

## UNDERWRITING

### HONG KONG UNDERWRITERS

#### *Joint Lead Managers*

(in alphabetical order)

China International Capital Corporation (Hong Kong) Limited

Citigroup Global Markets Asia Limited

Morgan Stanley Dean Witter Asia Limited

#### *Co-Lead Managers*

(in alphabetical order)

BOCI Asia Limited

ICEA Capital Limited

Sun Hung Kai International Limited

#### *Co-Managers*

(in alphabetical order)

CCB International Capital Limited

First Shanghai Securities Limited

Guotai Junan Securities (Hong Kong) Limited

Tai Fook Securities Company Limited

### UNDERWRITING ARRANGEMENTS AND EXPENSES

#### *Hong Kong Public Offering*

##### **Hong Kong Underwriting Agreement**

Pursuant to the Hong Kong Public Offering, our Company is offering the Hong Kong Public Offer Shares for subscription on, and subject to, the terms and conditions of this Prospectus and the Application Forms. Subject to the Listing Committee of the Hong Kong Stock Exchange granting listing of, and permission to deal in, the H Shares to be offered pursuant to the Global Offering as mentioned herein and to certain other conditions set out in the Hong Kong Underwriting Agreement, the Hong Kong Underwriters have agreed severally and not jointly to subscribe or procure subscribers for the Hong Kong Public Offer Shares which are being offered but are not taken up under the Hong Kong Public Offering on the terms and conditions of this Prospectus, the Application Forms and the Hong Kong Underwriting Agreement.

The Hong Kong Underwriting Agreement is conditional upon and subject to the International Underwriting Agreement having been signed and becoming unconditional.

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### Grounds for termination

The obligations of the Hong Kong Underwriters to subscribe or procure subscribers for the Hong Kong Public Offer Shares under the Hong Kong Underwriting Agreement are subject to termination, if, at any time prior to 8:00 a.m. on the day that trading in the H Shares commences on the Hong Kong Stock Exchange:

- (a) there develops, occurs, exists or comes into force:
  - (i) any new law or regulation or any change in existing law or regulation, or any change in the interpretation or application thereof by any court or other competent authority of Hong Kong, the PRC, the United States, the United Kingdom and Japan (each a “Relevant Jurisdiction”); or
  - (ii) any change or development involving a prospective change or development in local, national, regional or international equity securities, financial, political, military, industrial, economic, currency market, fiscal or regulatory or market conditions (including, without limitation, conditions in stock and bond markets and money and foreign exchange markets and inter-bank markets) in or affecting any Relevant Jurisdiction; or
  - (iii) any event or series of events in the nature of force majeure (including, without limitation, acts of government, strikes, lock-outs, mining accidents involving fire and/or explosion, flooding, civil commotion, acts of war, acts of terrorism (whether or not responsibility has been claimed) or acts of God) in or affecting any Relevant Jurisdiction; or
  - (iv) any outbreak or escalation of hostilities (whether or not war is or has been declared) or other state of emergency or calamity or wide-spread epidemic or political or social crisis in or affecting any Relevant Jurisdiction; or
  - (v) (A) any suspension or limitation on trading in shares or securities generally on the Hong Kong Stock Exchange, the New York Stock Exchange, the London Stock Exchange or the Tokyo Stock Exchange or (B) a general moratorium on commercial banking activities in Hong Kong, New York, London, Japan or the PRC declared by the relevant authorities, or a material disruption in commercial banking activities or foreign exchange trading or securities settlement or clearance services in or affecting any Relevant Jurisdiction; or
  - (vi) any change or prospective change in taxation or exchange controls, currency exchange rates or foreign investment regulations in any Relevant Jurisdiction adversely affecting an investment in the H Shares; or
  - (vii) any material litigation or claim being threatened or instigated against the Company or any of its subsidiaries,

and which, in any such case and in the sole opinion of the Joint Global Coordinators (for themselves and on behalf of the other Hong Kong Underwriters),

