

## DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 5378

4 October 2024

## COMPETITION COMMISSION

## NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

KSB SE &amp; CO. KGAA

AND

DAVRON EQUIPMENT CLOSE CORPORATION AND DAVRON EQUIPMENT KWAZULU-NATAL  
CLOSE CORPORATION

CASE NUMBER: 2024APR0006

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

**Background**

1. On 04 April 2024, the Competition Commission ("Commission") received a notification of an intermediate merger in terms of which KSB SE & Co. Kommanditgesellschaft auf Aktien (KGaA) ("KSB") proposes to acquire sole control in each of Davron Equipment Close Corporation ("Davron"), Davron Equipment Kwazulu-Natal Close Corporation ("Davron KZN") and Davron Service and Maintenance Close Corporation ("Davron Services") (collectively the "Davron Entities"). Post-merger, KSB will have sole control of the Davron Entities.
2. The primary acquiring firm is KSB, a limited partnership in terms of the laws of Germany. In South Africa, KSB controls KSB Pumps (S.A.) (Pty) Ltd ("KSB SA") (100%). KSB SA controls KSB Pumps and Valves (Pty) Ltd ("KSB Pumps & Valves") (70%). The remainder of the shares in KSB Pumps & Valves are held by Insikazi Synergies (RF) Ltd (30%) ("Insikazi").
3. KSB, Klein Schanzlin & Becker GmbH, KSB Stiftung and Kühborth-Stiftung GmbH, and the firms they directly and indirectly control are collectively referred to as the KSB Group.
4. KSB is not owned or controlled by any historically disadvantaged persons ("HDPs") as contemplated in the Competition Act no 89 of 1998 (as amended) ("the Act"). However, KSB Pumps & Valves is controlled as to 30% by an HDP, Insikazi.

5. KSB Group is a player in the fire control and protection system industry. It manufactures and sells pumps, valves and associated components. In South Africa, through KSB Pumps & Valves, KSB Group supplies products to the fire control and protection market. The products are used in the building, energy, mining, petrochemicals and water industries.
6. The primary target firms are the Davron Entities. The shareholders in Davron and Davron KZN are David Geoffrey Pharoah (45%) ("DG Pharoah"), David Roy Wicks (5%), Bradley Eric Cramond (12.5%), Shane Wollenschlaeger (22.5%), Adele Deidre Bezuidenhout (5%), Richard Peter Crawshaw (5%), and Robert Stephen Pharoah (5%) ("RS Pharoah"). Davron Services is solely controlled by RS Pharoah.
7. The Davron Entities do not control any firm. The Davron Entities are not controlled or owned by any HDPs.
8. The Davron Entities offer a variety of goods and services in the fire safety market. In the main, the Davron Entities procure pumps, engines, electrical motors, steel panels and other components from various suppliers in order to design and manufacture fire control pumpsets. The Davron Entities manufacture, design and install fire protection pumpsets, controllers and associated fire safety equipment. Additional value-added services offered by Davron Entities, through Davron Services include inspections, servicing, repair and maintenance.

### **Competition assessment**

9. The Commission considered the activities of the merging parties and found that there is a vertical overlap in the merging parties' activities. This is because KSB Group is a supplier of pumps and certain components used by the Davron Entities in the manufacturing of pumpsets.
10. The Commission found that the merger is unlikely to result in a substantial prevention or lessening of competition in any market.

### **Public interest**

11. The merging parties tendered commitments which the Commission considers will render the merger justifiable on public interest grounds.

**Conclusion**

12. Considering the above, the Commission approves the proposed transaction subject to the conditions attached in **Annexure A** hereto.

