

CURRENT REPORT FILED WITH THE POLISH FINANCIAL SUPERVISION AUTHORITY IN WARSAW

DATE: September 11th 2023

Subject: Entry by RAFAKO into settlement over dispute with UAB VILNIAUS KOGENERACINĖ JĖGAINĖ [CR 90/2023]**Text of the report:**

The Management Board of RAFAKO S.A. of Racibórz (the “**Company**”) – further to the Company’s: **(i)** Current Report No. 28/2016 of September 29th 2016 announcing the execution of a significant conditional contract with UAB VILNIAUS KOGENERACINĖ JĖGAINĖ (the “**Employer**”) for the ‘Construction of a biomass-fired co-generation unit comprising fluidised bed boilers, biomass storage and feeding systems, and a flue gas treatment system’ as part of construction of a new CHP plant in Vilnius (the “**Contract**”), **(ii)** Current Report No. 53/2020 of October 5th 2020 announcing that the Company gave a notice of impossibility/termination to the Employer, **(iii)** Current Report No. 54/2020 of October 6th 2020 announcing that the Company received from the Employer a notice of rescinding the Contract, **(iv)** Current Report No. 55/2020 of October 8th 2020 announcing that the Employer submitted to KUKE Korporacja Ubezpieczeń Kredytów Eksportowych S.A. (“**KUKE**”) and Generali Towarzystwo Ubezpieczeń S.A. (“**Generali**”) demands for payments under performance bonds in the total amount of EUR 14,965,000.00, **(v)** Current Report No. 57/2020 of October 20th 2020 announcing that the Company received from KUKE a pre-litigation call for payment of the guaranteed amount of EUR 11,972,000.00 in connection with KUKE having paid out to the Employer the guaranteed amount of EUR 11,972,000.00, **(vi)** Current Report No. 62/2020 of November 18th 2020 announcing that the Company received from Generali a call for payment of the guaranteed amount of EUR 2,993,000.00 in connection with Generali having paid out to the Employer the guaranteed amount of EUR 2,993,000.00, **(vii)** Current Report No. 7/2021 of January 21st 2021 announcing the commencement of negotiations to settle the dispute arising under the Contract amicably in parallel with the ongoing arbitration proceedings initiated by the Company against the Employer, and **(viii)** Current Report No. 62/2022 of August 5th 2022 announcing the receipt by the Company of a partial arbitral award dated August 5th 2022 issued by an arbitral tribunal operating under the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce in case No. V 2020/119 (the “**Award**” and the “**Tribunal**”) – announces that on September 11th 2023 the Company and the Employer entered into a settlement over the disputes that had arisen in connection with the Contract (the “**Settlement**”).

The key provisions of the Settlement are as follows:

1. Provision stipulating that the Settlement resolves all disputes and claims arising in connection with the Contract;
2. Undertaking by the Company to withdraw its appeal seeking annulment of the Award;
3. Application by the Company and the Employer to the Tribunal for making a consent award recording the Settlement, within the meaning of Article 45 (1) of the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce, pursuant to which:
 - i. the Company will recognise the Award in its entirety, without any reservations;

- ii. total compensation due to the Employer from the Company will amount to EUR 29,965,000.00 (twenty-nine million, nine hundred and sixty-five thousand euro), comprising:
 - a. EUR 14,965,000.00 (fourteen million, nine hundred and sixty-five thousand euro) to be received by the Employer for KUKI and Generali;
 - b. EUR 15,000,000.00 (fifteen million euro) to be paid by the Company within five years of the date of the Settlement in 8 (eight) equal half-yearly instalments of EUR 1,875,000.00 (one million, eight hundred and seventy-five thousand euro) each, together with interest of 0.02% for each day of delay in making the payment, the first instalment payable within 6 (six) months of the conclusion by PBG S.A. w restrukturyzacji w likwidacji (in restructuring in liquidation) of Wysogotowo (“**PBG**”) of (an) unconditional and final agreement(s) for sale of all the Company shares held directly or indirectly by PBG, but not later than March 31st 2024;
- iii. the Company will hand over to the Employer the equipment and documents specified in the Settlement;
- 4. Provision stipulating that the Settlement is governed by Lithuanian law and all disputes arising out of or in connection therewith will be settled by the Lithuanian State Court;
- 5. Provision stipulating that the Settlement will enter into force upon its signature by both parties and once both parties obtain corporate approvals for concluding the Settlement.

The Company’s Management Board further explains that, as at the date of release of this current report, the Company and the Employer obtained the requisite corporate approvals for concluding the Settlement, i.e. the Settlement has come into force.

Legal basis:

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

Maciej Stańczuk – President of the Management Board
Joanna Zwolak – Commercial Proxy