

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 6016

20 March 2025

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

EYNSFORD HOLDINGS (PTY) LTD**AND****MY PRIVATE DEALER (PTY) LTD****CASE NUMBER: 2024OCT0030**

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 14 October 2024, the Competition Commission ("Commission") received a notice of an intermediate merger whereby Eynsford Holdings (Pty) Ltd ("Eynsford") and Raptor Investments (Pty) Ltd ("Raptor") intend on acquiring My Private Dealer (Pty) Ltd ("My Private Dealer"). Post-merger, My Private Dealer will be jointly controlled by Raptor and Eynsford.
2. The primary acquiring firms are Eynsford Holdings (Pty) Ltd ("Eynsford") and Raptor Investments (Pty) Ltd ("Raptor").
3. Eynsford and Raptor are ultimately controlled by various family trusts. The members of the said family trusts are not historically disadvantaged persons ("HDPs") as contemplated by section 3(2) of the Competition act No. 89 of 1998 (as amended) (the "Act").
4. Eynsford and Raptor shall be referred to as the "Acquiring Group".
5. The Acquiring Group conducts a motor dealership business from its premises situated at 229 Corlett Dr, Bramley, Sandton, Johannesburg. The Acquiring Group is active in respect of the sale of (i) new passenger vehicles, (ii) used passenger vehicles and (iii) accessories and parts. The Acquiring Group also provides vehicle repair services. The

motor vehicle brands sold and repaired by the merging parties include Ford, Mahindra and Mazda brands.

6. The primary target firm is My Private Dealer (Pty) Ltd ("My Private Dealer"). My Private Dealer is controlled by Heycarter (Pty) Ltd ("Heycarter").
7. The Commission notes that My Private Dealer is 64.45% held by HDPs. My Private Dealer shall be referred to as the "Target Firm".
8. The Target Firm conducts a motor dealership business of Suzuki Bramley from the premises situated at 55 2nd Avenue, Kew, Johannesburg. The business is comprised of the sale of light passenger vehicles and in particular the sale of (i) new Suzuki motor vehicles, (ii) used (or pre-owned) motor vehicles, (iii) parts and accessories (largely relating to Suzuki vehicles) and (iv) the rendering of services in respect of the repair and maintenance of motor vehicles (largely relating to Suzuki vehicles).

Competition Assessment

9. The Commission found that the proposed merger is unlikely to result in a substantial prevention or lessening of competition.

Public Interest considerations

10. In order to address the significant HDP dilution arising from the proposed transaction, the merging parties have agreed to the following conditions:
 - 10.1. The seller will utilise no less than R6m of proceeds from the sale of the Target Firm to acquire the remaining issued share capital in Volkswagen Bronkhorspruit. Accordingly, part of the proceeds of the proposed merger will be used to replace the existing HDP shareholding in the instant merger, into another car dealership.
 - 10.2. The merged entity shall spend a total expenditure of at least R14 727 050 over 3 years towards HDP owned service providers in respect of security services, cleaning/valet services, window tinting, smash & grab installations and other value-added products in respect of the motor vehicles sold and/or business premises operated by the merged entity.
 - 10.3. The merged entity shall spend an expenditure of at least R20 000.00 per annum in cash or in kind to one or more charitable institutions situated in and/or servicing the Alexandra township and surrounding areas for a period of 3 years from the date of implementation. This contribution amounts to R60 000 in total.

- 10.4. Expenditure of at least R300 000.00 per annum to a community improvement group (or similar institution) situated in and/or servicing the industrial sector or region known as Kew/Bramley (neighbouring the Alexandra township) for a period of 3 years from the date of implementation. This contribution amounts to R900 000 in total.

