



SECTION 2 - SCHEME COMMITMENTS

ELIGIBILITY RULES

To be eligible for the Sustainable Production Grant, you must:

- Be registered with the Welsh Government and have been issued with a Customer Reference Number (CRN).
- Be registered with RPW Online.
- Be a primary producer of agricultural products.
- If applying as an organic farmer, be certified with an organic control body.

If you are applying as a group:

- All farmers that comprise the group must meet all the above conditions.
- The group must be registered with the Welsh Government and have been issued with a CRN for the group.
- The EOI must be submitted under the CRN as issued by the Welsh Government for the group.

SCHEME COMMITMENTS

- You must meet the requirements of the Competitive Tendering and Public Procurement Technical Guidance Notes, available on this link <https://gov.wales/rural-development-programme-2014-2020-technical-guide-competitive-tendering-and-public-procurement>, when submitting an expression of interest, full application or claim for funding.
- You must adhere to the requirements set out in this Contract.
- You must submit your claims via your RPW Online account by the date notified in your contract offer letter with all supporting evidence to be eligible for consideration for payment.
- Supporting invoices and evidence of defrayment must be submitted by the date notified in your contract offer letter in support of your claim and via your RPW Online account or post.
- You must meet any legal obligations imposed under EU and UK law, including animal or plant health and welfare legislation.
- You must provide a Delivery Profile confirming when you will submit claims for payment for all investment items.
- No equipment purchased with grant aid must be disposed of, transferred or sold, without the prior written consent of the Welsh Government, during the project delivery and for five years from the date of payment.
- No alterations may be made to the project, including, where applicable, the location of the activity, without the written approval of the Welsh Government.
- You must comply with the rules on eligible expenditure.
- You must not start work prior to accepting the contract.
- Where you are offered to proceed at risk by the Welsh Government, you must comply with all of the at risk requirements.
- You must confirm that none of the items covered by the application are replacements under an insurance claim.
- Investment items must meet the minimum specification as described in the SPG Annex A.
- You must not use items purchased through SPG for agricultural contracting activities.
- Finance agreements are acceptable under the SPG, providing the invoices/contract is addressed to your trading business (and not the finance company).
- Second hand equipment is eligible for SPG providing it complies with current health and safety legislation, it is fit for purpose and has at least 5 years life expectancy remaining.
- You must provide confirmation no other public funding (whether from EU or UK sources) has been sought in respect of the project concerning this contract. If other EU or UK public funds are obtained to support the costs of a project, they will be discounted against the SPG
- You undertake to meet any obligations in relation to obtaining planning permission consents, where necessary.

- Records concerning the application and claim for this grant, including all invoices and any other related documents, must be retained by the beneficiary for at least seven years after the date of approval.
- You must allow representatives of the Welsh Government, the Auditor General for Wales, Audit Commission and the European Court of Auditors to inspect the project. On request, you must provide them with information and / or access to original documentation in relation to the project.
- Any publicity given to the project must make reference to the part played by both the European Union and the Welsh Government in funding it.
- You should be aware that the Welsh Government and the European Commission reserve the right to publish the name of your business or company, the amount of grant you were awarded and a summary of your project.

SECTION 3 - SUSTAINABLE PRODUCTION GRANT TERMS AND CONDITIONS

Definitions

The following definitions apply in this contract:

“Primary producer of agricultural products” an individual, partnership or company operating a business that undertakes the production of Annex 1 agricultural products. This includes the following farming sectors:

- arable
- beef
- dairy
- goats
- horticulture (including hydroponics and aquaponics)
- pigs
- poultry
- sheep
- apiculture.

“Beneficiary” and **“Beneficiaries”** means an operator, body or firm, whether public or private, responsible for initiating, or both initiating and implementing operations or receiving support under the Contract;

SPG **“Item”** means a piece of capital equipment or machinery included in the pre-defined List of Eligible Capital Items set out in Annex A of the SPG rules and guidance.

“Welsh Government Rural Communities - Rural Development Programme for Wales 2014-2020 is the mechanism by which the Welsh Ministers deliver activities under the Regulations which support the countryside and rural communities, encouraging the sustainable management of agriculture and the environment;

“Project” means the complete set of Capital Works that make up each SPG Contract.

