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**14 December 2022**

## **Tubi Limited receives an unsolicited, conditional off-market takeover offer**

*Sydney, Australia* – Today Tubi Limited (ASX:2BE) (**Tubi** or **Company**) has received an unsolicited, conditional off-market takeover offer from Bondi Point Holdings Pty Ltd ACN 664 465 703 as trustee for BPH Trust (**Bidder**), to acquire all the shares in Tubi at a price of AUD\$0.03 cash per share (**Offer**).

The Directors of Tubi are considering the Bidder's proposal to make the Offer.

At the date of this announcement, the Bidder's proposal is incomplete. There is no information about what the Bidder intends to do should the Offer proceed.

The full terms and conditions of the Offer will be contained in a bidder's statement for the Offer.

Tubi has not been advised by the Bidder as to when it intends to issue a bidder's statement.

**Tubi shareholders are advised to take no action at this stage.**

Further information will be announced to the ASX when it is available.

The letter from the Bidder is attached to this announcement.

This announcement has been authorised for release to the ASX by the Board of Tubi Limited.

### **Further information:**

John Mouawad

Chairman

Tubi Limited

Email: [companysecretary@tubigroup.com](mailto:companysecretary@tubigroup.com)

Or visit [www.tubigroup.com](http://www.tubigroup.com)



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**Reference:** ONEA00001

13 December 2022

Dear Michael

### **Tubi Off-Market Conditional Offer**

We act for Bondi Point Holdings Pty Ltd ACN 664 465 703 as trustee for BPH Trust (**Bidder**) and we understand that you act for Tubi Limited ACN 139 142 496 (ASX:2BE) (**Target**).

We are instructed to submit a binding, conditional offer to acquire all of the fully paid ordinary shares of Target currently on issue (**Shares**) by way of an off-market takeover bid at A\$0.03 per Share in cash, subject to the fulfillment of certain conditions outlined below (**Offer**).

The Offer is conditional upon:

#### **1 Sale Transactions**

In relation to the proposed asset sales and executed sale agreements as announced by Target on 22 July 2022 with respect to:

- (a) Mosaic Fertilizer, LLC (**Mosaic**) dated 19 July 2022 concerning the 5004 downstream mobile plant, including an amendment to the original deed of licence of intellectual property entered into with Mosaic on 24 March 2022 (**Mosaic Transaction**); and
- (b) Pipeline Plastics, LLC dated 21 July 2022 concerning the 5000 mobile plant (**Pipeline Transaction**),

(together, the **Sale Transactions**), at any time none of the following events occurring:

- (c) Target breaching, or being in default of, any provision of the Sale Transactions;
- (d) Target shareholders passing a resolution approving the Mosaic Transaction or Pipeline Transaction; and
- (e) completion of any asset sale or other transaction contemplated by, or similar to, the Sale Transactions.

#### **2 Acquisitions and disposals**

Between the date of this letter (**Announcement Date**) and the end of the period during which the Offer will remain open for acceptance, as set out in the statement of Bidder under Part 6.5

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**Kardos Scanlan**

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Division 2 of the *Corporations Act 2001* (Cth) (**Corporations Act**) (each inclusive) (**Offer Period**), neither Target nor any of its subsidiaries acquires or disposes of, or enters into or announces any agreement for the acquisition or disposal of, any asset or business, or enters into any corporate transaction, for any amount in aggregate greater than \$100,000.

**3 Minimum acceptance**

At the end of the Offer Period, Bidder has relevant interests in at least 40.0% of the Shares in Target (on a fully diluted basis).

**4 No litigation on foot or pending**

Between the Announcement Date and the end of the Offer Period (each inclusive), no litigation against Target or any subsidiary which may reasonably result in a judgment of \$100,000 or more is commenced, is threatened to be commenced, is announced, or is made known to Bidder (whether or not becoming public) or Target, other than that which is in the public domain as at the Announcement Date.