- (A) is or will be or is likely to be materially adverse to the business or financial or trading position or prospects of the Company or its subsidiaries; or
- (B) has or will have or is likely to have a material adverse effect on the success of the Global Offering or the level of Offer Shares being applied for or accepted or the distribution of Offer Shares and/or make it impracticable or inadvisable for any

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material part of the Hong Kong Underwriting Agreement, the Hong Kong Public Offering or the Global Offering to be performed or implemented as envisaged; or

- (C) makes or will or is likely to make it impracticable or inadvisable to proceed with the Hong Kong Public Offering and/or the Global Offering or the delivery of the Offer Shares on the terms and in the manner contemplated by the Prospectus; or
- (b) there has come to the notice of the Joint Global Coordinators or any of the Hong Kong Underwriters:
  - (i) that any statement contained in the Prospectus, the Application Forms, the Formal Notice and any announcements in the agreed form issued by the Company in connection with the Hong Kong Public Offering (including any supplement or amendment thereto) has become or been discovered to be untrue, incorrect or misleading in any material respect; or
  - (ii) any matter has arisen or has been discovered which would or is likely to, had it arisen immediately before the date of the Prospectus, not having been disclosed in the Prospectus, constitute an material omission therefrom; or
  - (iii) any of the warranties given by our Company in the Hong Kong Underwriting Agreement is (or might when repeated be) untrue or misleading in any material respect; or
  - (iv) any event, act or omission which gives or may give rise to any material liability of the Company pursuant to the indemnities given by our Company under the Hong Kong Underwriting Agreement; or
  - (v) any material breach of any of the obligations of our Company under the Hong Kong Underwriting Agreement; or
  - (vi) any material adverse change or prospective material adverse change in the business, properties, results of operations, in the financial or trading position or prospects of the Company or its subsidiaries,

then the Joint Global Coordinators (for themselves and on behalf of the Hong Kong Underwriters) may, in their sole discretion (and, in the case of paragraph (a) above, after consultation with the Company where practicable) and upon giving notice to the Company and the Hong Kong Underwriters, terminate the Hong Kong Underwriting Agreement with immediate effect.

### **Undertakings to the Hong Kong Stock Exchange and the Joint Global Coordinators**

*By us*

We have undertaken to the Hong Kong Stock Exchange that no further Shares or securities convertible into our equity securities (whether or not a class already listed) may be issued by us or form the subject of any agreement to such an issue by us within six months from the date on which our H Shares first commence dealing on the Hong Kong Stock Exchange (whether or not such issue of shares or our securities will be completed within six months from the commencement of dealing), except in certain circumstances prescribed by Rule 10.08 of the Hong Kong Listing Rules.

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*By ChinaCoal Group*

ChinaCoal Group has undertaken to the Hong Kong Stock Exchange and the Joint Global Coordinators that it shall not and shall procure that the relevant registered holder shall not:

- (a) in the period commencing on the date by reference to which disclosure of the shareholding of ChinaCoal Group is made in this Prospectus and ending on the date which is six months from the date on which dealings in the H Shares commence on the Hong Kong Stock Exchange (the “First Six-month Period”), dispose of, nor enter into any agreement to dispose of or otherwise create any options, rights, interests or encumbrances in respect of, any of those shares or securities of our Company in respect of which it is shown by this Prospectus to be the beneficial owner; or
- (b) in the period of six months commencing on the date on which the First Six-month Period expires, dispose of, nor enter into any agreement to dispose of or otherwise create any options, rights, interests or encumbrances in respect of, any of the shares or securities referred to in (a) above if, immediately following such disposal or upon the exercise or enforcement of such options, rights, interests or encumbrances, it would cease to be our Controlling Shareholder.

ChinaCoal Group has also undertaken to the Hong Kong Stock Exchange, the Joint Global Coordinators and us that, within the period commencing on the date by reference to which disclosure of shareholding of ChinaCoal Group is made in this Prospectus and ending on the date which is 12 months from the date on which dealings in the H Shares commence on the Hong Kong Stock Exchange, it will:

- (a) when it pledges or charges any Shares or our other share capital beneficially owned by it in favour of an authorized institution (as defined in the Banking Ordinance (Chapter 155 of the Laws of Hong Kong)) for a bona fide commercial loan, immediately inform us of such pledge or charge together with the number of such shares or other securities so pledged or charged; and
- (b) when it receives any indications, either verbal or written, from any pledgee or chargee of any Shares or our other securities pledged or charged that such shares or securities will be disposed of, immediately inform us of any such indications.