Contract Offer – Award of Grant

The Welsh Ministers shall make a SPG contract offer subject at all times to the following conditions:

1. The acceptance of the grant contract awarded must be made via the RPW Online blue button within 30 days of the date of the Contract offer letter. The Delivery profile must be completed on acceptance of the Contract and must confirm the period when claims for payment will be made to the Welsh Government.
2. The Contract offer is made on the basis of statements made by you or your representatives in the Online application, supporting evidence and subsequent correspondence.

The making of false or misleading statements is an offence.

3. The beneficiary or persons acting on the beneficiaries behalf must not begin any work on the project before accepting the Contract offer.
4. Projects must be completed within 2 years of the offer of contract or by 30th June 2023, whichever is soonest.
5. No alterations may be made to the project, including, where applicable, the location of the activity, without written approval of the Welsh Government.
6. No equipment and/or buildings purchased with grant aid must be disposed of, transferred or sold without the prior written consent of the Welsh Government during the project delivery period and for five years from the project end date.

Claims and Payments

Making Sustainable Production Grant Payments

The Welsh Ministers shall make SPG Payment subject at all times to the following conditions:

1. The beneficiary has accepted a SPG contract within 30 days of the offer of contract.
2. Where the beneficiary has been offered to proceed at risk by the Welsh Government, prior to offer of contract, the claim submitted must meet the at risk requirements.
3. All investment items listed in the table at Section 1 of the Contract must be completed and claimed.
4. Projects should be completed within the timetable agreed with the Welsh Government. You cannot change this without written agreement from the Welsh Government.
5. All investment items must be claimed in line with the delivery profile and within 2 years of the date of the offer of contract or 30th June 2023, whichever is soonest.
6. Claims must be submitted via the RPW Online claim application and accompanied by all necessary documentation.
7. Claims must be submitted in accordance with the Delivery Profile. You cannot change the agreed timing and value of your claims without written agreement from the Welsh Government.
8. Investment items may be claimed individually. Before submitting a claim for an investment item, the beneficiary must ensure that the item has been purchased, installed and completed.
9. The beneficiary has completed and submitted a claim for SPG in order to remain eligible for and receive payment.
10. The beneficiary is responsible for submitting all invoices and evidence of defrayment, for each investment item claimed, for a claim to be considered valid.
11. Invoices must clearly display the word 'invoice' on the document and include the following:

- a unique identification number
 - the beneficiary's company name, address and contact information
 - the invoicing company name and address
 - a clearly broken down description of what you are being charged for
 - the date the goods or service were provided (supply date)
 - the date of the invoice
 - the amounts being charged
 - VAT amount, if applicable
 - the total amount owed
12. Defrayment should be evidenced by bank statements. If the value of the transaction does not match the invoice value, a breakdown of the whole payment with supporting invoices will be required. If making payments by cheque, then a scan of the written cheque, before it is presented to the supplier, will be required in addition to the bank statement.
13. The beneficiary shall be responsible for ensuring that they complete and submit their SPG claim by the date notified in the Offer of Contract.
14. All investment items claimed must have been bought after the Contract acceptance date, unless purchased at risk, when at risk requirements must have been followed.
15. Where the beneficiary is a group, it is the responsibility of the group to ensure all the above conditions are met.
16. Where evidence of final planning consent is required, the capital works claim for the investment item will not be made available to the beneficiary until satisfactory evidence of such consent has been submitted by the beneficiary to the Welsh Government.
17. The Beneficiary has not received payment from any other source in respect of any payment due or payment made to which the Contract relates.
18. The Beneficiary has not artificially created conditions required to obtain payments.
19. The Beneficiary has not made a false or misleading statement or declaration, or furnished the Welsh Ministers with false or misleading information.
20. Payments are calculated in accordance with the Contract Schedule, provided that all items listed have been purchased to the correct specification. Payments are made following the successful validation of the claim and supporting documents following administration checks.
21. The Beneficiary's claim may be selected for inspection or administrative checks before or after the payment is made. All the details in the beneficiary's application, the details in the claim and the declarations that were made in submitting the application and claim will be checked at inspection, the dates on which investment items were bought, who the invoice or invoices were made out to and the specification of the investments (where appropriate).
22. All SPG Payments are only payable in sterling by the Welsh Ministers via the Bankers' Automated Clearing System (BACS).

