

## Current Report No. 42/2012

Date of preparation: 1 August 2012

### **Subject: Conclusion of an annex to the significant agreement with PH-U Energokrak Sp. z o.o. with registered office in Krakow**

*General legal basis: Art. 56.1.2 of the Act on Public Offering – current and periodic information*

#### *Content:*

The Management Board of LW BOGDANKA S.A. with registered office in Bogdanka (the Company) hereby announces that on 1 August 2012 it concluded an annex (the "Annex") to the Long-Term Agreement on the sale of power coal (the "Agreement") of 19 July 2011 with Przedsiębiorstwo Handlowo – Usługowe Energokrak Sp. z o.o., with registered office at ul. Ciepłownicza 1, 31-587 Kraków (the "Customer"), which entirely changes the contents of the said Agreement. The Agreement was described in Current Report No. 21/2011 of 19 July 2011. As a result of the Annex conclusion, the coal supplies may be made to the Customers from the EDF Group. Moreover, the quantitative volumes of deliveries to the Customer will be increased.

As a result of the Annex conclusion, the Agreement is in effect from 19 July 2011 until 31 December 2015. The Parties have also agreed that it will be possible to renew the Agreement for successive years.

The price of coal for each subsequent year during the term of the Agreement shall be agreed upon by the Parties by way of negotiation. The Annex determines the coal prices for 2013 and their formula if the Parties fail to negotiate the price in the successive years.

As a result of the Annex conclusion, the value of the Agreement increases (without regard to possible increases, deviations and tolerance) from PLN 393,000,000 net to an estimated amount of PLN 621,000,000 net according to current prices.

As a result of the Annex conclusion, the following provisions were introduced:

- possibility of encumbering with liquidated damages a Party which, due to reasons attributable to them, fails to deliver or to collect the amount of coal determined by the Parties for a particular calendar year of the Agreement being in force, in the amount representing an equivalent of 20% of the net value of the unperformed coal delivery amount planned for a particular year,
- possibility of termination of the Agreement by any Party at the end of a particular calendar year in the event that by the deadlines specified in the previous year the Parties fail to determine the coal delivery prices for all quarters of a particular calendar year.

In compliance with the provisions of the Annex, it is in effect from 1 August 2012.

Other terms and conditions of the Agreement, as a result of the Annex conclusion, do not differ from the market standards applied in such agreements.

The criterion for deeming the Agreement significant, as a result of the Annex conclusion, is that it exceeds 10% of the value of the Company's shareholders' equity.

Legal basis for submitting the report: Article 5.1.3 of the Regulation of the Minister of Finance on the Stock Exchange