

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

DATE: February 7th 2023

Subject: [Agreement with TAURON Wytwarzanie S.A. reached as part of mediation process, and annex to contract with TAURON Wytwarzanie S.A. executed outside of mediation process \[CR 9/2023\]](#)

Text of the report:

The Management Board of RAFAKO S.A. of Racibórz (the “**Company**”) – further to the Company’s Current Reports **(i)** No. 60/2022 of August 5th 2022 announcing the execution between the Company, Mostostal Warszawa S.A. of Warsaw (“**Mostostal**”, the Company and Mostostal being jointly referred to as the “**Contractor**”), E003B7 Sp. z o.o. of Racibórz, a wholly-owned subsidiary of the Company (the “**Subsidiary**”), and Nowe Jaworzno Grupa TAURON sp. z o.o. of Jaworzno, which, as the acquirer, was merged with TAURON Wytwarzanie S.A. of Jaworzno (“**TAURON Wytwarzanie**”), as the acquirer, under Art. 516 of the Commercial Companies Code, of an agreement to mediate before the Arbitration Court at the Office of the General Counsel to the Republic of Poland (the “**Mediation Agreement**” and the “**Arbitration Court**”), and on the preparation by the Contractor and the Subsidiary of a request for the Arbitration Court to conduct the mediation process contemplated by the Mediation Agreement, **(ii)** No. 80/2022 of November 10th 2022 announcing the receipt by the Company of a letter from TAURON Wytwarzanie concerning defects in the project carried out under Contract No. 2013/0928/Ri for the ‘Development of new coal-fired generation capacities at TAURON Wytwarzanie S.A. – Construction of supercritical 910 MW generating unit at the Jaworzno III Power Plant – Power Plant II: Steam boiler, turbine generator set, main building, electrical and I&C systems’ (the “**Contract**”), **(iii)** jointly: No. 88/2022 of December 15th 2022 announcing the submission by the Contractor to TAURON Wytwarzanie of a notice within the meaning of Art. 649³.1 of the Polish Civil Code in connection with the Contract to provide a payment guarantee within the meaning of Art. 649¹ of the Polish Civil Code for the remuneration due to the Contractor under the Contract (the “**Notice**”), No. 7/2023 of January 26th 2023 announcing the submission by the Contractor to TAURON Wytwarzanie of a statement notifying it of extension of the deadline originally set in the Notice for TAURON Wytwarzanie to comply with the Notice, and No. 8/2023 of February 2nd 2023 announcing the submission by the Contractor to TAURON Wytwarzanie of a statement notifying it of further extension of the deadline set in the Notice for TAURON Wytwarzanie to comply with the Notice, **(iv)** No. 1/2023 of January 11th 2023 announcing the receipt by the Company from TAURON Wytwarzanie of a call for payment of liquidated damages and compensation addressed to the Contractor and the Subsidiary (the “**Call for Payment from TAURON Wytwarzanie**”), and **(v)** No. 3/2023 of January 13th 2023 announcing the submission by the Company to TAURON Wytwarzanie of a notice demanding that TAURON Wytwarzanie makes a payment and issues a statement (the “**TAURON Wytwarzanie Notice**”) and to TAURON Polska Energia S.A. of Katowice (“**TAURON PE**”) demanding that TAURON PE makes a payment and issues a statement (the “**TAURON PE Notice**”) – announces that on February 7th 2023 an agreement was reached between the Contractor, the Subsidiary and TAURON Wytwarzanie as part of the mediation process conducted before the Arbitration Court (the “**Agreement**”) and additionally, outside of the mediation process, another annex to the Contract was executed between the Contractor and TAURON Wytwarzanie (“**Annex 16**”).

The material provisions of the Agreement are as follows:

