



**STANDARD  
BMG-STD-TREAT**

**Approval of Suppliers Providing Treatment of  
Imported Risk Goods and Forestry/Plant  
Related Material for Export**

**MAF Biosecurity Authority  
P O Box 2526  
Wellington  
New Zealand**

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## **ENDORSEMENT**

This MAF Biosecurity Authority standard is hereby approved.

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Group Director, Biosecurity Authority

Date:

## **REVIEW**

This MAF Biosecurity Authority standard is subject to review and amendment at any time to ensure that it continues to meet current needs. Amendments will be issued to holders of controlled copies and treatment suppliers approved under this standard.

Last Review: June 2001

Next Review:

## AMENDMENTS

Amendments to this Standard will be given a consecutive number and will be dated.

Please ensure that all amendments are inserted, obsolete pages removed, and the record below is completed.

Amendment No:	Entered by:	Date
1		
2		
3		
4		
5		
6		
7		
8		

## DISTRIBUTION

Treatment suppliers must hold an up to date copy of this standard. Each copy of the standard will have the appropriate date in the footer.

The current version of the Standard will be available on the MAF web site:

[www.maf.govt.nz/Standards/plants/index](http://www.maf.govt.nz/Standards/plants/index)

## CONTACTS

Imported Risk Goods:	Programme Manager Border Management Group
Export Forestry Products	National Advisor Forest Product Export Standards
Export Plant Products	National Advisor Plant Export Operations

## IMPLEMENTATION SCHEDULE

Specification	Implementation
Imported Risk goods	
Export Plant Products	
Export Forest Products	

# 1. INTRODUCTION

## 1.1 SCOPE

This Standard specifies the requirements to be met by a treatment supplier to become approved to carry out treatments on behalf of MAF Biosecurity. Treatments may be as directed by a biosecurity directive for imported risk goods, or to meet export certification requirements (for the inclusion of an additional declaration on phytosanitary certificates).

The Standard can also be used for animal products when required.

## 1.2 RELEVANT LITERATURE

- Biosecurity Act 1993
- Fumigation Regulations 1967
- Health Act 1956
- AS/NZS ISO 9001:2000. Quality management systems - requirements.
- ISO 17020 Standard for Assessment Bodies
- MAF (PEO.IAR) Biosecurity Plant Export Operations Independent Verification Agency Accreditation Standard
- MAF (PEO.OAR) Biosecurity Plant Export Operations Treatment supplier Accreditation Standard.
- MAF (FE01) Biosecurity Accreditation of Independent Verification Agencies Providing Forestry Export Phytosanitary Certification Services.
- International Plant Protection Convention 1999

## 1.3 DEFINITIONS

For the purpose of this MAF Biosecurity standard the following definitions apply:

### **Additional declaration(AD)<sup>1</sup>**

A statement that is required by an importing country to be entered on a phytosanitary certificate and which provides specific additional information pertinent to the phytosanitary condition of a consignment.

### **Approved**

Having been formally recognised by the appropriate MAF Biosecurity designate (DPB, DFB, DAB) as competent to act on their behalf to provide a service in accordance with the requirements specified in the relevant standard(s).

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<sup>1</sup> International Plant Protection Convention 1999

**Audit**

An evaluation to determine the degree of conformity with prescribed criteria.

Systems audit is an evaluation of a system.

Surveillance audit is an evaluation of practice.

**Consignment<sup>1</sup>**

A quantity of plants, plant products or other regulated articles being moved from one country to another and covered by a single certificate (a consignment may be composed of one or more lots).

**Critical control points**

A point, step or process where control can be applied and where a hazard can be prevented eliminated or reduced to acceptable levels.

**Critical non-compliance**

An incident that results in loss of confidence that a treatment supplier's System is in place and being operated (product cannot be confidently certified/released without inspection) as per approved operating procedures.

**Director, Plants Biosecurity (DPB)**

The Director, Plants Biosecurity of the New Zealand Ministry of Agriculture and Forestry (MAF) and is appointed as a Chief Technical Officer under section 101 of the Biosecurity Act 1993 or delegate.

**Director, Forest Biosecurity (DFB)**

The Director, Forest Biosecurity of the New Zealand Ministry of Agriculture and Forestry (MAF) and is appointed as a Chief Technical Officer under section 101 of the Biosecurity Act 1993 or delegate.

**Director, Animal Biosecurity (DAB)**

The Director, Animal Biosecurity of the New Zealand Ministry of Agriculture and Forestry (MAF) and is appointed as a Chief Technical Officer under section 101 of the Biosecurity Act 1993 or delegate.

**Evaluation**

An appraisal of the treatment suppliers documented system to determine that it meets the specified requirements.

**Independent**

Not having a commercial interest in the operation and not depending on another body for its validity.

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<sup>1</sup> International Plant Protection Convention 1999

**Independent Verification Agency (IVA)**

An organisation approved by MAF Biosecurity to carry out approval and monitoring of treatment suppliers.

**Inspector**

Means a person who is appointed an inspector under section 103 of the Biosecurity Act 1993:

**Location**

Either a treatment site or if the treatment involves mobile treatment unit then that mobile unit.