State Aid

1. 3.2.1 Articles 107, 108 and 109 TFEU do not apply to grants provided under this scheme which are made pursuant to Regulation (EU) No 1305/2013 of the European Parliament and of the Council (Rural Development Regulations), within the scope of Article 42 TFEU.

Article 42 TFEU applies to activities in the primary production of agricultural products.

2. 3.2.2 Grants provided under this scheme will comply with the maximum intervention rates and aid ceilings set out in Annex II of the Rural Development Regulations.

Incorrect claims and penalties

1. The Beneficiary has a responsibility to make sure that the claim submitted is arithmetically correct and that it is only for investment items listed in the table at Section 1 of the Contract.
2. All items claimed must have been purchased or work started after acceptance of the contract.
3. If the Beneficiary has bought items that are of the wrong kind or specification; or has bought items before the application was submitted; or has not bought all of the items listed in the Contract, the claim is incorrect. The whole claim will be rejected and if any grant has been paid for the project it will be recovered.

Offences

1. Regulation 13 of the Rural Development Programmes (Wales) Regulations 2014 (No. 3222 (W.327)) establishes criminal offences and penalties in relation to certain aspects of rural development funding. That Regulation and those offences are applicable to the SPG Scheme. Examples of offences include knowingly or recklessly providing false or misleading information in relation to rural development funding, obstructing an inspector or official, and refusing to provide information when requested to do so.

Contract Amendments

Changes to the Contract Terms and Conditions

1. The Welsh Ministers may need to make changes to this Contract in order to update the Contract to take account of the latest scientific advice, amend scheme rules to take account of any changes within the **Welsh Government Rural Communities - Rural Development Programme 2014-2020** and revise payment rates, amongst other things.
2. The Welsh Ministers will publicise the changes in Gwlad Online, on the Welsh Government's website www.wales.gov.uk and, where necessary, contact Beneficiaries via RPW online accounts.
3. The Beneficiary is required to abide by any changes made to this Contract in the event of any statutory variation or modification of the Regulations and following notification by the Welsh Ministers.

Termination

1. Termination by Welsh Ministers.
2. The Welsh Ministers may terminate this Contract in the following circumstances:
 - i) where the Welsh Ministers exercise their powers in accordance with Clause 4.1
 - ii) where in the absolute discretion of the **Welsh Government Rural Communities – Rural Development Programme for Wales 2014-2020** or any subsequent Welsh Government Rural Communities Programme period;
 - iii) at the end of the current **Welsh Government Rural Communities - Rural Development Programme for Wales 2014-2020** or any subsequent Rural Communities Programme period;
 - iv) where changes to the **Welsh Government Rural Communities - Rural Development**

Programme for Wales 2014-2020 or any subsequent Welsh Government Rural Communities Programme period;

- v) where changes to Welsh Ministers' budgetary provisions necessitate amendments to the operation of the SPG Scheme.

Termination by the Beneficiary

1. In the event that the Beneficiary terminates this Contract prior to the expiry of the term of the commitment, the Welsh Ministers, in accordance with the Regulations, will take recovery action for payments made to the Beneficiary under the Contract with interest.

The Welsh Government may terminate this Contract at any time upon giving fourteen (14) working days written notice to the beneficiary. Where notice is given, termination shall take effect at the end of the period of notice.