We will inform the Hong Kong Stock Exchange as soon as we have been informed of the above matters (if any) by ChinaCoal Group and disclose such matters by way of an announcement which is published in the newspapers as soon as possible after being so informed by ChinaCoal Group.

### **Undertakings pursuant to the Hong Kong Underwriting Agreement**

*By us*

We have, pursuant to the Hong Kong Underwriting Agreement, undertaken to each of the Joint Global Coordinators, the Joint Sponsors and the Hong Kong Underwriters, that except pursuant to the Global Offering or the Over-allotment Option, at any time during the First Six-month Period, we will not without the Joint Global Coordinators’ prior written consent and unless in compliance with the Hong Kong Listing Rules:

- (a) offer, pledge, charge, allot, issue, sell, contract to allot, issue or sell, sell any option or contract to purchase, purchase any option or contract to sell, grant or agree to grant any option, right or warrant to purchase or subscribe for, lend or otherwise transfer or dispose of, either directly or indirectly, or repurchase, any of our share capital or any securities convertible into or exercisable or exchangeable for or that represent the right to receive such share capital; or

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- (b) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of our share capital,

whether any of such transactions described in (a) or (b) above is to be settled by delivery of our share capital or such other securities, in cash or otherwise, or publicly disclose that we will or may enter into any transaction described above. In the event of a disposal as described in (a) or (b) above of any Shares or any interest therein or any of our securities in the six-month period commencing on the expiry of the First Six-month Period, we will take all reasonable steps to ensure that such a disposal will not create a disorderly or false market for our Shares.

### **Indemnity**

We have agreed to indemnify the Hong Kong Underwriters for certain losses which they may suffer, including losses arising from their performance of their obligations under the Hong Kong Underwriting Agreement and any breach by us of the Hong Kong Underwriting Agreement.

### **Commission and expenses**

The Hong Kong Underwriters will receive an underwriting commission of 2.5% of the aggregate Offer Price payable for the Hong Kong Public Offer Shares initially offered under the Hong Kong Public Offering, out of which they will pay any sub-underwriting commissions. For unsubscribed Hong Kong Public Offer Shares reallocated to the International Offering, we will pay an underwriting commission at the rate applicable to the International Offering and such commission will be paid to the Joint Global Coordinators and the relevant underwriters (but not the Hong Kong Underwriters).

The aggregate commissions and fees, together with listing fees, SFC transaction levy, the Hong Kong Stock Exchange trading fee, legal and other professional fees, and printing and other expenses relating to the Global Offering are estimated to amount to approximately HK\$501.9 million (assuming the mid-point of our indicative offer price range, and assuming the Over-allotment Option is not exercised) in total and are payable by us.

### **Hong Kong Underwriters' interest in our company**

Save for its obligations under the Hong Kong Underwriting Agreement, none of the Hong Kong Underwriters has any shareholding interests in our Company or any right (whether legally enforceable or not) to subscribe for or to nominate persons to subscribe for securities in our Company.

### ***International Offering***

In connection with the International Offering, it is expected that we will enter into the International Underwriting Agreement with the International Underwriters. Under the International Underwriting Agreement, the International Underwriters would, subject to certain conditions set out therein, severally and not jointly agree to purchase the International Offer Shares being offered pursuant to the International Offering or procure purchasers for such International Offer Shares.

We will grant to the International Underwriters the Over-allotment Option, exercisable by the Joint Global Coordinators on behalf of the International Underwriters until 30 days after the last day for the lodging of applications under the Hong Kong Public Offering, to require us to allot and issue up to an aggregate of 486,956,000 additional H Shares, representing in aggregate not more than 15% of the initial Offer Shares, at the Offer Price per Share, if any.

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We have agreed to indemnify the International Underwriters against certain liabilities, including liabilities under the U.S. Securities Act.

