchase ordinary shares in Rua, subject to the terms and conditions of the ESOP. Each option, if vested and exercised, converts into 5.882 Shares each.

#### 3.1 First Grant

The first grant of options under the ESOP was made in September 2019 (**Grant Date**) under which 408,000 options were granted (representing 2,099,877 Shares or 1.5% of the Shares on issue immediately following the Offer (but on a fully diluted basis), if the granted options are vested and exercised)<sup>2</sup>. The options are subject to various vesting conditions. The vesting conditions include, without limitation, the following:

- In the period of 12 months from the Grant Date, Rua executing the supply agreement with Medbloom and obtaining the Medicinal Cannabis Licence from New Zealand's Medicinal Cannabis Agency, among other conditions, all of which have been satisfied (the **First Vesting Conditions**). The Company initially set a different set of First Vesting Conditions (namely, Rua being supplied a set amount of GMP-grade cannabis biomass and achieving Medsafe NZ GMP Certification). During this period, the board of Rua came to the view that it was not practical to expect the initial First Vesting Conditions to be satisfied in the relevant period, and so those conditions were varied in July 2020 to the conditions described above. As part of the variation, 12.5% of the total number of the options granted were forfeited for the non-achievement of the original First Vesting Conditions.
- Rua achieving NZ Medsafe GMP certification by the end of Q1 2021 and, in the period of 12 months from the first year anniversary of the Grant Date, completing the Company's first commercial harvest that meets the quality specifications required under the sales agreement with Nimbus, among other conditions (the **Second Vesting Conditions**).
- During the overall vesting period, Rua being granted and maintaining specified statutory and regulatory licences and/or additional licences required by Rua (the **General Vesting Conditions**).

The options will vest in 2 years from the Grant Date and be exercisable if the participant remains employed or engaged by Rua. The number of options that can be exercised by a participant will depend on the extent of satisfaction of the vesting conditions set out above (noting that 12.5% of the options granted have been forfeited for the non-achievement of the original First Vesting Conditions). These options are exercisable at nil exercise price and will expire if they are not exercised within 3 months of vesting. The consideration for which the options were issued is the services provided and to be provided by the participating employees under the terms of their engagement with Rua.

#### 3.2 Second Grant

The second grant of options under the ESOP was made in March 2020 under which 75,000 options were granted (representing 413,211 Shares or 0.29% of the Shares on issue immediately following the Offer (but on a fully diluted basis), if the granted

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<sup>2</sup> The number of Shares above reflects the fact that 12.5% of the options granted have been forfeited for the non-achievement of the original First Vesting Conditions further described in this section 3.1.

options are vested and exercised)<sup>3</sup>. The options are subject to various vesting conditions. The vesting conditions include, without limitation:

- the First Vesting Conditions, the Second Vesting Conditions and the General Vesting Conditions (as described above); and
- in the period of 12 months to the end of September 2022, Rua achieving further vesting conditions as determined by the Board.

The options will vest in September 2022 and be exercisable if the participant remains employed or engaged by Rua. The number of options that can be exercised by a participant will depend on the extent of satisfaction of the vesting conditions set out above (noting that 4,750 of the options granted have been forfeited for the non-achievement of the original First Vesting Conditions). These options are exercisable at nil exercise price and will expire if they are not exercised within 3 months of vesting. The consideration for which the options were issued is the services provided and to be provided by the participating employees under the terms of their engagement with Rua.

The Board may invite further directors, contractors or employees of Rua to participate in the ESOP (with different vesting terms as described above), subject to the ESOP and NZX Listing Rules requirements.

### 3.3 Share Bonus Offer

In May 2020, the Board invited selected employees to participate in a share bonus offer (the **Bonus Offer**), the purpose of which was to:

- enable the Company to recruit and retain highly qualified employees, directors and contractors;
- provide those employees, directors and contractors with an incentive for productivity; and
- provide those employees, directors and contractors with an opportunity to share in the growth and value of the Company.

Under the Bonus Offer, Rua granted to participating employees rights to the issue of up to 250,366 Shares. The Shares under the Bonus Offer are issuable on or after 9 November 2020 (the **Vesting Date**). The share issue is subject to, without limitation, the participating employees remaining employed at the Vesting Date. It is also a term of participating in the Bonus Offer that the selected employees agree to a 20% reduction in their base gross salaries for the period up until Listing.