2. Where any payment has been made, an amount equal to the whole or any part of such payment may be recovered on demand, where:
- i) Access to the project site or any records has been denied to personnel authorised by the Welsh Ministers or persons referred to at paragraph 5.
 - ii) Any information provided by the beneficiary and/or his representative is found to be false or misleading in a material respect;
 - iii) The beneficiary and/or his representative has intentionally or by negligence committed a irregularity in performing the agreement and by fraud, corruption or any other illegal activity or omission on the part of the beneficiary, has resulted in the Welsh Government and/or European Union suffering a financial loss;
 - iv) The beneficiary and/or his representative has failed, within the period specified by the Welsh Ministers to supply any information requested by the Welsh Ministers;
 - v) There has been a substantial change in the nature, scale, costs or timing of the project;
 - vi) The Welsh Ministers have reasonable grounds to believe that the project has not been or is not being properly carried out with a view to fulfilling the aims of the project as stated in the application;
 - vii) the project has been or is being unreasonably delayed or is unlikely to be completed by the date of completion specified in the contract offer letter and the agreed Delivery Profile;
 - viii) A domestic check by the Welsh Ministers, the Auditor General for Wales, the National Audit Office, Audit Commission appointed auditors, the European Commission or the Court of Auditors, identifies circumstances whereby a full or partial de-commitment of grant is due or, if the Commission otherwise requires the EAFRD assistance to be withheld, reduced, cancelled or recovered;
 - ix) The Welsh Ministers considers that the assistance is in breach of European Community State Aid rules or if the European Community Authorities consider that any grant paid should not have been paid; or if a decision of the European Court of Justice requires payment to be withheld, reduced, cancelled or recovered;
 - x) During its economic life, the Project undergoes substantial change defined as being used for purposes other than those specified in the application or having a change of owner. The economic life is the period up to the last payment of grant or achievement of the last of the targets specified in the Delivery Profile or 5 years from the end date of the project whichever is the later; specified in the Delivery Profile or 5 years from the end date of the project whichever is the later;
 - xi) within the period beginning on the date of this contract and during the economic lifetime of the Project any of the following events occur, of which the Welsh Ministers must be informed as soon as possible:

- (i) The beneficiary ceases to be a subsidiary of any company of which it is a subsidiary at the date of this letter or the beneficiary becomes a subsidiary of any company of which it is not a subsidiary at the date of this letter. The word "subsidiary" shall be interpreted in accordance with the definition in Section 736 of the Companies Act 1985 as substituted by Section 144(1) of the Companies Act 1989;
- (ii) the beneficiary is the subject of a proposal for voluntary arrangement or has a petition for an Administration Order or a petition for a Winding-up Order brought against it or passes a resolution to wind-up or makes any composition, arrangement, conveyance or assignment for the benefit of its creditors or purports to do so, or if a receiver or any other person is appointed in respect of its undertaking or any of its property.

On termination of the agreement, the beneficiary shall:

- a) Repay within 28 working days the whole or part of any grant paid which has not at the date of termination been spent for approved purposes and;
- b) Comply with the provisions of any demand for repayment served by the Welsh Ministers.

Inspections and Record Keeping

- 1. The Welsh Ministers or their agents will conduct inspections which may be unannounced or within a strictly limited period of notice.
- 2. The Beneficiary shall:
 - i) permit duly authorised officers of the Welsh Ministers or an Authorised Person to check all the details in your Expression of Interest and Contract; the details in your claim and the declarations that you made in submitting the EOI and claim. This will include a check, the dates on which the equipment was bought, who the invoice or invoices were made out to and the specification of the equipment and building work (where appropriate) for the purpose of ascertaining that the terms of this Contract have been duly complied with;
 - ii) render all reasonable assistance to an Authorised Person in relation to the Contract. If an Authorised Person considers it necessary, the Beneficiary shall accompany an Authorised Person.
- 3. The Beneficiary must make available to the Welsh Ministers any information, books of records, accounts, receipts or other data including access to computer data which the Authorised Person may reasonably request for the purpose of verifying that the terms of the Contract are being complied with.
- 4. The Beneficiary shall supply that information within the period determined by the Welsh Ministers and must permit the Authorised Person to take copies or extracts from any of those documents or records.
- 5. The Beneficiary shall retain all invoices, accounts or other documents relating to commitments after the final scheme payment including copies of all documents for at least 7 years.
- 6. The Beneficiary shall consent to the Welsh Ministers contacting other relevant authorities to seek disclosure of information pursuant to any enquiries which the Welsh Ministers may wish to make to verify information supplied by the Beneficiary.