### **RESTRICTIONS ON THE H SHARES**

The Hong Kong Public Offer Shares are offered solely on the basis of the information contained and representations made in this Prospectus and the Application Forms, and on the terms and subject to the conditions set out herein and therein. No action has been taken to permit a public offering of the H Shares or the distribution of this Prospectus in any jurisdiction other than Hong Kong. This Prospectus may not be used for the purpose of, and does not constitute, an offer or invitation in any jurisdiction or in any circumstances in which such an offer or invitation is not authorized or to any person to whom it is unlawful to make such an offer or invitation.

In particular, the H Shares have not been offered or sold, and will not be offered or sold, directly or indirectly, in the PRC.

### **STABILIZATION AND OVER-ALLOTMENT**

Stabilization is a practice used by underwriters in some markets to facilitate the distribution of securities. To stabilize, the underwriters may bid for, or purchase, the securities in the secondary market, during a specified period of time, to retard, and if possible, prevent any decline in the market price of the securities below the offer price. In Hong Kong and certain other jurisdictions, the price at which stabilization is effected is not permitted to exceed the offer price.

In connection with the Global Offering, Citigroup Global Markets Asia Limited as stabilizing manager (the “Stabilizing Manager”), or any person acting for it, on behalf of the underwriters, may over-allocate or effect short sales or any other stabilizing transactions with a view to stabilizing or maintaining the market price of our H Shares at a level higher than that which might otherwise prevail in the open market. Short sales involve the sale by the Stabilizing Manager of a greater number of H Shares than the underwriters are required to purchase in the Global Offering. “Covered” short sales are sales made in an amount not greater than the Over-allotment Option.

The Stabilizing Manager may close out any covered short position by either exercising the Over-allotment Option to purchase additional H Shares or purchasing H Shares in the open market. In determining the source of the H Shares to close out the covered short position, the Stabilizing Manager will consider, among other things, the price of H Shares in the open market as compared to the price at which they may purchase additional H Shares pursuant to the Over-allotment Option. Stabilizing transactions consist of certain bids or purchases made for the purpose of preventing or retarding a decline in the market price of the H Shares while the Global Offering is in progress. Any market purchases of our H Shares may be effected on any stock exchange, including the Hong Kong Stock Exchange, any over-the-counter market or otherwise, provided that they are made in compliance with all applicable laws and regulatory requirements. However, there is no obligation on the Stabilizing Manager or any person acting for it to conduct any such stabilizing activity, which if commenced, will be done at the absolute discretion of the Stabilizing Manager and may be discontinued at any time. Any such stabilizing activity shall end on the thirtieth day after the last day for the lodging of applications under the Hong Kong Public Offering. The number of our H Shares that may be over-allocated will not exceed the number of our H Shares that may be sold under the Over-allotment Option, namely 486,956,000 H Shares, which is 15% of the H Shares initially available under the Global Offering.

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In Hong Kong, stabilizing activities must be carried out in accordance with the Securities and Futures (Price Stabilizing) Rules (Chapter 571W of the Laws of Hong Kong). Stabilizing action permitted pursuant to the Securities and Futures (Price Stabilizing) Rules includes (i) over-allocation for the purpose of preventing or minimizing any reduction in the market price, (ii) selling or agreeing to sell our H Shares so as to establish a short position in them for the purpose of preventing or minimizing any reduction in the market price, (iii) subscribing, or agreeing to subscribe, for our H Shares pursuant to the Over-allotment Option in order to close out any position established under (i) or (ii) above, (iv) purchasing, or agreeing to purchase, our H Shares for the sole purpose of preventing or minimizing any reduction in the market price, (v) selling our H Shares to liquidate a long position held as a result of those purchases and (vi) offering or attempting to do anything described in (ii), (iii), (iv) or (v).

Stabilizing actions by the Stabilizing Manager, or any person acting for it, will be entered into in accordance with the laws, rules and regulations in place in Hong Kong on stabilization.

