

**MINISTRY OF AGRICULTURE AND FOOD INDUSTRY AND
MINISTRY OF FINANCE
OF THE REPUBLIC OF MOLDOVA
*Project Implementation Unit***

The European Investment Bank “Fruit Garden of Moldova” Loan

OPERATIONS MANUAL



APPROVED BY:

- 1. PIU Council of Observers**
- 2. European Investment Bank Date**
- 3. Coordinated with Ministry of Finance and Credit Line Directorate**

Chisinau, Republic of Moldova

Contents:

| | |
|---|-----------|
| DEFINITIONS AND ABBREVIATIONS | 3 |
| I. INTRODUCTION..... | 6 |
| II. OBJECTIVE OF THE LOAN | 6 |
| III. INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS | 6 |
| IV. FINAL BENEFICIARIES AND SUB-PROJECTS ELIGIBILITY CRITERIA | 11 |
| V. SUB-LOANS TERMS AND CONDITIONS..... | 12 |
| VI. ELIGIBILITY CRITERIA FOR PARTICIPATING FINANCIAL INSTITUTIONS (PFIS). | 12 |
| VIII. ALLOCATION SIZE AND SUB-SECTOR DISTRIBUTION..... | 14 |
| IX. EVALUATION, APPROVAL AND ALLOCATION PROCEDURE | 18 |
| X. PROCUREMENT | 21 |
| XI. ENVIRONMENT..... | 21 |
| XII. PIU ACCOUNTING AND FINANCIAL REPORTS | 21 |
| XIII. AUDIT..... | 22 |
| XIV. MONITORING & REPORTING | 22 |
| ANNEXES AND ATTACHMENTS: | 24 |

Definitions and abbreviations

“Allocation” means the portion of the Credit which the Bank allocates to the Sub-Projects.

“Allocation Letter” means a letter by which the Bank shall notify the Borrower that an Allocation Request for a Sub-Project submitted to the Bank is approved by it.

“Allocation Period” means the period when the PIU can submit an Allocation Request to the Bank.

“Allocation Request” means a request for an allocation which the Borrower may submit to the Bank.

“Application Form” means a document used by the Final Beneficiaries to submit their sub-project application to the Project Implementation Unit.

“Bank” (EIB) means The European Investment Bank.

“BEC” mean the Bid Evaluation Committee.

“Beneficiary” – potential or final (PB or FB) is the entity which submits the Application form to the Project Implementation Unit and the Request for Financing to the Participating Financial Institution for financing of an investment sub-project, being in compliance with the eligibility criteria provided in this OM.

“Borrower” (MoF) means the Republic of Moldova’s Ministry of Finance.

“Business Day” means a day (other than a Saturday or Sunday) on which the Bank and commercial banks are open for general business in Luxembourg.

“Contract” means the Finance Contract(s) signed with the EIB under Framework Agreement governing the Bank’s activities in the Republic of Moldova, signed between the Republic of Moldova and the Bank on 1 November 2006.

“Credit” means the credit in an amount stipulated in the Finance Contract signed with the EIB offered to Republic of Moldova for the financing of the Projects.

“Credit Line Directorate” (CLD) means the directorate established for the on-lending of external loan resources for private sector development pursuant to the National Bank of Moldova Resolution No 29, dated October 25, 1995.

“Disbursement Acceptance” means a copy of the Disbursement Offer duly countersigned by the Borrower.

“Disbursement Acceptance Deadline” means the date and time of expiry of a Disbursement Offer as specified therein.

“Disbursement Date” means the date on which actual disbursement of a Tranche is made by the Bank.

“Disbursement Offer” means a letter substantially in the form set out in Schedule C.1 to the Finance Contract.

“EIB Allocation Report” means an internal reporting system for the monitoring of the Allocations established and maintained by The Borrower.

“EUR” and “euro” mean the lawful currency of the Member States of the European Union which adopt or have adopted it as their currency in accordance with the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union or their succeeding treaties.

“Final Availability Date” means (5) five years from the Date of Effectiveness of the Finance Contract.

“Final Beneficiary” means an enterprise satisfying the eligibility criteria as set forth in Operations Manual of the Project.

“Financial Lease Contract” is the contract signed between the Participating Financial Institution as Lessor with the Final Beneficiary of the Project as Lessee, to finance all or part of the sub-project's eligible expenses under Leasing operations.

“Fixed Rate” means an annual interest rate determined by the Bank in accordance with the applicable principles from time to time laid down by the governing bodies of the Bank for loans made at a fixed rate of interest, denominated in the currency of the Tranche and bearing equivalent terms for the repayment of capital and the payment of interest.

“Fixed Rate Tranche” means a Tranche on which Fixed Rate is applied.

“Floating Rate” means a fixed-spread floating interest rate, that is to say an annual interest rate determined by the Bank for each successive Floating Rate Reference Period equal to the Relevant Interbank Rate plus the Spread.

“Floating Rate Reference Period” means each period from one Payment Date to the next relevant Payment Date; the first Floating Rate Reference Period shall commence on the Disbursement Date.

“Floating Rate Tranche” means a Tranche on which Floating Rate is applied.

“Guide to Procurement” means the Guide to Procurement published on the Bank's website that informs the promoters of projects financed in whole or in part by the Bank of the arrangements to be made for procuring works, goods and services required for the Project.

“ICB” means the International Competitive Bidding-procedures in accordance with the WB Procurement Guidelines.

“Loan” means the aggregate amount of Tranches disbursed from time to time by the Bank under this Contract.

“NCB” means the National Competitive Bidding.

“On-lending Agreement” (OLA) means an agreement entered into between the Participating Financial Institution and the Final Beneficiary approved by the Bank, used under the Credit Line.

“On-lending contract” (OLC) means an agreement entered into between the Borrower, represented by MoF and the Participating Financial Institution approved by the Bank, used under the Leasing Operations.

“Participating Financial Institution” (PFI) means a local eligible financial institution acceptable to the Borrower and to the Bank, as indicated by the Bank to the Borrower in writing from time to time, which will act as financial intermediary to borrow the proceeds of the Loan from the Borrower and pass them on at its own credit risk and other risks to a Final Beneficiary for the implementation of a Sub-Project. The acceptability of each PFI to the Bank and MoF is subject to on-going review and may be changed from time to time. PFI includes but are not limited to local commercial banks, leasing companies, microfinance institutions.

“Payment Date” means the semi-annual dates specified in the Disbursement Offer until the Maturity Date, save that, in case any such date is not a Relevant Business Day.

“PIU” means the Project Implementation Unit created for Implementing and Monitoring of the Wine Sector Restructuring Program, operating under the auspices of the MoAFI for surveillance and coordination of all components of the Program. PIU is authorized by the MoF to withdraw funds from the loan provided by EIB for the purpose of financing the Filiere du Vin Upgrading Program and Fruit Garden Project, as well as to keep accounts of the flow of resources and to prepare progress reports.

“PED” means Project Executive Director of the PIU.

“Project” means the project financed by the EIB, based on the provisions of EIB Side-letters and Finance Contract signed between EIB and RM in order to address the structural weaknesses in the Moldovan which provide medium to long term finance to private and public sector operators along Moldova's horticultural sector.

“Promoter” (MoAFI) means the Ministry of Agriculture and Food Industry of the Republic of Moldova.

“Relevant Interbank Rate” means:

- (i) EURIBOR for a Tranche denominated in EUR; and
- (ii) LIBOR for a Tranche denominated in GBP or USD.

“Scheduled Disbursement Date” means the date on which a Tranche is scheduled to be disbursed.

“Security” means any mortgage, pledge, lien, charge, assignment, hypothecation, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“Side-Letter” means a letter to be delivered by the Bank to the Borrower which establishes the eligibility criteria and details of allocation procedures for the Sub-Projects.

“Sub-Financing Agreement (SFA)” means an agreement entered into between the Borrower, represented by MoF or CLD, and the Participating Financial Institution approved by the Bank, used under the Credit Line.

“Sub-Project” means a specific eligible investment project, which is proposed to be carried out by a Final Beneficiary.

“Tranche” means each disbursement made or to be made under the Finance Contract.

I. Introduction

On 31 July 2014 the Republic of Moldova and the European Investment Bank signed a Finance Contract for Fruit Garden of Moldova Project (FIN 83.887 Serapis No 2014-0041) which is in full force and effect and shall continue to be in full force and effect during the term of implementation indicated in the Finance Contract.

The Republic of Moldova is acting through the **Ministry of Finance (the Borrower)** and **Ministry of Agriculture and Food Industry (the Promoter)** through which the proceeds of the Loans are to be used.

The main goal of this Operation Manual (OM) is to ensure in details the procedures for specific Project's coordination, functions and duties of all interested parties, coherent Components implementation by parties, ensure a standardized information, and quality data recording.

This Operational Manual is developed exclusively based on the provisions of Finance Contract and Side-Letter, which prevails under the provisions of this OM and any provisions amended under FC or Side letter should be enforceable and binding for this OM correspondingly. Any provisions of this OM shall not be amended, abrogated or waived without the PIU Council of Observers (CO) prior approval and EIB's no-objection, as well as without coordination with CLD for those provisions which are related to the Credit Line Component.

According to the provisions of the Finance Contract signed with EIB the Ministry of Finance shall make the proceeds of the Loan available to the PIU, intermediary PFIs or other intermediary duly authorized entities as the case may be, and will finance each Final Beneficiary's Sub-Projects in accordance with Finance Contract, this Operations Manual and other legal Project's documents.

The Ministry of Finance shall entrust the PIU with the overall co-ordination of the Project and the responsibility for the implementation of the Project.

The PIU shall act as the EIB's counterpart in all technical and financial issues, sub-projects compliance with eligibility criteria, disbursement facilitation, accounting/auditing, reporting, procurement and administration matters as specified in the Finance Contract article 6.08.

II. Objective of the loan

The loan is intended to finance a portfolio of individual investment schemes (each a "Sub-project") undertaken either by or on behalf of the Borrower or by eligible Final Beneficiaries to enhance the Moldovan horticultural sector in accordance with the Project.

The Borrower will on-lend EIB funds to Intermediaries acceptable to the Bank which, in turn will provide loans or leasing services to eligible private sector Final Beneficiaries along the horticultural value chain. A total amount of up to 10% of the EIB loan (i.e. up to EUR 12m) may be invested directly by the Borrower to eligible public sector Final Beneficiaries (e.g. Universities, laboratories, etc.).

The eligibility for financing by the Bank of each such Sub-project is subject to certain restrictions and modalities set out in the undertakings of the Finance Contract, EIB Side letters as communicated from time to time by the Bank and this Operational Manual.

III. Institutional and implementation arrangements

The implementation of the Project is foreseen for a period of about 5 years, and shall commence upon the entry in force of the Finance Contract. The activities commenced and the contracts entered into till the Project Final Availability Date must be completed within two (2) years after the term indicated in the respective Finance Contract. During this period or before another date which could be communicated by EIB additionally, the last payments with regard to the goods and services supplied and provided till the Project Completion Date is processed. The final audit of the Project shall take place also during the indicated period.

Roles and functions of the Project's stakeholders.

The following institutions shall be involved in the Project implementation and monitoring process:

European Investment Bank (EIB)

Among other tasks, EIB as creditor will:

- (i) advise and offer necessary technical assistance to the PIU and to other institutions involved in the Project implementation on financial, administrative and procurement activities,
- (ii) review the procurement process and procedures followed during implementation of the Project;
- (iii) notify the Promoter/Borrower and PIU its view and approval on a “non-objection” basis of the Project Operations Manual, its amendments, attachments, etc.;
- (iv) accept on a “non-objection” basis the selection of the eligible PFIs as on-lending intermediaries, proposed by MoF/CLD and intermediary financial institutions for Leasing operations proposed by PIU;
- (v) review and approve the allocation requests for the Sub-Projects and Final Beneficiaries and issue an Allocation Letter informing the MoF and PIU of its approval and amount of the Credit allocated;
- (vi) disburse the Loan Tranches, as per Finance Contract conditions and Allocation Letters issued for the sub-projects approved;
- (vii) review Project annual budgets and cost estimates;
- (viii) review Project Progress Reports;
- (ix) approve on a “no-objection” basis the competitive selection of an external audit company for the annual audit of the Project;
- (x) monitor the implementation of the Project;
- (xi) undertake sample ex-post Sub-Project financing monitoring;
- (xii) other tasks according to the Finance contract and Side Letters.

Project Council of Observers (CO)

The Council of Observers for PIU (CO) is a supervisory body of the PIU. Its nominal composition is established by the Government Decision no.1005 dated October 2010 (reissued on March 21, 2014). The PIU CO will function throughout the project life, ensuring an efficient interaction between the Government, donors, horticulture businesses, CLD and PFIs.

The CO responsibilities are indicated in the statute of the PIU and generally are as follows:

- (i) Approves regulations, policies and general principles based on which the PIU activity is established and supervises their compliance, including Operations Manual (and its further amendments, coordinated with the MoF/CLD and EIB).
- (ii) Reviews the PIU Project Progress Reports and the Annual work plan and budget.
- (iii) Contributes to attraction of additional funds for PIU activity, on the Project Executive Director proposal
- (iv) Approves the sub-loans to Final Beneficiaries in amount of equal or above 2.0 (two) mil. EURO equivalent.

Ministry of Agriculture and Food Industry

The Project is implemented under the responsibility and control of the Ministry of Agriculture and Food Industry (MoAFI) of the Republic of Moldova, the Promoter. For the purpose of efficient implementation of the Project, the Government of Moldova has established a special unit, hereinafter called Project Implementation Unit (PIU), RM Government decision No. 1005 from 26.10.2010, Published: 29.10.2010 in Monitorul Oficial No. 213 art No: 1113. MoAFI, in its role as governmental body, bears overall responsibilities for the Project implementation.

To ensure an efficient implementation of the Project the following functional departments of MoAFI, will work in close cooperation with PIU staff and will be responsible for:

- i) MoAFI Department for Production Policies and Quality Regulations of Vegetable Products – for provision of information and technical assistance regarding production of high-quality horticulture products; and other sector relevant documents; providing upon request unbinding advice on the sustainability of the sub-projects.
- ii) MoAFI Department for Finance and Budget – for approving annual Project finance and procurement plans.
- iii) MoAFI offers consulting support in the development of horticulture sector of Moldova.

Project Implementation Unit (PIU)

The PIU is a non-commercial, non-profit organization established and working under the auspices of the MOAFI to ensure efficient implementation of the Project. PIU is a legal entity, administratively independent, has its own financial and reporting settlement and own special accounts in banks, both in national and foreign currencies. It also has a stamp and forms. PIU is responsible for the overall Project implementation, including Project financial management, organizing procurement and disbursement, accounting, financial reporting, audit, monitoring, performance indicators and evaluation of the Project.

Key tasks and functions of the PIU are stipulated in its Regulation (RM Government decision No. 1005 from 26.10.2010), the main being the following:

- (i) Providing assistance and proactive advice to Final Beneficiaries and PFIs on procurement and environment issues and rules, with exception to leasing operation instrument implementation.
- (ii) reviewing the Sub-Projects for compliance with the relevant EIB eligibility criteria provided in the Side letter;
- (iii) reviewing the Sub-Projects for compliance with the relevant procurement and environmental guidelines of the Project;
- (iv) Maintaining the Project Designated Account and maintaining summary records of the use of Project resources.
- (v) Submitting the allocation requests for Final Beneficiaries' Sub-Projects to the EIB for review and approval (issue of Allocation letter);
- (vi) Disbursements from its designated accounts to the PFIs based on the CLD (for Credit Line) and PFIs requests for eligible Sub-Projects;
- (vii) Collection of the reports and data. Preparing, in a format acceptable to the EIB, consolidated annual Progress Reports;
- (viii) Making arrangements for external audit of the Project accounts, as requested by the EIB financial management rules and local accounting standards.

PIU Procurement Bid Evaluation Committee (BEC)

For large procurements organized directly by the PIU Team (where international procurement procedures are used), at least 5 permanent members will be assigned as Bid Evaluation Committee (BEC) members, to evaluate bids and decide on tender winners (normally such BEC shall apply to ICB, NCB procurement methods).

- The permanent members of the BEC will/could be: the Project Executive Director (PED), 2 PIU Local Consultants and 2 members of the Council of Observers for PIU (overall 5 members). The BEC will be chaired by the PED. The secretary of BEC (without the right to vote) shall be the Project Procurement PIU Officer. The permanent composition of the BEC may be supplemented by additional members, experts in fields directly related to the respective procurements, which shall have the same decision/voting power as the permanent members of the BEC. The BEC permanent composition may be supplemented by the PIU's order, issued by the PED.
- The BEC members will have to undertake all activities to decide on the tender winners (including tender opening, evaluation of offers and decision on tender winners, etc.). BEC members must abide to the twin principles of (i) confidentiality, (ii) avoidance of any conflict of interests among the members.

Whenever the PIU shall apply other than ICB, NCB procurement methods, ad hoc evaluation committees shall be established for each evaluation event, through PIU orders issued by PED. These evaluation committees should comprise at least 3 members, representing the PIU and/or any other institution, NGO, technical experts, engineers etc. The PED may invite additional experts to attend the evaluation sessions for technical specific details on specific matters. Normally, such PIU evaluation committees will evaluate small value procurements (Shopping, selection of Individual Consultants, Selections based on Consultant's Qualifications, Least Cost Selections etc.).

Ministry of Finance (MoF)

The MoF, being the Borrower under the Program is the main counterpart in allocation procedure of the EIB funds and is responsible for monitoring of the Project (a consigner of the Government decision No. 1005 from 26.10.2010 by which the PIU was created).

The MoF role with regard to Project implementation is to:

- (i) decide on intermediary financial institutions (PFIs) selection and authorizations;
- (ii) present to EIB disbursement request on specific loan tranche amount at the demand of PIU;
- (iii) disburse financial resources to the PFIs account available on the PIU designated accounts of the Project;
- (iv) inform the CLD on the MoF costs for the EIB funds received and interest reference rates for on-lending operations;
- (v) review yearly audit reports on the Project and PIU;
- (vi) review the control bodies reports on the financial activities and transactions of the PIU;

Credit Line Directorate (CLD)

Credit Line Directorate at the Ministry of Finance is a special unit under the auspices of the MoF established for the on-lending of the World Bank loans resources granted for private sector development pursuant to the National Bank of Moldova Resolution No 29, dated October 25, 1995. In 2001 CLD was transferred to the Ministry of Finance pursuant to Government of Moldova Decree No 953, dated September 7, 2001, with modifications of the Government Decree No 672, dated June 19, 2006. According to the Finance Contract, recital 3, on behalf and in full coordination with the MoF the CLD is responsible for the on-lending operations and selection of the eligible intermediary banks for the Credit Line component implementation.

CLD is responsible for:

- (i) provision of overall advice and guide to PFIs on all matters related to the Credit Line Component implementation;
- (ii) evaluation, approval and monitoring of the financial intermediaries PFI's acceptable to the EIB. Selection of eligible intermediary PFIs in all cases remain subject to the prior written consent and approval of the EIB;
- (iii) monitoring compliance by PFIs with terms and conditions of the Sub-Financing Agreements and OM;
- (iv) Sub-loan validation;
- (v) reviewing the Sub-Projects to be financed from revolving fund, for their compliance with the relevant EIB eligibility criteria provided in the Side letter, and reporting to the EIB thereon when required;
- (vi) consolidation of the withdrawal applications received from PFIs, preparation of the CLD disbursement request to the PIU /MoF/EIB, ensuring that funds are channeled to PFIs and further to Final Beneficiaries;
- (vii) maintenance of appropriate records and accounts to ensure proper accounting of transactions related to the PFIs loan;
- (viii) collection of principal and interest due and payable by PFIs on the outstanding Sub-Loans under Credit Line Component of the Project;
- (ix) management of reflows, which should be used to channel to PFIs for provision of new Sub-Loans meeting the objectives of the Project;
- (x) ensuring that information on all financial transactions related to the PFIs Sub-Loan are submitted to and processed by in accordance with procedures prescribed by this OM and MoF;
- (xi) reporting upon request to PIU /MoF/EIB of any information on the above activities according to the agreed reporting formats and requirements (progress reports, reports on commitments, payments, collection and arrears under the Credit Line component);
- (xii) other Project component relevant assignments.