Conclusion

11. The Commission approves the proposed transaction subject to the conditions attached hereto as **Annexure A**.

ANNEXURE A: CONDITIONS**EYNSFORD HOLDINGS (PTY) LTD AND RAPTOR INVESTMENTS (PTY) LTD****AND****MY PRIVATE DEALER (PTY) LTD****CASE NUMBER: 2024OCT0030**

CONDITIONS

1. DEFINITIONS

In these Conditions, the following words will, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and other words derived from the same origins as such words (that is, cognate words) will bear corresponding meanings:

- 1.1 **"Acquiring Firm"** means Eynsford Holdings (Pty) Ltd, its controllers and all the firms that it controls.
- 1.2 **"Amanda Motors"** means Amanda Motors (Pty) Ltd (Registration Number: 1993/003906/07) trading as Volkswagen Bronkhorstspuit, a private company duly registered and incorporated in accordance with the company laws of the Republic of South Africa;
- 1.3 **"Approval Date"** means the date on which the Merger is approved in terms of the Act;
- 1.4 **"Commission"** means the Competition Commission of South Africa;
- 1.5 **"Competition Act"** means the Competition Act, 1998 (Act No. 89 of 1998);
- 1.6 **"Conditions"** means these conditions in Annexure A;
- 1.7 **"Day"** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.8 **"Eagle Four"** means Eagle Four (Pty) Ltd (Registration Number: 2012/028656/07), a private company duly registered and incorporated in accordance with the company laws of the Republic of South Africa, owned and controlled by the Acquiring Firms;
- 1.9 **"HDPs"** mean historically disadvantaged persons as contemplated in section 3(2) of the Competition Act;

- 1.10 **“Hey Carter”** means Hey Carter (Pty) Ltd (Registration Number: 2016/229641/07), a private company duly registered and incorporated in accordance with the company laws of the Republic of South Africa, which wholly owns and controls the Primary Target Firm immediately prior to the implementation of the proposed merger;
- 1.11 **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties in South Africa;
- 1.12 **“Merging Parties”** means the Primary Acquiring Firms and the Primary Target Firm;
- 1.13 **“Merger”** means the proposed acquisition by the Primary Acquiring Firms of the Primary Target Firm, as notified to the Commission under Case No. 2024OCT0030;
- 1.14 **“Primary Acquiring Firms”** means Eynsford Holdings (Pty) Ltd (Registration Number: 2024/570256/07) and Raptor Investments (Pty) Ltd (Registration Number: 2012/189839/07);
- 1.15 **“Primary Target Firm”** means My Private Dealer (Pty) Ltd (Registration Number: 2022/215451/07) t/a Suzuki Bramley; and
- 1.16 **“Tribunal”** means the Competition Tribunal of South Africa.

2. HDP TRANSACTION

On or before 1 April 2025, Hey Carter shall¹ utilise no less than R6 million of the proceeds from the sale of the Primary Target Firm to acquire the remaining 51% of the issued share capital in Amanda Motors, such that Amanda Motors is wholly owned by Hey Carter.

3. HDP PROCUREMENT AND OTHER INITIATIVES

- 3.1 The Acquiring Firms shall, via Eagle Four and the Primary Target Firm contribute to, and/or sponsor, the following initiatives:
- 3.1.1 Spend the following amounts towards HDP owned or controlled service providers, towards security services, cleaning/valet services, window tinting, smash & grab

¹ Hey Carter has been granted a call option to acquire the further 51% of the shares (i.e. 100% in all) in Amanda Motors (Pty) Ltd from Hoffeldt Motor Holdings (Pty) Ltd within 30 business days after the Volkswagen OEM approves the change of control in Amanda Motors (Pty) Ltd to Hey Carter. Please see merger notice under case number: 2022SEP0055, which merger was unconditionally approved by the Commission on 28 September 2022.

installations and other value-added products in respect of the motor vehicles sold and/or business premises operated by Eagle Four and/or the Primary Target Firm.

