



香港交易所

THE STOCK EXCHANGE OF HONG KONG LIMITED

(A wholly-owned subsidiary of Hong Kong Exchanges and Clearing Limited)

**The GEM Listing Committee of The Stock Exchange of Hong Kong Limited
censures Greencool Technology Holdings Limited (the Company),
Mr Gu Chu Jun, Mr Hu Xiao Hui, Mr Zhang Xi Han, Mr Liu Cong Meng,
Mr Xu Wan Ping and Mr Chen Chang Bei
(collectively, the Relevant Executive Directors)
for breaching the GEM Listing Rules**

At a disciplinary hearing held on 31 August 2004, the GEM Listing Committee of The Stock Exchange of Hong Kong Limited (the GEM Listing Committee) concluded that:

- (i) The Company breached the then Rules 20.26(3) and (4), 20.35 and 20.36 of the GEM Listing Rules in failing to make the relevant disclosure and to obtain prior shareholders' approval in relation to the continuing connected transactions between the Group and Tianjin Greencool Factory and conducted under the Exclusive Distribution Agreement dated 28 June 2000 as the Company had failed to satisfy the conditions set out in the waiver granted by the Exchange;
- (ii) Each of the Relevant Executive Directors breached his Director's Declaration, Undertaking and Acknowledgement given by each of them to the Exchange in the form set out in Appendix 6A of the GEM Listing Rules to use his best endeavours to procure the Company's compliance with the GEM Listing Rules; and
- (iii) Mr Chen Chang Bei breached the then Rule 5.15 of the GEM Listing Rules by reason of his failure to discharge his duty as the Compliance Officer at the material time.

The GEM Listing Committee decided to impose the following sanctions on the parties:

- a public censure on the Company for its breaches mentioned in (i) above;
- a public censure on the Relevant Executive Directors for their respective breaches mentioned in (ii) above; and
- a public censure on Mr Chen Chang Bei for his breach mentioned in (iii) above.

The disciplinary hearing was in relation to the alleged breaches of the GEM Listing Rules arising from the continuing connected transactions between the Group and Tianjin Greencool Factory. By a letter dated 19 July 2000, the Listing Division granted the Company a conditional waiver from strict compliance with the announcement and shareholders' approval requirements under the then Rules 20.26(3) and (4) of the GEM Listing Rules and in turn the then Rules 20.35 and 20.36 of the GEM Listing Rules in respect of the connected transactions between the Group and Tianjin Greencool Factory under the Exclusive Distribution Agreement dated 28 June 2000 (the "Agreement") during the three financial years ending 31 December 2002.

Tianjin Greencool Factory, which was ultimately controlled by Mr Gu Chu Jun, the Chairman and controlling shareholder of the Company, was the sole supplier of refrigerants to the Group for its business. The transactions between the Group and Tianjin Greencool Factory under the Agreement constituted continuing connected transactions of the Company under the GEM Listing Rules.

The waiver was subject to the conditions set out in the waiver letter including the following condition:

"Clause 6 If the values of the Connected Transactions exceed the Cap, or if any of the terms of the Exclusive Distribution Agreement are altered or renewed, or if the Group enters into any new arrangements with any connected persons in the future, the Company will comply with all disclosure and shareholders' approval requirements of the GEM Listing Rules unless further waiver has been granted by the Exchange."

The Agreement provided, inter alia, that Tianjin Greencool Factory was obliged to deliver the refrigerants within 45 days after payment.

For the year ended 31 December 2001, the Company had made advance payments to Tianjin Greencool Factory in the total amount of approximately RMB230 million comprising:

1. RMB33.973 million being orders placed in July, October and November 2001 and designated as purchases for 2001; and
2. RMB196.178 million being orders placed in July, November and December 2001 and designated as purchases for 2002.

The parties to the Agreement had orally agreed to defer delivery of the refrigerants in respect of the above orders beyond the 45 day period stipulated in the Agreement to such dates as notified by the Group, therefore, no delivery of these refrigerants had taken place by 31 December 2001.

The advance payments in respect of these orders were included in the balance sheet of the Company as of 31 December 2001 under the item described as "Due from Related Parties" under "Current assets" and that Note 3(ii) of the Financial Statements stated that "The balances with related parties were unsecured, interest free and repayable on demand."

No further waiver had been granted by the Listing Division. The Company notified the Exchange of the advance payments on 22 March 2002.

The GEM Listing Committee was of the view that the oral agreement between the Group and Tianjin Greencool Factory to defer the delivery dates constituted an alteration of the term of delivery in the Agreement for the purpose of the waiver conditions. The waiver ceased to apply. Alternatively, if the Agreement had not been altered because the alteration was not effected in writing, then the supply of the refrigerants and payment for the refrigerants were outside the terms of the Agreement. The Company was therefore obliged to disclose the continuing connected transactions to its shareholders, issue a circular to them and obtain their prior approval strictly in accordance with the requirements of the GEM Listing Rules. Further, if there were no agreement to defer the delivery dates, the Company would have purchased over RMB300 million refrigerants from Tianjin Greencool Factory in 2001.

Richard Williams, Head of Listing, commented “When listed companies are granted waivers from the Listing Rule requirements, in particular waivers relating to connected transactions, the directors must make appropriate arrangements to ensure that any waiver conditions are strictly complied with. A failure to comply with the waiver conditions will result in the waiver lapsing and cause the company to breach such Listing Rule requirements.”