CLD will be the recipient of all repayments made by PFIs related to on-lending operations in the Credit Line Component and Leasing Operations, and will use collected funds for (i) either revolving on-lending operations for new Sub-Loans and Credit Line and/or Leasing Operations, or (ii) debt payments to the MoF/EIB.

Participating Financial Institutions (PFIs)

PFI means the entity registered in the Republic of Moldova under the Law on entrepreneurship and enterprises (no.845 dated 03.01.1992), that practices financial and/or lease activities (hereinafter referred to as PFI).

Being a local eligible financial institution acceptable to the Borrower and to the Bank, PFI will act as financial intermediary to borrow the proceeds of the Loan from the Borrower and pass them on at its own credit risk and other risks to a Final Beneficiary for the implementation of a Sub-Project, PFIs includes, but are not limited, to local commercial banks, leasing companies, microfinance institutions.

Potential PFIs for Credit Line instrument are selected by the CLD among private financial institutions, which are interested to participate in the Project and able to meet the performance eligibility criteria for participation in the intermediation of the Project Credit Line. PFIs are jointly appraised by the EIB and the MoF/CLD.

Potential PFIs for Lease operations instrument are shortlisted by the PIU according to criteria set forth in this Operations Manual, approved by the CO and EIB for the purpose of participation in implementation of the „Lease Operations” component of the Project as partner.

To acquire and maintain its eligibility, a PFI shall continuously comply with all eligibility criteria set out in this OM.

The PFI will take all risks related to credit/lease financing based on its analysis and assessment of risks and approval of the proposed Sub-project.

During the review, analysis and assessment of the Sub-projects, the PFI shall check the compliance with all financial and non-financial criteria based on prudential assessment of the applicant, prudential assessment of financial and specific risks associated to the investment sub-project and the applicant, including of its economic activities and the credibility of the seller for leasing operations.

Following an initial interview with Final Beneficiaries, the PFI shall make a preliminary assessment of the proposed investment in terms of feasibility of the project itself, as well as the financial soundness of the FB and notify the PIU/Potential beneficiaries regarding PFI preliminary conclusion. Further assessment should cover the FB's capacity to provide sufficient collateral, or the remaining funds for the project. Evaluation of the Sub-Loan applications submitted by the Beneficiaries for financing is a critical responsibility for the PFIs, which are undertaking all credit risks.

IV. Final beneficiaries and sub-projects eligibility criteria

4.1. In order to verify the eligibility of the sub-projects, the Beneficiaries can submit the Application Form to the PIU. The PIU shall review the Application Form and shall analyse the eligibility of the sub-project. The feasibility of the sub-project, including financial, bankability and risk analysis of the Beneficiary is made by the respective PFI.

4.2. **The Final Beneficiaries are considered the following legal entities which comply with the criteria set below:**

- (i) They operate on the territory under the control of the Republic of Moldova and are registered according to the legislation of the Republic of Moldova in force in the State Registry of legal entities (private companies, state enterprises and companies with state participation in the share capital);
- (ii) They are not subject to dissolution and liquidation;
- (iii) They have all relevant permits and authorizations required by law for the exercise of their activity. Only Final Beneficiaries participating or supporting (e.g. advertising, transportation, marketing, equipment production, labeling production, packaging and dispatch of products, accessories production, etc.) the horticulture value chain would be eligible for funding under this Project;
- (iv) Other criteria may be applied according to EIB's Side Letter(s).

4.3. **The Sub-projects must meet the following eligibility criteria:**

All activities of the sub-projects:

- (i) Must take place within the territory controlled by the Republic of Moldova;
- (ii) Will be focused on the financing of horticulture sector: for sub-projects such as orchards, table grapes vineyards and associated nurseries development, regional and central trading platforms; for the post-harvesting activities, including on-farm initial cooling, refrigerator trucks, cooling and storage units, grading and sorting equipment, processing equipment; investments in infrastructure, e.g. testing laboratories, phyto-sanitary and quality controls, and the provision of human capital, comprising education and training facilities;
- (iii) Must be implemented within the timeframe of the Project;

- (iv) Must be compliant with the EIB's procurement rules for the purchase of goods and works to be financed under the Credit Line;
- (v) Must be in compliance with the environmental requirements applicable under the laws and regulations of the Republic of Moldova;
- (vi) Comply with the provisions of the following section and the Side letter provisions as the case may be.

4.4. Structure of an eligible investment sub-project complies with the following requirements:

- (i) Minimum 50% of the sub-project total cost is sourced by the Beneficiary from: (i) the Final Beneficiary's own funds including justifiable own contributions¹, (ii) additional commercial bank loans, (iii) by other international and local financial institutions, (iv) by available grants from various donors, (v) from the available budget resources;
- (ii) Maximum 50% of the sub-project total cost is funded from EIB sources.

V. Sub-loans Terms and Conditions

- 5.1. Sub-Loans shall be made for eligible Sub-Projects only with respect to the following conditions:
 - (i) Sub-Loan pricing and maturity will be determined by the PFI based on the needs of the particular Final Beneficiary and Sub-Project being financed. At the same time the PFI will take into consideration that the interest rate applicable from time to time to Sub-Loan must cover the MoF costs of funds to the PFI plus an appropriate PFIs and MoF reasonable credit risk, foreign exchange risks and operational costs margins;
 - (ii) PFIs shall be free to set their on-lending rates on Sub-Loans based on their banking considerations, taking into account the recommended by MoF/CLD level of interest margin which could be applied by the PFIs;
 - (iii) The foreign exchange risk, if any, shall be borne by the Final Beneficiaries, PFI and MoF accordingly.
- 5.2. The PIU will be informed by CLD and MoF about the interest rates applicable on the Sub-Loans to be charged by individual PFIs directly and via CLD.
- 5.3. The Final Beneficiaries shall take out and maintain such insurance against such risks and in such amounts, as considered consistent with sound business practices, including insurance to cover hazards incidental to the acquisition, transportation and delivery of goods financed out of the proceeds of the Sub-Loan to the place of use or installation. Any indemnity there under such risks shall be made payable to the Final Beneficiary to replace or repair the goods mentioned above.

VI. Eligibility criteria for Participating Financial Institutions (PFIs).

- 6.1. Eligibility criteria are a set of financial and management criteria agreed between the Ministry of Finance and the EIB in the Side Letter(s) provided by the EIB and this OM, and contained in the Sub-Financing Agreement (SFA) or On-lending Contract (OLC) signed between MoF and PFIs, according to the template developed by CLD/MoF. To remain eligible for participating in the Project, PFIs have to continuously meet the eligibility criteria.
- 6.2. Potential PFIs for Credit Line instrument are selected by the CLD among private financial institutions, which are interested to participate in the Project and able to meet the performance

¹ *Own contributions may include works of own labour and related expenditures of the Final Beneficiaries, in as long as they are necessary for the implementation of the project and in line with market costs.*

eligibility criteria for participation in the intermediation of the Project “Credit Line” Component. PFIs are jointly appraised by the EIB and the MoF/CLD.

- 6.3. Potential PFIs for leasing operations are shortlisted by the PIU according to the eligibility criteria set out below and submitted to EIB and MoF for their consideration. After approval of the PFI by the CO and EIB, the PIU informs the MoF in writing, attaching minutes of CO, about the PFIs selected for participation in the Project.
- 6.4. To acquire and maintain its eligibility, a PFI shall continuously comply with all eligibility criteria set out in this OM, including, but not limited to, the following requirements:
 - (a) It is duly licensed in the territory of the Republic of Moldova and has been at least for two (2) years in operation.
 - (b) It has qualified and experienced management, as well as good and transparent corporate governance;
 - (c) It is in “good standing” with its supervisory authority, i.e. it should be in compliance with all prudential regulations of the National Bank of Moldova and all other applicable laws and regulations of the Republic of Moldova and remain in compliance thereof for the duration of the Sub-Financing Agreement;
 - (d) It has annual unqualified audit of its financial statements according to International Financial Reports Standards;
 - (e) It has an ownership structure consistent with “fit and proper” requirements,
 - (f) It has adequate organization and institutional capacity to conduct its activities;
 - (g) It has well defined policies and written procedures for management of all types of financial risks (liquidity, credit, currency, interest rate and market risk, as well as risks associated with balance sheet and income statement structures);
 - (h) It has appointed a responsible qualified credit officers and other needed resources for the Project Implementation;
 - (i) It complies with other criteria and requirements as per EIB Side letters or CLD Board as the case may be.
- 6.5. The eligibility of a PFI must be: (i) approved by the CLD Committee; (ii) vetted and accepted on a non-objection basis by the EIB;
- 6.6. The maximum amount withdrawn and outstanding by any PFI from the Project on both Credit Line and Leasing Operations instruments shall not exceed 80% of the PFI’s total capital, or other limits established by MoF or CLD Board.
- 6.7. The list of eligible PFIs is the same for primary allocation and revolving on-lending (reallocation and re-employment) of EIB funds.

VII. Information to the Final Beneficiary about EIB Support

- 7.1 The Finance Contract stipulates clauses, which obligatorily will have to be included into the on-lending agreements between the PFI and the Final Beneficiary signed under this global loan (hereinafter called the “**On-Lending Agreement**”). These clauses include the commitment of the PFIs or the PIU, and/or the Final Beneficiary to:
 - (a) ensure that each On-Lending Agreement with a Final Beneficiary is substantially the same as the model On-Lending Agreement approved under Article 1.04A of the Finance Contract;
 - (b) ensure that the amount of financing by the Bank does not exceed 50% (fifty *per cent.*) of the relevant Sub-Project cost;
 - (c) ensure that each Final Beneficiary is informed in each On-Lending Agreement of the origin of the funds or investments placed at the latter’s disposal under this Contract;

- (d) ensure, to the satisfaction of the Bank, appropriate product labelling by including a reference to the Bank in the product name or product documentation;
- (e) insert on its website an information page on the Bank's activity in favour of the Project, including eligibility criteria and a reference to the advantageous conditions of the Bank;
- (f) ensure that the financial conditions applied to each On-Lending Agreement reflect the advantage of the Bank's funding and that such advantage (to be determined from time to time by the Bank for each intermediary) is clearly estimated and transparently indicated to the respective Final Beneficiary by including in each On-Lending Agreement the following clause:

"Participation of the European Investment Bank.

The European Investment Bank, the financing institution of the European Union established by Article 308 of the Treaty on the Functioning of the European Union, participates side-by-side with local financial institutions in the financing of investment Projects which form part of the objectives of the European Union. The present loan satisfies all eligibility criteria for financing by the European Investment Bank. The [#] grants to the [#] a financial advantage reflected on the interest rate. Such financial advantage amounts to a [#] bps ([#] basis points) per annum compared to the annual interest rate the [#] would charge for this loan without EIB participation".

- 7.2 The provisions stated in the Finance Contract, clause §6.03 with regards to undertakings of the PIU, Intermediaries and Final Beneficiaries are also applicable to the leasing agreements and Government Budget transfers for infrastructure investments.

VIII. Allocation size and sub-sector distribution

8.1 General Scope of the Project

Investments and expenditures within Fruit Garden of Moldova Project will focus on, but are not limited to:

- (a) whole Moldovan horticultural sector throughout its value chains;
- (b) planting / replanting / restructuring orchards and table grape vineyards, including associated nurseries;
- (c) post-harvest infrastructure including initial on-farm cooling, cold transportation, controlled atmosphere and refrigeration units, grading and sorting units, trading platforms, advertising and marketing;
- (d) packaging solutions and processing plants;
- (e) laboratories (e.g. virusology, or for the development of drought resistant species, amongst other), education, training and development of food security;
- (f) other activities of processing of agriculture products and raw materials;
- (g) equipment production, labeling production, packaging and dispatch of products, accessories production, etc;
- (h) other activities and expenditures according to EIB Side-letters.

The loan will consist of three windows:

- **Term loans** – mainly for orchards, table grapes vineyards and associated nurseries development, regional and central trading platforms: to be intermediated through the local financial sector (*detailed description of the procedures of credit line are provided in the Attachment A as part of this OM, which is subject to approval of Project Council of Observers and CLD's Council of Observers*);
- **Leasing of plant and equipment** – mainly for the post-harvesting activities, including on-farm initial cooling, refrigerator trucks, cooling and storage units, grading and sorting equipment, processing equipment – through local independent/non captive leasing sector operators (*detailed description of the procedures of leasing operations are provided in the Attachment B as part of this OM, which is subject to approval of Project Council of Observers*);
- **Investments in infrastructure**, e.g. testing laboratories, phyto-sanitary and quality controls, and the provision of human capital, comprising education and training facilities (*detailed description of the procedures of investment in infrastructure are provided in the Attachment C as part of this OM, which is subject to approval of Project Council of Observers*).

8.2 Sub-sector distribution

The Loan has to be, to the satisfaction of the Bank, distributed to Final Beneficiaries and for Sub-Projects in accordance with the following Sub-sector distribution presented in the table:

| | |
|--|---|
| • for investments in post-harvest infrastructure including initial on-farm cooling, cold transportation, controlled atmosphere and refrigeration units, grading and sorting units, and trading platforms | • up to 60% (sixty <i>per cent.</i>) of the Loan; |
| • for planting, replanting and/or restructuring orchards and table grape vineyards, including associated nurseries | • up to 35% (thirty-five <i>per cent.</i>) of the Loan; |
| • for processing plants and related industries | • up to 10% (ten <i>per cent.</i>) of the Loan; |
| • for laboratories, education, training and development of food security | • minimum 5% (five <i>per cent.</i>) but up to 10% (ten <i>per cent.</i>) of the Loan |

The eligible costs for orchards and table grape vineyards are based on predetermined levels per hectare of EUR 1,000 (one thousand euros) for grubbing-up and EUR 10,000 (ten thousand euros) for planting, replanting and/or restructuring.

If a Final Beneficiary chooses not to submit to the EUR 10,000 unit cost principle, that Final Beneficiary shall provide to the PIU a detailed investment cost analysis over the implementation period, in line with the Bank's direct project financing standards. The analysis shall be based on *pro forma* bills from third parties/internal transfer invoices, for ex-ante screening and approval by the Bank's services, and followed by full disclosure of all bills and costs in total and per hectare, for monitoring the use of the funds.

The maximum eligible cost to establish an intensive plantation is set at EUR 30,000 (thirty thousand euro) per hectare, of which 50% (fifty *per cent.*) is eligible for EIB financing.

Within the context and limitations of above mentioned points a), b), c) and d) the EIB can support the financing of all investments, including own labour contributions and related

expenditures incurred in the context of the development of Final Beneficiaries through eligible Projects, except for purely financial transactions.

Business taxes such as Value Added Tax (VAT) are only eligible if they are non-recoverable. Costs related to the acquisition of licences, quotas, production rights and other rights awarded by public bodies are also ineligible.

8.3 **Allocation size and term of the sub-loans to Final Beneficiaries**

The Loan has to be allocated to Final Beneficiaries and for Sub-Projects in accordance with the following provisions:

- (a) Sub-Projects with a total cost of more than **EUR 5,000,000** (five million euros) are eligible, subject to ex ante approval by the Bank;
 - (b) the amount of each Allocation for any Sub-Loan shall not exceed 100% (one hundred per cent) of the relevant Sub-Financing amount;
 - (c) the maximum cumulative allocation per one Final Beneficiary operating or creating nurseries, orchards and table grape vineyard planting, replanting and/or restructuring shall not exceed **EUR 1,000,000** (one million euros);
 - (d) the maximum cumulative allocation per one Final Beneficiary (including all of that Final Beneficiary's investments in the value chain) shall not exceed **EUR 5,000,000** (five million euros);
 - (e) the minimum allocation amount for any individual investment shall be at least **EUR 5,000** (five thousand euros).
- 8.4 The total cost of each Sub-Project should not exceed **EUR 50,000,000**, or its equivalent in other currencies.
- 8.5 A Sub-Project is an aggregation of tangible and intangible investments and expenditures which can be identified in terms of location, design and benefits, which is undertaken over a **period of up to 4 (four) years**. This total 4 (four) year period may consider cost incurred of a **maximum of 1 (one) year before Sub-Project submission** by the relevant Intermediary to the PIU and three years of future expenditures.
- 8.6 The term of sub-loans granted to Final Beneficiaries should not exceed the economic and technical life of the sub-project financed, and should have a **minimum term of 2 years**.
- 8.7 Ministry of Finance, for its direct on-lending operations or for those implemented through intermediary participating financial institutions, will apply variable rates adjusted semi-annually to the terms of international and local financial markets. Variable rate will be based on 6 months EURIBOR/LIBOR, plus margins covering credit risk, foreign exchange risk, commitment fee or up-front fee (if any) and operational costs of MF / CLD. CLD margin will be reviewed and may be adjusted periodically based on decisions of CLD Supervisory Board.

8.8 **Investment categories**

Investments and expenditures which could be considered for financing as part of the Sub-Project but are not limited to, e.g.:

- Orchards and table grapes vineyards grubbing;
- Orchards and table grapes vineyards establishment;
- The purchase, renovation or extension of tangible assets other than land - The financing of land purchase is excluded unless it is technically essential for the investments. Financing of purchase of agricultural land is entirely excluded;
- Investment in intangible assets, e.g.:

- *Development, planning and financing costs during the construction phase of a tangible asset;*
- *R&D expenses (fees, development costs and gross salaries directly associated with the research, development, and innovation components of the activity);*
- *Building up of distribution networks in domestic or other markets (asset and/or trademark acquisition, operational costs and labour costs);*
- Medium and long term working capital needs as further set out on Section 8.9.

The acquisition of enterprises as such is explicitly excluded from EIB financing.

In line with good banking practice, the PFIs will ensure that all the tangible and intangible investments forming part of the Sub-project are adequately maintained by the Final Beneficiary.

Retroactive financing can be approved for eligible investments and expenditures made by Final Beneficiaries from their own financial sources and/or by other financial institutions before the date of submitting the Allocation Form to PIU, subject to the provisions of Section 8.5 above.

8.9 **Working capital**

EIB Loan may be used to provide a stable working capital base of up to EUR 600,000 through the financing of working capital requirements of Final Beneficiaries associated with their trading cycle, as part of their normal activities². The Intermediary bank may provide a Sub-loan to the Final Beneficiary of at least two years to finance working capital, reflecting a long-term funding need by that Final Beneficiary. All other requirements of the Sub-loan, including the allocation proposals and particularly those for transparent transfer of benefit to the Final Beneficiary as well as the provision of information on EIB's role, remain unaffected.

Up to EUR 10,000,000 (ten million Euros) would be allocated to companies having horticulture grading, sorting or processing activities, **to finance permanent working capital under the following conditions:**

- a) Maximum allocation amount for working capital needs will remain EUR 600,000 (six hundred thousand Euros) per final beneficiary;
- b) EIB would support the total value of the supply contract(s), not exceeding a cumulative working capital exposure of **up to EUR 600,000 (six hundred thousand Euros)** per final beneficiary. In any case EIB support should not exceed 50% of the total eligible Sub-project costs, the remaining 50% of the total cost of the Sub-project would be financed by the Beneficiary as it is provided in the p. 2.3.3 of the Side-letter;
- c) All and only companies having horticulture products grading, sorting or processing activities, with or without sub-projects in the context of the Project, would be eligible for Working capital needs financing and the funds will be used exclusively to finance the purchase of horticulture products from local producers as well as other materials, such as packaging, labels, bottles, etc.;
- d) To be considered eligible, the grading & sorting or processing company must present to the PIU enforceable supply contract(s) signed by the raw material suppliers and the Final Beneficiary (processors);
- e) A company could submit one or more supply contracts;
- f) The working capital credit lines should not exceed the maximum 5 years, including 2 years grace period;
- g) If a final beneficiary does not transfer the entire amount received from the EIB to the suppliers, within the terms of their signed supply contracts, the funds of the respective sub-loan will have to be reimbursed immediately for re-allocation by the CLD/Ministry of Finance.

² Categories financed can include, amongst others, the funds required to pay for raw materials and other manufacturing inputs, inventories and overheads, funding to finance trade receivables and non-consumer sales receivables, justifying a two-year loan at least. The utilization of the working capital line may fluctuate upwards and downwards during its minimum 2 year lifetime.