- 3.1.1.1 R7.05 million by the end of the 2026 financial year (being the first financial year following the anticipated Implementation Date).²
- 3.1.1.2 R7.27 million by the end of the 2027 financial year.
- 3.1.1.3 R7.45 million by the end of the 2028 financial year.
- 3.1.2 contribute R300 000.00 per annum to a community improvement group (or similar institution) situated in and/or servicing the industrial sector or region known as Kew/Bramley (neighbouring the Alexandra township) in each of the 2026, 2027 and 2028 financial years (being the three financial years immediately following the anticipated Implementation Date); and
- 3.1.3 to contribute R20 000.00 per annum in cash or in kind to one or more charitable institutions situated in and/or servicing the Alexandra township and surrounding area, in each of the 2026, 2027 and 2028 financial years (being the three financial years immediately following the anticipated Implementation Date).

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 4.1 The Commission shall be entitled to call on the Acquiring Firms shall provide a detailed annual report to the Commission regarding the compliance with the conditions set out in clause 2 and 3, to be provided within 20 business day from the 2026 financial year end, 2027 financial year end and the 2028 financial year end of Eagle Four and the Primary Target Firm, whichever is later.
- 4.2 These compliance reports shall be accompanied by an affidavit (deposed to by a senior official of the reporting entity) confirming the accuracy of the information contained in the compliance reports.
- 4.3 The Commission may request applicable party to provide any documents reasonably necessary for the Commission to effectively monitor the progress and/or compliance with the Conditions.

5. APPARENT BREACH

Should the Commission receive any complaint in relation to non-compliance with the above Conditions or otherwise determine that there has been an apparent breach by the

² According to the transaction agreement, the Effective Date is the later of 2 December 2024 or 1st business day of the month following the month in which the conditions precedent are fulfilled or waived, provided that if the last of the Conditions Precedent are only fulfilled or waived during January 2025 or February 2025, the effective date shall be 3 March 2025. Given that 2 December 2024 has passed, as at the date of these conditions being offered, the effective date is anticipated to be 3 March 2025.

Merger Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules.

6. VARIATION OF CONDITIONS

The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be waived, relaxed, modified and/or substituted. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown and on notice to the Commission, for the Conditions to be waived, relaxed, modified and/or substituted.

7. GENERAL

All correspondence concerning these Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and 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 3200.

- 12 To address public interest concerns, the merging parties have tendered supply and enterprise development commitments as set out in **Annexure A**.

Conclusion

- 13 Based on the foregoing, the Commission approves the merger with conditions attached as **Annexure A**.

ANNEXURE A
MARS, INCORPORATED
AND
KELLANOVA
CASE NUMBER: 2024NOV0074

CONDITIONS

1. DEFINITIONS

The following terms have the meaning assigned to them below, and cognate expressions have corresponding meanings –

- 1.1 **“Acquiring Firm”** means Mars, Incorporated;
- 1.2 **“Approval Date”** means the date referred to in the Commission’s decision;
- 1.3 **“Arcturus”** means Arcturus Manufacturing South Africa Proprietary Limited, a private company incorporated in South Africa, controlled by the Acquiring Firm;
- 1.4 **“Business Day”** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.5 **“Commission”** means the Competition Commission of South Africa;
- 1.6 **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.7 **“Competition Act”** means the Competition Act, No. 89 of 1998 (as amended);
- 1.8 **“Conditions”** means these conditions;
- 1.9 **“HDPs”** means historically disadvantaged persons as contemplated in section 3(2) of the Competition Act;
- 1.10 **“Implementation Date”** means the date, occurring after the Approval Date, on which the Acquiring Firm acquires control of the Target Firm;
- 1.11 **“Kellanova South African subsidiaries”** means Kellogg South Africa and Kellogg Tolaram South Africa;

