

CURRENT REPORT FILED WITH THE POLISH FINANCIAL SUPERVISION AUTHORITY IN WARSAW

DATE: June 20th 2022

Subject: [Agreement signed between the Company and PGE Górnictwo i Energetyka Konwencjonalna S.A. \(Current Report No. 40/2022\)](#)

Contents:

The Management Board of RAFAKO S.A. of Racibórz (the “Company”) announces that on June 20th 2022 an agreement was signed between the Company and PGE Górnictwo i Energetyka Konwencjonalna S.A. of Bełchatów (“**PGE GiEK**”) as part of the mediation proceedings held before the Court of Arbitration at the General Prosecutor’s Office, regarding amicable settlement of the Parties’ claims related to the performance of contracts to build and upgrade units at the Bełchatów Power Plant (the “**Agreement**”), and pertaining to the following contracts existing between the Company and PGE GiEK:

- i. BAT conclusions adaptation contract for the extension of a limestone milling facility and extension of a limestone unloading system at PGE GiEK S.A. Bełchatów Power Plant Branch – Contract No. 10/PM/PMR-ELB/ZP/MS/2018 (“**Contract 1**”);
- ii. Contract for a comprehensive upgrade of flue gas desulfurisation systems on units 3, 4, 5 and 6 at PGE GiEK S.A. Bełchatów Power Plant Branch – Contract No. 14/PM/PMR-ELB/ZP/MS/2018 (“**Contract 2**”);
- iii. Contract for a comprehensive upgrade of flue gas desulfurisation systems on units 8–12 at PGE GiEK S.A. Bełchatów Power Plant Branch – Contract No. UMJ/GEK/ELB/DI/15541/2019/WY (“**Contract 3**”);
- iv. Contract for an upgrade of electrostatic precipitators on unit 2 at PGE GiEK S.A. Bełchatów Power Plant Branch – Contract No. 8/PM/PMR-ELB/ZP/MS/2018 (“**Contract 4**”);
- v. Contract for an upgrade and overhaul of the low-furnace system along with the pressure part of the boiler on unit 2 at PGE GiEK S.A. Bełchatów Power Plant Branch – Contract No. 12/PM/PMR-ELB/ZP/AB/2018 (“**Contract 5**”).

The material provisions of the Agreement are the following:

1. in respect of Contract 1:
 - i. obligation of the Company to perform works to remedy the defects specified in the Agreement under the existing guarantee of quality, regardless of the Company’s disputing liability to remedy the defects;
 - ii. waiver by the Company of any claims against PGE GiEK arising or resulting from events occurring on or before May 25th 2022;
 - iii. waiver by PGE GiEK of claims against the Company in the form of potential contractual penalties relating to the availability of the subject matter of Contract 1 for the period to March 21st 2022 and procedural contractual penalties for events occurring on or before May 25th 2022, as well as damages in excess of these contractual penalties;

2. in respect of Contract 2:
 - i. obligation of the Company to perform works to remedy the defects specified in the Agreement under the existing guarantee of quality, regardless of the Company's disputing liability to remedy the defects, and to make additional deliveries specified in the Agreement to increase the availability of the subject matter of Contract 2;
 - ii. waiver by the Company of any claims against PGE GiEK arising or resulting from events occurring on or before May 25th 2022;
 - iii. waiver by PGE GiEK of any claims against the Company relating to contractual penalties for delay and procedural contractual penalties for events occurring on or before May 25th 2022, and damages in excess of these contractual penalties,
 - iv. representation by PGE GiEK that, to the best of its knowledge, as of May 25th 2022, it has no other claims against the Company in respect of Contract 2;

3. in respect of Contract 3:
 - i. obligation of the Company to perform works to remedy the defects specified in the Agreement under the existing guarantee of quality, regardless of the Company's disputing liability to remedy the defects, and to make additional deliveries specified in the Agreement to increase the availability of the subject matter of Contract 3;
 - ii. waiver by the Company of any claims against PGE GiEK arising or resulting from events occurring on or before May 25th 2022;
 - iii. agreement that PGE GiEK is entitled to receive from the Company a contractual penalty for delay under Contract 3 in the amount of PLN 6,016,750.35 (six million sixteen thousand seven hundred and fifty zlotys, 35/100), which has been partly settled, with the balance (PLN 5,336.962.75 PLN (five million three hundred and thirty-six thousand nine hundred and sixty-two zlotys, 75/100)) to be settled through a set-off against a part of the Company's claim for the return of an existing security deposit (upon return to the Company of the amount of the deposit not covered by the set-off);
 - iv. agreement that PGE GiEK is entitled to receive from the Company a contractual penalty for failure to meet the annual availability parameter of unit 10, being the subject matter of Contract 3, in the period from February 10th 2021 to February 9th 2022, in the amount of PLN 1,761,408.00 (one million seven hundred and sixty-one thousand four hundred and eight zlotys, 00/100);
 - v. waiver by PGE GiEK of claims against the Company relating to contractual penalties: (i) on the account set out in item (iii) above, in excess of the amount specified therein, and (ii) procedural penalties for events occurring on or before May 25th 2022, and damages in excess of these contractual penalties,
 - vi. representation by PGE GiEK that, to the best of its knowledge, as of May 25th 2022, it has no claims against the Company in respect of Contract 3 other than specified above;

4. in respect of Contract 4 and Contract 5 – acknowledgment by the Parties that the settled contractual penalties under Contract 4 and Contract 5, totalling PLN 13,367,348.88 (thirteen million three hundred and sixty-seven thousand three hundred and forty-eight zlotys, 88/100) were owed to PGE GiEK and, as such, will not be disputed by the Company, along with a waiver by the Company of any claims related to the imposition and settlement of these contractual penalties.

As per its terms, the Agreement will become effective on the date when it is approved by a court of general jurisdiction.

Legal basis: Article 17(1) of the Market Abuse Regulation – Inside information

Radosław Domagalski-Łabędzki, President of the Management Board
Maciej Stańczuk, Vice President of the Management Board