

LEGAL NOTICE NO..... DATE.....

THE PUBLIC FINANCE MANAGEMENT ACT, 2012 (No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24 (4) of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

The Regulations are in pursuant to the Section 23 of the Wildlife Conservation and Management Act 2013, which establishes the Wildlife Conservation Trust Fund and further recommends regulations and guidelines for management of the Fund under section 23(2).

THE PUBLIC FINANCE MANAGEMENT (WILDLIFE CONSERVATION TRUST FUND) REGULATIONS, 2021

	PART I --PRELIMINARY
Citation	1. These regulations may be cited as The Public Finance Management (Wildlife Conservation Trust Fund) Regulations, 2021;
Interpretation	2. In these Regulations, unless the context otherwise requires — “Act” means the Public Finance Management Act, 2012;
	“Accounting Officer” means the Principal Secretary responsible for matters relating to wildlife conservation;
	“Administrator of the Fund” means a person designated as such under regulation 15(1);
	"Biodiversity" means the variability among living organisms from all sources including ecosystems and the ecological complexes of which they are a part, compassing ecosystem, species and genetic diversity;
	“Bio prospecting” means the exploration of biodiversity for commercially valuable genetic and biochemical resources;
	“Board of Trustees” means the Wildlife Conservation Trust Fund Board established under regulation 9;

	<p>“Cabinet Secretary” means the Cabinet Secretary responsible for matters related to Finance;</p>
	<p>“Development partner” means a foreign government, an international organisation of states or any other organisation prescribed by regulations for the purpose of this Act;</p>
	<p>“Ecosystem” means a community of living organisms in conjunction with the non-living components of their environment, interacting as a system;</p>
	<p>“Endangered species” has the same meaning as defined by the International Union for Conservation of Nature (IUCN) or under any other applicable laws in Kenya;</p>
	<p>“Endowment fund” means a fund where the financial assets are invested and only the income is used to finance activities</p>
	<p>“Fund”- means the Wildlife Conservation Trust Fund established under regulation 3 of these regulations;</p>
	<p>“Grantee” means a person or institution to whom a grant is made.</p>
	<p>“Habitat” means the natural home or environment of an animal, plant, or other organism;</p>
	<p>“National Park” has meaning as defined and established by the Wildlife Conservation and Management Act 2013;</p>
	<p>"National Reserve" has meaning as defined and established by the Wildlife Conservation and Management Act 2013;</p>
	<p>"Protected area" means a clearly defined geographical space, recognized, dedicated and managed through legal or other effective means, to achieve long-term conservation of nature with associated ecosystem services and cultural values;</p>
	<p>“Revolving fund” means a fund that is replenished or augmented on a continuous basis, for example through earmarked taxes, user fees, levies and so on</p>
	<p>“Sanctuary” means an area of land or of land and water set aside and maintained by government, community, individual or private entity for the conservation and protection of one or more species of wildlife;</p>
	<p>“Species Recovery plan” is a document describing the current status, threats and intended methods for increasing rare and endangered species population size;</p>

	“Sinking fund” means a fund where activities are financed using both principal and investment income over a fixed period of time (usually 6-15 years), or until the fund sinks to zero.
	“Wildlife” means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya;
	“Wildlife Conservancy” means a Conservancy as defined by the Wildlife Conservation and Management Act 2013;
	“Wildlife conservation” is the practice of protecting plant and animal species and their habitats.
	PART II-ESTABLISHMENT OF THE FUND
Establishment of the Fund	3. (1). There is established a Fund to be known as the “Wildlife Conservation Trust Fund”.
	(2) The fund is a hybrid umbrella fund including endowment, sinking, revolving and grant funds.
Capital of the Fund	The initial Capital of the fund shall be 200 million shillings appropriated by Parliament in the Financial Year 2020/2021 as part of the Economic Stimulus Program for Conservancies Rangers.
Objects and purpose of the Fund	4. (1) The objects and purpose of this Fund shall be to provide a common pool to mobilize sufficient and sustainable financing for efficient and effective wildlife conservation and management through innovative public, private sector and development partner’s partnerships.
	(2) Without prejudice to the generality of paragraph (1), the Fund shall raise, manage and disburse funds to promote sustainable conservation in national parks, national sanctuaries, national reserves and wildlife conservancies, and specifically; <ul style="list-style-type: none"> a) Provide funds to cover for documented financial gaps in the operations and management of national parks, sanctuaries, reserves, and conservancies; b) Finance establishment of new national parks, sanctuaries, reserves, and conservancies; c) Support wildlife conservation initiatives designed to result in response and reduction in human wildlife conflict,

