

CONFORMED COPY

LOAN NUMBER 2943-0 CHA  
2943-1  
2943-2

(Pharmaceuticals Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

HENAN PROVINCE

Dated December 22, 1988

LOAN NUMBER 2943-0 CHA  
2943-1  
2943-2

PROJECT AGREEMENT

AGREEMENT, dated December 22, 1988, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and HENAN PROVINCE (Henan Province).

WHEREAS: by the Loan Agreement of even date herewith between People's Republic of China (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to one hundred twenty-seven million dollars (\$127,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Henan Province agree to undertake such obligations toward the Bank as are set forth in this Agreement;

WHEREAS Henan Province, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

## Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Execution of the Project

Section 2.01. (a) Henan Province declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out Part A of the Project through the Zhong Yuan Factory Preparation Office and Part B of the Project, all with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and pharmaceutical industry practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Parts A and B of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and Henan Province shall otherwise agree, Henan Province shall carry out Part A of the Project in accordance with the Implementation Program set forth in Part A of the Schedule to this Agreement.

(c) In order to assist in carrying out of Part A of the Project, Henan Province shall:

(i) not later than December 31, 1990, cause the Zhong Yuan Factory to be established in a form and with functions and responsibilities acceptable to the Bank; and

(ii) upon the establishment of the Zhong Yuan Factory, enter into a Transfer and Operations Agreement with the Zhong Yuan Factory, on terms and conditions which shall have been agreed with the Bank, including those set forth in Part B of the Schedule to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to the Loan Agreement.

Section 2.03. Henan Province shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Parts A and B of the Project.

Section 2.04. (a) Henan Province shall, at the request of the Bank, exchange views with the Bank with regard to the progress of the Project, the performance of its obligations under this Agreement, and other matters relating to the purposes of the Loan.

(b) Henan Province shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of Loan, or the performance by Henan Province of its obligations under this Agreement.

## ARTICLE III

### Management and Operations of Zhong Yuan Factory

Section 3.01. Henan Province shall cause the Zhong Yuan Factory to carry on its operations and conduct its affairs in accordance with sound administrative, financial and pharmaceutical industry practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. Henan Province shall cause the Zhong Yuan Factory to at all times to operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and pharmaceutical industry practices.

Section 3.03. Henan Province shall cause the Zhong Yuan Factory to take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

#### ARTICLE IV

##### Financial Covenants

Section 4.01. (a) Henan Province shall:

(i) maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of Parts A and B of the Project of its departments or agencies, the Zhong Yuan Factory Preparation Office and the Zhong Yuan Factory responsible for carrying out Parts A and B of the Project; and

(ii) cause the Zhong Yuan Factory to maintain records and accounts adequate to reflect its operations and financial condition in accordance with sound accounting practices.

(b) Henan Province shall:

(i) have the records and accounts referred to in paragraph (a) of this Section and the Zhong Yuan Factory's financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year: (A) certified copies of the Zhong Yuan Factory's financial statements for such year as so audited; and (B) the report of all such audits by said auditors of such scope and in such detail as the Bank shall have reasonably requested; and

(iii) furnish to the Bank such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

#### ARTICLE V

##### Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of Henan Province thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Henan Province thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

#### ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing.

Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:

INTBAFRAD  
Washington, D.C.

Telex:

440098 (ITT)  
248423 (RCA) or  
64145 (WUI)

For Henan Province:

Planning and Economic Commission  
Building No. 3, Wei Er Road  
Zhengzhou, Henan  
People's Republic of China

Cable address:

2171 Zhengzhou China

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of Henan Province, may be taken or executed by the Director, Planning and Economic Commission or such other person or persons as the Director shall designate in writing, and Henan Province shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Shahid Javed Burki

Acting Regional Vice President  
Asia

HENAN PROVINCE

By /s/ Han Xu

Authorized Representative

SCHEDULE

Implementation of Part A of the Project

Part A: Implementation Program for Part A of the Project

1. Henan Province shall implement Part A of the Project through the Zhong Yuan Factory Preparation Office until the responsibilities for implementation have been legally transferred to the Zhong Yuan Factory pursuant to the Transfer and Operations Agreement.

2. Henan Province shall furnish to the Bank for comment, by June 30, 1989, a recruitment and training program for Zhong Yuan Factory staff, including a marketing organization plan. Thereafter, Henan Province shall cause marketing staff for the Zhong Yuan Factory to be appointed one year prior to plant start-up, and shall cause the training under Part A.2 of the Project to be carried out in accordance with a program agreed with the Bank.

