

CONFORMED COPY

CREDIT NUMBER 2334 KE

(Protected Areas and Wildlife Services Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

KENYA WILDLIFE SERVICE

Dated March 30, 1992

CREDIT NUMBER 2334 KE

PROJECT AGREEMENT

AGREEMENT, dated March 30, 1992, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and KENYA WILDLIFE SERVICE (KWS).

WHEREAS: by the Development Credit Agreement of even date herewith between Republic of Kenya (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to forty-four million eight hundred thousand Special Drawing Rights (SDR 44,800,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that KWS agrees to undertake such obligations toward the Association as are set forth in this Agreement; and

WHEREAS KWS, in consideration of the Association's entering into the Development Credit 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 Development Credit Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. KWS declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and wildlife conservation practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

Section 2.02. Except as the Association 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 Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. KWS shall carry out the obligations set forth in Sections 9.03 through 9.08 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.

Section 2.04. (a) KWS shall, at the request of the Association, exchange views with the Association 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 Credit.

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

ARTICLE III

Management and Operations of KWS

Section 3.01. KWS shall carry on its operations and conduct its affairs in accordance with sound administrative, financial and wildlife conservation practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. KWS 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.

Section 3.03. KWS shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

Section 3.04. (a) Without limitation or restriction to the provisions of Section 9.01 of the General Conditions, KWS and the Association agree to undertake not later than December 31, 1994, a review of the progress of the Project based on performance indicators satisfactory to the Association and pursuant to the provisions of this Agreement. Said review shall cover, inter alia: (i) performance of consultants; (ii) staff training; (iii) implemen-

tation of tariff adjustments; (iv) development of the commercial accounting system; (v) implementation of the corporate plan, including financial targets, income statements and balance sheets and KWS divestiture strategy; (vi) proposed action plans for resolving land-use conflicts; (vii) institutional arrangements to manage wetlands; (viii) areas of legislative and policy reforms; and (ix) the cooperation arrangements between KWS and the Forestry Department.

(b) KWS shall promptly undertake such modifications in the execution of the Project as shall be necessary, in the Association's opinion, as a result of the review referred to in paragraph (a) above, for the achievement of the objectives of the Project.

(c) In order to assist KWS carry out the review referred to in paragraph (a) above, KWS shall, not later than September 30, 1994, employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association.

Section 3.05. (a) Without limitation to or restriction upon its other reporting requirements under the General Conditions and this Agreement, KWS shall, with effect from September 30, 1992, until completion of the Project submit to the Association for review on March 31 and September 30 of every year progress reports on the implementation of the Project. Said progress reports shall cover, inter alia: (i) institutional, technical and financial bottlenecks in the achievement of the previous years plans; (ii) a comparison of the implementation of each Project component against the original design; and (iii) an evaluation of the overall Project implementation.

(b) In order to assist KWS prepare the progress reports referred to in paragraph (a) above, KWS shall, not later than June 30, 1992: (i) employ consultants whose qualifications, experience and terms of reference shall be satisfactory to the Association to design a monitoring and reporting system for the Project; and (ii) assign KWS staff in sufficient numbers to monitor the implementation of the Project.

Section 3.06. KWS shall: (a) not later than December 1 of each year submit to the Association for review the annual work program for the following year. Said work program shall cover, inter alia, (i) progress in strengthening the management of KWS, including its staffing position and training program, (ii) improvements in the budget and information system, (iii) revenue forecasts, including tariff adjustments, (iv) proposals for sharing revenues with communities, (v) contributions to be received from the Borrower and donors, and (vi) an evaluation of the previous year's operations; and

(b) thereafter implement the annual work program and revise its operational annual budget in accordance with the Association's comments.

Section 3.07. KWS shall, not later than June 30, 1992, establish a Donor Coordination Secretariat in the Office of the Director under terms and conditions satisfactory to the Association. The Secretariat shall be responsible for coordinating donor activities and reporting requirements of KWS.

Section 3.08. KWS shall establish and maintain until completion of the Project the core management team referred to in Section 6.01 (a) of the Development Credit Agreement all with terms of reference and experience satisfactory to the Association.