	<p>conflict mitigation and adoption of conflict management technologies;</p> <p>d) support the protection of endangered and threatened species,</p> <p>e) Support conservation of critical wildlife habitats and ecosystems;</p> <p>f) Support strategic priority conservation planning including ecosystem plans and area management plans;</p> <p>g) support wildlife security operations to address gaps in human resource, supplies and equipment and access to technology;</p> <p>h) facilitate community-based wildlife initiatives and enterprises;</p> <p>i) Support innovative income generating activities designed to ensure protected and conservation areas are self-sustaining or less donor dependent;</p> <p>j) grant wildlife-based enterprises and utilisation programs designed to support community livelihoods;</p> <p>k) provide technical assistance and grants to strengthen institutional capacity of grantees;</p> <p>l) Support wildlife data capture, analysis and dissemination of the same, and any other related wildlife research which may include deployment of technology-based applications;</p> <p>m) Support bio-prospecting activities;</p> <p>n) Support development of wildlife facilities, establishment and infrastructure in protected areas;</p> <p>o) Invest any surplus funds not immediately required and approved by the board of trustees, for the purposes of realizing the objects and purpose for which the Fund is established; and</p> <p>p) such other purposes as may be provided for by the board of trustees in line with the purpose of the fund and in consultation with the cabinet secretary.</p>
<p>Application of the Fund</p>	<p>5. (1) The Fund shall be applied only towards the objects and purpose as specified under regulation 4.</p> <p>(2) Despite the provisions of paragraph (1), the Fund shall NOT apply to funding of the following:</p>

	<ul style="list-style-type: none"> i) normal operational and development costs of national parks and national reserves appropriated by parliament; ii) facilitate compensation for losses occasioned by wildlife to human life, human injury, property, livestock or crop loss; and iii) support normal operational costs of wildlife conservation organisations, both government and non-governmental.
Sources of the Fund.	<p>6. (1) The Fund shall consist moneys paid into the Fund from various sources to include —</p> <ul style="list-style-type: none"> a) moneys appropriated by Parliament for purposes of the Fund; b) One per cent (1%) of proceeds realised from gate collections in all protected areas and captive wildlife facilities; c) a proportion of such moneys as may be levied for payment of environmental services and biodiversity offsets by beneficiaries in productive and service sectors as a contribution; d) moneys secured from debt-for-nature swap transactions; e) percentage of levies from use of wildlife resources; f) innovative funding arrangements with the private sector; g) grants or donations from national, international and multi-lateral institutions for the purposes of this Fund; h) philanthropic donations by individuals or private charities; i) income generated from the proceeds of the Fund; and j) any moneys accruing to or received by the Fund from any other source as may be approved by the Cabinet Secretary.
	<p>(2) The proceeds of the Fund shall be apportioned as follows—</p> <ul style="list-style-type: none"> (a) an amount not exceeding twenty per cent (20%) to wildlife conservation initiatives for national parks and sanctuaries; (b) an amount not exceeding twenty per cent (20%) to wildlife conservation initiatives for national reserves; (c) an amount not exceeding twenty per cent (20%) to wildlife conservancies; and

	(c) an amount not exceeding forty per cent (40%) to other conservation initiatives and priorities.
	(3) Without prejudice to paragraph (2), the Board may recommend the variation of thresholds in favour of conservation and mitigation with the concurrence and approval of the Cabinet Secretary responsible for wildlife conservation and management for use in any particular financial year.
Expenditure on the Fund.	7(1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.
	(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator of the Fund, and approved by the Board of Trustees at the beginning of the financial year to which they relate.
	(3) Any revision of the approved annual work programmes, and of any cost estimate, shall be referred to the Board of Trustees for approval.
	PART III- MANAGEMENT OF THE FUND
Establishment of the Board of Trustees	8. (1) There is established a Board of Trustees to be known as the Wildlife Conservation Trust Fund Board of Trustees.
	(2) The Board will be a public-private partnership and shall consist of –
	<ul style="list-style-type: none"> a) a non-executive chairperson, not being a public officer, appointed by the President; b) the Principal Secretary for the time being responsible for matters relating to wildlife management; c) the Principal Secretary for the time being responsible for matters relating to finance; d) The Director General of the Kenya Wildlife Service who shall be the secretary; e) Four (4) representatives from the private sector whom shall have technical experience in either philanthropy, law, natural resources, finance, business and investment