**MAF Biosecurity Authority (MAF Biosecurity)**

The part of the Ministry of Agriculture and Forestry that is responsible for biosecurity functions.

**Major non-compliance**

Incident(s) that result in confidence in the treatment supplier's system decreasing to the extent that ongoing provision of successful treatments is in doubt.

**Minor non-compliance**

Any non-compliance recorded during a system or surveillance audit, end point inspection or endorsing phytosanitary certificates, which is not considered major or critical.

**Organism**

As defined by the Biosecurity Act (1993) (as amended by the Biosecurity Amendment Act (1997)) and for the purposes of this standard:

- (a) Does not include a human being or a genetic structure derived from a human being;
- (b) Includes a micro-organism;
- (c) Subject to paragraph (a) of this definition, includes a genetic structure that is capable of replicating itself (whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity);
- (d) Includes an entity (other than a human being) declared by the Governor-General by Order in Council to be an organism for the purposes of this Act;
- (e) Includes a reproductive cell or developmental stage of an organism;
- (f) Includes any particle that is a prion.

**Pest**<sup>1</sup>

Any species, strain or biotype of plant, animal, or pathogenic agent, injurious to plants, plant products or animals.

**Phytosanitary certificate**<sup>1</sup>

Certificate patterned after the model certificates of the IPPC.

And also for the purposes of this standard:

A certificate issued by the control authority of an exporting country, in accordance with the requirements of the International Plant Protection Convention (IPPC), to verify that requirements of the importing country have been met.

**Plant Products**<sup>1</sup>

Unmanufactured material of plant origin (including grain) and those manufactured products that, by their nature or that of their processing, may create a risk for the introduction and spread of pests.

**Procedure**

A documented process that specifies the purpose and scope of an activity; what shall be done and by whom; when, where, and how it shall be done; what materials, equipment, and documents are required.

**Regulated article**<sup>1</sup>

Any plant, forest or plant product, storage place, packaging, conveyance, container, soil or any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved.

**Risk Goods**<sup>2</sup>

Means any organism, organic material, or other thing, or substance, that (by reason of its nature, origin, or other relevant factors) it is reasonable to suspect constitutes, harbours or contains an organism that may-

- a) cause unwanted harm to natural and physical resources or human health in New Zealand; or
- b) Interfere with the diagnosis, management, or treatment, in New Zealand of pests or unwanted organisms.

**Specification**

A prescription of the requirements with which the product or service has to conform.

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<sup>1</sup> International Plant Protection Convention 1999

<sup>2</sup> Biosecurity Act 1993

**Surveillance Audit**

An audit, carried out at the site where treatment activities are undertaken, which examines the specific components of the treatment suppliers system that are related to confirming that the treatment supplier is meeting specifications.

**Systems Audit**

An audit carried out to verify the supplier's system is adequate to meet this standard.

**Transitional facility<sup>2</sup>**

- a) Any place approved as a transitional facility in accordance with section 39 of the Biosecurity Act 1993 for the purpose of inspection, storage, treatment, quarantine, holding, or destruction of uncleared goods; or
- b) A part of a port declared to be a transitional facility in accordance with section 39.

**Treatment<sup>1</sup>**

Officially authorised procedure, for the killing, removal or rendering infertile of pests.

And also for the purposes of this standard

Rendering non-viable or devitalising a consignment of plants, forest or plant products, and animals.

**Treatment supplier**

The legally identifiable person or persons within the organisation responsible for performance of the treatment suppliers system.

**Treatment supplier system**

The organisational structure, responsibilities, operational procedures, processes and resources for implementing activities associated with the application of treatments.

**Treatment Technician**

Person's familiar with the treatment methods and procedures, the objectives of the treatment and the assessment of the treatment results but operate under effective supervision by the treatment supplier.

**Treatment certificate**

A uniquely numbered certificate issued by a treatment supplier verifying that an approved treatment has been completed in accordance with this Standard and includes a description of the treatment.

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<sup>2</sup> Biosecurity Act 1993

<sup>1</sup> International Plant Protection Convention 1999

## 1.4 SERVICE OUTLINE

When the requirements of this Standard are met, treatment suppliers shall be approved to undertake those services specified by MAF Biosecurity and listed in the treatment supplier's system.

Where a treatment is to be carried out, an approved treatment supplier shall be responsible for demonstrating the successful application of the treatment.

Approved treatment suppliers are subject to legislation administered by other government departments.

## 2. SERVICE REQUIREMENTS

### 2.1 APPROVAL OF TREATMENT SUPPLIERS

To become approved, a treatment supplier must:

- (i) be part of a legally identifiable business entity;
- (ii) forward to the appropriate Director, Plants or Forestry Biosecurity (referred to as Director in this document), an application to participate as an approved treatment supplier (see Appendix 1) which includes a description of their treatment procedure for which they require approval;
- (iv) submit, with the application, documentation identifying the recognised critical control points for each stage of their treatment supplier system;
- (v) submit to the chosen IVA for evaluation, at least six weeks prior to the proposed starting date of operations, their "Treatment supplier System" documentation.