7. The Beneficiary shall, on request, supply details of any payments received or due from any governmental or public body, or insurance policy, in respect of the capital items to the Welsh Ministers.
8. The Beneficiary shall notify the Welsh Ministers immediately upon receipt of any offer of funding or an agreement in respect of the management of any part of the capital items by any person or body other than the Welsh Ministers.
9. The Beneficiary shall allow Welsh Ministers' officials, an Authorised Person or third party contractors access to the location of the capital items for the purpose of monitoring and evaluating scheme outcomes at any time during the Contract term.
10. The Beneficiary shall allow Welsh Ministers' officials, an Authorised Person or third party contractors access to the location of the capital items for the purpose of conducting an ex post check following final payment of grant.
11. The Beneficiary and Welsh Ministers agree that any conduct which amounts to a refusal to allow an inspection, failure to co-operate with the inspection request, obstruction of an Authorised Person to inspect or failure to give reasonable assistance will be treated as a breach of Contract in accordance with Clause 6, and will result in the reduction, cancellation or recovery of payment under the SPG

Penalties and Breaches

1. The Welsh Ministers may impose penalties, possibly resulting in either full or partial refusal of payments for:
 - i) breaches of the Contract (including, but not limited to, breaches of the Scheme Rules set out in Section 2 and Inspections and Record Keeping set out at Clause 5);
 - ii) SPG claim discrepancies and breaches

Scheme Breaches

1. The Welsh Ministers may identify ineligible expenditure via administrative checks, or on farm inspections and will notify the Beneficiary in writing.
2. The Welsh Ministers shall notify the Beneficiary of the details of any reduction or exclusions to be applied at payment stage.
3. The Welsh Ministers shall refuse or withdraw in full the support claimed where the eligibility criteria are not met.
4. The Welsh Ministers shall refuse, or withdraw in full or in part the support claimed where the Beneficiary does not comply with the commitments contained in this Contract.
5. The Welsh Ministers shall refuse, or withdraw in full, the support where it is established that the Beneficiary provided false evidence for the purpose of receiving the support, or failed to provide the necessary information due to negligence.
6. If the Beneficiary makes a false declaration or fails to notify the Welsh Ministers of a material change they may be liable to prosecution.

Recovery of Payments

1. The Welsh Ministers are required in certain circumstances to recover payments in whole or in part and may exercise these powers in line with Regulation 10 of The Rural Development Programmes (Wales) Regulations 2014 SI No 3222 (W. 327) as amended.

Applying Interest

1. In the event that Welsh Ministers need to recover sums paid the Beneficiary shall repay the amount in question plus, where applicable, interest.
2. The Welsh Ministers shall calculate interest for the period elapsing between the payment deadline for the Beneficiary indicated in the recovery order, which shall not be set at more than 60 days, and the date of either repayment or deduction.
3. The Welsh Ministers shall calculate the rate of interest applicable in accordance with the LIBOR rate on that day plus 1%.

Appeals and Complaints Procedures

1. In the event that the Beneficiary wishes to challenge a decision of the Welsh Ministers in relation to their SPG Contract or Payment, they may apply in writing within 60 days of the date of the letter notifying the Beneficiary of the Welsh Minister's decision. Details of the two stage appeals process can be obtained from the Rural Payment Wales Customer Contact Centre.
2. If a Beneficiary is dissatisfied with the way their case has been handled a complaint can be made under the Welsh Government's Complaints policy and procedure. Advice can be obtained from the Rural Payment Wales Customer Contact Centre.

General Data Protection Regulation: Privacy Notice

1. This notice informs the Beneficiary about the Welsh Ministers' use of the information held and obtained in relation to this Contract or any other document which is used, created or obtained in connection with this Contract.

It also explains the Welsh Government's processing and use of your personal data and your rights under the General Data Protection Regulation. Full details are found at:

<https://beta.gov.wales/rural-development-programme-2014-2020-privacy-notice>

Interpretation

1. The paragraph headings are inserted for convenience of reference only and shall not in any way affect the construction meaning or effect of anything contained in this Contract or govern the rights and liabilities of the parties.

Fettering of Discretion

1. Nothing in this Contract shall fetter or otherwise constrain the Welsh Ministers in the exercise of their functions under the Regulations.
2. In the event of a conflict between the terms of the Contract and the Regulations and to the extent that any clauses of this Contract are incompatible or inconsistent with the Regulations, the Parties agree that the provisions of the Regulations will apply.

Public Liability and Third Party Insurance

1. In addition to any existing legal right of access any persons may have to the Contract Land, where the Beneficiary, has agreed as part of the Contract that the public may have access over the Contract Land that Beneficiary undertakes to hold an adequate policy of public liability and third party insurance throughout the term of the SPG Contract.