As a result of effecting transactions to stabilize or maintain the market price of our H Shares, the Stabilizing Manager, or any person acting for it, may maintain a long position in our H Shares. The size of the long position, and the period for which the Stabilizing Manager, or any person acting for it, will maintain the long position is at the discretion of the Stabilizing Manager and is uncertain. In the event that the Stabilizing Manager liquidates this long position by making sales in the open market, this may lead to a decline in the market price of our H Shares.

Stabilizing action by the Stabilizing Manager, or any person acting for it, is not permitted to support the price of our H Shares for longer than the stabilizing period, which begins on the day on which trading of our H Shares commences on the Hong Kong Stock Exchange and ends on the thirtieth day after the last day for the lodging of applications under the Hong Kong Public Offering. The stabilizing period is expected to end on 10 January 2007. As a result, demand for our H Shares, and their market price, may fall after the end of the stabilizing period. These activities by the Stabilizing Manager may stabilize, maintain or otherwise affect the market price of the H Shares. As a result, the price of the H Shares may be higher than the price that otherwise might exist in the open market. Any stabilizing action taken by the Stabilizing Manager, or any person acting for it, may not necessarily result in the market price of our H Shares staying at or above the Offer Price either during or after the stabilizing period. Bids for or market purchases of our H Shares by the Stabilizing Manager, or any person acting for it, may be made at a price at or below the Offer Price and therefore at or below the price paid for our H Shares by purchasers.

A public announcement in compliance with the Securities and Futures (Price Stabilizing) Rules will be made within seven days of the expiration of the stabilizing period.

### **ACTIVITIES BY SYNDICATE MEMBERS**

We describe below a variety of activities that underwriters of the Hong Kong Public Offering and the International Offering, together referred to as “Syndicate Members”, may each individually undertake, and which do not form part of the underwriting or the stabilizing process. When engaging in any of these activities, it should be noted that the Syndicate Members are subject to restrictions, including the following:

- (a) under the agreement among the Syndicate Members, all of them (except for Citigroup Global Markets Asia Limited and its affiliates as the stabilizing manager) must not, in connection with the distribution of the Offer Shares, effect any transactions (including issuing or entering into any option or other derivative transactions relating to the Offer Shares), whether in the open market or



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otherwise, with a view to stabilizing or maintaining the market price of any of the Offer Shares at levels other than those which might otherwise prevail in the open market; and

- (b) all of them must comply with all applicable laws, including the Market Misconduct provisions of the Securities and Futures Ordinance (Cap. 571), including the provisions prohibiting insider dealing, false trading, price rigging and stock market manipulation.

The Syndicate Members and their affiliates are diversified financial institutions with relationships in countries around the world. These entities engage in a wide range of commercial and investment banking, brokerage, funds management, trading, hedging, investing and other activities for their own account and for the account of others. In relation to our H Shares, those activities could include acting as agent for buyers and sellers of the H Shares, entering into transactions with those buyers and sellers in a principal capacity, proprietary trading in the H Shares, and entering into over the counter or listed derivative transactions or listed and unlisted securities transactions (including issuing securities such as derivative warrants listed on a stock exchange) which have as their underlying, assets including the H Shares. Those activities may require hedging activity by those entities involving, directly or indirectly, buying and selling the H Shares. All such activity could occur in Hong Kong and elsewhere in the world and may result in the Syndicate Members and their affiliates holding long and/or short positions in the H Shares, in baskets of securities or indices including the H Shares, in units of funds that may purchase the H Shares, or in derivatives related to any of the foregoing.

In relation to issues by Syndicate Members or their affiliates of any listed securities having the H Shares as their underlying, whether on the Hong Kong Stock Exchange or on any other stock exchange, the rules of the exchange may require the issuer of those securities (or one of its affiliates or agents) to act as a market maker or liquidity provider in the security, and this will also result in hedging activity in the H Shares in most cases.

All of this activity may occur both during and after the end of the stabilizing period described under “Underwriting — Stabilization and Over-allotment”. This activity may affect the market price or value of the H Shares, the liquidity or trading volume in the H Shares, and the volatility of the H Shares share price, and the extent to which this occurs from day to day cannot be estimated.