

CONFORMED COPY

GEF TRUST FUND GRANT NUMBER TF028500

Global Environment Facility  
Trust Fund  
Project Agreement

(Tana River Primate National Reserve Conservation Project)

between the

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

acting as an Implementing Agency of the Global Environment Facility  
Trust Fund

and the

KENYA WILDLIFE SERVICE

Dated February 25, 1997

GEF TRUST FUND GRANT NUMBER TF028500

PROJECT AGREEMENT

AGREEMENT, dated February 25, 1997, between the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) acting as an implementing agency of the Global Environment Facility (GEF), in respect of grant funds provided to the Global Environment Facility Trust Fund (GEF Trust Fund) by certain members of the Bank as participants of the GEF, and the KENYA WILDLIFE SERVICE (KWS):

WHEREAS by the Global Environment Facility Trust Fund Grant Agreement of even date herewith between the Republic of Kenya (the Recipient) and the Bank (the GEF Trust Fund Grant Agreement), the Bank has agreed to make available to the Recipient an amount in various currencies equivalent to four million four hundred thousand Special Drawing Rights (SDR 4,400,000), on the terms and conditions set forth in the GEF Trust Fund Grant Agreement, but only on condition that KWS agrees to undertake such obligations toward the Bank as are set forth in this Agreement; and

WHEREAS KWS, in consideration of the Bank's entering into the GEF Trust Fund Grant Agreement with the Recipient, 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 GEF Trust Fund Grant Agreement, the Preamble to this 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 (a) KWS declares its commitment to the objectives of the Project as set forth in Schedule 2 to the GEF Trust Fund Grant Agreement and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and conservation practices, with due regard to ecological and environmental factors, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Bank and KWS shall otherwise agree, KWS shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 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 Grant shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) KWS 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.

Section 2.04. KWS shall duly perform all its obligations under the Subsidiary Grant Agreement. Except as the Bank shall otherwise agree, KWS shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Grant Agreement or any provision thereof.

Section 2.05. (a) KWS 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 under the Subsidiary Grant Agreement and other matters relating to the purposes of the Grant.

(b) KWS 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 the Grant or the performance by KWS of its obligations under this Agreement and under the Subsidiary Grant Agreement.

Section 2.06. KWS shall prepare and furnish to the Bank an environmental and social impact assessment prior to the initiation of any activity which entails either significant physical development within the TRPNR or the voluntary resettlement of any individuals presently occupying land within the TRPNR. KWS shall not initiate any involuntary resettlement during the life of the Project of any persons occupying land within the TRPNR at the time of Project appraisal without prior approval of the Bank.

Section 2.07. (a) KWS shall, not later than November 30, 1998, carry out, jointly with the Recipient and the Bank, a midterm review of the progress made in the carrying out of the Project.

(b) The review shall cover, inter alia, (i) the overall progress made in Project implementation, (ii) progress on voluntary relocation activities including land allocation aspects, (iii) progress towards more transparent selection of Joint Reserve Management Committee membership, (iv) review of deployment of vehicles financed under the Project, (v) financing of Microprojects; (vi) the monitoring and evaluation of Part B of the Project in accordance with the criteria agreed with the Bank, referred to in Section 6.01 (c) of the GEF Trust Fund Grant Agreement; (vii) review of the organizational structure of Project management, including the positions of Project Accountant, the Data Analyst and the Community Development Specialist; (viii) review of the comprehensive TRPNR management plan and the proposed second phase of the reserve management program, (ix) the status and impact of the research and monitoring components and the proposed research and monitoring program for the remainder of the Project; and (x) the need for redesigning and restructuring of Project components experiencing implementation difficulties.

(c) Not later than one month prior to such midterm review, KWS shall furnish to the Bank, for its review and comments, a report covering items specified in Section

2.07 (b) above, including an evaluation of the progress achieved in complying with Project implementation pursuant to the terms of this Agreement, and recommendations resulting from the studies conducted under the Project.

(d) Promptly after completing such review, KWS shall carry out the recommendations emanating from the said review, as agreed between KWS and the Bank.