	<p>matters, two of whom shall be representatives nominated by an umbrella wildlife conservancy body, and</p> <p>f) A representative from the Attorney General.</p> <p>g) The Director of the Wildlife Research and Training Institute.</p> <p>h) One person nominated by the Chairman of the Council of Governors with competence in matters relating to wildlife management.</p>
	<p>(3) Members appointed under 2 (b), (c), (d) and (g) may attend in person or through a representative nominated in writing.</p>
	<p>(4) In the absence of the chairperson in any meeting of the Board, the members present shall elect one of the members under regulations 2 present to chair the meeting.</p>
	<p>(5) The Cabinet Secretary responsible for Wildlife management shall, in appointing members of the Fund Board of Trustees specified under paragraph 2 (e), take into account professional qualifications, regional balance and gender equity in accordance with Article 27 of the Constitution.</p>
	<p>(7) The Board of Trustees shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.</p>
Procedure of the Board	<p>(8) The quorum for the conduct of meetings of the Board of Trustees shall be two thirds of the members</p>
	<p>(9) The Board of Trustees shall regulate its own procedure, including establishment of sub-committees for efficient delivery of its mandates.</p>
Qualification of members of the Board of Trustees	<p>9. A person shall be eligible for appointment as a chairperson or member of the Board of Trustees under regulation 9(2) (a), (h) and (i) if that person</p> <p>(a) has at least a university degree from a university recognized in Kenya;</p> <p>(b) has professional experience of not less than ten years in the fields of wildlife conservation and management, finance, economics, private sector investments and fund management.</p>

	(c) satisfies the requirements of Chapter Six of the Constitution.
Tenure and vacation of office	<p>10. (1) The Chairperson and members of the Board of Trustees appointed under regulation 9 (2) (e) respectively shall serve for a term of three years but shall, subject to satisfactory performance, be eligible for re-appointment for one further term of three years, for a maximum of two terms</p> <p>(2) The Chairperson or a member appointed under regulation 9 (2) (e) becomes vacant if the holder—</p> <ul style="list-style-type: none"> (a) dies; (b) resigns from office by notice, in writing, addressed to the appointing authority; (c) is convicted of a criminal offence and sentenced to a term of imprisonment; (d) is adjudged bankrupt; or (e) is removed from office for any of the grounds set out in regulation 12(1).
Removal from office	<p>11 (1) The Chairperson or a member appointed under regulation 9 (2) (e) may be removed from office by the appointing authority, on recommendation of the Board of Trustees if:</p> <ul style="list-style-type: none"> (a) he/she has been convicted of an offence and sentenced for a period exceeding six months without the option of a fine; (b) accused of gross misconduct, whether in the performance of the office holder’s functions or otherwise; (c) for physical or mental incapacity to perform the functions of office; (d) for incompetence or neglect of duty; e) for absence from three consecutive meetings of the Board of Trustees without a reasonable explanation; or (f) if that person is otherwise unable or unfit to discharge the functions of the office.
	(2) Before the appointing authority makes a decision under paragraph (1), the person shall be given an opportunity to provide a defence against any of the allegations.
Filling of vacancy.	12. If a vacancy occurs in the membership of the Board of Trustees under regulation 10 or 11, the appointing authority may, if the vacancy relates to any of the positions specified under section 9

	(2) (a) or (e), appoint a new member in accordance with these Regulations.
Functions of the Board of Trustees.	13. The Board of Trustees shall—
	(a) set up the legal, governance and financial management structures of the Fund to ensure independence, flexibility and confidence to encourage funding from wide range of funders and funding sources
	(b) formulate strategic direction and policies to achieve the objects and purpose of the Fund;
	(c) approve regulation and guidelines relating to administration and timely disbursement of funds to finance wildlife management interventions;
	(d) provide oversight on the administration and management of the Fund;
	(e) consider, review and approve estimates of revenue and expenditure of the Fund for each financial year;
	(f) give prior approval for the opening of any bank account of the Fund before seeking approval of the National Treasury in accordance with section 28 of the Act;
	(g) receive, review and approve statutory and management reports of the Fund before submission to the Auditor-General with copies to the National Treasury and Controller of Budget;
	(h) advice the Cabinet Secretary responsible for matters relating to wildlife management on the proper administration of the Fund;
	(i) approve, monitor and evaluate programmes and activities of the Fund;
	(j) mobilise resources for the Fund;
	(k) review the estimates of annual revenue and expenditure of the Fund and recommend them to the Cabinet Secretary responsible for wildlife management for approval and submission to the Cabinet Secretary responsible for finance for approval;