8.10 **Used fixed assets (building, plant and equipment)**

Up to 10% of the EIB Loan may be used for allocations to Sub-Projects involving used fixed assets (buildings if older than 5 years need to be individually assessed; plant and equipment should not be older than 10 years), subject to the following conditions for the individual allocation:

- a) The used assets must be essential for the new Sub-project;
- b) They must help to create or maintain jobs in the long term;
- c) Buildings and equipment which may have already been financed by EIB are expressly excluded;
- d) EIB may finance up to 50% of the total value of the used fixed assets. This value is calculated as the sum of the purchasing price of the used fixed asset and the own contribution (e.g. own labour, installation, parts) of the Final Beneficiary, which is limited to 20% of the initial purchasing price.
- e) For used assets with a value of **less than EUR 50,000** or equivalent, the Final Beneficiary must provide the PIU with the invoice from the asset supplier.
- f) For used assets with a value of **more than EUR 50,000 and less than EUR 150,000** or equivalent, the Intermediary will provide a detailed description of the assets, including the technical specifications, condition and pictures of the used assets, in addition to the invoice from the supplier.
- g) For used assets with a value of **more than EUR 150,000** or equivalent, an assessment by a suitably qualified evaluator or by PFI must be performed in written form. The evaluator must be independent of the seller and the buyer, and should confirm the value of the asset and its remaining economic life. The term of the on-lending for used assets should not exceed the asset's remaining economic life. The cost of the used fixed assets must correspond to their current market value.

All other requirements of the Loan, including the allocation proposals and particularly those for transparent transfer of benefit to the Final Beneficiary as well as the provision of information on EIB's role, remain unaffected.

8.11 **Non-eligible investments and expenditures within the sub-projects**

- The Loan may not be used to finance pure financial activities or real estate development, nor to allow the Final Beneficiary to provide consumer finance.
- The financing of real estate (purchase, construction or renovation) with the purpose of selling or renting the building to a third party (i.e. not part of the same group of companies) is also excluded from EIB financing.

(Note: Financing the purchase of assets other than real estate (e.g. construction equipment and materials), with the purpose of renting them to third parties, is however eligible).

IX. Evaluation, Approval and Allocation procedure

- 9.1 For the purpose of "Credit Line" and "Leasing Operations" instruments implementation, the PFI, PIU and CLD are involved in the selection, assessment and approval of eligible sub-projects according to their roles and responsibilities. An operational flowchart detailing all the activities, their dependencies and responsibilities of different stakeholders, is annexed to this Operations manual.
- 9.2 The process of allocating funds to proposed sub-projects involves several steps such as:

- (i) Submission to the PIU by the Project Beneficiary of the **Application Form** using the template delivered by the PIU;
- (ii) The PIU shall review the Application Form received from the Final Beneficiaries for alignment with the eligibility criteria of the Project. Following the review of the documents, for sub-projects meeting eligibility conditions, the PIU will verify the compliance with all eligibility criteria of the sub-project and inform beneficiaries if their sub-project in principle is eligible;
- (iii) Potential, eligible Final Beneficiaries with an interest in accessing funds from the EIB Project shall engage with a PFI, which will make a preliminary assessment of the proposed investment project in terms of its potential bankability and financial soundness of the FB itself². Upon request, the PFI shall prepare a Compliance Note for the Final Beneficiaries.
- (iv) The preliminary opinion on eligibility notified by the PIU and PFI, upon request, could be used by the Final Beneficiaries to submit a request to a dedicated advisory services provider (if and when a Technical Assistance Project was to be put in place), to prepare their application packages and/or the Business Plans, as the case may be.
- (v) Submission by the Final Beneficiary to the PFI of the **Loan application/Request for lease financing**;
- (vi) Submission by the PFI to the PIU/CLD of the **Allocation Request for eligible sub-projects** internally approved for financing.
- (vii) Preparation by the PIU and submission to the PFI/CLD/Beneficiaries of the **Eligibility Notice** of the investment sub-project proposed for financing;
- (viii) For Credit Line: Submission by the CLD to PIU and PFI the **CLD Letter of Approval** and **CLD Request for payment to the PIU**;
- (ix) For Leasing operations: Submission by the PFI of the **PFI's On-lending Request** to PIU. The PIU based on the on-lending request received from the PFI, request from the MoF withdrawal of funds from the EIB loan for each tranche, as individual loans for the implementation of lease operations;
- (x) Preparation by the PIU and submission to the EIB of **Allocation proposal as per Annex 3a or 3b** as the case may be as per chapter "Presentation of Allocation proposal" below.
- (xi) Submission by the PIU to the MoF of the **Withdrawal Request of funds from the EIB loan for each tranche** accompanied by the following documents:
 - a. the CLD Approval letter and CLD Request for payment to the PIU;
 - b. the PFI Sub-financing/On-lending request, including detailed information on the investment sub-project and
 - c. EIB's Allocation Letter;
- (xii) Signing of the **Disbursement offer/Acceptance** by the EIB and MoF based on the PIU request for disbursement of funds from the EIB loan submitted to the MoF;
- (xiii) Signing of the **Promissory Note** between CLD and PFI for Credit Line or **Additional Contract to the On-lending contract** between MoF and PFI for Leasing operations for the requested EIB loan tranche;
- (xiv) Transfer of the EIB funds requested under the **Disbursement offer/Acceptance** to the PIU's bank accounts;
- (xv) Transfer of funds received by the PIU to PFI only based on CLD or PFI's Request for payment for accepted payments for the approved eligible Sub-Project expenditures;

² Particularly in terms of meeting or having the potential to meet the main PFI's internal criteria for lending, such as the existence of sufficient collateral, or the capacity to contribute the remaining funds for the project.

- 9.3 As soon as PFI receives the amount requested from the PIU it shall send to the PIU and CLD by email within a period of up to 2 (two) working days the confirmation of receipt of requested funds, the date of entry of funds to the PFI's bank account and the amounts received.

Presentation of Allocation proposals.

- 9.4 Allocation proposals are to be presented to the Bank by the PIU in the form of an electronic spreadsheet ("**Allocation Proposal List**", in **Annex 3a**) or of a detailed fiche ("**Allocation Proposal Form**", in **Annex 3b**), via e-mail, as described below.
- a) For Sub-projects with total cost **below EUR 350,000**, the PIU sends to the EIB an Allocation Proposal List for prior approval.
For the first ten allocations of this category, each allocation request shall be supported by the submission of an Allocation Proposal Form to the Bank.
After the first ten allocations of this category, if the outcome is satisfactory to the Bank, each allocation request shall be supported by the Allocation Proposal List only. The Bank may undertake sample checks and request for this purpose Allocation Proposal Forms or other documentation.
 - b) For Sub-projects with total cost **above EUR 350,000 but below EUR 2,000,000**, the PIU sends to the EIB an Allocation Proposal Form in addition to the Allocation Proposal List for prior approval.
 - c) For Sub-projects with total cost **above EUR 2,000,000** the PIU sends to the EIB a comprehensive description of the sub-project, including full business plan upon request, satisfactory to the EIB, in addition to the Allocation Proposal List for prior approval.
- 9.5 The PIU is encouraged by the EIB to provide the Allocation Proposal Lists and Allocation Proposal Forms frequently to justify the utilisation of the Loan during the Allocation Period as defined in the Finance Contract. As a best practice, EIB would expect to receive Allocation Proposal Lists and Forms at least every 6 months.
- 9.6 Allocation Proposals may only be submitted in the currency of the Finance Contract (the "Contract Currency"). The Intermediary may choose an exchange rate to be applied to calculate the equivalent of financed Contract Currency for Sub-loans granted in other currencies to Final Beneficiaries. For Allocation Proposals submitted in currencies other than EUR, upper limits such as the maximum loan amount or the limit defined for the financing of company transmission will be calculated by EIB using the exchange rate as published by the European Central Bank on the day prior to the receipt of the Allocation Proposal by EIB.
- 9.7 Allocation Proposals under the Allocation Proposal List can be presented before or after the signature of the respective On-Lending Agreement, but in case of ex-post presentation of the allocation request, the Intermediary should take into account the EIB's right to refuse the allocation in case its eligibility criteria are not met. If the PFI prefers to consult the EIB prior to signature of the On-Lending Agreement on the Sub-Project's eligibility, it can request, through the PIU, the EIB's "in principle" approval of the Sub-Project by presenting the basic information on the Sub-Project in a free-format information fiche.
- 9.8 EIB reserves the right to verify the consistency of the data provided. It may ask the PIU for additional information for clarification purposes. EIB may also request that changes be made to the Allocation Proposal List provided if the information is not in line with the terms used in this document³.

³EIB also reserves itself the right to change the criteria and procedures stipulated in the Side Letter, and will inform the Borrower and PIU accordingly (without retroactive validity of any change on those financings already approved or presented to EIB for validation).

Validation procedure

- 9.9 EIB will validate Allocation Proposals, including the Allocation Proposal Forms and the Allocation Proposal Lists provided by the PIU, by way of issue of an “**Allocation letter**” sent to the Ministry of Finance and PIU. EIB will therein confirm:
- the allocation amount for each Sub-project of the Final Beneficiary; and
 - for the Ministry of Finance the total amount of validated allocations.

X. Procurement

- 10.1 **Procurement processes performed within the Fruit Garden Project shall be governed by the following documents:**
- 1) Fruit Garden of Moldova Finance Contract (Serapis N 2014-0041)
 - 2) EIB Guide to Procurement, version dated June 2011
 - 3) Project Operations Manual
- 10.2 **Procurements organized by PIU for direct investments in the horticultural sector and operational costs of PIU**
- a) Procurement organized directly by PIU team shall be made as per EIB Guide to Procurement and within the terms and conditions of the Side Letter of the “Fruit Garden of Moldova”.
 - b) In line with EIB Guide to Procurement (article 3.7.4), for **all** procurements (goods or services (including consulting services)) organized directly by PIU under the Fruit Garden Project, the PIU will use internationally-recognized standard procurement documentation such as those prepared by the World Bank (*website www.worldbank.org, Projects & Operations / Procurement / see Index of Standard Bidding and Proposal Documents, or Procurement Policies and Procedures for guidance*).
- 10.3 The procurement processes and PIU implication for other Project components are described in related Attachments to this OM.

XI. Environment

- 11.1 In accordance with EIB's policy of ensuring that Projects comply with the Community acquis, in particular in the fields of environment and in sectors regulated by EU policy, the Intermediary PFI shall stipulate to the Final Beneficiary that sub-projects undertaken by the latter with the proceeds of EIB funds should comply with the national legislation and/or applicable EU legislation to the extent implemented by the laws of the Republic of Moldova.
- 11.2 If and where required, approval for allocation by the Bank's services can only be given when a copy of all permits (building, environmental, and where applicable, documentation of compliance with requirements put forward in EU regulations and national law) are on files with the Final Beneficiaries.

XII. PIU Accounting and Financial Reports

- 12.1 A Special PIU Account for EIB Project Loan would be established, managed, replenished, and liquidated by action of the PIU in accordance with the terms and conditions of the Finance Contract and in accordance with procedures prescribed by Ministry of Finance. The Special Account may be maintained in Euro with the MoF Treasury, ensuring that information on all financial transactions related to the Project components, including loans through PFIs are submitted to and processed in a due accurate manner.

- 12.2 MoF, PIU, CLD and the PFIs will maintain separate evidence of loan accounts for the portions of the funds received, including on-lending Credit Line and leasing operations financing withdrawn in favour of the PFIs.
- 12.3 Evidence of the disbursements and all Project Components transactions will be kept in bookkeeping system in separate sub-accounts of PIU.
- 12.4 For the purpose of the PIU Project's financial management system, the PIU shall develop an internal regulation based on local legislation accounting, Internal Control and reporting requirements, coordinated with the MoF and EIB.

XIII. Audit

- 13.1 Control over the Project shall be exercised by the Court of Accounts, CO of the PIU and the EIB. Results of the checks are presented to the Ministry of Finance, and could be submitted to the Government at the demand for information purposes.
- 13.2 Project activity is subject to an annual external audit by an auditor selected through a competitive procedure and supported by international financing bodies, if requested so by EIB. The Project audit will be performed by the audit company acceptable to the EIB, and according to the terms of reference agreed with the EIB. It would include a separate opinion by the auditor on the operations of the related Special Accounts and the use of funds according to the purposes of the Project.

The Project audit report would be sent to the EIB within six months at the end of the fiscal year.

XIV. Monitoring & Reporting

Monitoring

Sub-projects financed within the Project are subject to pre-assessment and further post-disbursement review and monitoring. If necessary, the PIU, EIB and MoF representatives may at any time send its officials or other persons designated by them, to perform a site review to check that the implementation of sub-projects financing is being executed in accordance with provisions of this OM and funds are used according to the purposes.

- 14.1 In order to properly implement investment sub-projects financed under the Project and to comply with the conditions set forth in OM, the PIU will perform monitoring on the sub-projects.
- 14.2 Monitoring of sub-projects will focus on implementation of the EIB Loan and its impact on Final Beneficiaries activity.
- 14.3 Monitoring of sub-projects' implementation may be carried out through field visits and/or by telephone calls, emails, FB's visits to the PIU office. The results of monitoring activities are reflected in the Monitoring Report and Monitoring & Reporting System carried out by PIU.
- 14.4 Monitoring visits to the places where the FB include identification of the assets procured, work and services received under the investment sub-project from sources disbursed by the EIB and its delimitation by applying the Program's standardized sticker.
- 14.5 The Sub-project Monitoring Report consolidates information about the implementation of contracts for procurement of goods, works and services financed from EIB loan by documentary confirmation (fiscal invoices and/or customs declarations), execution of FB's contribution and compliance with the implementation schedule. The supporting confirmative documents shall be stored by the PIU in the individual Beneficiary's file.
- 14.6 The sub-project monitoring report is structured in the following way:
 - (i) General description of the sub-project;
 - (ii) Allocated, disbursed and outstanding sub-loan amount;
 - (iii) Use of funds and due accounting and documentation;

- (iv) The statute of execution of the investments and expenditures from EIB funds; Procurement contracts implementation;
 - (v) The statute of execution of own contribution;
 - (vi) Implementation schedule;
 - (vii) Conclusions and future actions.
- 14.7 The impact monitoring is performed annually by sending to all Final Beneficiaries the Questionnaire on Performance Indicators developed by the PIU.
- 14.8 Monitoring questionnaires are standardized for each sector: horticulture sector, table grapes growing and the related industries. The Questionnaire consolidate all the data necessary to calculate the pre-set performance indicators such as:
- (i) Specific indicators of general company's activity;
 - (ii) Indicators of company's economic activity.
- 14.9 Monitoring by the PIU of lease financing repayment is performed based on monthly reports provided by PFI.
- The EIB and MoF reserve the right to periodically monitor sub-projects financed under lease in order to check the quality of implementation of financed sub-projects and the compliance with the approved structure. Also, the EIB and MoF reserve the right to monitor any sub-project to check its compliance with this attachment provisions.

Reporting

- 14.10 Reports will be prepared and sent to the EIB in accordance with all the provisions stipulated in the Finance Contract (including Schedule A (A2) to the Finance Contract) and this chapter of the Operational Manual.
- 14.11 The PIU shall establish and maintain an internal reporting system for the monitoring of the all payments out the Project's proceeds, including investment sub-projects financed by EIB and other parts of the Project (the "EIB Allocation Report").
- (a) The EIB Allocation Report shall contain the name of each Final Beneficiary, the dates and amounts of disbursements by the Borrower to the respective Final Beneficiary as well as their interest rate (or equivalent) and duration and any other needed information.
 - (b) The PIU shall provide the Bank with the EIB Allocation Report for each disbursed Tranche, including evidence of the average financial advantage transferred to the Final Beneficiaries as well as information on all Sub-projects to which allocations have been made under Finance Contract, at the Bank's request and in any case at prior to the disbursement of any subsequent Tranche.
- 14.12 The PFIs will be required to provide to the CLD (for credit line component) and to PIU (for leasing operations component) the information needed for the PIU to comply with its reporting requirements to the EIB and MoF.
- 14.13 Reports on Project implementation and progress will be delivered for examination to the Project Council of Observers on annual basis. The reports submitted to the Project Council of Observers and other reports on use of funds for implementation of the Project shall be delivered by the PIU to the EIB on annual basis.
- 14.14 The PIU shall keep evidence and report to Ministry of Agriculture and Food Industry of the Republic of Moldova, Ministry of Finance of the Republic of Moldova on the use of program funds in accordance with the requirements of EIB and local legislation;

- 14.15 The PIU shall manage special accounts of the institution and ensure use of funds for the Project in strict accordance with the destination set in the Project documents, prepare requests for completion of accounts, present reports on use of Project resources to the EIB;
- 14.16 The CLD will also submit detailed annual reports covering the progress with utilization of Credit Line Component during the calendar year, and all agreed outcome indicators.
- 14.17 The EIB will evaluate progress on the proposed performance indicators as part of supervision missions and through regular Project related reporting by the CLD and PIU.

Annexes and Attachments:

Annex 1 – *copy of the signed **Finance Contract for Fruit Garden of Moldova Project** (FIN 83.887 Serapis No 2014-0041)*

Annex 2 – *copy of the signed **Side letter** dated 28 October 2015*

Annex 3 –

- a) **Allocation proposal list**
- b) **Allocation proposal form**

Attachment A - **CREDIT LINE** (approved by Credit Line Directorate with EIB no-objection)

Attachment B - **LEASING OPERATIONS**

Attachment C - **INVESTMENTS IN INFRASTRUCTURE**
(laboratories, education, training and development of food security).