1. The Contractor's declaration to extend until March 8th 2023 the deadline set for TAURON PE to comply with the TAURON PE Notice, including the Contractor's undertaking to refrain until March 8th 2023 from enforcing any claims arising as a result of or in connection with the performance of the Contract, with the reservation that the declaration does not constitute a waiver of any claims, and may not be interpreted as acknowledgement of any debt by TAURON PE or as change of the existing position of TAURON PE or TAURON Wytwarzanie with respect to the TAURON PE Notice;
2. The Contractor's declaration to extend until March 8th 2023 the deadline set for TAURON Wytwarzanie to comply with the TAURON Wytwarzanie Notice, including the Contractor's undertaking to refrain until March 8th 2023 from enforcing any claims arising as a result of or in connection with the performance of the Contract to the extent stated in the TAURON Wytwarzanie Notice, with the reservation that the declaration does not constitute a waiver of any claims, and may not be interpreted as acknowledgement of any debt by TAURON Wytwarzanie or as change of the existing position of TAURON Wytwarzanie with respect to the TAURON Wytwarzanie Notice;
3. TAURON Wytwarzanie's declaration to extend the deadline set by TAURON Wytwarzanie for the Contractor and the Subsidiary to comply with the Call for Payment from TAURON Wytwarzanie as follows: (i) for the part of the sum covered by the Call for Payment from TAURON Wytwarzanie amounting to PLN 762,619,657.15 (seven hundred and sixty-two million, six hundred and nineteen thousand, six hundred and fifty-seven złoty, 15/100) the deadline is extended until March 8th 2023, and (ii) for the part of the sum covered by the Call for Payment from TAURON Wytwarzanie amounting to PLN 549,820,561.76 (five hundred and forty-nine million, eight hundred and twenty thousand, five hundred and sixty-one złoty, 76/100) the deadline is extended until February 28th 2023, including TAURON Wytwarzanie's undertaking to refrain from enforcing any claims arising as a result of or in connection with the performance of the Contract to the extent stated in the Call for Payment from TAURON Wytwarzanie, in respect of the amount of PLN 762,619,657.15 (seven hundred and sixty-two million, six hundred and nineteen thousand, six hundred and fifty-seven złoty, 15/100) until March 8th 2023, and in respect of the amount of PLN 549,820,561.76 (five hundred and forty-nine million, eight hundred and twenty thousand, five hundred and sixty-one złoty, 76/100) until February 28th 2023, with the reservation that the declaration does not constitute a waiver of any claims, and may not be interpreted as acknowledgement of any debt by the Contractor or the Subsidiary or as change of the existing position of the Contractor or the Subsidiary with respect to the Call for Payment from TAURON Wytwarzanie;
4. The Contractor's, the Subsidiary's and TAURON Wytwarzanie's undertakings to refrain, until February 28th 2023, from raising any monetary or non-monetary claims against each other and towards financing institutions, including any demands/calls for payment and any non-monetary demands, and to refrain from filing any petitions, requests, notices or claims with any judicial or administrative authority, with the reservation that such undertaking is not tantamount to the admission of any circumstances or acknowledgement of any claims, and does not constitute a waiver of any claims, and may not be interpreted as purporting to confirm or waive any claims or as novation of any existing obligations;
5. The Contractor's and TAURON Wytwarzanie's declarations of their intention to continue the mediation conducted before the Arbitration Court with the aim of reaching

amicable settlement with respect to the claims covered by the Call for Payment from TAURON Wytwarzanie, the TAURON Wytwarzanie Notice and the TAURON PE Notice, including recognition and confirmation of the possibility of minimising the mutual claims thereunder, as well as declarations that both the Contractor and TAURON Wytwarzanie consider amicable settlement a realistic option to resolve their dispute over termination of the Contract and all other outstanding issues between them by March 8th 2023;

6. Extension by the Contractor of the deadline set in the Notice for TAURON Wytwarzanie to comply with the Notice until March 8th 2023;
7. Indication of areas and issues to be subject to further negotiations, with respect to which the Contractor and TAURON Wytwarzanie intend to negotiate in the course of the mediation process before the Arbitration Court, including undertaking to negotiate and mediate with a view to agreeing on final terms of the settlement agreement by February 28th 2023 and to signing the settlement agreement by March 8th 2023;
8. Agreement that the Contract will be terminated within five days of the date of review and joint assessment of the Group A and B Guaranteed Technical Parameters (as defined in the Contract) on the terms set out in the settlement agreement being negotiated, but in any case not later than by December 31st 2023, and that total liability of the Contractor and the Subsidiary for the performance of the Contract will be limited to the amount specified in the settlement agreement;
9. Confirmation that in the event of failure to agree on final terms of the settlement agreement being negotiated and failure to execute the settlement agreement by the deadlines referred to in Section 7 above, the Contractor and TAURON Wytwarzanie will have the right to bring claims against each other in connection with the Contract.

In accordance with its wording, the Agreement is effective as of its date.

As regards the material provisions of Annex 16, these include:

1. Amendments to the existing Contract milestones and establishment of new Contract milestones related to the delivery of components by the Contractor, in order to settle the Contractor's work performed to date, and with a view to ensuring safe operation of the unit developed under the Contract;
2. Increase of the Contractor's remuneration under the Contract related to the establishment of new Contract milestones referred to in Section 1 above by PLN 1,000,373.45 (one million, three hundred and seventy-three złoty, 45/100);
3. Shortening, in relation to existing provisions of the Contract, of the deadlines for payment of the Contractor's remuneration for individual Contract milestones, amended or established as referred to in Section 1 above;

In accordance with its wording, Annex 16 became effective upon its execution.

Legal basis:

Article 17(1) of the Market Abuse Regulation – inside information.

Radosław Domagalski-Łabędzki – President of the Management Board

Dawid Jaworski – Vice President of the Management Board