## 4. CALDERA HEALTH LIMITED

Rob Mitchell was the Chief Executive Officer of Caldera Health Limited (**Caldera**) at the date of its appointment of liquidators on 14 October 2019. He was appointed as CEO of Caldera in March 2016 with an overall appointment mission to transform Caldera to a sustainable New Zealand-based business, focused on diagnostic development, building from a strong and continuing series of prostate cancer diagnostic tests. Caldera was developing a test that predicted the presence of prostate cancer based on RNA biomarker signatures.

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<sup>3</sup> The number of Shares above reflects the fact that 4,750 options granted have been forfeited for the non-achievement of the original First Vesting Conditions further described in section 3.1 above.

During its operations, Caldera successfully raised funds from a range of private investors over a 10 year period, to endeavour to develop a commercial, simple, non-invasive and low cost urine test to detect prostate cancer. By mid-2019, Caldera had completed successful Phase 3 clinical trials of its diagnostic tool. It received final confirmation of its study results in October 2019, upon which it immediately updated its board of directors and key shareholders of the results. The board and shareholders then met in October 2019 to assess the commercial prospects for the promotion and final development of a diagnostic kit implementing Caldera's technology. At that time, various start-ups in the USA, Europe and Japan had also developed molecular-based blood and urine tests for prostate cancer. Caldera's diagnostic technology was considered to be better than some of the alternatives, but only marginally so. Caldera's shareholders resolved that, taking into account the lack of a big pharmaceutical company to partner with Caldera in the funding and final development of its diagnostic tool, further private shareholder funding could not be commercially justified, i.e. at that point a decision was made by the key investor to withdraw ongoing funding.

The board immediately sought professional advice as to the position of the company and resolved to seek shareholder consent to appoint liquidators. The liquidators were reported in the press as stating that *the major creditors in this liquidation are the employees for current salaries, holiday pay and notice period and the consultants. There are also a small number of trade suppliers for laboratory consumables or services for clinical studies.*

## 5. **PRIVACY**

Your personal information will be used for considering, processing and corresponding with you about your Application and in connection with the holding of your Shares, including sending you information concerning Rua, your Shares and other matters Rua considers may be of interest to you by virtue of your Application or holding of Shares. Rua, the Share Registrar and their respective agents may also hold personal information in accordance with their record-keeping policies.

To do these things, Rua, the Share Registrar and their respective agents may disclose your personal information to each other, their respective related companies and agents, contractors and third party service providers to whom they outsource services such as mailing and registry functions. However, all of these parties will be bound by the same privacy policies as Rua and the Share Registrar.

Failure to provide the required personal information may mean that your Application Form is not able to be processed efficiently, if at all.

When Rua, the Share Registrar and their respective agents hold personal information about you in such a way that is readily retrieved, you have a right to obtain from Rua and the Share Registrar confirmation of whether or not they hold such personal information under the Privacy Act 1993 by contacting the privacy officers of Rua and the Share Registrar at their respective addresses shown in Section 12 of the PDS (*Contact information*).

You can also access your information on the Share Registrar's website: <https://www.investorcentre.com/nz> (you will be required to register with your CSN and Authorisation Code (FIN)).

## 6. **TOTAL ESTIMATED COSTS OF THE OFFER AND ISSUE**

The total estimated costs of the Offer and the issue of new Shares under the Offer are approximately \$1.9 million (assuming that \$20 million is raised under the Offer). Of this, \$1 million is an estimate of the total amount to be paid by Rua to the Lead Manager

as fees for the arranger and lead manager services provided to Rua. From its fees, the Lead Manager will pay firm allocation fees of 0.50% of the gross proceeds raised from firm allocations to NZX Firms and retail brokerage of 1.00% of the gross proceeds raised from all valid Applications bearing NZX Firms' stamps pursuant to an allocation under the Broker Firm Offer or the General Offer. The amounts to be paid by Rua to the Lead Manager will depend on a number of factors, including the amount raised under the Offer.