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**ANNEXURE A**  
**KSB SE & CO. KGAA**  
**AND**  
**DAVRON EQUIPMENT CLOSE CORPORATION AND DAVRON EQUIPMENT KWAZULU-**  
**NATAL CLOSE CORPORATION**  
**CASE NUMBER: 2024APR0006**

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## **1. DEFINITIONS**

In this document, the expressions used below will have the appropriate meaning assigned to them and the following and related expressions will bear the following meaning:

- 1.1. **"Acquiring Firm"** means KSB SE & Co. KGaA;
- 1.2. **"Approval Date"** means the date on which the Merger is approved by the Commission and as set out in the Commission's clearance certificate (Notice CC 15);
- 1.3. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.4. **"Commission Rules"** mean the Rules for the Conduct of Proceedings in the Commission;
- 1.5. **"Competition Act"** means the Competition Act, No. 89 of 1998, as amended;
- 1.6. **"Conditions"** means the conditions in this Annexure A;
- 1.7. **"The Davron Entities"** means Davron Equipment Close Corporation, Davron Equipment Kwazulu-Natal Close Corporation collectively and Davron Service and Maintenance Close Corporation;
- 1.8. **"Days"** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.9. **"Firm"** means a person, partnership or trust as defined in section 1 of the Competition Act;
- 1.10. **"HDP"** means a historically disadvantaged person as contemplated in section 3(2) of the Competition Act;
- 1.11. **"HDP Firms"** means Firms which are majority-owned or controlled by HDPs or Firms with a level 2 B-BBEE certification or higher;
- 1.12. **"Implementation Date"** means the date occurring after the Approval Date on which the Merger is implemented by the Merging Parties;

- 1.13. **“KSB”** means KSB SE & Co. KGaA;
- 1.14. **“KSB Pumps & Valves”** means KSB Pumps & Valves (Pty) Ltd, a local operating subsidiary of KSB;
- 1.15. **“Merged Entity”** means the Davron Entities under the sole control of the Acquiring Firm;
- 1.16. **“Merger”** means the acquisition by the Acquiring Firms of the Davron Entities as notified to the Commission under Commission case number 2024APR0006; and
- 1.17. **“Merging Parties”** means the Acquiring Firm and the Davron Entities.

## 2. EMPLOYMENT

- 2.1. The Merging Parties undertake that they will not conduct any merger-specific retrenchments for a period of 24-months following the Implementation Date, including the period between the Approval Date and Implementation Date
- 2.2. The Merged Entity further undertakes to arrange a monthly town-hall meeting, to discuss the implementation of the Merger, and other relevant operational matters on a monthly basis for six-months after the Implementation Date of the Merger. Thereafter, the Merging Parties undertake that quarterly meetings will be held with the employees of the Merged Entity.
- 2.3. For the sake of clarity, merger-specific retrenchments do not include: (i) voluntary separation arrangements and/or voluntary retrenchments; (ii) voluntary early retirement; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; (vi) terminations in the ordinary course of business, including (but not limited to) terminations as a result of misconduct or poor performance; and (vii) any decision not to renew or extend a contract or a fixed-term third party contract employee or contract with a third party.

### **3. BOARD OF DIRECTORS – HDP REPRESENTATION**

- 3.1. Within 6 (six) months of the Implementation Date, the Merging Parties undertake that the board of directors of the Merged Entity will consist of three persons, at least one of whom will be an HDP.

### **4. HDP PROCUREMENT CONDITION**

- 4.1. The Merged Entity shall commit, whichever is higher:

- 4.1.1. a minimum spend of R10 million per year to source its products or services from HDP Firms for a period of two years from the Implementation Date; or
- 4.1.2. a minimum of 25% in its annual procurement spend from HDP Firms for a period of two years from the Implementation Date.

- 4.2. The Merged Entity shall within 3 months from the Implementation Date, outsource any additional cleaning and security services at the Davron Entities and KSB Pumps & Valves entities to HDP Firms for a period of 3 (three) years.

### **5. SOLAR INSTALLATION**

- 5.1. The Merged Entity shall engage with accredited contractors and disburse the funding amount of R350 000 to procure the erection/ installation and maintenance of solar panels, inverters and battery backup to at least 2 (two) schools or clinics located in rural and previously disadvantaged areas of South Africa.
- 5.2. For the avoidance of doubt, the Merged Entity may disburse the funding amount in terms of this clause within 24 (twelve) months of the Implementation Date, which period will include at least six (6) months of post-installation maintenance.
- 5.3. The Merged Entity will endeavour for the first solar installation to be completed in 2025, and the second solar installation to be completed in 2026.