Section 2.08. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, KWS shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank, not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between KWS and the Bank, a plan for the future operation of the Project, including appropriate levels of investment in research and community program activities; and

(b) afford the Bank a reasonable opportunity to exchange views with KWS on the said plan.

### 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, conservation, environmental and ecological 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 technical, financial and management practices.

Section 3.03. KWS shall 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.

Section 3.04 KWS shall, not later than May 31 of every year, submit to the Bank for approval its training program for the following year, and thereafter implement the program as approved by the Bank.

### ARTICLE IV

#### Financial 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) audited for each fiscal year, 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 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 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 GEF Trust Fund Grant Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Bank and of KWS thereunder shall terminate on the date on which the GEF Trust Fund Grant Agreement shall terminate in accordance with its terms.

(b) If the GEF Trust Fund Grant Agreement terminates in accordance with its terms before the date specified in Section 6.02 of the GEF Trust Fund Grant Agreement, the Bank shall promptly so notify KWS.

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 telefax 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:

INDEVAS  
Washington, D.C.

Telex:

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

For KWS

Kenya Wildlife Service  
P.O. Box 40241  
Nairobi  
Kenya

Telex:

22804

Nairobi

Telefax:

254 2 505866

254 2 501752

or

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 Recipient under the GEF Trust Fund Grant Agreement, may be taken or executed by the Director of KWS or by such other person or persons as KWS shall designate in writing, and KWS 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  
acting as an Implementing Agency of the  
Global Environment Facility Trust Fund

By /s/ Callisto Madavo

Regional Vice President  
Africa

KENYA WILDLIFE SERVICE

By /s/ Benjamin Kipkorir

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: General

Goods and Works shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January 1996 (the Guidelines) and the following provisions of this Section, as applicable.

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provision shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Grouping of contracts

To the extent practicable, contracts for goods shall be grouped into bid packages estimated to cost the equivalent of \$100,000 or more each.

(b) Preference for domestically manufactured goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Recipient.

(c) Notification and Advertising

The invitation to prequalify or bid for each contract estimated to cost \$10,000,000 equivalent or more shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Works estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$700,000 equivalent, and goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$250,000

equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. National Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$150,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines or through the United Nations Inter-Agency Procurement Services Office.

3. Community Participation

Works and goods for Microprojects estimated to cost no more than \$10,000 per contract, up to an aggregate amount not to exceed \$1,650,000 equivalent, shall be procured in accordance with the procedures set forth in paragraph 3.15 of the Guidelines and in the Project Implementation Manual.

4. Force Account

Works which meet the requirement of paragraph 3.08 of the Guidelines, and costing \$100,000 equivalent or less in the aggregate, may, with the Bank's prior agreement, be carried out by force account in accordance with the provisions of said paragraph of the Guidelines.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract estimated to cost the equivalent of \$50,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions 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 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, shortlists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to: (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each, or (b) contracts for the employment of individuals estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank review shall not apply to: (a) the terms of reference for such contracts, (b) single-source selection of consulting firms, (c) assignments of a critical nature, as reasonably determined by the Bank, (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above, or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

## SCHEDULE 2

### Implementation Program

#### Project Implementation Manual

1. Except as the Bank shall otherwise agree, KWS shall apply the procedures and guidelines set out in the Project Implementation Manual, and KWS shall not assign, amend, abrogate or waive the Manual or any provision thereof which, in the opinion of the Bank, will materially or adversely affect the implementation of the Project.

#### Project Coordination and Management

2. (a) In order to facilitate the carrying out of the Project, KWS shall establish and maintain a Project Steering Committee chaired by the Director of KWS and including representatives of the Tana and Athi River Development Authority, of the departments of KWS and the local government assisting in carrying out any part of the Project and representatives of selected conservation organizations.

(b) The Project Steering Committee shall be responsible for approving staffing appointments and contracts, reviewing semiannual Project progress reports, reviewing and approving annual work plans and budgets and participating in periodic monitoring and evaluation of the Project.