	(l) receive and review reports on the performance of the Fund and make recommendations on the operations of to the administrator of the Fund;
	(m) review policy on the management of assets, equipment and all properties under the Fund;
	(n) set wildlife conservation and management response trigger threshold for the Fund;
	(o) Communicate effectively to the fund investors, beneficiaries and investors and timely disclosure of the beneficiaries of the fund;
	(p) approve a criterion for funding arrangements with third parties; and
	(q) perform such other duties as may be considered necessary by the Cabinet Secretary responsible for wildlife management from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.
Administration of the Fund.	14.(1) The administrator of the Fund shall be the Principal Secretary responsible for matters relating to wildlife management or any other person designated by the Cabinet Secretary in writing, for that purpose
	(2) The administrator of the Fund shall (a) open and operate a separate bank account or accounts at the Central Bank or a Bank approved by the Board and the National Treasury in accordance with the Act; (b) supervise and control the administration of the Fund; (c) consult with the Board on matters relating to the administration of the Fund; (d) cause to be kept proper books of accounts and record in relation to the Fund; (e) prepare, sign and submit to the Board in respect of each financial year and within three months, after the end thereof, a statement of account related to the fund for approval; (f) prepare, sign and transmit to the Auditor General, upon the approval by the Board, in respect of each financial year and within three months after the end, thereof, a statement

	<p>of accounts relating to the fund and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the Public Sector Accounting Standard Board shall prescribe in accordance to the provisions of the PFM Act, 2012 and Public Audit Act, 2015;</p> <p>(g) furnish additional information to the Auditor General as he/she may consider to be proper and sufficient for the purpose of examination and audit by the Auditor General in accordance with the provisions of the Public Audit Act, 2015;</p> <p>(h) prepare quarterly reports on financial and non-financial activities of the fund in accordance with the provision of the PFM Act, 2012 and as may be prescribed from time to time by the Public Sector Accounting Standards Board and submit the report to the Board for approval and subsequent transmission to the National Treasury and Controller of Budget; and</p> <p>(i) be the custodian of all the assets, equipment and property under the Fund.</p>
	<p>(3) Despite paragraph (2), the administrator of the Fund may assign any other duty to the Secretariat for the proper administration and management of the Fund.</p>
	<p>(4) Every statement of account shall include details of the balance between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the quarter concerned.</p>
Secretariat of the Fund	<p>15 (1) There shall be a Secretariat of the Fund which shall consist of a Chief Executive Officer and such other staff as are necessary for the proper discharge of the functions of the Fund.</p> <p>(2) The Chief Executive Officer and other staff of the Secretariat of the Fund shall be recruited competitively in consultation with the Public Service Commission.</p>
Functions of the Secretariat	<p>16. The Chief Executive Officer shall, subject to the direction of the Board of Trustees, be responsible for the day-to-day running of the affairs of the Fund. The CEO shall: -</p> <p>(a) open and operate a bank account or accounts approved by the Board of Trustees in consultation with the Cabinet Secretary;</p>

	<ul style="list-style-type: none"> (b) supervise and control the administration of the Fund; (c) consult with the Board of Trustees on matters relating to the administration of the Fund; (d) cause to be kept proper books of accounts and record in relation to the Fund; (e) prepare, sign and submit to the Board of Trustees in respect of each financial year and within three months, after the end thereof, a statement of account related to the fund for approval; (f) prepare quarterly reports on financial and non-financial activities of the fund in accordance with the provision of the PFM Act, 2012 and as may be prescribed from time to time by the Public Sector Accounting Standards Board and submit the report to the Board of Trustees for approval and subsequent transmission to the National Treasury and Controller of Budget; (g) Every statement of account shall include details of the balance between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the quarter; and (h) be the custodian of all the assets, equipment and property under the Fund. (i) Engage across section of stakeholders to secure funding commitments (j) Develop key documents such as strategic plans, communication materials, grant making frameworks and operations manuals (k) Facilitate hiring of the appropriate technical and administrative staff (l) Supervise and monitor utilisation of the funds by the beneficiaries and grantees.
	<p>PART IV: CRITERIA FOR ACCESSING THE FUND</p>
<p>Nature of the Fund</p>	<p>17. The Fund is a hybrid umbrella fund including:</p> <ul style="list-style-type: none"> a) endowment, b) sinking,