**5 No prescribed occurrences**

Between the Announcement Date and the date 3 business days after the end of the Offer Period, none of the following prescribed occurrences (being occurrences listed in section 652C of the Corporations Act) happen:

- (a) Target converting all or any of the Shares into a larger or smaller number of shares under section 254H of the Corporations Act;
- (b) Target or a subsidiary of Target resolving to reduce its share capital in any way;
- (c) Target or a subsidiary of Target entering into a buyback agreement or resolving to approve the terms of a buyback agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (d) Target or a subsidiary of Target making an issue of Shares or granting an option over the Shares or agreeing to make such an issue or grant such an option;
- (e) Target or a subsidiary of Target issuing, or agreeing to issue, convertible notes;
- (f) Target or a subsidiary of Target disposing or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (g) Target or a subsidiary of Target granting, or agreeing to grant, a Security Interest (as defined in section 51A of the Corporations Act) in the whole, or a substantial part, of its business or property;
- (h) Target or a subsidiary of Target resolving that it be wound up;
- (i) the appointment of a liquidator or provisional liquidator of Target or a subsidiary of Target;
- (j) the making of an order by a court for the winding up of Target or a subsidiary of Target;
- (k) an administrator of Target or a subsidiary of Target being appointed under section 436A, 436B or 436C of the Corporations Act;
- (l) Target or a subsidiary of Target executing a deed of company arrangement; or

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- (m) the appointment of a receiver, receiver and manager, other controller (as defined in the Corporations Act) or similar in relation to the whole, or a substantial part, of the property of Target or a subsidiary of Target.

## 6 No distributions

Between the Announcement Date and the end of the Offer Period (each inclusive), Target does not announce, make, declare or pay any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie).

## 7 No material adverse change

- (a) Between the Announcement Date and the end of the Offer Period (each inclusive), none of the following occurs:

- (i) an event, change, condition, matter or thing occurs or will occur or is reasonably likely to occur;
- (ii) information is disclosed or announced by Target concerning any event, change condition, matter or thing that has occurred or is reasonably likely to occur; or
- (iii) information concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur becomes known to Bidder (whether or not becoming public),

which, whether individually or when aggregated with all such events, changes, conditions, matters or things that have occurred or are reasonably likely to occur, has had or would be considered reasonably likely to have:

- (iv) a material adverse effect, being \$100,000 or more, on the business, assets, liabilities, financial or trading position, profitability or prospects of Target and its subsidiaries taken as a whole.
- (b) For the purposes of paragraph 7(a), Bidder will not be taken to know of information concerning any event, change, condition, matter or thing before the Announcement Date, unless the information has been disclosed by Target in its public market lodgements with the Australian Securities Exchange before the Announcement Date.

We note Bidder's annual general meeting is scheduled to be held on Wednesday, 14 December 2022 where resolutions will be put to shareholders to approve, amongst other items, the Mosaic Transaction and Pipeline Transaction.

We understand from the notice of meeting dated 10 November 2022 (**NOM**) that the documentation with respect to the Mosaic Transaction and Pipeline Transaction each contain a "fiduciary exception" which provides that if a Competing Proposal (as defined in the NOM) is received by Target, there is a matching right process to assess whether the Competing Proposal is superior to the transactions which are the subject of the NOM. As such, we request your urgent advice to confirm that the Offer constitutes a Competing Proposal and therefore triggers the requirement by the Board of Target to assess whether it is superior to the transactions currently before Target shareholders.

Finally, we understand Target's obligations under the continuous disclosure regime and, specifically, ASX Listing Rule 3.1, that receipt of notice of our client's Offer would be considered market sensitive and therefore require disclosure to the market. We have no objection to Bidder making full

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disclosure as required under the ASX Listing Rules.

Please do not hesitate to contact the undersigned should you have any questions.

Yours faithfully

**Kardos Scanlan**

**Andrew Whitten**

Partner

**Kardos Scanlan**

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