3. Henan Province shall ensure that the Zhong Yuan Factory facilities will be constructed, and later operated by the Zhong Yuan Factory, in accordance with environmental standards satisfactory to the Bank. Henan Province shall cause a plant safety manual for hazardous materials and emergency procedures at least one year prior to plant start-up.

4. Henan Province shall cause the Zhong Yuan Factory to comply with the following financial covenants:

(a) Except as the Bank and Henan Province shall otherwise agree:

(i) the Zhong Yuan Factory shall not incur any debt, unless the net revenues of the Zhong Yuan Factory for the fiscal year immediately preceding the date of such incurrence or for a later twelve-month period ended prior to the date of such incurrence, whichever is the greater, shall be at least 1.5 times the estimated maximum debt service requirements of the Zhong Yuan Factory for any succeeding fiscal year on all debt of the Zhong Yuan Factory, including the debt to be incurred;

(ii) commencing January 1, 1994, the Zhong Yuan Factory shall not incur any debt, if after the incurrence of such debt the ratio of debt to equity shall be greater than 70 to 30;

(iii) the Zhong Yuan Factory shall maintain a ratio of current assets to current liabilities of not less than 1.25;

(iv) before October 31 in each of its fiscal years, the Zhong Yuan Factory shall, on the basis of forecasts satisfactory to the Bank, review whether it would meet the requirements set forth in sub-paragraph (iii) in respect of such year and the next following fiscal year and shall furnish to the Bank the results of such review upon its completion; and

(v) if any such review shows that the Zhong Yuan Factory would not meet the requirements set forth in subparagraph (iii) for the fiscal years covered by such review, the Zhong Yuan Factory shall promptly take all necessary measures in order to meet such requirements.

(b) For the purposes of paragraph (a) above:

(i) The term "debt" means any indebtedness of the Zhong Yuan Factory

maturing by its terms more than one year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "net revenues" means the difference between:

(A) the sum of revenues from all sources related to operations adjusted to take account of the Zhong Yuan Factory's prices in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate and net non-operating income; and

(B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.

(iv) The term "net non-operating income" means the difference between:

(A) revenues from all sources other than those related to operations; and

(B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.

(v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(vi) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the Zhong Yuan Factory not allocated to cover specific liabilities.

(vii) The term "current assets" means cash, all assets which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.

(viii) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.

(ix) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

5. Henan Province shall furnish to the Bank, promptly after major process contracts are let, a detailed implementation schedule.

6. Henan Province shall relend the equivalent of \$117,500,000 of the proceeds of the Loan to the Zhong Yuan Factory on terms and conditions which shall have been approved by the Bank, including: (a) an interest rate equal to one hundred five

percent (105%) of the rate applicable under Section 2.05 of the Loan Agreement; (b) a maturity of fifteen (15) years, including a grace period of five (5) years; (c) a commitment charge at the rate of three-fourths of one percent (0.75%) per annum; and (d) the foreign exchange risk to be borne by the Zhong Yuan Factory.

Part B: Transfer and Operations Agreement

Except as the Bank and Henan Province shall otherwise agree, the Transfer and Operations Agreement shall contain the requirements for the Zhong Yuan Factory set forth in Part A of this Schedule and the following other provisions:

1. The facilities constructed by the Zhong Yuan Factory Preparation Office and the staff thereof shall be transferred to the Zhong Yuan Factory. The legal rights and obligations entered into by Henan Province and the Zhong Yuan Factory Preparation Office in respect of the Zhong Yuan Factory shall be transferred to the Zhong Yuan Factory.

2. The Zhong Yuan Factory shall carry out the remaining activities under Part A of the Project with due diligence and efficiency and in accordance with appropriate administrative, financial, engineering and pharmaceutical industry practices, and shall provide, promptly as needed, the funds, facilities and other resources required for Part A of the Project.

3. The Zhong Yuan Factory shall carry on its operations and conduct its affairs in accordance with sound administrative, financial and pharmaceutical practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

4. The Zhong Yuan Factory shall, at all times, operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering and financial practices.

5. The Zhong Yuan Factory shall provide to Henan Province for furnishing to the Bank:

(a) its accounts and audited financial statements and other information as required pursuant to Section 4.01 of this Agreement; and

(b) the progress reports and project completion report as required pursuant to Section 9.07 of the General Conditions.