ALLOCATION PROPOSAL LIST

(To be provided electronically)

ALLOCATION PROPOSAL FORM

| | | | | | |
|--|--|--|--|--|--|
| Financial Intermediary / Finance Contract with the EIB Financial Intermediary: Name: <input style="width: 300px;" type="text"/> Country: <input style="width: 100px;" type="text"/> | | | Finance Contract with the EIB Finance Contract Title: <input style="width: 250px;" type="text"/> Finance Contract Nr.: <input style="width: 150px;" type="text"/> | | |
|--|--|--|--|--|--|

| | | | | | |
|---|---|---------------------------------|---|----------------------------------|---|
| Final Beneficiary | | | | | |
| Name: <input style="width: 600px;" type="text"/> | | | | | |
| Main Activity: <input style="width: 600px;" type="text"/> | | | | | |
| <u>Final Beneficiary</u> | | <u>Location of Headquarters</u> | | <u>Ownership</u> | |
| Employees: | <input style="width: 50px;" type="text"/> | City: | <input style="width: 50px;" type="text"/> | Type (legal): | <input style="width: 50px;" type="text"/> |
| NACE Code: | <input style="width: 50px;" type="text"/> | Region: | <input style="width: 50px;" type="text"/> | % Public: | <input style="width: 50px;" type="text"/> |
| | | Country: | <input style="width: 50px;" type="text"/> | % Private: | <input style="width: 50px;" type="text"/> |
| | | Postal Code: | <input style="width: 50px;" type="text"/> | Name of ultimate parent company: | <input style="width: 50px;" type="text"/> |

| Project | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|-------------|---|-----|---|----|---|-------|--|--|-----------|--|--|------------|--|--|-----|--|--|--------|--|--|-------|--|--|--|--|--|-----|---|-----------|--|--|--------|--|--|-------------|--|--|----------------------------|--|--|------------------|--|--|--|-------------|-----------|--|
| Brief Description: <input style="width: 900px; height: 100px;" type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Location:</u> City: <input style="width: 50px;" type="text"/> Region: <input style="width: 50px;" type="text"/> Country: <input style="width: 50px;" type="text"/> Postal Code : <input style="width: 50px;" type="text"/> | | <u>Purpose:</u> New Plant: <table border="1" style="display: inline-table; width: 100px; height: 20px; text-align: center;"><tr><td>Yes</td></tr></table> <table border="1" style="display: inline-table; width: 100px; height: 20px; text-align: center;"><tr><td>No</td></tr></table> Existing facilities: Expansion: <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> Modemisation: <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> R&D: <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> Other: <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> <table border="1" style="display: inline-table; width: 100px; height: 20px;"></table> | | Yes | No | <u>Environmental Impact Assessment (EIA)</u> Not required: <input style="width: 40px;" type="text"/> Required: <input style="width: 40px;" type="text"/> Requested: <input style="width: 40px;" type="text"/> Existing: <input style="width: 40px;" type="text"/> | | Financial advantage transferred (basis points or other methods) <table border="1" style="width: 100%; height: 20px;"></table> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Implementation (Years)</u> From: <input style="width: 40px;" type="text"/> To: <input style="width: 40px;" type="text"/> | | <u>Building Permit</u> Not required: <input style="width: 40px;" type="text"/> Required: <input style="width: 40px;" type="text"/> Requested: <input style="width: 40px;" type="text"/> Existing: <input style="width: 40px;" type="text"/> | | It is confirmed that the current Project complies with applicable EU legislation and policy, in particular in the fields of procurement, environment and competition | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Expected Job Creation</u> Number of Jobs: <input style="width: 60px;" type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PROJECT COST AND FINANCING PLAN | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Cost (summary of %)</u> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>EUR</th> <th>%</th> </tr> <tr><td>Land:</td><td></td><td></td></tr> <tr><td>Building:</td><td></td><td></td></tr> <tr><td>Equipment:</td><td></td><td></td></tr> <tr><td>R&D</td><td></td><td></td></tr> <tr><td>Other:</td><td></td><td></td></tr> <tr><td>Total</td><td></td><td></td></tr> </table> | | | EUR | | | % | Land: | | | Building: | | | Equipment: | | | R&D | | | Other: | | | Total | | | <u>Financing plan</u> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>EUR</th> <th>%</th> </tr> <tr><td>Own funds</td><td></td><td></td></tr> <tr><td>Grants</td><td></td><td></td></tr> <tr><td>EIB funding</td><td></td><td></td></tr> <tr><td>Other intermediary funding</td><td></td><td></td></tr> <tr><td>Other borrowings</td><td></td><td></td></tr> <tr> <td></td> <td>From (year)</td> <td>To (year)</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table> | | | EUR | % | Own funds | | | Grants | | | EIB funding | | | Other intermediary funding | | | Other borrowings | | | | From (year) | To (year) | |
| | EUR | % | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Land: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Building: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Equipment: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R&D | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Other: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | EUR | % | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Own funds | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Grants | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| EIB funding | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Other intermediary funding | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Other borrowings | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | From (year) | To (year) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Loan maturity of EIB part</u> | | | | For conformity: Signature of Financial Intermediary: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Attachment A
to the PIU Operations Manual
Fruit Garden of Moldova Project

Credit Line Operations

On-lending through
Participant Financial Institutions

Annexes to the Attachment A, Credit Line:

Annex 1, Sub-Financing Agreement form (SFA) to the OM

Annex 2, List of Sub-loan files documents

Annex 3, PFI Request for Sub-Financing

Annex 4, PFI Sub-Loan Summary Sheet

Annex 5, CLD Request for payment to the Project Implementation Unit

I. On-lending Framework

- 1.1 The legal basis for the on-lending operations of the Ministry of Finance is set out the Law no.419-XVI of December 22nd, 2006 on Public Debt, State guarantees and on-lending from State Borrowings, the EIB Project Finance Contract, Sub-Financing Agreements signed with local intermediary Participant Financial Institutions (PFIs), On-lending Agreements signed between PFIs and Final Beneficiaries and operational procedures for approval and Project performance monitoring supporting regulations. There are expectations on cost advantages to the government in such on-lending and easier monitoring of the Project external loan utilization process.
- 1.2 The repayment period normally stipulated for on-lending would depend on the repayment capacity of the Sub-Project as determined in the feasibility study, but should be of a minimum of two years.
- 1.3 For the purposes of on-lending Credit Line proceeds to the Final Beneficiaries, the MoF shall enter into Sub-Financing Agreements (SFA) with the PFIs accredited by MoF/CLD/EIB to participate in the Credit Line as financial eligible intermediaries within the Fruit Garden of Moldova Project.
- 1.4 Ministry of Finance/CLD, for its all on-lending operations, including implemented through intermediary participating financial institutions, will apply variable rates adjusted semi-annually to the terms of international and local financial markets. Variable rate will be based on 6 months EURIBOR/LIBOR, plus margins covering credit risk, foreign exchange risk, commitment fee or up-front fee (if any) and operational costs of MoF / CLD. CLD margin will be reviewed and may be adjusted periodically based on decisions of CLD Supervisory Board.

In any case rates for PFIs should not be less than the rate of interest and fees payable by the MoF to the EIB plus the on-lending operational fees. The MoF will set out the terms and conditions for on-lending in the Sub-Financing Agreements with the PFIs or other institutions used to channel the Credit Line funds.

If the PFI makes Sub-Loans in foreign currency, the applicable rate of interest should be not less than the MoF costs of the Loan, including interest and fees payable to the EIB by the MoF, plus a domestic on-lending fee which should be paid annually.

The model of the **Sub-Financing Agreement (SFA, see Annex 1 to this Attachment A to the OM)** is developed by the CLD and approved by CLD Board. The terms shall reflect also the conditions and provisions for on-lending imposed by Operational Manual, which includes also Finance Contract, EIB Side Letters attached to the SFA (see *Annex 3 to the SFA*).
- 1.5 Persistent problems in the implementation of Sub-Projects and defaulters will be reported by the PFIs to the MoF/ CLD, PIU.
- 1.6 The CLD may request the PFIs to instruct their auditors to perform specific verifications concerning the use of the funds received and reported to the PIU accordingly.
- 1.7 The PIU/PFIs shall be responsible for monitoring the Sub-Projects' compliance with the EIB's procurement rules for the procurement of goods, works and services under Credit Line Sub-Loans, and Moldovan environmental regulations.
- 1.8 CLD has to coordinate and obtain the EIB's non-objection for the SFA format before it accredits PFI to intermediate Credit Line resources. Any amendment to the SFA has to be coordinated and approved by the EIB and are done in writing and signed by both parties.
- 1.9 No later than six months after the end of the fiscal year, a PFI has to furnish to the CLD certified copies of the audit reports of its financial statements and other information and reports requested by the EIB.

- 1.10 The following principal terms and conditions shall apply for the purposes of the Sub-Financing Agreement to be signed between the MoF/CLD and a respective PFI:
- (i) the principal amount to be refinanced out of the proceeds of the Credit Line to a PFI shall be allocated for a certain period of time and shall be reimbursed by a PFI according to the repayment schedule;
 - (ii) allocated financing may be denominated in EUR, USD, Moldovan Lei and be the equivalent in EUR, USD, Moldovan Lei of the aggregate cost of goods, works and services to be financed under the Sub - Financing out of the proceeds of the Credit Line allocated from time to time to Sub-Loans;
 - (iii) the right of a PFI to the use of the proceeds of its respective Subsidiary Financing shall be:
 - a. suspended upon failure of such PFI to perform any of its obligations under its respective Subsidiary Financing Agreement or to continue to be in compliance with all legal and regulatory requirements applicable to its operations; and
 - b. terminated if such right shall have been suspended pursuant to subparagraph (i) hereof for a continuous period of sixty (60) days.
- 1.11 The Sub-Financing shall be provided to PFIs on “first-come first served” basis. It will be of an identical amount, with the maturity and repayment schedule based on PFI’s Sub-Loan made to the Final Beneficiary. The principal amount of the total PFI Subsidiary Financing shall be equal to the sum of Sub-Loans granted by the PFI to the Final Beneficiaries, which have been financed from the proceeds of the Credit Line.
- 1.12 The PIU will commit Credit Line funds to PFIs in EUR. In any case, the currency of Sub-Loans from PFI to Final Beneficiaries will not need to be the same as the currency of the Subsidiary Financing from PIU to PFI (the PFI may commit the sub-loans in EUR, USD, MDL) Repayments will be done in the same currency as the Sub-Loan was disbursed.
- 1.13 The funds available for PFI Sub-Financing will depend upon the availability of funds to the MoF/PIU accounts received from the EIB Loan.

II. SUB-FINANCING AGREEMENT.

- 2.1 Eligibility criteria are a set of financial and management criteria agreed between the Ministry of Finance and the EIB in the Side Letter (provided by the EIB and attached to the Sub-Financing Agreement (SFA), signed between MoF and PFIs. To remain eligible for participating in the Credit Line, PFIs have to continuously meet the eligibility criteria, confirmed by CLD.
- 2.2 Potential PFIs for the Credit Line are selected by the CLD among private financial institutions, which are interested to participate in the Project and able to meet the eligibility criteria for participation in the intermediation of the Project Credit Line Component. PFIs are jointly appraised by the EIB and the MOF/CLD. To acquire and maintain its eligibility, a PFI shall continuously comply with all eligibility criteria set out in this OM. The established criteria shall be used by the CLD to monitor the continued eligibility of currently operating PFI and potential institutions.
- 2.3 CLD has to obtain the EIB’s non-objection for the SFA and CLD Committee’s approval before it accredits PFI to intermediate the Project Credit Line resources. Any amendments to the SFA require the approval of the EIB and CLD Committee and are done in writing and signed by both parties.
- 2.4 The maximum outstanding balance of funds withdrawn from the Project Credit Line shall not exceed 80% of the PFI’s total capital.

III. Sub-Loan terms and conditions

- 3.1 Except as the EIB and the Republic of Moldova shall otherwise agree, the Sub-Loan amounts will be subject to limits stipulated in the Operational Manual (chapter 8), or in the EIB Site letters issued from time to time.
- 3.2 Sub-Loans services payments by Final Beneficiaries to PFIs would be made according to typical repayment schedules used by the respective PFI. The Sub-Loan interest will be charged on a declining balance formula.
- 3.3 The PFI may either seek prior CLD approval for the Sub-Loan before signing the On-lending Agreement, or it can choose to make a Sub-Loan to the Final Beneficiary first and then seek refinancing of this Sub-Loan from the CLD. Retroactive financing to the PFI may be extended for Sub-Loans for eligible Sub-projects prior to the signing date of the SFA with PFI, and shall be subject to certain restrictions and modalities set out in the EIB Side Letter as communicated from time to time by the EIB to the MoF /CLD and PIU.
- 3.4 The final date for submission by PFI of withdrawal applications shall become the date which follows 5 years of implementation starting from the date of effectiveness of the Project, or such a later date as the PIU/MoF/CLD shall establish in consultation with the EIB. The CLD will promptly notify the PFI of such a later date.
- 3.5 EIB, MoF, PIU or CLD reserve the right to review any Sub-Loan for compliance with the OM. In addition, from time to time, PFIs may be requested, to prepare post-review Sub-Loans which have not been subject to prior review.

IV. Procurements procedures

- 4.1 Procurement processes performed within the Fruit Garden of Moldova Project- Credit Line Component shall be governed by EIB Guide to Procurement, version dated June 2011.
- 4.2 Private sector Final Beneficiaries, normally satisfy the objectives of economy and efficiency by following established procurement commercial practices. Thus, it is not required that private sector Final Beneficiaries follow public procurement procedures. Instead, negotiated procedures (generally consisting of an international enquiry among a short-list of suppliers followed by negotiations) that often prove to be more effective, should be used. Contracts awarded by such Final Beneficiaries must be negotiated impartially and according to the project's best interests.
- 4.3 In such cases, the private sector Final Beneficiary shall ensure that, as far as possible and depending on the magnitude of the contract, at least three qualified companies from at least two different countries are consulted. The Final Beneficiary will also ensure that there is no discrimination on the basis of supplier's nationality. Nevertheless, wherever appropriate, private sector Final Beneficiaries are encouraged to publish a tender notice in the OJEU.
- 4.4 The PIU will review the (draft) contracts with potential suppliers and monitor that goods/services/works declared to be procured within a sub-project are indeed procured by the Final Beneficiary.
- 4.5 The Final Beneficiaries and PFIs will keep the relevant documents and records of completed procurements and payments for post review and monitoring.

V. CLD /PIU Sub-Loan review, clearance approval and disbursement procedure of the Credit Line funds.

- 5.1 Once the PFIs have completed their own Sub-Project analyses and credit appraisal and have full documentation, according to their internal credit risk evaluation and credit granting procedures, they shall prepare and submit to the CLD for each accepted eligible Sub-Loan for clearance approval the following documents according to the templates developed by CLD (**Annex 2 to the Attachment A, List of Sub-loan files documents**):

- the **PFI Request for Sub-Financing** and the statement of expenditures (**Annex 3 to the Attachment A**);
 - the **PFI Sub-Loan Summary Sheet (Annex 4 to the Attachment A)**:
- 5.2 The CLD will carry out a prior review of the all Sub-Loan packages to determine its compliance with the standard Sub-Project eligibility criteria and the Project documents. The CLD shall inform the PFIs in writing of its acceptance, or of any remedial action required, as the case may be. If the Sub-Loan does not meet the eligibility criteria, the funding will not be extended. One copy of the PFI Sub-Loan Summary Sheet will be kept in the PFI's files, another copy will be retained by the CLD.
- 5.3 The Sub-Project Information Summary Sheet will include at least:
- (i) a description of the Final Beneficiary including financial information,
 - (ii) information on the appraisal of the Sub-Project, including a detailed description of the expenditures proposed to be financed out of the proceeds of the Credit Line,
 - (iii) the proposed terms and conditions of the Sub-Loan, and
 - (iv) any other information that the PFI considers useful for the review of the Sub-Project proposal.
- 5.4 The CLD commits funds for a specific Sub-Loan by issuing a **Letter of Approval** (according to the template of the *Annex 1 to the SFA*), being the part of Sub-Financing Agreement signed with PFIs).
- 5.5 Allocation requests for Sub-Loans shall be submitted to the EIB for review and approval through the PFI/PIU/CLD irrespective of the amount of the proposed Sub-Loan.
- 5.6 Once the Sub-Project is approved by the CLD, coordinated with the PIU/EIB, if appropriate in due course, including Business Plan or short project description, procurement and environmental issues, the PFIs may disburse relevant funds.
- Since the disbursements will be made for specific contractual expenditures under each Sub-Loan, multiple disbursement requests may be submitted under a Sub-Loan. For each disbursed amount a separate **Promissory Note** and **Repayment Schedule** will be signed between the PFI and the CLD (according to the template of *Annex 2 to the SFA*), being the part of the *Sub-Financing Agreement* signed between Ministry of Finance /CLD with PFIs).
- 5.7 The PIU will disburse funds to the PFIs only on the basis of the **CLD Requests for payment** for accepted payments for the approved eligible Sub-Project expenditures (the format of the *CLD Request for payment* to the PIU - according to the template of **Annex 5 to the Attachment A**) The *CLD Request for payment* shall be signed by the authorized representatives of the CLD. The PFI's name, the number of *Sub-Financing Agreement* signed by the MoF/CLD and the PFI, the number of the respective *CLD Letter of Approval*, and the *Promissory Note*, the name of the Final Beneficiaries, and the type of expenditures shall be stated in the *CLD Request of payment* made to PIU for payments from the PIU accounts.
- 5.8 Disbursements can be made by the PIU in any one of the following ways, and the preferred option should be stated in the *CLD Request for payment*:
- (i) disbursement by the PIU from the PIU accounts to the PFI's accounts for eligible payments already made or to be made by the PFI to the Final Beneficiary;
 - (ii) direct payment by the PIU to the supplier of goods and civil works for eligible contracts and eligible expenditures under the Sub-Loan, upon such a request made by the Final Beneficiary;
 - (iii) Other options of payments as defined by the PIU in accordance with the EIB procedures of disbursements.

The CLD, based on PFIs instructions will indicate such accounts in each Promissory Note when accepting disbursement for separate Sub-Loan.

- 5.9 After receiving Subsidiary Financing from the PIU for each tranche of each Sub-Loan, the PFI will promptly confirm to the CLD in writing the date of crediting PFI's accounts in such received amount and currency.
- 5.10 PFI, in its on-lending agreements with Final Beneficiaries, for each financed Sub-Project shall insert certain MoF and EIB provisions according to *Annex 4 to the SFA, On-lending Agreement model*.

VI. Interest and Commitment fees

- 6.1 Once the CLD has authorized a PFI to finance a specific Sub-Loan from the Credit Line proceeds, the PFI begins to pay a commitment fee on approved but undisbursed amount at a rate as per EIB/MoF conditions, announced by the CLD in each issued Letter of Approval.

The obligation of a PFI to pay commitment fees ceases only in the following cases:

- (i) when undisbursed funds are disbursed by the PFI, and
 - (ii) PFI requested funds, but the money are not available at the PIU or the MoF/CLD.
- 6.2 PFIs in accordance with the *Letter of Approval* and *Promissory Note* pay interest on the principal amount withdrawn and outstanding from time to time for each semi-annual interest period agreed to between the MoF/CLD and the PFI. The total interest due by the PFI shall be equal to the sum of interest on outstanding balance of all PFI Sub-Loans refinanced by the MoF/CLD.
- 6.3 The interest rates, interest margins, commitment and other applicable fees of the financing to the PFI will be reviewed and will be adjusted by the CLD Board. The CLD shall notify the PFI of the on-lending commitment fees and interest rate including interest margins immediately upon its determination.

The MoF/CLD interest on-lending rate for PFIs on the Sub-Financing made shall be not less than the MoF costs for the Loan and shall be in:

- (i) USD/EUR will be variable, adjusted semi-annually based on the MoF/CLD reference rate for USD/EUR (i.e. the 6-month USD LIBOR and EURIBOR on EUR) plus an on-lending interest margin as specified in the CLD Letter of Approval and Promissory Note.
- (ii) MDL, the interest rate shall be variable, adjusted semi-annually based on the MoF/CLD reference rate which shall be equal to (i) for the revision at the beginning of each calendar year, the average between the annual CPI inflation rate projected by NBM for the current year and the actual CPI inflation rate of the preceding year; (ii) for the revision at the second half of the year, the actual CPI inflation during the first six month of the calendar year, plus the revised projection for the remaining six months of the calendar year, plus an on-lending interest margin as specified.
- (iii) In order to make on-lending rates to PFIs more attractive, the CLD Board may adjust and apply reference MDL rate based on National Bank of Moldova refinancing rate for the long term loans.

MoF/CLD on-lending rates cannot be lower than the rates and costs for MoF on disbursed funds. MoF/CLD reserves the right to apply the adjusted and revised on-lending rates to PFIs based on its costs, financial market rates and risks occurred on periodical disbursements and 6 months interest periods.

- 6.4 The interest margin added to the reference rate includes the following components:
- (i) Coverage of the cost of the EIB loan, the currency exchange risk and credit risk associated with the Credit Line on-lending,
 - (ii) Compensation of the CLD for the administrative and operational costs.

No other extra charges will be applied by CLD to PFIs for on-lending financing.

VII. Debt services payments

- 7.1 Debt service payments have to be made by PFIs in the currency in which the financing is denominated. The PFIs will pay interest and repay principal amount semi-annually on payments dates June 1 and December 1 of each year, or on other dates according to EIB disbursed tranches. The CLD provides to the PFIs information on data, the number and place of the CLD Revolving Fund accounts for debt service payments.
- 7.2 In exceptional cases, the MoF/CLD may authorize the PFI to keep the proceeds of the Sub-Loan prepayment until the next PFI debt payment date to the CLD.

If the Final Beneficiary prepays part or all of the principal amount outstanding on a Sub-Loan committed under the SFA, the PFI has, if paragraph 7.2 above is not applicable, to repay the amounts to the CLD within (2) two banking days following the date on which PFI receives the prepayment. The prepayment has to be in the currency in which the particular tranche of the financing is denominated.

All payments to the CLD regarding the Sub-Loans debt services must be made by the PFI regardless of repayments by the Final Beneficiaries to the PFI.

SUB-Financing AGREEMENT

(template)

no _____, signed on _____ 201_

between the **Ministry of Finance of the Republic of Moldova** (MoF) and
BC "XXXXXXXXXXXXXXXXXXXX" J.S.C., the Partner Intermediary Bank (PFI).