Section 3.09. KWS shall: (a) not later than June 30, 1992, carry out a review of the adequacy of salaries and incentives for its staff; (b) not later than September 30, 1992, furnish to the Association for comments the findings of said review; and (c) thereafter implement proposals on improving salaries, taking into account the Association's views.

ARTICLE IV

Financial and Other Covenants

Section 4.01. (a) KWS shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) KWS shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) including the Special Account and Management practices for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year (A) certified copies of its financial statements for such year as so audited, and (B) the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. KWS shall:

(a) not later than March 31 of each year furnish to the Association for review and comments its Annual Corporate Plan for the following year. Said Plan shall include, inter alia, financial targets, investment program, profitability forecasts and projected balance sheet; and

(b) thereafter implement the Annual Corporate Plan taking into account the Association's views.

Section 4.03. KWS shall, not later than June 30, 1992, implement a commercial accounting system satisfactory to the Association.

Section 4.04. KWS shall:

(a) not later than June 30, 1992, carry out a tourist tariff study under terms of reference satisfactory to the Association;

(b) soon thereafter furnish to the Association for review and comments the report of said study; and

(c) not later than December 31, 1992, implement the recommendations of the study, taking into account the Association's views.

Section 4.05. KWS shall, with effect from July 1, 1992, until completion of the Project allocate an amount not exceeding 25% of its tourist-entry revenues for distribution to the communities affected by the wildlife.

Section 4.06. (a) In carrying out Part C (e) of the Project, KWS shall, not later than June 30, 1992, establish and thereafter maintain a Community Development Facility under terms and conditions satisfactory to the Association. KWS shall use said Facility to finance community-based conservation and tourism-related sub-

projects.

(b) KWS shall take all appropriate measures to ensure that sub-projects to cost the equivalent of more than \$50,000 shall have prior approval of the Association and that the maximum amount of each sub-project shall not exceed the equivalent of \$100,000.

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 Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of KWS thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date twenty years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify KWS of this event.

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 Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INDEVAS
Washington, D.C.

Telex:

248423 (RCA)
82987 (FTCC)
64145 (WUI) or
197688 (TRT)

For KWS:

Kenya Wildlife Service
P.O. Box 40241
Nairobi
Kenya

Telefax:

254-2-505066
254-2-501752

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 KWS, or by KWS on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by the Director or such other person or persons as the Director shall designate in writing, and KWS shall furnish to the Association 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 DEVELOPMENT ASSOCIATION

By /s/ Edward V.K. Jaycox
Regional Vice President
Africa

KENYA WILDLIFE SERVICE

By /s/ Denis D. Afande
Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part C hereof, goods and works shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

2. To the extent practicable, contracts for civil works shall be grouped into bid packages estimated to cost the equivalent of \$1,000,000 or more.

3. Goods shall be exempted from pre-shipment price inspection by a third party inspection firm.

Part B: Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A.1 hereof, KWS may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraph 5 of Appendix 2 thereto.

Part C: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in the Republic of Kenya may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part D: Other Procurement Procedures

1. Road maintenance up to an aggregate amount equivalent to \$300,000 may be carried out by force account in accordance with procedures acceptable to the Association.

2. Equipment, materials and supplies estimated to cost the equivalent of \$100,000 or less per contract, up to an aggregate amount equivalent to \$500,000 and minor civil works estimated to cost the equivalent of \$1,000,000 or less per contract, up to an aggregate amount equivalent to \$3,600,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association

3. Items or groups of items for equipment and other goods estimated to cost the equivalent of less than \$20,000 or less per contract, up to an aggregate amount equivalent to \$100,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers from two countries eligible under the Guidelines, in accordance with procedures acceptable to the Association.

Part E: Review by the Association of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for civil works estimated to cost the equivalent of \$200,000 or more, and each contract for goods estimated to cost the equivalent of \$50,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Association pursuant to said paragraph 2 (d) shall be furnished to the Association prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Association pursuant to said paragraph 3 shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 4 to the Development Credit Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Credit Account are to be made on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

In order to assist KWS in carrying out the Project, KWS shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association.

Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981.