3. In order to assist KWS in implementing the Project, KWS shall, not later than April 1, 1997, appoint:

(a) a Project Coordinator who will be responsible for coordinating the carrying out of the several parts of the Project by different departments of KWS;

(b) a Project Secretary and a Project Accountant to assist the Project Coordinator;

(c) a Field Activities Coordinator who will report to the Project Coordinator to ensure the coordination of logistics, including the use of vehicles and other facilities, and the scheduling of Project activities at the TRPNR;

(d) the Community Development Specialist;

(e) the Senior Research Scientist; and

(f) the Data Analyst.

#### Microprojects under Part B of the Project

#### Eligibility Criteria for Microprojects

4. Without limitation upon the provisions of paragraph 1 above, Microprojects shall be eligible for financing out of the proceeds of the Grant only if they are determined by KWS, on the basis of an appraisal conducted in accordance with the guidelines set forth in the Project Implementation Manual, to satisfy the eligibility criteria specified below and in more detail in the Project Implementation Manual, which shall include, inter alia, the following:

(a) the Microproject shall be consistent with the Community Action Plan developed by the village in which the activity is proposed, through the mechanism of a Participatory Rural Appraisal exercise carried out with the assistance of KWS and endorsed by the District Development Committee;

(b) the Microproject shall promote and support the conservation goals of the Project, either directly or through a linkage identified in the Community Action Plan;

(c) the Microproject shall be initiated, proposed and implemented by a community group which meets the criteria of organization, governance, accountability and transparency set out in the KWS Guidelines for the Wildlife Development Fund;

(d) the Microproject shall involve local representatives of government agencies as appropriate for implementation of different aspects, such as construction or rehabilitation of social infrastructure facilities;

(e) the Microproject shall not cause adverse impacts to the reserve ecosystem

or to the general environment or the health or welfare of the community (as determined by a prior environmental screening or environmental impact assessment carried out in conformity with KWS' regulations);

(f) the Microproject shall be economically, financially and technically viable, in accordance with standards defined in the Project Implementation Manual;

(g) the Beneficiary community must provide at least 25% of the estimated Microproject costs, in the form of cash, materials, labor or other services, with at least 5% of the total being in cash.

#### Terms and Conditions of Grants made for Microprojects

5. Microprojects proposed by community groups will be submitted to the Community Wildlife Officer for evaluation by KWS, in accordance with the procedures set out in KWS' Guidelines for the Wildlife Development Fund. Upon approval of a Microproject proposal, KWS shall enter into a Microproject Agreement with the community group through their designated representatives. The terms and conditions of the Microproject Agreement shall include provisions pursuant to which:

(a) each community group proposing a project shall establish a Microproject Committee which shall be responsible for Microproject implementation;

(b) the community group undertakes to fulfill its responsibilities with respect to promoting and supporting conservation goals, as set out in the Community Action Plan;

(c) a work plan and schedule will be developed and agreed for the Microproject, against which Project funds will be disbursed in stages;

(d) the Microproject Committee shall be responsible for implementing the Microproject in accordance with the provisions of the Microproject Agreement and the Project Implementation Manual, with due diligence and efficiency in accordance with sound technical, financial, environmental, biodiversity conservation and managerial standards, and maintaining adequate records;

(e) the Microproject Committee shall have the obligation to report to KWS on the use of the Grant and the progress made in the implementation of the Microproject;

(f) financing of Microprojects shall be on a grant basis;

(g) the goods, civil works and services to be financed out of the proceeds of the Grant for Microprojects shall be procured in accordance with the provisions of Schedule 1 to this Agreement;

(h) KWS shall have the right to obtain all such information as KWS or the Bank shall reasonably request regarding Microproject implementation, administration, operations and the financial condition of the Microproject Committee and the benefits to be derived from the Microproject; and

(i) KWS shall have the right to suspend or terminate the right of the Microproject Committee to use the proceeds of the Grant for a Microproject upon failure by any such Microproject Committee, or the Community Group which it represents, to perform any of its respective obligations under the Microproject Agreement.