PREAMBLE

A. Whereas by the Finance Contract dated July 31, 2014, between the European Investment Bank (EIB) and the Republic of Moldova, the EIB has agreed to provide to the Republic of Moldova EURO 120.0 million as financing for **the Fruit Garden Project (the Project), Credit Number Serapis no. 2014-0041, FIN 83.887 (MD)** (the Finance Contract) and

B. Whereas the Republic of Moldova through its Ministry of Finance (MoF) has assessed BC "XXXXXXXX" J.S.C as eligible to participate in implementation of the Project and has thus approved it as intermediary in the implementation of Credit Line Component of the Project, the Credit Line (CL);

C. Whereas the Credit Line Directorate (CLD) acting on behalf of the Ministry of Finance, has agreed on the basis of the foregoing to extend Sub-Financing to the J.S.C. "XXXXXXXXXXXX" to refinance its Sub-Loans extended to Final Beneficiaries on terms and conditions set forth in this Agreement and Operations Manual attached.

D. Whereas the "XXXXXXXXXXXX" (as Participant Financial Institution, PFI) has agreed on the basis of the foregoing to participate in implementation of the Project's Credit Line Component, by extending Sub-loans to eligible Final Beneficiaries.

Henceforth, the Ministry of Finance of the Republic of Moldova, represented by

Mr. XXXXXXXXXXXX , Minister of Finance, and

the PFI "XXXXXXXXXXXX", represented by Mr/Mrs _____, **President**, hereby agree on the following:

ARTICLE I, DEFINITIONS

1.01 Unless the context otherwise requires, the terms defined in the Finance Contract, dated July 31, 2014 have the meanings set forth therein and the subsequent terms whenever used in this Agreement have the following meanings:

1. "Final Beneficiary" and/or "Final Borrower" means an enterprise satisfying the eligibility criteria as set forth in this Agreement and Operations Manual, to which a PFI (as hereinafter defined) proposes to make or has made a Sub-Loan.
2. "CLD" means the Credit Line Directorate, established under the IBRD's First Private Sector Development Project (PSD 1), pursuant to National Bank of Moldova Resolution No 29, dated October 25, 1995. The CLD has been relocated to the MOF pursuant to the Government of Moldova Decree No 953, dated September 7, 2001 (with modifications of Government Decree No 672, dated June 19, 2006; Government Decree No 928, dated

December 2012; Government Decree No 766, dated September 18, 2014). The CLD will be responsible for selection of the eligible intermediary banks and management and administration of on-lending operations of the Project Credit Line Component, management of the reflows, monitoring of Sub-Projects. In scope of this Agreement CLD will act on behalf of the Ministry of Finance, will organise Credit Line on-lending operations, selection of the eligible intermediary banks, other assignments according to Finance Contract and Operations Manual, and shall be the recipient of all repayments made by PFI s related to the Project.

3. "PIU" means the Project Implementation Unit, operating under the auspices of the Ministry of Agriculture and Food Industry to oversee and coordinate the implementation of the Project. It is authorized to make disbursements from the Project Special Account of the Credit Line related payments reviewed and cleared by CLD, procurement and environmental clearance, maintaining summary records of the flow of resources, and preparing progress reports.
4. "EA" means Environmental Assessment to be carried out for Sub-Projects requiring such assessment in accordance with the requirements of the Operations Manual.
5. "MoF" means the Republic of Moldova's Ministry of Finance.
6. "Operations Manual" (OM) means the document approved by the MoF/CLD Board and MoAFI, satisfactory to the EIB, setting forth the administrative and operational detailed procedures for the implementation of the Credit Line and other Components of the Project and referred to in art. 1.04, f) and Schedule A of the Finance Contract concerning detailed procedures for financing and Information duties under article 8.01 (a).
7. "Finance Contract" means the European Investment Bank credit agreement for the "Fruit Garden of Moldova" Project between the Republic of Moldova and the EIB, dated July, 2014, credit No. Serapis 2014-0041, FIN 83.887 (MD).
8. "Partner Intermediary Bank" or "Participant Financial Institution", (PFI) means a commercial financial institution or bank registered according to the applicable laws and regulations of the Republic of Moldova and selected by the MoF/CLD Board, with EIB prior written consent, to participate in the Project pursuant to criteria set forth in the Operations Manual, EIB Side Letters and this Sub-Financing Agreement.
9. "Procurement Guidelines" means the "EIB Guide to Procurement", Moldovan procurement rules and OM provisions.
10. "Sub-Loan" means a loan made or proposed to be made by a PFI out of the proceeds of the Credit Line allocated from time to time for purposes of financing all or a portion of the expenditures incurred by a Final Beneficiary for goods, services, works and/or working capital under a Sub-Project.
11. "On-lending Agreement" means the agreement to be entered into between a Final Beneficiary and a PFI for the provision to the Final Beneficiary of a Sub-Loan for the carrying out of a Sub-Project.
12. "Sub-Project" means a specific eligible investment project or financing for working capital, which is proposed to be carried out by a Final Beneficiary, in whole or in part through the utilization of the proceeds of a Sub-Loan.
13. "Sub-Financing Agreement" (SFA) means an agreement entered or to be entered into between the MOF or CLD on behalf of the Republic of Moldova and a PFI pursuant to art. 1.04, g) of the Finance Contract, as the same may be amended from time to time and have been agreed with the EIB.
14. "Business day" means the working day of the PFI when it is servicing clients in the Republic of Moldova.

ARTICLE II, GENERAL PROVISIONS

2.01 **Operations Manual** approved by the EIB, PIU CO and CLD Board has been attached to this Agreement as **Annex 3** as its integral part. Operations Manual will include also Finance Contract and EIB Side Letter. Any modifications to the OM are subject to non-objection from the EIB and shall constitute an integral part of this Agreement.

2.02 In addition to or in absence of the terms and conditions set forth or referred to in this Agreement, the provisions of the Finance Contract, Operations Manual, EIB Side Letters shall, mutatis mutandis, apply to this Agreement.

ARTICLE III, THE SUB-FINANCING

3.01 MOF/CLD agrees to refinance on the terms and conditions set forth or referred to in this Agreement the eligible PFI Sub-Loans to eligible Final Beneficiaries for investments and working capital according to the Project objectives.

3.02 PFI shall use Sub-Financing exclusively for the provision of Sub-Loans to eligible Final Beneficiaries for eligible Sub-Projects. The outstanding amount of a PFI's Sub-Financing will not exceed 80% of the total capital of the PFI.

3.03 The principal amount of the total PFI Sub-Financing shall be equal to the sum of Sub-Loans granted by the PFI to the Final Beneficiaries which have been financed from the proceeds of the Credit Line.

3.04 PFI Sub-Loans made to Final Beneficiaries for eligible Sub-Projects may be presented for retroactive financing of eligible expenditures made by the Final Beneficiary prior to the signing date of this Agreement. However, the Sub-Project expenditure and investments should not have started prior to the date indicated by the CLD.

3.05 Sub-Financings may be granted to the PFI in USD, EUR or MDL out of the proceeds of the Credit Line.

3.06 The PFI Sub-Loans shall be financed on the first-come first-served basis and back-to-back for each PFI Sub-Loan to a Final Beneficiary. The Sub-Financing to a PFI shall be of an identical amount, with the maturity and repayment schedule based on PFI Sub-Loans to the Final Beneficiary.

3.07 Eligible charges for PFI Sub-Loans to Final Beneficiaries could include a commitment fee and an interest rate. The interest rate shall consist of the interest rate charged for Sub-Financing plus the PFI credit risk margin. The PFI margin shall be competitive and reasonable.

3.08 The PFI should disclose to the CLD the interest rate and other charges applied to each Sub-Loan. The CLD shall have the right to provide public access to information about the cost of Sub-Financing and PFI Sub-Loans.

ARTICLE IV, REVIEW AND APPROVAL OF SUB-FINANCING

4.01 For a PFI Sub-Loan to be refinanced through on-lending operations, the PFI and CLD shall sign a separate PFI Promissory Note (**Annex 2** to this Agreement). The PFI Promissory Note shall include: specification of eligible expenditures with applicable procurement requirements, a Schedule of Repayments, maturity and currency of the Sub-Loan. All PFI Promissory Notes shall be considered as Attachments to this Sub-Financing Agreement and shall constitute an integral part of it.

4.02 The CLD shall review PFI Request for Sub-Loan financing and accompanying Sub-Project documentation as specified in the OM. The CLD shall inform the PFI in writing regarding the approval of the disbursement application through a Letter of Approval (see **Annex 1** to this Agreement) and shall make arrangements for signing of the PFI Promissory Note.

4.03 The PFI Promissory Note shall include specific information on applicable Sub-Financing charges, including "up-front fees", commitment fee, interest base rate and interest margins, charged by the MOF/CLD to cover currency risk, counterparty risk and operational costs.

4.04 The PFI shall obtain prior approval for the first ten (10) Sub-Loans, irrespective of the amount of the requested Sub-Financing. For this purpose the PFI shall furnish to the PIU and CLD for review and

submission to the EIB the information and documents as specified in the OM procedures and EIB Side Letters.

ARTICLE V, DISBURSEMENTS and CLOSING DATE

5.01 Applications for disbursements from the Credit Line on account of eligible expenditures made under Sub-Loans shall be prepared, signed and presented by the PFI to the CLD in accordance with instructions set forth in the OM, including any additional information that shall be reasonably requested by the MOF/CLD and the EIB in connection with such disbursements.

5.02 Eligible expenditures of the PFI's Sub-Loans under Credit Line shall be up to 50 % of the total Sub-Project costs.

5.03 Promptly after the receipt of disbursement applications, the CLD shall review the accompanying documentation. The CLD shall inform the PFI in writing regarding the approval of the disbursement application, shall arrange for a disbursement from the PIU Special Account by the PIU and shall request transfer of the eligible funds to the PFI's accounts or suppliers accounts specified by the PFI.

5.04 The final date for submission by PFI of disbursement applications shall be **December 31, 2019**, or such a later date as the MOF/CLD shall establish in consultation with the EIB and the PIU. The CLD will promptly notify the PFI of such a later date.

ARTICLE VI, REPAYMENT OF PRINCIPAL

6.01 The outstanding balance of principal of the Sub-Financing withdrawn in each calendar year shall be repaid by the PFI to the CLD accounts semi-annually in correspondence with beneficiary's schedules of repayments and the types of currencies of the Sub-Loans.

6.02 Repayment dates of the principal will be on **June 1 and December 1** of each year, or such other dates according to EIB and MoF disbursement offers or schedules.

ARTICLE VII, CHARGES ON SUB-FINANCING

7.01 The Sub-Financings may be denominated in USD, EUR or MDL. Interest and fees payable under this Agreement shall be in the currency of granted Sub-Loans based on the choice of the Final Beneficiary. Currency denomination of the each tranche of the Sub-Financing from the CLD to PFI has to match the currency of the Sub-Loans from PFI to the Final Beneficiary.

7.02 The PFI shall pay interest on the principal amount of the Sub-Financing outstanding at the time at semi-annual frequency, according to Schedules. The total interest due by the PFI shall be equal to the sum of interest on outstanding balance of all PFI Sub-Loans refinanced by the MOF/CLD.

7.03 The interest rate on the Sub-Financing will be variable, which shall not be less than MoF Loan costs, periodically adjusted to the terms of financial market, for USD and EUR based on the MoF/ CLD reference rate (including the 6-month USD Libor and EURIBOR on EUR) plus an on-lending margin as specified. MoF /CLD reserves the right to apply the adjusted and revised on-lending rates (for all currencies) to PFI, plus margins covering credit risk, foreign exchange risk, commitment fee or up-front fee (if any) and operational costs of MF / CLD. CLD margin will be reviewed and may be adjusted periodically based on decisions of CLD Supervisory Board.

7.04 For the Sub-Financing made in MDL, the interest rate shall be variable, adjusted periodically based on the MoF /CLD reference rate which shall be equal to (i) for the revision at the beginning of each calendar year, the average between the annual CPI inflation rate projected by NBM for the current year and the actual CPI inflation rate of the preceding year; (ii) for the revision at the second half of the year, the actual CPI inflation during the first 6 month of the calendar year, plus the revised projection for the remaining 6 months of the calendar year, plus an on-lending interest margin as specified. CLD Board may adjust and apply MDL reference interest rate for PFI s Sub-Financing loans based on National Bank of Moldova refinancing rate for the long term loans.

7.05 The CLD shall notify the PFI of the Sub-Financing interest annual rate for the semi annual interest payment periods immediately upon its determination by MOF/CLD or EIB.

7.06 For the purpose of this paragraph:

- (i) **"Interest Period"** means the initial period from, and including, the date of this Agreement to, but not including, the first interest payment date, and thereafter, the period from and including any interest payment date to, but not including, the next interest payment date.
- (ii) **"Interest Adjustment Date"** means **June 1** and **December 1** of each year, or other dates according to the EIB and MoF Disbursements offers, tranches and schedules.
- (iii) **"Interest and principal Payment Date"** means June 1 and December 1 of each year or such other dates according to EIB and MoF disbursement offers, tranches or schedules.
- (iv) The annual interest will be calculated for each Sub-Financing for the previous semi-annual interest period, based on 360 days per calendar year.

ARTICLE VIII, TERMS OF REPAYMENT

8.01 Repayment of principal and payment of interest and any other charges to the CLD shall be made by the PFI in the currency in which each of the Sub-Loans have been denominated (USD, EURO or MDL) and at such locations and into such accounts as the CLD shall reasonably request in the Promissory Note.

8.02 The PFI shall ensure that all payments made are transferred to the accounts specified by the CLD without any deductions or revisions.

8.03 The CLD shall credit payments received from the PFI in the following order: overdue payments of principal and interest, penalty charge on overdue payments, Sub-Financing interest, Sub-Financing principal.

8.04 In case PFI fails, or partially fails, to make payments due in accordance with this Agreement and on the dates specified, PFI shall pay to the CLD penalty of 0.10 % (one-tenth of one percent) on the overdue amount for each day until the total amount due is paid.

8.05 If no proof of transfer has been provided or no deposits occurred on the payment date, the National Bank of Moldova (NBM) on behalf of MoF/CLD and on the request of the MoF/CLD shall, on the next business day, withdraw the due amount's equivalent in MDL from the PFI's correspondent account with the NBM.

8.06. Upon Sub-financing loan approval PFI s shall pay an "up-front" fee of 0,25% on the loan amount and a commitment fee calculated on a daily undrawn un-cancelled balance of the Sub-financing received from the date of the signed Promissory Note.

ARTICLE IX, EXECUTION OF THE PROJECT

9.01 The PFI declares its commitment to the objectives of the Finance Contract and the Credit Line and, to this end, it undertakes the obligation to:

- (a) ensure that the amount of Sub-Financing by the MOF or CLD may not exceed 50% (fifty *per cent.*) of the relevant Sub-Project cost;
- (b) ensure, to the satisfaction of the Bank, appropriate product labelling by including a reference to the EIB in the product name or product documentation and to the EIB as the origin of funds under this Agreement;
- (c) insert on its website an information page on the EIB's activity in favour of the Project, including eligibility criteria and a reference to the advantageous conditions of the EIB;
- (d) use the Sub-Financing solely for the implementation of the Sub-Project concerned;
- (e) conform with terms accurately reflecting the requirements of the EIB applicable to the Sub-Project each as notified in writing to the MOF or CLD by the date of the relevant Letter of Allocation or, as the case may be, by the time of the relevant re-employment decision pursuant to Article 6.01 of Finance Contract;
- (f) permit persons designated by the Bank, including representatives of the European Court of Auditors, to visit the offices of the Intermediary Bank or other intermediary entity and to conduct such checks as they may wish, and provide them, or ensure that they are provided, with all necessary information and assistance for this purpose;

- (g) prepay the Sub-Financing in case of non-compliance with the above terms and conditions;
- (h) ensure that its accounting records fully reflect the operations relating to the financing, execution and operation of the Sub-Project;
- (i) represent that to the best of its knowledge no funds invested in the Sub-Project are of illicit origin, including products of money laundering or linked to the financing of terrorism, as well as to promptly inform the Borrower if at any time it becomes aware of the illicit origins of any such funds;
- (j) not to engage in (and not to authorise or permit any affiliate or any other person acting on its behalf to engage in) any Prohibited Conduct in connection with the Sub-Project, any tendering procedure for the Sub-Project, or any transaction contemplated by the Sub-Financing Agreement;
- (k) take such action as the Bank shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct;
- (l) not to enter into a business relationship with any Sanctioned Person;
- (m) not to make any funds available to or for the benefit of, directly or indirectly, any Sanctioned Person;
- (n) (i) take, within a reasonable timeframe, appropriate measures in respect of any member of its management bodies, who has become a Sanctioned Person or has been convicted by a final and irrevocable court ruling for Prohibited Conduct perpetrated in the course of the exercise of his/her professional duties, in order to ensure that such Intermediary Bank or other intermediary entity (and/or any such member of its management bodies) is excluded from any activity in relation to any funds made available by the Borrower under the relevant Sub-Financing Agreement or in relation to the relevant Sub-Project; and
- (o) promptly inform the Borrower of any measure taken pursuant to this Article 6.02(g)(xi)(i) above; and
- (p) ensure implementing of the provisions concerning submission to the EIB of the PFI and each Final Beneficiary information *on the Project and the Sub-Projects* on the terms consistent with the Finance Contract including, without limitation, Article 8.01 (Information concerning the Project and Sub-Projects) and Article 8.03 (Visits by the Bank).

9.02 PFI ensures that the financial conditions applied to each on-lending agreement reflect the advantage of the Bank's funding and that such advantage is clearly estimated and transparently indicated to the respective Final Beneficiary by including the clause 6.02 (f) of the Finance Contract:

***"Participation of the European Investment Bank.** The European Investment Bank, the financing institution of the European Union established by Article 308 of the Treaty on the Functioning of the European Union participates side-by-side with local financial institutions in the financing of investment programmes which form part of the objectives of the European Union. The present loan satisfies all eligibility criteria for financing by the European Investment Bank. The [#] grants to the [#] a financial advantage reflected on the interest rate. Such financial advantage amounts to a minimum of 25 bps (twenty five basis points) per annum compared to the annual interest rate the [#] would charge for this loan without EIB participation".*

9.03 For the purpose of this Article:

"Financing of Terrorism" means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of the EU Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

"Money Laundering" means:

- (a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the

commission of such activity to evade the legal consequences of his action;

- (b) the concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or
- (d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

“Prohibited Conduct” means any Financing of Terrorism, Money Laundering or Prohibited Practice.

“Prohibited Practice” means any:

- (a) **Coercive Practice:** meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;
- (b) **Collusive Practice:** meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (c) **Corrupt Practice:** meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;
- (d) **Fraudulent Practice:** meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation; or
- (e) **Obstructive Practice:** meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project:
 - (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (ii) acts intending to materially impede the exercise of the contractual rights of audit or access to information.

“Sanctioned Person” means any individual or entity listed in one or more Sanction Lists.

“Sanction Lists” means:

- (a) any economic, financial and trade restrictive measures and arms embargoes issued by the European Union pursuant to Chapter 2 of Title V of the Treaty on European Union as well as Article 215 of the Treaty on the Functioning of the European Union, as available in the official EU websites http://ec.europa.eu/external_relations/cfsp/sanctions/consol-list_en.htm and http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf, as amended and supplemented from time to time or on any successor page; or,
- (b) any economic, financial and trade restrictive measures and arms embargoes issued by the United Nations Security Council pursuant to Article 41 of the UN Charter as available in the official UN website <http://www.un.org/Docs/sc/committees/INTRO.htm>, as amended and supplemented from time to time or on any successor page.