- 1.12 **“Kellogg South Africa”** means Kellogg Company of South Africa Proprietary Limited, a private company incorporated in South Africa, controlled by the Target Firm;
- 1.13 **“Kellogg Tolaram South Africa”** means Kellogg Tolaram South Africa Proprietary Limited, a private company incorporated in South Africa, jointly controlled by the Target Firm;
- 1.14 **“Mars Consumer Products Africa”** means Mars Consumer Products Africa Proprietary Limited, a private company incorporated in South Africa, controlled by the Acquiring Firm;
- 1.15 **“Mars South African subsidiaries”** means Arcturus, Mars Consumer Products Africa and Royal Canin South Africa;
- 1.16 **“Merger”** means the transaction in terms of which the Acquiring Firm will acquire control of the Target Firm;
- 1.17 **“Merging Parties”** means the Acquiring Firm and the Target Firm;
- 1.18 **“Royal Canin”** means Royal Canin South Africa Proprietary Limited, a private company incorporated in South Africa, controlled by the Acquiring Firm;
- 1.19 **“Target Firm”** means Kellanova;
- 1.20 **“Tribunal”** means the Competition Tribunal of South Africa; and
- 1.21 **“Tribunal Rules”** means the Rules for the Conduct of Proceedings in the Tribunal.

2. CONDITIONS TO THE APPROVAL OF THE MERGER

2.1. PROCUREMENT COMMITMENT

- 2.1.1 For a period of **[CONFIDENTIAL]**, the Mars South African Subsidiaries shall procure **[CONFIDENTIAL]** services from a business wholly owned by a female HDP and/or other HDPs, to the value of at least **[CONFIDENTIAL]**.
- 2.1.2 Over a period of **[CONFIDENTIAL]**, the Mars South African Subsidiaries and the Kellanova South African subsidiaries shall procure goods and/or services from SMEs and/or firms majority-owned or controlled by HDPs, to the value of **[CONFIDENTIAL]** or more.

2.2. PLACEMENT

- 2.2.1. From **[CONFIDENTIAL]**, the Mars South African Subsidiaries shall conduct a youth enterprise programme (registered with the Food and Beverages Manufacturing Sector Education and Training Authority) for the benefit of **[CONFIDENTIAL]** or more HDPs to the value of **[CONFIDENTIAL]** or more.
- 2.2.2. For a period of **[CONFIDENTIAL]**, the Kellanova South African subsidiaries shall conduct an internship programme to facilitate the introduction and upskilling of graduates into the workplace for the benefit of **[CONFIDENTIAL]** or more HDP graduates to the value of **[CONFIDENTIAL]** or more.

3. MONITORING OF COMPLIANCE WITH CONDITIONS

- 3.1 The Merging Parties shall inform the Commission in writing of the Implementation Date within 5 (five) Business Days of it becoming effective.
- 3.2 With respect to paragraph 2.1.1, within 30 Business Days of the end of the relevant calendar year, an affidavit deposited to by a representative of one of the Mars South African Subsidiaries shall be submitted, confirming compliance with the Condition set out in paragraph 2.1.1.
- 3.3 With respect to paragraph 2.1.2, within 30 Business Days of 31 December 2027, an affidavit deposited to by a representative of the Mars South African subsidiaries or the Kellanova South African subsidiaries shall be submitted, confirming compliance with the Condition set out in this paragraph 2.1.2.
- 3.4 With respect to paragraph 0, by 30 August 2026, an affidavit deposited to by a representative of one of the Mars South African Subsidiaries shall be submitted, confirming compliance with the Condition set out in paragraph 2.2.1.
- 3.5 With respect to paragraph 2.2.2, within 30 Business Days of the end of the relevant calendar year, an affidavit deposited to by a representative of one of the Kellanova South African Subsidiaries shall be submitted, confirming compliance with the Condition set out paragraph 2.2.2.

4. APPARENT BREACH

In the event that the Commission receives any complaint in relation to non-compliance with the above Conditions, or otherwise determines that there has been an apparent breach by the Merging Parties of these Conditions, that apparent breach shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

5. VARIATION

The Merging Parties may at any time, on good cause shown, apply to the Commission for the Conditions to be waived, relaxed, modified and/or substituted. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties shall apply to the Tribunal, on good cause shown and on notice to the Commission, for the Conditions to be waived, relaxed, modified and/or substituted.

2. GENERAL

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