	<ul style="list-style-type: none"> c) revolving, and d) grant fund
Access of Fund	<p>18. The Funds shall be accessed for the following components in wildlife management-</p> <ul style="list-style-type: none"> a) wildlife conservation and restoration of national parks and sanctuaries; b) wildlife conservation and restoration of national reserves; c) Support to conservation activities in wildlife conservancies; d) support initiatives to mitigate human wildlife conflict, improve access to technology, capacity building and sustainability; and e) support other conservation initiatives and priorities as regularly prioritized by the Cabinet Secretary responsible for wildlife conservation and management, including:
Wildlife conservation and restoration of national parks, sanctuaries and national reserves	<p>19. For an activity to be eligible for funding under wildlife conservation and restoration of wildlife habitats and ecosystems in national parks and sanctuaries, it shall meet the following-</p> <ul style="list-style-type: none"> a) the activity is prioritized in the National Wildlife Strategy b) the activity is prioritised in the strategic plan, recovery plans of endangered species, ecosystem management plans, sector policies and strategies; c) activity is prioritised in the national park management plans d) informed by wildlife status/census and ecological monitoring; and e) proof that a funding gap exists.
Wildlife management and support to conservancies	<p>20. For an activity to be eligible for funding under support to wildlife conservancies, it shall meet the following-</p> <ul style="list-style-type: none"> a) the activity is prioritized in the National Wildlife Strategy b) the activity is prioritised in the strategic plan, recovery plans of endangered species, ecosystem management plans, sector policies and strategies; c) activity is prioritised in the national park management plans d) informed by wildlife status/census and ecological monitoring; and e) proof that a funding gap exists. And

	f) Evidence that current efforts are unlikely to address the issues
Mitigation of human wildlife conflict	<p>21. For an activity to be eligible for funding under mitigation of human wildlife conflict, it shall meet the following-</p> <ul style="list-style-type: none"> a) proof of loss of livelihoods and productive assets as a result of a wildlife activities; b) existence of human-wildlife conflict mitigation needs assessment report and c) approved application by the relevant body/organ of the requesting organization/grantee.
	22. (1) The Administrator may enter into funding arrangement with the line Ministries, Departments, Agencies, County Government, and Conservancies in executing its mandate.
	<p>(2) An entity that enters into funding arrangement with the Administrator in a manner specified in paragraph (1) shall return any unutilized funds disbursed in accordance with these Regulations where—</p> <ul style="list-style-type: none"> (a) the purpose for which the funds were disbursed was not undertaken; (b) the purpose for which the funds were disbursed was undertaken but the funds were not fully utilized; or (c) savings are realized as a result of change in circumstances
	(3) The funds returned under paragraph (2) shall be recorded as receipts of the Fund
	(4) A recipient of the funds who fails to comply with paragraph (2) shall not be eligible for any subsequent partnership until that entity has fully complied with the provisions of these Regulations.
	PART V – FINANCIAL PROVISIONS
Application of Government regulations and procedures.	23. Subject to the provisions of the Act, existing government regulations and procedures shall apply in the administration of the Fund.
Financial year of the Fund	24. The financial year of the Fund shall be the period of twelve months ending on the 30th of June of every year.

Preparation and submission of a work plan	25. The Administrator of the Fund shall prepare a work plan in respect of a financial year and submit to the Board for approval.
Quarterly and annual reports on proposals and disbursements	26. (1) The Board shall, on a quarterly and annual basis, submit the report to the Cabinet Secretary responsible for matters relating to wildlife management.
	(2) The report envisaged under paragraph (1) shall contain-
	(a) a summary of the proposals approved by the Board in the preceding quarter as recommended by the Secretariat of the Fund and indicating the funding status of such proposals, if any;
	(b) a summary of the status of disbursements from the Fund for the implementation of any proposals financed from the Fund;
	(d) any restriction imposed on any agency involved in the implementation of the proposal of the Fund.
	(e) contain information on the financial and non-financial performance of the Fund; and
	(2) The Board of Trustees shall prepare and submit quarterly monitoring and evaluation reports to the Cabinet Secretary responsible for matters relating to wildlife management affairs.
Record of disbursements	27. An accurate record of all disbursements from the Fund shall be kept and updated every month by the Secretariat.
Administration costs of the Fund	28. The administration costs of the Fund shall be a maximum of ten per cent (10%) of the approved Budget of the Fund from funds.
Expenditure of Fund	29. (1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.
	(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator of