ARTICLE X, PFI ELIGIBILITY CRITERIA

10.01 PFI shall continuously comply with all eligibility criteria set out in the Project documents, EIB Side Letters and this Agreement including:

- (a) PFI is duly licensed in the territory of the Republic of Moldova and is at least two (2) years in operation.
- (b) has an ownership structure consistent with “fit and proper” requirements, and has qualified and experienced management, adequate organization and institutional capacity for its specific risk profile;
- (c) is in “good standing” with its supervisory authority, i.e. it should be in compliance with all prudential and other applicable laws and regulations of the Republic of Moldova and remain in compliance for the duration of the Sub-Financing Agreement;

- (d) has well defined policies and written procedures for management of all types of financial risks (liquidity, credit, currency, interest rate and market risk, as well as risks associated with balance sheet and income statement structures);
- (e) maintains capital adequacy prescribed by prudential regulations;
- (f) has adequate liquidity;
- (g) has positive profitability and acceptable risk profile and maintains the value of its capital;
- (h) has adequate portfolio quality, classifies its assets and off-balance-sheet credit risk exposures and makes adequate provisions;
- (i) has adequate internal audits and controls for its specific risk profile and adequate management information systems;
- (j) has annual unqualified audit of its financial statements according to International Financial Reports Standards available for at least two (2) previous years; and
- (k) has appointed a responsible qualified credit officer for the Project Credit Line Implementation

10.02 PFI shall not use the financial assets, i.e., Sub-loans, pledged or created, in part or in full, from the proceeds of the Credit Line as a pledge to any other creditors.

10.03 The CLD can limit the access of a PFI to the Credit Line if MOF/CLD considers necessary to protect the Credit Line resources from excessive risks.

ARTICLE XI, SUSPENSION

11.01 If any of the following events shall have occurred and be continuing, the MOF/CLD may suspend in whole or in part the right of the PFI to commit and disburse new Sub-loans under this Sub-Financing Agreement:

- (a) the PFI shall have failed to make payment of principal or interest or any other amount due to the MOF/CLD under this Agreement;
- (b) the PFI shall have failed to continuously comply with the eligibility criteria set forth in this Agreement, or perform any other obligation under this Agreement;
- (c) as a result of events which have occurred after the date of this Agreement, an extraordinary situation shall have arisen which shall make it improbable that the PFI will be able to perform its obligations under this Agreement;
- (d) any information or documentation supplied by the PFI in or pursuant to this Agreement, or any statement furnished in connection therewith, and intended to be relied upon by the CLD/ MOF/EIB in making the Sub-Financing, shall have been incorrect in any material respect;
- (e) the PFI utilizes Credit Line funds for ineligible expenditures or does not follow Project procedures or other participation rules;
- (f) the CLD has received no application from the PFI for disbursement from the Credit Line for a continuous period of 180 (one hundred eighty) days;
- (g) the right of the Republic of Moldova to withdraw the proceeds of the Financing from the EIB shall have been suspended, cancelled or terminated, in whole or in part, pursuant to the terms of the Financing Agreement, or the Financing shall have become due and payable prior to the agreed maturity thereof.

11.02 The right of the PFI to submit disbursement applications in respect of further Sub-loans shall continue to be suspended until the event or events which cause the suspension shall have ceased to exist. Once the conditions prompting suspension have been eliminated the PFI can resume refinancing of the new Sub-loans.

11.03 If the right of the PFI to commit new Sub-loans shall have been suspended in accord with paragraph 11.01 for a continuous period of 180 (one hundred eighty) days, the MOF/CLD may, by notice to the PFI, terminate this Agreement.

11.04 Should the NBM impose temporary administration on the PFI the MOF/CLD shall have the right to negotiate transfer of the Sub- Financing loan portfolio to other eligible PFI (s).

11.05 Notwithstanding any cancellation or suspension, all the provisions of this Agreement shall continue to apply in full force.

11.06 In the event that PFI's capacity to service the Sub-Financing portfolio has been significantly impaired as a result of events in art.12.01, the MOF/CLD may exercise its portfolio assignment rights, and transfer the Sub-Finance portfolio to another eligible interested PFI.

ARTICLE XII, ACCELERATION OF MATURITY

12.01 If any of the following events occur and continue, the MoF/CLD may, by a prior notice to the PFI , declare the principal of the Sub-Financing then outstanding to be due and payable immediately together with the interest and other charges thereon, and upon such a notice, the principal, interest and other charges shall become due and payable within 30 working days, or other specified by MoF period:

(a) A default shall occur in the payment of principal, interest or other charges, and/or performance of any other obligation on the part of PFI under this Agreement, and such default shall continue for a period of 60 (sixty) days after notice thereof shall have been given by CLD/MOF to the PFI .

(b) PFI shall have become unable to pay its debts, or any action or legal proceeding, including reorganization, liquidation or other measures shall have been taken against PFI by other third parties, which may conduct to an inefficient PFI performance, whereby any of the assets of the PFI shall or may be distributed to its creditors.

(c) PFI does not meet Operational Manual on-lending provisions.

(d) PFI does not comply to the eligibility criteria, including EIB requirements.

(d) The Republic of Moldova or any other authority having the jurisdiction in Moldova shall have taken any action for the dissolution or liquidation of the PFI or for the suspension of its operations.

(e) If any event specified in the Finance Contract have occurred and the EIB shall have declared the principal of the Finance Contract still outstanding to be due and payable immediately.

ARTICLE XIII, EFFECTIVE DATE

13.01 This Agreement shall become effective upon the date of signature by both parties.

ARTICLE XIV, TERMINATION

14.01 If and when the entire principal amount of the Sub-Financing, interest and any charges, which shall have accrued shall have been paid to the CLD, this Agreement and all obligations hereunder shall terminate.

14.02 The PFI shall have the right to terminate the Agreement at any point, with full obligation to repay to the CLD the entire principal amount of the Sub-Financing, interest and any charges, which shall have accrued until the moment of termination. Once the termination decision is made, the PFI should inform the MOF/CLD in writing about reasons for the termination.

ARTICLE XV, DISAGREEMENT AND DISPUTE RESOLUTION

15.01 This Agreement shall be governed by the laws of the Republic of Moldova. Any dispute or difference arising out of this Agreement or in connection therewith, which cannot be amicably resolved between the parties shall be finally settled by the courts of competent jurisdiction of the Republic of Moldova.

ARTICLE XVI, MISCELLANEOUS

16.01 Nothing contained in this Agreement shall prejudice or otherwise affect the rights and remedies of the MOF/CLD that may be otherwise available under the law.

Annex 2 to SFA, Promissory Note

Annex 3 to SFA, Operation Manual & attachments

Annex 4 to SFA, On-lending Agreement (model)

Credit Line Directorate Letter of Approval nr.

Date

President of the PFI
Mr /Mrs. _____

Dear Sir/Madame,

1. We hereby confirm the approval by the Credit Line Directorate at the Ministry of Finance of the financing for the following eligible Sub-Projects (name of Sub-loans):

a) _____

b) _____

in the amount of _____ (USD, EURO or MDL).

2. The Sub-Financing loan service payments shall be made in conformity with the provisions of the Sub-Financing Agreement no. _____ dated _____ 2015.

Further, the following is determined in respect of the Sub-financing loan:

Floating applicable EURIBOR based reference rate for the Sub-Financing loan denominated in EURO or reference rate for the Sub-financing loan denominated in MDL ____%.

Margin ____%

Total: ____%

3. Interest reference rates and actual margins for the Sub-financing loan shall be reviewed jointly by the Ministry of Finance/CLD and revised semi-annually.

4. The amounts may be withdrawn in instalments in conformity with the PFI's applications submitted to CLD during 1 year, in accordance with the needs of the Sub-Project financed out of the Credit Line proceeds.

5. Upon Sub-financing loan approval, the disbursement is conditional to an "up-front fee" of 0.25% on the amount disbursed, which shall be transferred to the Ministry of Finance /CLD accounts.

6. The PFI shall pay to the Ministry of Finance/CLD a commitment fee calculated on the daily undisbursed balance of the Sub-financing received for the Sub-loan on-lending from the date of this Promissory note at a rate of 0.10% (10 basis points per annum), the accrued commitment fee being payable with a correspondent adjustment on each June 1 and December 1 of each year, or on the last tranche disbursement date.

7. Each disbursement shall be supported by the Promissory Note with the Repayment Schedule included for the respective loan.

8. Fees for currency exchange operations and other fees will be transferred by PFI in the CLD indicated accounts in 2 days upon CLD invoice was received.

Thank you.

Signature of the authorised person _____

Date _____

to the Sub-Financing Agreement (SFA)**Promissory Note Nr. _____ dated _____ 2015**

In reference to:

- the Finance Contract dated July 31, 2014, signed between European Investment Bank and Republic of Moldova for the "Fruit Garden" Project,
- in full accordance with the Sub-Financing Agreement no _____ dated _____ 2015, entered into between the PFI _____ and the Ministry of Finance of the Republic of Moldova and
- with the Credit Line Directorate Letter of Approval no ____ dated _____ 2015, issued for the financing of the Sub-Project(s) _____ in a total amount of _____ USD, EURO/ MDL, Parties hereby agree as follows:

1. This Promissory Note defines the provisions in accordance to which CLD will channel the Sub-Financing loan for the Beneficiary _____, due and repayable in time as defined in the attached Schedule of repayment

Sub-loan amount and currency (USD, EURO or MDL) _____.

Maturity _____ y.

Grace period _____.

Annual Interest floating rate calculated for each semi-annual interest period as specified in the Sub-Financing Agreement, based on 360 days _____%.

2. Interest reference rates and actual margins for the Sub-Financing to the PFI shall be reviewed by the Ministry of Finance/CLD and revised semi-annually and will cover the MoF Credit Contract costs, exchange risks and operational costs.

3. Upon Sub-Financing loan approval, the disbursement is conditional to an "up-front fee" of 0.25% on the amount disbursed, which shall be transferred to the MoF/CLD account no _____ (MDL equivalent).

4. The PFI shall pay to the Ministry of Finance/CLD a commitment fee calculated on the daily undrawn uncancelled balance of the Sub-Financing received for the Sub-loan on-lending from the date of this Promissory note at a rate of 0.10% (10 basis points per annum), the accrued commitment fee being payable with a correspondent adjustment on each June 1 and December 1 of each year, or on the last tranche disbursement date.

5. The Sub-Financing loan amount shall be transferred by PFI to the PFI correspondent account (or other payment instructions according to the beneficiary request) based on the CLD request:

_____ (name of the correspondent bank, code, address, SWIFT).

PFI shall promptly send to CLD a copy of the document confirming the crediting of its account by PIU with the amount of the sub-Financing loan.

6. PFI agrees to transfer to the respective Beneficiary/(-ies) the Sub-financing amount indicated above within 2 (two) working days after receipt of such funds into its correspondent account.

7. PFI shall service the Sub-Financing loan in the same currency it has been initially approved, including the repayment of principal, interest rates and other Sub-Financing loan service payments.

8. The repayment of principal and all debt service charges shall be transferred by PFI to the CLD account no. _____ (name of the correspondent bank, code, address and SWIFT).

9. The PFI will repay the debt in accordance with the Repayment Schedule attached herewith. Upon transfer of the amount due and payable to the CLD, the PFI shall submit documentation to CLD confirming that amounts have been transferred to the account stipulated in paragraph 8 above. If no proof of transfer has been provided or no deposits occur on the payment date, the National Bank of Moldova (NBM) on behalf of the Mof/CLD, at the end of the business day, shall withdraw the amount equivalent in MDL from the PFI's correspondent account no. _____.

With this purpose the PFI authorises such disbursements from the account mentioned above. The applicable currency exchange rate, to be used by the CLD on the foreign currency liability, shall be the NBM sell rate established for each currency on the respective date of payment. All fees related to such disbursements will be covered by the PFI

8. For failure to make payments due in accordance with the terms set forth in this Promissory Note, CLD shall charge a penalty of 0,1% on the overdue amount for each day of failure.

9. This Promissory Note shall be considered as an Attachment to the Sub-Financing Agreement signed between Ministry of Finance and PFI and shall constitute an integral part of it.

10. This Promissory note shall become effective upon the date of signature by both Parties, and has been drawn up in two authentic copies, one for each party, equally valid. Financial duties, determined by this agreement shall become effective upon the disbursement of the Sub-Financing loan and shall remain so for the whole period of the PFI's Sub-Financing loan agreement, until complete fulfilment of these duties.

11. The Sub-Financing loan will be used for the procurement of eligible goods, services, works:

1. _____
2. _____
3. _____
_____ e.t.c.

12. The PFI will reimburse the principal in accordance with the **Schedule of Repayment:**

(insert the schedule)

Name of PFI _____

Name of Beneficiary _____

| Date | Principal Amount | Interest % |
|------|------------------|------------|
|------|------------------|------------|

Signatures:

Representative of the PFI _____

(name and position of the authorised person)

Date _____

On behalf of the Ministry of Finance

Representative of the CLD: _____

(name and position of the authorised person)

Date:

Address:

PFI , CLD

Ref.no.: _____

Date: _____

Operation Manual & attachments

(including Finance Contract, EIB Side letters & other attachments)

to the Sub-Financing Agreement (SFA)**On-Lending Agreement (template)**

(provisions to be inserted by the Partner Intermediary Banks (PFIs) and Final Beneficiaries in the on-lending agreements for each financed Sub-Project)

Whereas:

1. On July 31, 2014 the Republic of Moldova and the European Investment Bank (EIB) signed the Finance Contract no. 2014-0041 and the EIB agreed to provide financing in the amount of EUR 120.0 mil. to provide medium to long term finance to private and public sector operators along Moldova horticultural value chain.
2. The Ministry of Finance (the Borrower) on behalf of the Republic of Moldova and the eligible Partner Intermediary Banks (PFI) have agreed to enter into Sub-Financing Agreement under the terms and conditions satisfactory to the EIB.
3. PFIs have agreed to on-lend the proceeds of the EIB "Fruit Garden" Credit Line in accordance with the objectives of the Project under the Finance Contract terms and conditions satisfactory to EIB and set forth in the operational procedures for on-lending to Final Beneficiaries to finance their Sub-projects.
4. Each financed Sub-project also falls within the scope of the Framework Agreement governing the EIB's activity in the Republic of Moldova, signed on November 1, 2006, which is in full force and effect and shall continue to be in full force and effect during the lifetime of the Finance Contract.
5. The eligibility for financing each Sub-Project from the Credit Line proceeds, as approved by PFIs, is subject to certain EIB's restrictions and modalities set out in the undertakings of the Finance Contract and in Side Letters as communicated from time to time by the EIB to the Ministry of Finance.
6. The necessity to fulfil the Finance Contract requirements set forth for the on-lending to the Final – Beneficiary detailed procedures evidence

Definitions:

"Financing of Terrorism" means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of the EU Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

"Money Laundering" means:

- (a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;
- (b) the concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- (c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity; or

- (d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

“Prohibited Conduct” means any Financing of Terrorism, Money Laundering or Prohibited Practice.

“Prohibited Practice” means any:

- (a) **Coercive Practice:** meaning the impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;
- (b) **Collusive Practice:** meaning an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (c) **Corrupt Practice:** meaning the offering, giving, receiving or soliciting, directly or indirectly, of anything of value by a party to influence improperly the actions of another party;
- (d) **Fraudulent Practice:** meaning any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party in order to obtain a financial or other benefit or to avoid an obligation; or
- (e) **Obstructive Practice:** meaning in relation to an investigation into a Coercive, Collusive, Corrupt or Fraudulent Practice in connection with this Loan or the Project:
 - (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (ii) acts intending to materially impede the exercise of the contractual rights of audit or access to information.

“Sanctioned Person” means any individual or entity listed in one or more Sanction Lists.

“Sanction Lists” means:

- (a) any economic, financial and trade restrictive measures and arms embargoes issued by the European Union pursuant to Chapter 2 of Title V of the Treaty on European Union as well as Article 215 of the Treaty on the Functioning of the European Union, as available in the official EU websites http://ec.europa.eu/external_relations/cfsp/sanctions/consol-list_en.htm and http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf, as amended and supplemented from time to time or on any successor page; or,
- (b) any economic, financial and trade restrictive measures and arms embargoes issued by the United Nations Security Council pursuant to Article 41 of the UN Charter as available in the official UN website <http://www.un.org/Docs/sc/committees/INTRO.htm>, as amended and supplemented from time to time or on any successor page.

Therefore it is hereby agreed as follows:

According to the present On-Lending Agreement, signed by the PFI and Final Beneficiary, passing the Credit Line proceeds to the financing of a Sub-Project, the Final Beneficiary undertakes to:

- 1) use the Sub-Financing solely for the implementation of the Sub-Project concerned;
- 2) take note of the advantage received thanks to the **Participation of the European Investment Bank**.

The European Investment Bank, the financing institution of the European Union established by Article 308 of the Treaty on the Functioning of the European Union participates side-by-side with local financial institutions in the financing of investment programmes which form part of the objectives of the European Union. The present loan satisfies all eligibility criteria for financing by the European Investment Bank. The [#] grants to the [#] a financial advantage reflected on the interest rate. Such financial advantage amounts to a [#] bps ([#] basis points) per annum compared to the annual interest rate the [#] would charge for this loan without EIB participation”.

- 3) complete the Sub-Project within a period specified in the application form;

- 4) purchase equipment, secure services and order works for the Sub-Project by open international tender or other acceptable procurement procedure complying, to the EIB's satisfaction, with its policy as described in its Guide to Procurement in force and the Project Operation Manual;
- 5) maintain, repair, overhaul and renew all property forming part of the Sub-Project as required to keep it in good working order;
- 6) unless the EIB has given its prior written consent, retain title to and possession of all or substantially all the assets comprising the Sub-Project or, as appropriate, replace and renew such assets and maintain the Sub-Project in substantially continuous operation in accordance with its original purpose; provided that the Bank may withhold its consent where the proposed action would prejudice the EIB's interests as lender to the Republic of Moldova or would render the Sub-Project ineligible for financing by the EIB under its Statute or under Article 309 of the Treaty on the Functioning of the European Union;
- 7) permit persons designated by the EIB, including representatives of the European Court of Auditors, to visit the sites, installations and works comprising the Sub-Project and to conduct such checks as they may wish, and provide them, or ensure that they are provided, with all necessary information and assistance for this purpose;
- 8) insure all works and property forming part of the Project with insurance companies acceptable to the EIB in accordance with the most comprehensive relevant industry practice for similar works of public interest;
- 9) maintain in force all rights of way or use and all permits necessary for the execution and operation of the Sub-Project;
- 10) execute and operate the Sub-Project in accordance with the relevant standards of EU law to the extent implemented by the laws of the Republic of Moldova or specified by the EIB prior to the date of this Contract, as well as the relevant laws of the Republic of Moldova;
- 11) confirm upon request, that it has obtained all relevant authorisations (for construction and operation) to comply with national laws on environment and competition;
- 12) prepay the Sub-Financing in case of non-compliance with the above terms and conditions per the EIB or PFI's requests;
- 13) ensure that its accounting records fully reflect the operations relating to the financing, execution and operation of the Sub-Project.
- 14) take such action as the EIB shall reasonably request to investigate or terminate any alleged or suspected occurrence of any Prohibited Conduct;
- 15) not to enter into a business relationship with any Sanctioned Person;
- 16) not to make any funds available to or for the benefit of, directly or indirectly, any Sanctioned Person;
- 17) (i) take, within a reasonable timeframe, appropriate measures in respect of any member of its management bodies, who has become a Sanctioned Person or has been convicted by a final and irrevocable court ruling for Prohibited Conduct perpetrated in the course of the exercise of his/her professional duties, in order to ensure that such it (and/or any such member of its management bodies) is excluded from any activity in relation to any funds made available by the Republic of Moldova under the relevant Sub-Financing Agreement or in relation to the relevant Sub-Project;
- (ii) promptly inform the Intermediary Bank of any measure it has taken pursuant to this Article 17(i) above;
- 18) represent to the Intermediary Bank that to the best of its knowledge no funds invested in the Sub-Project by itself are of illicit origin, including products of money laundering or linked to the financing of terrorism as well as to promptly inform the Intermediary Bank if at any time it becomes aware of the illicit origins of any such funds;

19) not to engage in (and not to authorise or permit any affiliate or any other person acting on its behalf to engage in) any Prohibited Conduct in connection with the Sub-Project, any tendering procedure for the Sub-Project, or any transaction contemplated by the On-Lending Agreement

20) the Final-Beneficiary shall allow persons designated by the EIB, as well as persons designated by other EU institutions or bodies when so required by the relevant mandatory provisions of EU law, the PFI, MoF or PIU **to visit** the sites, installations and works comprising the Project and each Sub-Project and to conduct such checks as they may wish, and shall provide them, or ensure that they are provided, with all necessary assistance for this purpose.