### **6. BURSARIES**

- 6.1. The Merged Entity undertakes to offer bursaries to the minimum value of R500 000 for two (2) HDP students with a tertiary institution or college, for the duration of the HDP students' studies.
- 6.1.1. The first bursary will be awarded in 2025;
- 6.1.2. The second bursary will be awarded in 2026.

- 6.2. To the extent that the bursary allocation of R500 000 is not fully utilised by two HDP students for the enrolment and/or competition of their studies, the balance of the bursary amount will be donated to a tertiary institution or college, under the directions that it must be offered to the funding of HDP students' studies and/or study material.
- 6.3. To the extent possible, the Merged Entity will give preference to women in awarding of the bursaries.
- 6.4. The bursaries will be for a 3 to 4 years nationally recognised qualifications of National Qualification Framework (NQF) for the two HDP students to become qualified electricians. The bursary costs are inclusive of tools, registration and course material fees, study material, work experience, deployments and trade tests.
- 6.5. The Merging Parties will offer training to the two HDP students in this field of study. If the students are suitably qualified, the Merging Parties will offer employment opportunities and/or apprenticeships within the Davron Entities.

## **7. MONITORING**

- 7.1. The Merged Entity shall inform the Commission in writing of the Implementation Date within 5 (five) Days of the Implementation Date.
- 7.2. The Merged Entity shall circulate a copy of the employment Conditions to all Employees and the Employee representatives of the Merged Entity within 5(five) Days of the Approval Date.
- 7.3. As proof of compliance with clause 7.2, a senior executive of the Merged Entity shall within 10 (ten) Days of circulating the Conditions, submit to the Commission an affidavit attesting to the circulation of the Conditions and provide a copy of the notices that were circulated to such employees and employee representatives.
- 7.4. The Merged Entity shall submit an annual report to the Commission indicating compliance with respect to these Conditions for a period of 3 (three) years. These reports must be lodged within 20 (twenty) Days after each anniversary of the Implementation Date for a period of 3 (three) years. This report shall be accompanied by an affidavit, attested to by a senior official of the Merged Entity, confirming the accuracy of the report.
- 7.5. Following the appointment of the HDP on the board of directors of the Merged Entity, as contemplated in clause 3, the Merged Entity will within 20 (twenty) Days after the first anniversary of the Implementation Date provide the Commission with details of

the appointed individual as part of the first annual report submitted in terms of clause 7.4.

7.6. Following the installation of the solar panels and in line with clause 5, the Merged Entity shall provide the Commission with details of the recipient schools or clinics, including where they are located and evidence of the total amount spent. This shall form part of the merging parties annual report submitted in terms of clause 7.4.

7.7. Following the disbursement of the bursaries as contemplated in clause 6, the Merged Entity shall provide the Commission with details on the two HDP bursary recipients, including the tertiary institutions they are enrolled in, the NQF qualification enrolled for, and total value of the bursaries awarded. This shall form part of the merging parties annual report submitted in terms of clause 7.4.

7.8. The Commission may request additional information from the Merging Parties, which the Commission may reasonably deem necessary for the purposes of monitoring the extent of compliance with these Conditions.

## **8. VARIATION OF CONDITIONS**

8.1. The Merger Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be lifted, revised, or amended. Should a dispute arise in relation to the variation of the Conditions, the Merger Parties shall apply to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

## **9. APPARENT BREACH**

9.1. If the Merging Parties appear to have breached the Conditions or if the Commission determines that there has been an apparent breach by the Merging Parties of any of the Conditions, this shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

## **10. GENERAL**

10.1. All correspondence concerning these Conditions must be submitted to the following email address: [mergerconditions@compcom.co.za](mailto:mergerconditions@compcom.co.za) and [ministry@thedtic.gov.za](mailto:ministry@thedtic.gov.za).

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298