

**CURRENT REPORT FILED WITH THE
POLISH FINANCIAL SUPERVISION AUTHORITY**

DATE: November 13th 2020

Subject: [910MW power generating unit in Jaworzno reaches commercial operation, settlement agreement and Annex 9 to contract with Nowe Jaworzno Grupa TAURON sp. z o.o. signed \[Current Report No. 61/2020\].](#)

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Further to Current Report No. 21/2014 of April 17th 2014 concerning a contract to construct a supercritical 910 MW power generation unit (the “Unit”) at Jaworzno III Power Plant – Power Plant II (the “Contract”), signed with Nowe Jaworzno Grupa TAURON Sp. z o.o. (the “Employer” or “NJGT”), and Current Report No. 28/2020 of June 10th 2020 announcing that RAFAKO S.A. of Racibórz (the “Company”) and the Employer would settle their mutual relations and accounts in a separate agreement made in addition to Annex 8, the Company’s Management Board announces that on November 13th 2020:

Following completion of the Trial Run, which confirmed the Unit meets the requirements set out in the Contract, the Parties performed Acceptance of the Unit, which has entered commercial operation. The unit operates within the Polish power system.

The Employer, E003B7 sp. z o.o. (the Company’s wholly-owned subsidiary) and the Company, acting with approval from the supervisor of the Company’s arrangement made under the simplified restructuring procedure, signed a settlement agreement (the “Settlement Agreement”) resulting from mediation conducted before the Arbitration Court at the General Counsel to the Republic of Poland, which provides as follows, without limitation:

1. The Parties, that is the Company and the Employer, have waived equivalent mutual claims which arose before the Settlement Agreement Date in connection with performance of the Contract, except for the Company’s claims for the work performed in accordance with the Contract, NJGT’s warranty or guarantee claims, and recourse claims against the Company for the payment of claims of lower-tier subcontractors.
2. The Company will extend the technical guarantee for the high-pressure part of the boiler by six (6) months (to 36 months) and will grant licences to use computer software not covered by the Contract. The Company will perform certain additional work, including work to optimise the Unit’s operation so that its minimum technical capacity is reduced from 40% to 37%.

The Settlement Agreement will take effect upon fulfilment of certain conditions precedent, including the following key conditions:

1. the Company and the Employer signing a handover-for-operation certificate for the unit at the Jaworzno Power Plant by November 15th 2020 (the condition has been met);
2. the Company providing an agreement in the form of a commitment letter with financial institutions, i.e. Powszechny Zakład Ubezpieczeń S.A., mBank S.A., Powszechna Kasa Oszczędności Bank Polski S.A. and Bank Gospodarstwa Krajowego, concerning the method of raising funds necessary for the completion of proper performance of the Contract (the condition has been met).

The Settlement Agreement will be filed with a competent common court for approval. Once approved by a final court decision, the Settlement Agreement will have the legal effect of a court settlement.

Furthermore, on November 13th 2020 the Employer and the Company, acting with approval from the supervisor of the Company's arrangement made under the simplified restructuring procedure, entered into Annex 9 to the Contract, which sanctions the arrangements made by the Parties in the Settlement Agreement regarding the Company's additional non-monetary obligations, including obligation performance dates and related payment due dates.

The Company's remuneration under the Contract and annexes thereto will total PLN 4.6bn and will provide financial means ensuring proper performance of the Contract.

Legal basis:

Art. 17.1 of the Market Abuse Regulation – inside information.

Mariusz Zawisza, President of the Management Board

Radosław Domagalski-Łabędzki, Vice President of the Management Board