21) The Final Beneficiary is acknowledged that the EIB may be obliged to divulge such information relating to the Project and each Sub-Project to any competent EU institution or body in accordance with the relevant mandatory provisions of EU law.

22) The Final Beneficiary shall deliver to the PFI, PIU, MoF or the EIB any such **information** or further document **and reports** concerning the Sub-Project financing, procurement, implementation, operation and environmental impact as it may reasonably require within a reasonable time. If so requested, provide promptly all documents and information necessary to enable the PFI, PIU, MoF or the EIB to follow the physical and financial progress of each Sub-Project and the financial condition of each Final Beneficiary. The Final Beneficiary will inform promptly the PFI, PIU, MoF of

- any action or protest initiated or any objection raised by any third party or any genuine complaint received or any material litigation that is commenced or threatened against it with regard to environmental or other matters affecting the Project;
- any fact or event known, which may substantially prejudice or affect the conditions of execution or operation of the Project.

List of Sub-loan documents

| Final Beneficiary _____ Address , Tel. Email. Intermediary Bank (PFI) _____ Address , Tel. Email. | to PIU | to CLD | in PFI* |
|--|---------------|---------------|----------------|
| 1. PFI's Request for Sub-loan financing (Annex 3 to Att. A) and PFI's Statement of Expenditures | Y | Y | Y |
| 2. PFI Sub-Loan Summary Sheet (Annex 4 to Att. A). PIU Questionnaire, Allocation Proposal Form, Allocation Proposal List as the case may be. | Y | Y | Y |
| 3. Final Beneficiary's Financial Statements and reports for 2 years. | Y | | Y |
| 4. PFIs Sub-loan Credit risk analysis and reports. Financial and development prognosis. | | Y | |
| 5. Business plan. PIU and EIB allocation request acceptance and "no-objection" documents. | Y | | Y |
| 6. PFI's Credit committee decision (or draft). | | Y | |
| 7. On-lending agreement with Final Beneficiary and repayment schedule (or draft). | | Y | |
| 8. Collateral agreement. | | | Y |
| 9. State Registration Certificate. | | | Y |
| 10. Licences and authorizations. | | | Y |
| 11. The environment relevant documents | Y | | Y |
| 12. Private sector Final Beneficiary procurement selection argumentation reviewed by PIU (as requested by PIU) and for procurements exceeded 5.000.000 Eur with EIB "no objection. | Y | | Y |
| 13. Signed Procurement Contracts reviewed by PIU, including contract specifications & annexes. | Y | Y | |
| 14. Invoices. Customs documents. Certificates of goods origine. | | Y | |
| 15. Payment documents. Documents confirming received and accepted goods, works and services. | | Y | |
| 16. Other documents confirming Sub-loan financed expenditures, as the case may be. | | Y | |
| 17. Other reasonable information, fiches, allocation proposals, detailed information for clarification purposes requested by the EIB, CLD//MoF. | Y | Y | |
| 18. CLD Approval letter. | | | |
| 19. CLD-PFI's Promissory note. | | | |
| 20. CLD Request for payment to PIU | | | |
| 21. PFI 's confirmation of funds received. | | | |

- PFIs will keep the files according to internal procedures

List of Sub-loan documents

Documents attached:

Participant Financial Institution Request for Sub-financing

to the Credit Line Directorate at the Ministry of Finance

Participant Financial Institution (PFI) _____,
according to Sub-Financing Agreement (SFA) signed with Ministry of Finance no. _____ ,
dated _____, hereby applies for the disbursement from the Fruit Garden Project
Credit Line proceeds in the amount of EURO, USD, MDL, _____ for our Sub-project
_____.

The list of eligible expenditures is shown in the attached Statement of expenditures, and hereby
we certify and agree as follows:

1. The PFI has not previously withdrawn from the Project Credit Line Account to meet these expenditures. The PFI has not and does not intend to obtain funds for this purpose out of the proceeds of any other loan, lease, credit or grant.
2. The goods, works and services covered by this application have been or are being purchased from eligible sources in accordance with EIB Guide to Procurement and Operational Manual. Signed Procurement Contracts and other procurement documents reviewed by PIU are attached.
3. The environmental relevant documents, as requested in accordance with Moldovan Law are in place.
4. All documentation on these expenditures will be made available for review by the PIU, CLD or the MoF, external auditors and the EIB missions or representatives upon request.
5. The payment herewith requested, once made, shall constitute a disbursement under the above mentioned SFA and shall create a valid and binding obligation of the PFI to make repayment of principal amount together with the interest and all other applicable charges specified in the SFA and in the specific signed with PFI Promissory Note to the CLD/MoF indicated accounts.

Attached documents list:

Signed _____ PFI Authorized representative(s)

Date: _____

Statement of Expenditure

Name of the Sub-project:

| PFI Sub-Financing Agreement No: | | | Goods: | | | | | | | |
|---|--|--|------------------------------------|-------------------|------------------------------|---|---|---|---------------------------------------|-----------------------|
| CLD Letter of Approval of the Sub-loan No: | | | Works: | | | | | | | |
| | | | Services: | | | | | | | |
| Total amount previously paid to this Final Beneficiary under this Sub-Loan: | | | | | | | | | | |
| Tranche 1: | | | 20 000 EURO | | | | | | | |
| Tranche 2: | | | 20 000 EURO | | | | | | | |
| | Country of the Supplier. Name & Addresses of Contractors/Suppliers | List of items of financed goods, works and services and the amount | Contract, Purchase Order No.& Date | Sub-loan currency | Total amount of the contract | Total amount of invoices covered by application | Eligibility of the expenditures to be financed, % | Total amount previously paid under these invoices | Invoice amount Eligible for Financing | Remarks, explanations |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9=6-8 | 10 |
| 1 | | | | EURO | 800 000 | 100 000 | 50% | 40 000 | 10 000 | |
| 2 | | | | MDL | | | | | | |
| 3 | | | | | | | | | | |

PFI signature:

Date:

Participant Financial Institution (PFI's)

Sub-Loan Summary Sheet

1. Name of the PFI & location _____
Name of Responsible Loan Officer _____
2. Final Beneficiary ID Number _____
3. Final Beneficiary Name and Address (tel /fax, if available, contact person) _____
4. Legal Status of Final Beneficiary _____
5. Estimated Sub-Project Cost _____
6. Amount of Sub-Loan and Currency _____
7. Expenditures to be financed, by items:

8. Co-financing data, including Final Beneficiary's Contribution: Type and Amount, Percentage.

9. Brief Description of Sub-Project. Current activities of the Final Beneficiary; years in operation

10. PFI On-lending Agreement, Date of Approval (if signed) _____
11. PFI annual Interest Rate at time of On-lending Agreement signing _____
12. Other Charges and Fees _____
13. Maturity, Repayment terms of Sub-Loan (grace period, number of instalment, payment date, and final maturity)

14. Procurement Method used. (Local commercial practice, direct contracting, international competitive bidding etc.). Contract award.

15. Final Beneficiary Procurement selection argumentation reviewed by PIU (as requested by PIU) _____
16. Final Beneficiary environment clearance forms and certificates requested by Moldovan environmental Law. Does the project affect the environment? What permits or licenses are required, and are they obtained?

17. Debt Service Ratio (DSR) _____

18. Ownership Structure of the Final Beneficiary:

19. Description how the Sub-Project relates to prior business activities (e.g., expansion, rehabilitation, new product or service. If the Final Beneficiary Company is new, describe relevant experience of owners)

20. Marketing Strategy (target customers, signed contracts; assessment of competitors; overall market size and growth prospects)

21. Sub-Project Costs and Sources of Funds:

| Sub-Project Costs (Itemized list) | Owners' Financing. Other financial institutions financing. | "Filiere di Vin" Financing | Total Sub-Project Costs |
|-----------------------------------|--|-------------------------------|----------------------------|
| | | | |
| TOTAL | | | |
| Percent of Total: | % | % | 100% |

(add rows as necessary to provide adequate detail) Indicate whether the Owners' Contributions are in cash, in-kind (e.g., building materials, personal labor, etc)

22. Collateral (list type of assets, location, owner, value – according to the PFI's estimate; indicate the total value of assets pledged; calculate the value-to-loan ratio)

23. Personal guarantees (when the Final Beneficiary is registered as a JSC or Ltd, the major owners should provide personal guarantee).

24. Other security (if applicable)

25. SUMMARY OF FINANCIAL DATA

1. Financial Statements: attach the last fiscal year-end financial statements, dated:
2. Attach Detailed Cash Flow Projections: Explain what are the assumptions used in determining the projected sales, and explain other major assumptions used in the projections. Who prepared the projections? Describe what assistance the Sub-borrower has received.
3. Financial Summary Chart ('000, Currency):

| Year | (last fiscal year) | (current fiscal year) | (next year 1 projections) | (next year 2 projections) |
|----------------------------------|--------------------|--------------------------|------------------------------|------------------------------|
| Profit and Loss Account | | | | |
| Total revenues | | | | |
| Net profit (loss) after tax | | | | |
| Income taxes | | | | |
| Balance sheet | | | | |
| Total assets | | | | |
| - Fixed assets | | | | |
| - Current assets | | | | |
| Total Equity & Liabilities | | | | |
| - Equity | | | | |
| - Reserves and Retained Earnings | | | | |
| - Long term debt | | | | |
| Short term debt | | | | |

| | | | | |
|---|--|--|--|--|
| Key ratio calculations | | | | |
| Depreciation Expense | | | | |
| Interest Expense | | | | |
| Principal Payments | | | | |
| Dividends | | | | |
| -Debt-service-coverage ratio | | | | |
| -Internal Rate of Return (IRR) (only if the sub-project cost exceeds US\$ 100,000 equivalent) | | | | |
| Total Debt / Total Equity | | | | |

4. Debt Service Ratio (DSR) Calculation for Investment Loans: $DSR = (\text{net income} + \text{depreciation} + \text{interest}) - \text{dividends} ((\text{all long-term principal payments due in the current year}) + \text{interest on all outstanding debts})$.

5. Major Existing Creditors:

| Major Existing Creditors | Amount and Currency | Maturity Date |
|--------------------------|---------------------|---------------|
| | | |
| | | |

CONCLUSIONS – PROJECT ELIGIBILITY AND VIABILITY The proposed sub-loan is justified based on the following assessment:

6. Sub-Project Fulfilment of “Fruit Garden of Moldova” Project objectives & eligibility :

To this Annex may be added also other relevant information, fiches, detailed information and reports for Sub-project and Sub-loan clarification purposes requested by the EIB, PIU, CLD or MoF.

PFI's representative's signature

Date

EIB Fruit Garden Project Credit Line

**Credit Line Directorate (CLD) REQUEST for payment
to the Project Implementation Unit**

Participant Financial Institution (PFI) name: _____.

PFI Sub-Financing Agreement signed with Ministry of Finance/CLD no
_____ dated _____.

Final Beneficiary name: _____.
CLD Approval Letter No _____ date _____.

In accordance with Operations Manual and our Sub-project Letter of Approval nr. _____, dated
_____, we hereby request you to make a payment in the amount of EURO, USD or
MDL equivalent in the manner specified below:

1. to the PFI's account number _____, or
2. to the Supplier account number _____, or
3. other specific payment instructions or payment of the procured goods/works/ services:

_____.

We confirm the eligibility of the PFI as intermediary Bank and the Final Beneficiary enterprise.

The payment herewith requested, once made, shall constitute a disbursement under the above mentioned Sub-Financing Agreement and shall create a valid and binding obligation of the PFI to make repayment of principal amount together with the interest and all other applicable charges specified in the Sub-Financing Agreement and in the specific signed with PFI Promissory Note to the CLD account number _____.

PFI Statement of expenditure (SOE) is attached.

Representative of the CLD _____

Date _____

Signature _____

PFI Statement of Expenditure to the PAYMENT REQUEST

| | | | | | | | | | | |
|---|---|------------------------------------|---------------------------------------|-------------------|------------------------------|---|------------------------------------|---|---------------------------------------|---------|
| PFI Sub-Financing Agreement No: | | Goods: | | | | | | | | |
| CLD Letter of Approval of the Sub-loan No: | | Works: | | | | | | | | |
| Name of the Sub-project: | | Services: | | | | | | | | |
| Total amount previously paid to this Final Beneficiary under this sub-loan: Tranche 1: Tranche 2: | | | | | | | | | | |
| | Country of the Supplier Name & Addresses of Contractors/Suppliers | Goods, works and services procured | Contract or Purchase Order No. & Date | Sub-loan currency | Total Amount of the contract | Total amount of invoices covered by application | Eligibility of the expenditures, % | Total Amount previously paid under these invoices | Invoice Amount Eligible for Financing | Remarks |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9=6-8 | 10 |
| 1 | | | | MDL | | | | | | |
| 2 | | | | EURO | | | | | | |
| 3 | | | | USD | | | | | | |

(attached may be invoices, contracts, contract specifications, custom declarations, fiscal invoices, payment documents, technical documents and other confirming expenditures documents)

Signature:

Date:

PFI's responsible person.

Phone no.

Email.

Attachment B
to the PIU Operations Manual
Fruit Garden of Moldova Project

Lease Operations

Definitions

The following terms shall be used in this attachment to Program's Operations Manual:

Financial Lease Contract is the contract signed between the Partner Financial Institution (PFI) as Lessor with the Beneficiary of the Program as Lessee, to finance all or part of the sub-project's eligible expenses.

Lessee means the Program Beneficiary which receives for possession and temporary use the asset requested under the financial lease contract.

Sale - purchase Contract is an agreement signed between the PFI with the seller of goods, based on which the PFI buys goods financed under the financial lease contracts signed with the Final Beneficiaries within a sub-project.

Seller means one of the parties to the financial leasing transaction that sells the goods to a PFI.

I. General provisions

- 1.1. The lease operations are implemented and monitored by the PIU in partnership with the MoF and the PFI.
- 1.2. The legal and the contractual basis regulating the leasing and on-lending operations in the Republic of Moldova consists of the following documents: Law no. 59-XVI of 28 April 2005 on leasing, Law no. 419-XVI of 22 December 2006 on the public debt, state guarantees and state on-lending, the Finance Contract FI N° 83.887 (MD) Serapis N° 2014-0041 between the Republic of Moldova and the EIB, Government Decision No. 1136 of 18 October 2007 on measures to enforce the Law No. 419-XVI of 22 December 2006 on the public debt, state guarantees and state on-lending, Government Decision no. 1005 of 26 October 2010 on the establishment of the Public Institution "Consolidated Unit for Implementing and Monitoring of the Wine Sector Restructuring Program", the on-lending contract signed between MoF and PFI.
- 1.3. The PIU shall perform a shortlist of the PFI(s) and those evaluated and approved by CO submit to MoF and EIB for their consideration.
- 1.4. For the purposes of on-lending of EIB funds under the "Lease operations" component, the MoF shall sign OLC with the PFI approved by the CO and the EIB, for participation in lease operations as eligible intermediaries with capacities to ensure repayment of the loan based on payment guarantees (collateral or other kind of security).
- 1.5. The PFI having OLC signed with the MoF, finances under financial lease the goods requested by the Program Beneficiary from EIB loan based on the financial Lease Contract signed between the PFI and the Beneficiary.
- 1.6. Problems related to the implementation of investment sub-projects and information about potential embezzlement of funds shall be reported by the PFI to the MoF and the PIU.
- 1.7. Any change to the provisions of this document shall be in writing and in coordination with the EIB.

- 1.8. The PFI shall retain the right of ownership of the lease asset over the entire period of the Lease Contract, until full payment by the Program Beneficiary/Lessee of the leasing installments set out in the Lease Contract, monitor the execution of the Lease Contract, and transfer ownership of the repaid asset to the Beneficiary only after full execution of all contractual obligations.

II. Program Beneficiaries and eligibility of funds provided under the lease operations

- 2.1 The funds provided under the lease operations for investment sub-projects, are reviewed and assessed by the PIU in line with the eligibility criteria set of in Project OM.
- 2.2 During the review and assessment of the **Lease Application**, the PFI shall check the compliance with all financial and non-financial criteria based on prudential assessment of the applicant, prudential assessment of financial and specific risks associated to the investment sub-project and the applicant, including of its economic activities and the credibility of the seller.

III. Categories of assets eligible for financing under the lease operations

- 3.1 **Eligible fixed and moveable productive assets** in the horticultural sector and in related industries, purchased for the purpose of their financing under the lease operations must be identifiable by a distinct identification code, without permanent fixing to the floor.
- 3.2 Assets accepted for financing can be both **new and used**, including:
- (i) Transport means, including commercial and special transport;
 - (ii) Machine tools, including combines and tractors;
 - (iii) Mobile equipment;
 - (iv) Refrigerating equipment;
 - (v) Machinery and equipment specific for the related industry;
 - (vi) Processing plants;
 - (vii) Real estate identifiable by separate location from other buildings on a plot of land with separate cadastral number;
 - (viii) Other eligible goods that meet the criteria described in this section.
- 3.3 The PIU examines the eligibility of financed fixed assets and reserves its right to pronounce on compliance with eligibility criteria for goods proposed for financing under the leasing scheme.

IV. Categories of assets ineligible for financing

- 4.1 Financing provided under the lease operations will not cover the assets listed below:
- (i) Purchase of farmland;
 - (ii) Real estate, except the real estate identifiable by separate location from other buildings on a plot of land with separate cadastral number;
 - (iii) Consumables;
 - (iv) Intellectual property objects that cannot be assigned to third parties;
 - (v) Household appliances;
 - (vi) Furniture;
 - (vii) Goods removed from civil circulation or which movement is restricted by law, including military items, weapons, nuclear equipment, nuclear reactors and parts thereof;
 - (viii) Any goods that are prohibited according to the EIB exclusion list.

V. Procurement procedure of goods transmitted in lease and the payment method

- 5.1 PFI in process of purchase of goods financed and delivered in leasing for the approved Beneficiary/Lessee is guided by its internal procedures and regulations, the provisions described in this chapter, as well as the provisions of local legislation. The PFI finances in leasing the goods specified in the Lease Application and selected by the Beneficiary independently.
- 5.2 **The PIU/PFI does NOT participate** in selection of goods to be leased to Beneficiaries, and **does NOT participate** in selection of seller, so the seller is selected by the Beneficiary independently.
- 5.3 The Beneficiary selects and configures the goods exclusively according to its production needs. All details related to the nature of the asset requested to be financed in leasing (price, features, conditions of delivery, conditions for installation and commissioning, warranty terms, etc.) shall be negotiated by the **Beneficiary** with the **seller** in collaboration with the **PFI** and specified in contracts.
- 5.4 The terms of delivery, quality, warranties, service in the warranty and post warranty period and any other conditions on asset financed in leasing are set out in **Sale-Purchase Contract**, signed by the PFI as the Buyer, by the Beneficiary as the Lessee and by the seller of the asset financed in leasing.
- 5.5 **Eligibility criteria common to all sellers** of goods in leasing are:
- (i) Be a legal entity registered in the Public Registry of the given country;
 - (ii) Hold permits and similar documents to practice that kind of activity;
 - (iii) Submit authorizations of the person who represents the interests of the company and who will sign the sale-purchase agreement;
 - (iv) Not to have unpaid debts to the national public budget.
- 5.6 In case if the seller of the asset is not its Manufacturer, such seller shall submit the Dealer Authorization from the Manufacturer, by which the Manufacturer confirms that it is the Dealer authorized by it to sell, serve, give similar guarantees to those of the Manufacturer, has in the Moldova or in immediate proximity a warehouse for spare parts, service, trained personnel, etc.
- 5.7 In case if the seller of the asset meets the criteria listed above, but a more detailed analysis by the PFI identifies any circumstances that would question the conclusion and proper execution of the Sale-Purchase Contract by the seller, the PFI reserves the right to refuse signing the contract with such seller and may refuse, generally, financing in leasing of the requested asset.
- 5.8 In case if the seller of the asset does not have any business in Moldova and has no authorized dealers, the Agent who will represent the Manufacturer in Moldova, based on official documents, will also be considered Eligible seller, being equipped and able to carry out maintenance, repairs, holding the necessary stock of spare parts and ensure their immediate delivery directly from the Manufacturer.
- 5.9 **Ineligible sellers:**
- (i) Individuals;
 - (ii) Legal entities included on the black list of the World Bank, United Nations, European Union, and in other blacklists of local organizations.
- 5.10 **The PFI as Lessor** is required:
- (i) not to intervene in the choice of asset and/or of the seller selected by the Lessee, unless the Lease Contract provides otherwise;
 - (ii) to coordinate with the Lessee the contents of the Sale-Purchase Contract for the asset;
 - (iii) not to amend the Sale-Purchase Contract without the consent of the Lessee;
 - (iv) to transmit to the Lessee the asset acquired for temporary possession and use against a charge;
 - (v) to conclude, on behalf of the Lessee, the Sale-Purchase Contract with the seller, to pay the price of the goods and allow the Lessee to execute its obligations on acceptance of goods;
 - (vi) to guarantee to the Lessee the use of the asset under normal conditions. In this respect, the PFI in accordance with the Sale-Purchase Contract regularly monitor the use of the asset.