	the Fund, and approved by the Board at the beginning of the financial year to which they relate.
	(3) Any revision of the approved annual work programmes, and of any cost estimate, shall be referred to the Board for approval.
Opening bank accounts	30. (1) The Board shall approve the opening and maintenance of bank accounts for the Fund with such a bank as may be recommended by the Administrator.
	(2) upon approval by the Board under paragraph (1), the administrator shall seek the approval of the National Treasury to open the bank account in accordance with Section 28 of the Public Finance Management Act, 2012.
	(3) The accounts and investments shall be held for and on behalf of the Fund in the name of the Wildlife Conservation Trust Fund
Tax Exemption	(4) The Board of Trustees may apply for tax exemptions on income earned by the Fund subject to the existing tax laws and regulations
Investment of funds	31. The Administrator may, with the approval of the Board, invest any of the funds of the Fund which are not immediately required for its purposes in accordance with the provisions of the Act.
Retention of receipts	32. All receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.
Annual reports	33. (1) The administrator of the Fund shall prepare annual financial and non-financial reports in accordance with the provisions of the Public Finance Management Act 2012 and as may be prescribed from time to time.
	(2) In addition, the administrator of the Fund shall prepare an annual general performance report of the Fund to be submitted with the report under paragraph (1).
	(3) The annual financial and non-financial statements under paragraph (1) shall be approved by the Board and submitted to the Auditor General for audit within three months after the end of the financial year in accordance with the Public Audit Act 2015,

	and a copy thereof submitted to the Cabinet Secretary responsible for Finance and Controller of Budget.
Audited Accounts	34. The books of accounts of the Board shall be prepared, audited and reported in accordance with Articles 226 and 229 of the Constitution, the Act and the Public Audit Act, 2015.
	PART VI- MISCELLANEOUS PROVISIONS
Conflict of interest	35. The Board of Trustees shall not hold any interest in any property of the Fund otherwise other than in their capacity as Board members of the Fund or receive remuneration or be interested in the supply of work, goods or services to the Fund or any other non-pecuniary conflict of interest.
Offences and penalties.	36. (1) A person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in these Regulations, commits an offence and shall, upon conviction, be liable to imprisonment for a term of not less than five years or to a fine not exceeding five million shillings or to both.
	(2) In addition to the penalty prescribed under paragraph 1 and subject to existing relevant law, the court may order for the recovery of the monies or assets acquired as a result of the commission of the offence thereof.
Personal liability	37. No Board member or staff of the Secretariat shall be liable for any action, suit or proceedings for or in respect of any act done or omitted to be done in good faith in exercise of the functions, powers and duties conferred under these regulations.
Winding-up of the Fund.	38. (1) In the event of winding up of the Fund, the Board of Trustees shall —
	(a) pay any amount remaining in the Fund into the National Exchequer Account for the credit of the National Government while other assets of the Fund shall be transferred to the Ministry for the time being responsible for Wildlife Management;
	(b) the Cabinet Secretary responsible for Finance shall pay any deficit in the Fund from the funds of the National Government in the National Exchequer Account with the approval of the National Assembly;

	(c) Funds obtained from other partners and donors to the fund shall be appropriated as per the terms and conditions agreed to with the respective partners; and
	(d) the Cabinet Secretary shall submit a final statement of accounts of the Fund to the National Assembly.
	(2) The Board of Trustees shall prepare the final winding up report not later than six months from the date of the decision to wind up the Fund and submit the financial and non-financial reports to the Auditor General for audit with a copy to the National Treasury.
	(3) The Auditor General shall after audit, submit the final report to the National Assembly within three months of the receipt of the initial report under paragraph (2), with a copy to the National Treasury.

Made on the....., 2021.

UKUR YATANI

Cabinet Secretary for the National Treasury and Planning.