- 5.11 The PIU/PFI is released from any liability regarding the quality of goods supplied by the seller, transportation, installation, commissioning and technical assistance, quality guarantees and other guarantees related to this asset and the service for the leased asset, as well as any other irregularities related to the Sale - Purchase Contract.
- 5.12 The Beneficiary undertakes to ensure the integrity of the leased asset and its maintaining in normal operating condition throughout the implementation period of the investment sub-project.
- 5.13 The **Beneficiary** under the Sale-Purchase Contract for the leased asset:
- (i) is entitled to negotiate with the seller any condition of the Sale-Purchase Contract, including the technical aspects of the asset (quantitative and qualitative), price, delivery terms, warranties, maintenance, risks, servicing, etc.;
 - (ii) is invested with all the rights and obligations of the Purchaser;
 - (iii) benefits the guarantees provided by the seller;
 - (iv) can demand, claim and complain about the quality of the asset to the seller;
 - (v) can refuse to receive the asset if it does not meet the conditions of the Sale-Purchase Contract;
 - (vi) may demand changes to conditions of the Sale-Purchase Contract or its termination only with the written consent of the PFI;
 - (vii) others.
- 5.14 The obligation to ensure the asset for the transportation period is the responsibility of the Beneficiary as the Lessee, who before the commencement of transportation must submit to the PFI a copy of the insurance contract, nevertheless of whose task is the delivery of goods under the Sale-Purchase Contract.
- 5.15 The seller issues payment documents (invoice) to the PFI. The PFI shall execute the payment in favor of seller for the purchase of the asset according to the payment method established in the Sale-Purchase Contract.
- 5.16 The PFI purchases the asset requested by the Beneficiary, transfers it into temporary possession and use according to the conditions and terms provided for in the Lease Contract.
- 5.17 The asset is transferred by the seller directly to the Beneficiary/Lessee with the written consent of the PFI, as result all parties signing the **Act of receipt-transmission**. If the asset is delivered by parts, which must be assembled, installed and put into commissioning, for each of such part shall be signed separate **Act of receipt-transmission**. As a result, the *Final receipt act for the asset and works* is signed. All mentioned documents shall be tripartite, being signed by the seller, the PFI as Lessor and the Beneficiary as the Lessee, and specifying that the asset meets the requirements of quantity and quality required by the Beneficiary.
- 5.18 Upon the delivery of the goods, the seller shall issue to the PFI the shipping bill or the tax bill and guarantees for the asset.
- 5.19 The full execution of the Lease Contract shall be followed by the transfer of the asset ownership to the Beneficiary /Lessee under **the Act of transmission in property**.
- 5.20 Ownership of the leased asset rest with to the PFI during the period of leasing specified in the Lease Contract until full payment by the Lessee of all its obligations. The Beneficiary shall become owner of the asset financed under a finance lease after full payment of all lease installments and other payments according to the Lease Contract as well as after signing of the Act of transmission in property.

VI. Terms and conditions for financing under a finance lease

- 6.1 The terms and conditions for financial lease, including the lease installments, their number and their payment period and the term of other payments, the initial value of the leased asset, the total value of the Lease Contract, the rights and obligations of the contracting parties are stipulated in the **Lease Contract**.
- 6.2 The Lease Contract is consistent with the terms and conditions of the OLC and this attachment approved by the EIB.

- 6.3 The object of the Lease Contract represent transmission by PFI as the Lessor to the Beneficiary as the Lessee the right of possession and temporary use of the asset financed in leasing.
- 6.4 A change of Lessee is permitted during the lifetime of the lease financing and does not require the submission of a new allocation request or the cancellation and reallocation of the initial allocation unless the asset concerned is sold by the lessor.
- 6.5 **The payments specified in the Lease Contract include:**
- (i) The down payment (if stipulated by the Lease Contract);
 - (ii) Administrative fee applied by PFI (if required by the Lease Contract);
 - (iii) Periodic payments, called lease installments;
 - (iv) Other payments under the contract.
- 6.6 **The term of financing of the lease operations** (the term of the lease contract) shall be at least 24 months, but not longer than the economic life period of the asset financed in lease.
- 6.7 The PFI shall charge its Final Beneficiary a maximum spread of 7 % to be added to the lending interest rate applied by MoF to the PFI for the funds in currencies mentioned in art. 6.8 from EIB loan.
- 6.8 The PFI can finance Lease Contracts in USD, EUR and MDL. In each case, the currency of the Beneficiary's financing may be different from the currency of the loan granted by the MoF to the PFI.

VII. PFI assessment for Leasing operations instrument

- 7.1 The PFI shall be in compliance with following criteria:
- a) The PFI operates on the territory under the control of the Republic of Moldova according to legal requirements for the entrepreneurship and enterprises, and has been performing leasing activities for at least the last two (2) years before applying to the current program;
 - b) has qualified and experienced management in the field of leasing;
 - c) complies with legal requirements of the Republic of Moldova and will comply with them throughout the period of validity of the OLC signed with MoF;
 - d) has had annual audited reports without any unsatisfactory qualifications of financial statements in accordance with International Financial Reporting Standards for at least two (2) previous years.
- 7.2 MoF in order to assess and sign the On-lending contract with the PFI as partner financial institution within the Leasing Operations of the Program, requests from the PFI the following documents and reports:
- a) State registration documents of the company (Certificate of Registration from the State Registration Chamber, Extract from the State Register, minutes of the shareholders' meeting, the Company statutory act, etc.);
 - b) Documents proving adequate institutional capacities for activity profile (Financial development plans and Annual operational plan, Financial and statistical annual reports and other documents);
 - c) Documents proving financial situation, profitability of PFI and portfolio quality (risk management reports, portfolio quality reports, portfolio monitoring reports, activity reports and financial statements prepared in accordance with IFRS and/or NAS, etc.);
 - d) Other requested documents.

VIII. Terms and conditions for on-lending by the Ministry of Finance

- 8.1 For the purpose of lease operations implementation and in order to secure payments to MoF in accordance with provisions of the Government Decision No. 1136 of 18 October 2007, Annex 5, between the PFI and MoF is signed the **On-lending contract** (*according to the template developed by the MoF*), establishing the general on-lending conditions for providing financing for lease operations. Based on OLC, the PFI requests from the PIU the disbursement of funds from EIB loan, by submitting the **PFI's On-lending Request**. The PIU based on the **Disbursement Request** received from the PFI, request from the

MoF withdrawal of funds from the EIB loan for each tranche, as individual loans for the implementation of lease operations.

- 8.2 For each tranche disbursed from the EIB loan and received by the PFI, the MoF signs with the PFI the **Addendum to the On-lending contract** (*based on the template developed by the MoF*), defining the on-lending terms for the on-lent tranche including:
- (i) Amount and currency of the loan;
 - (ii) The annual rate of interest and the method of calculation thereof;
 - (iii) The maturity and the terms of repayment of the loan and payment terms of the interest, based on agreed **Repayment schedule** accepted as part of **Addendum to OLC**;
 - (iv) Grace period;
 - (v) Information on other loan fees and charges;
 - (vi) Other conditions related to repayment of the loan and of the accrued interest.
- 8.3 After signing the Addendum to OLC for the on-lent amount, the PFI pays to the MoF an "up-front fee" of 0,25%. The MoF interest rate for leasing operations will include the MoF interest margin of 0,3% applied to the loan amount.
- 8.4 Under additional contracts signed with the Credit Line Directorate (CLD) for each tranche received from EIB sources, the PFI will reimburse to the MoF the amount of the loan, the interest and other payments according to the terms and conditions stipulated in the Repayment Schedule of each Addendum to OLC.
- 8.5 The PFI will repay the loan, the interest and other related payments to accounts of the Revolving Fund managed by CLD.
- 8.6 The PFI shall notify the PIU about each payment to the MoF/ CLD made according to the established Repayment Schedule, by sending a copy of the payment order confirming the transfer.
- 8.7 If the PFI does not execute within 30 calendar days the payment obligation for a tranche according to the schedule established, the PIU has the right to request from the PFI to explain about the situation and to notify about measures taken to solve this problem.

IX. Specific Reporting requirements for leasing operations

- 9.1 Reports will be prepared and sent to the EIB in accordance with the provisions stipulated in the Finance Contract (including Schedule A to the Finance Contract) and the Operational Manual (Chapter XIII) as well as other reports required by the EIB.
- 9.2 Each month, before the 3rd day of the month following the reporting month the PIU shall submit to the MoF reports on disbursements made from the EIB loan together with the set of documents confirming receipt of the loan, in accordance with the Government Decision No. 1136 of 18 October 2007.
- 9.3 The PFI submits monthly reports to PIU for further reporting to MoF on the financing provided to Program Beneficiaries.

INVESTMENTS IN INFRASTRUCTURE

(laboratories, education, training and development of food security).

1. Objective of the Component

The principal objective of this Component is to raise the capacity, quality and relevance of training, education, and research institutions related to horticultural sector, mainly orchards and table grape vineyards sub-sectors in accordance with the project.

This would be achieved amongst other, by means of strengthening the institutional capacity through provision of new and modern laboratories (e.g. virusology, or for the development of drought resistant species, amongst other), table grapes vineyards and laboratory equipment or creation of all necessary conditions for the adequate educational and research processes.

2. Context, steps and basic concepts of the Component

2.1 General

According to the provisions of Finance Contract (art. 1.10A) financing provided from EIB Fruit Garden Moldova of 120 mln euros loan sources "*For laboratories, education, training and development of food security*" should constitute a minimum of **5 % (five per cent)** - which represents a minimum of **6 000 000 EURO** but up to **10% (ten per cent.) of the Loan** - - which represents a maximum of **12 000 000 EURO**.

The approach used within this component of the Program should be analogous to the productive investments, meaning that according to art. 6.02(b) of the Finance Contract, Borrower and/or Promoter shall ensure that the amount of financing by the Bank may not exceed 50% (fifty per cent.) of the relevant Sub-Project cost, a criteria which applies to all Sub-projects, including the public sector investments.

A total amount of up to 10% of the EIB loan (i.e. up to EUR 12m) may be on-lent directly by the Borrower to eligible public sector Final Beneficiaries (e.g. Universities, laboratories, etc.) without involvement of the PFIs.

2.2 Component implementation activities:

The role of PIU:

- 1) to identify the potential beneficiaries (PB) from education, and research institutions related to horticultural sector, including related to sector laboratories.
- 2) to provide support and assistance to identified PB in the process of elaboration of investment projects, including on the following:
 - (a) Structure of the sub-project;
 - (b) sub-project eligibility cost;
 - (c) identification of PB own contribution which should correspond to EIB eligibility sub-project structure criteria;
 - (d) streamlining and improvement the PB procurement needs (technical specification, estimated cost of investment, etc.).
- 3) to perform pre-financing monitoring activity, including:
 - (a) to perform a series of visits at PB premises in order to verify the declared needs, actual situation of their laboratories and training rooms and provide recommendations for improvement of the investment projects;
 - (b) to verify the PB own contribution structure;
 - (c) to verify the investment projects' completeness (procurement activities are complete and contain all necessary components (reagents procurement, installation services for complex lab equipment, training and maintenance) and ensure that basic technical specifications of proposed equipment is vendor neutral);
- 4) to review and analyze the received sub-project proposals' correspondence to all eligibility criteria for the component;
- 5) to submit the sub-project proposals to the extended Working group created by the Promoter for evaluation and approval of the submitted sub-projects;
- 6) to provide preliminary opinion on eligibility of the proposed investment sub-project;
- 7) to submit the sub-projects for EIB review and approval;
- 8) to implement the sub-projects jointly with the approved final beneficiaries (organize the procurement processes and financing of the allocations);
- 9) to organize acquisitions and procurement in accordance with approved investment sub-project;
- 10) to deliver goods and services purchased by the PIU to the Beneficiary;
- 11) to organize the transmission of the goods and services on a free basis purchased in accordance with the approved project;
- 12) to submit the request of disbursement of EIB funds to the Ministry of Finance;
- 13) to verify and monitor the Final Beneficiary accounting records of the goods in accordance with the requirements of national accounting standards and other accounting law of the Republic of Moldova;

- 14) to perform and conduct monitoring visits in order to verify the existence of received goods and check the correspondence of the original purchased number, including the use of the procured goods due their approved destination;
- 15) to monitor of the sub-projects implementation status and results by PIU.

The role of Working Group

(to be created by the Promoter for the scope of the implementation of this component):

- 1) to review and analysis of received sub-project proposals' correspondence to all eligibility criteria for the component;
- 2) to provide the recommendations to PB in order to improve their investment projects;
- 3) to approve the submitted sub-projects
- 4) to participate to the monitoring visits organized by the PIU during the implementation period of the Investment projects;
- 5) to provide to the PIU information regarding the modernization/merging strategy related to the concerned educational institutions;
- 6) to provide support to the PIU regarding the issues appeared in the implementation process of the investment projects.

2.3 Final beneficiaries and sub-projects eligibility

Selection and Evaluation of the eligible Sub-Projects submitted by the Final Beneficiaries for financing is a functional responsibility for the PIU and will require additional clearance approval by the Promoter created working group/Ministry of Education/Steering Committee of the PIU and EIB. The PIU will evaluate the conformity of the Sub-project applications to all criteria set forth in the Finance Contract, OM and the Side Letter issued by the EIB. The proposed investment activities will be prepared by PB in the form of an Investment project document. The investments under this Component will be in line with all the following eligibility criteria:

a. Final Beneficiaries:

- (i) are Public educational, research or services providing institutions, owned and controlled by the Government;
- (ii) operate on the territory under the control of the Republic of Moldova;
- (iii) train specialists and/or performs research or provides public services for horticultural sector; orchards and table grape vineyards sub-sectors;
- (iv) have a satisfactory financial structure and the organization, management structure, staff and technical, financial and other resources required for the efficient Sub-Project implementation
- (v) are not subject of reducing/merging/closing down of the related educational institutions.

b. Sub-Projects:

- (i) are oriented towards increasing the quality of didactic and research activities for the horticulture sector: orchards and table grape vineyards sub-sectors;

- (ii) are in compliance with the environmental requirements applicable under the laws and regulations of the Republic of Moldova and with EIB's Environmental and Social Handbook;
- (iii) are in compliance with the EIB investment cost structure and sub-project eligibility requirements;
- (iv) will be made exclusively for financing educational and research institutions investment needs from horticulture sector: orchards and table grape vineyards sub-sectors.

2.4 Own Contribution concept

Due to provisions of Finance Contract signed between Bank (EIB) and Republic of Moldova in the context of this specific Educational component of the Fruit Garden Moldova Project own contribution is constituted from horticulture: orchards and table grape vineyards sub-sectors related department laboratories and trainings/class-rooms, including:

- (i) Investments made in didactic or other types of equipment, part of their core operations;
- (ii) Investments made in IT equipment, including computers and notebooks, etc;
- (iii) Overhaul of training rooms;
- (iv) Expenditures related to utility bills and maintenance;
- (v) Payroll of employees qualified to Master Degree or higher;
- (vi) Expenditures related to procurement of didactic materials;
- (vii) Expenditures related to issuance of didactic materials, manuals, etc. for enhancement of level horticulture department specialists and students capacity;
- (viii) Cost of participation of horticulture department employees on conferences, workshops, seminars, forums with specific horticulture topics;
- (ix) Other investments sources with exception of those made by the EIB already.

3. Financing concept and procedure

In order to request funds for financing of relevant investment projects proposed by laboratories, educational and research institutions, PIU will:

- submit the sub-project proposals to the extended Working group created by the Promoter for evaluation and approval of the submitted sub-projects;
- submit the sub-project proposals to the EIB for each accepted eligible Sub-project for review and approval, reflecting a summary of each individual sub-project
- request the disbursement of the funds from EIB loan, necessary to implement the respective Sub-project based on the indicated document EIB will provide approval of submitted Sub-project in form of **Allocation letter(s)**, which will further serve as argumentation of PIU to MoF.

The financing of this component will be made in accordance with cost estimates as indicated in the FB investment projects and approved sub-projects by EIB. This component will be financed in accordance with approved Allocation Letter signed by EIB.

4. Procurement

- (i) Procurement processes performed within this component of the Project, shall be governed by the following documents:
 - a) Moldova Fruit Garden Finance Contract (Serapis N° 2014-0041)
 - b) EIB Guide to Procurement, version dated June 2011 (Annex E to OM)
 - c) Operations Manual (Attachment C) of Fruit Garden Program (Component - Financing of Education Institutions)
- (ii) In line with EIB Guide to Procurement (article 3.7.4), for all procurements (goods or services (including consulting services)) organized directly by PIU under the Fruit Garden Project, the PIU will use internationally-recognized standard procurement documentation such as those prepared by the World Bank (website www.worldbank.org, Projects & Operations / Procurement / see Index of Standard Bidding and Proposal Documents, or Procurement Policies and Procedures for guidance).
- (iii) Certain ad hoc procurements organized by PIU within the “Financing of Education Institutions” Component, which will be small by their nature/budget, will not require a specific procurement method. These small procurements will allow the PIU to speed up certain ad-hoc & unforeseen activities that are part of this component, and will mean reasonable (normally up to 2,000 EUR per single payment or per one contract) and necessary expenditures incurred by the PIU for the purposes of implementing this component as promptly as possible.
- (iv) In order to properly organize and efficiently implement the respective procurement activities, the PIU will elaborate a Procurement Plan for the Education Institutions endowment Component. The Procurement plan will contain information of timing, amounts and procurement methods to be used by the PIU during a sub-project implementation process. The EIB shall review and provide its non-objection to the Procurement plan, elaborated and submitted by PIU.

The Procurement Plan is a “live” monitoring tool that can be updated as the necessity arises and the procurement activities included in the Plan are subject to be modified and adjusted (activities can be merged/split).
- (v) For evaluating the bids received under the Shopping procedure, the PIU shall establish Bids Evaluation Committee(s) (BEC) for each evaluation event, through PIU orders issued by Project Executive Director (PED). BEC(s) will comprise at least 3 members representing the PIU. The PED may invite additional experts/representatives (i.e from Beneficiary institutions etc.), to attend the evaluation sessions for technical specific details on specific matters. For evaluating bids received under International Shopping procedure, the PIU shall include as members of the BEC – representatives from Ministry of Agriculture and Food Industry of the Republic of Moldova.
- (vi) The BEC will be chaired by the PED. BEC members must abide to the twin principles of (i) confidentiality, (ii) avoidance of any conflict of interests among the members.
- (vii) The role of the Beneficiary institutions in implementing this Component, will be as follows:
 - a. Establish quantities and vendor neutral technical specifications for the goods/works/services to be procured within their respective investment projects (these will be further reviewed by PIU).

- b. Delegate (as requested by PIU) official representatives to participate in the technical evaluation of received price offers.
- c. Establish "Receipt Committees" (of min. 3 officials) responsible for the quantitative and qualitative receipt of goods/works/services procured by PIU within their respective investment projects.
- d. Interact on all necessary matters with PIU regarding prompt and quality implementation of the investment projects.
- e. The PIU will keep the relevant documents and records of the completed procurements and payments for post review and monitoring.

PIU – updated operations flow- Final April 2016