Within ten working days of receipt of the treatment supplier's system the IVA shall inform the treatment supplier whether further information is required.

**NOTE: TREATMENT SUPPLIER MUST DEMONSTRATE INDEPENDENCE FROM CHOSEN IVA.**

- (vi) Allow the IVA to undertake:
  - An initial systems audit of their treatment supplier system; and
  - At each treatment type and location at least three consecutive (on separate dates) and successful (no major or critical non-compliance's) surveillance audits.

- (vii) Those treatment suppliers that wish to undertake treatments for pre-shipment purposes must sign the contract as per Appendix II.

When these steps have been successfully completed, the Director (on the recommendation of the IVA) will formally approve (by issuing a certificate of approval) the treatment supplier system and individual treatment suppliers for the particular treatment being assessed. The approval may be for a specified time or until revoked.

During the approval process (i.e. while the desk evaluation, initial system and surveillance audits are being completed), product treated may be certified for export or given biosecurity clearance subject to either supervision by an approved IVA, or in agreement with the Director.

### **2.1.1 Treatment Technician Competency**

The treatment technician must be physically able to carry out the treatment process being assessed and any testing required i.e. have full colour vision where colour recognition is required. The treatment technician shall also demonstrate competency (measured during audits) in the treatment being applied that shall include:

- Knowledge of the treatment being applied. (e.g. Calculations on dose rate/time/temperature relationships)
- Facility and equipment operation and maintenance.
- Equipment calibration procedures.
- Familiarity with current treatment schedules.
- Security, segregation and identification of treated product (goods).
- Treatment verification method.
- Chemical reaction properties on products (goods).

### **2.1.2 Other Staff**

Other staff may be used for treatment work provided that:

- (a) their duties are commensurate with their knowledge and experience; and
- (b) they are given adequate direction; and
- (c) their work is effectively supervised by a treatment supplier.

Other staff shall be provided with appropriate detailed procedures and checklists.

### **2.1.3 Training**

Recognised training may be taken into account when treatment suppliers/treatment technicians are audited for approval.

Examples of recognised training include:

- Grow Safe Programme. (Application chemicals).
- Individual Pest Control. Open Polytechnic of New Zealand.
- NZQA approved course

Documented evidence of the treatment suppliers training programme shall be maintained.

### **3. GENERAL REQUIREMENTS**

The treatment supplier shall operate a quality assurance programme based on the principles of AS/NZ ISO 9001:2000, Quality management systems, ISO 17020 or similar quality system appropriate to the type, range and volume of work performed.

Approved treatment suppliers shall conform to systems to which they are approved and these shall be subject to audit by MAF Biosecurity or their representatives (IVA). The nominated IVA will approve the system and any amendments. The approved treatment supplier shall provide the IVA access to premises and working areas for the purpose of audit at all times that treatments are likely to be undertaken.

#### **3.1 COSTS**

All costs incurred by MAF Biosecurity or the IVA (including time and any travel associated with evaluation of the approved treatment supplier's system, audit of the approved treatment supplier, communication and reporting) shall be met by the treatment supplier as appropriate.

#### **3.2 USE OF MAF LOGO**

The MAF logo or the word MAF is not to be used but the words "Ministry of Agriculture and Forestry approved" can be used by a treatment operator after approval is given provided that the wording is specific as to what the approval is for.

For example a fumigation company could display on its certificate:

*Approved by the Ministry of Agriculture and Forestry to carry out quarantine fumigation of imported goods.*

### **4. TECHNICAL REQUIREMENTS**

#### **4.1 TREATMENT SPECIFICATIONS**

##### **4.1.1 For Export Certification**

Postharvest treatments of produce for export shall be carried out to the importing country's specifications.

Treatments being applied to export plants, forest and plant products or regulated articles will be those specified by the importing country as a condition of entry.

#### **4.1.2 For Import Clearance**

To obtain biosecurity clearance treatments being applied to imported plants, forest and plant products or regulated articles must be a MAF Biosecurity approved treatment as outlined in the appropriate Import Health Standard.

If the proposed treatment differs from a MAF Biosecurity supplied specification it must be approved by the appropriate Director before the goods are given biosecurity clearance.

### **4.2 TREATMENT FACILITIES**

Facilities used for undertaking treatments of consignments shall be capable of delivering the specified treatment to the required specifications.

Treatment of risk goods shall take place at an approved transitional facility or a place that an Inspector has authorised those goods to proceed.

### **4.3 PRODUCT IDENTIFICATION**

Product that has undergone treatment shall be identified to provide auditable evidence that the consignments have been:

- segregated from other product so as to avoid possible cross contamination;
- protected from contamination during storage and transport;
- protected from possible product substitution after treatment.

The processes used to ensure product identification, integrity and security shall be documented. Product must be traceable from at least producer or point of entry into New Zealand to point of export certification or biosecurity clearance.

Treatments shall take place at the closest point of entry or departure wherever practical.

### **4.5 TREATMENT MONITORING**

The procedures for ensuring treatment has been applied to the required standard will be documented and results recorded by the treatment supplier.

For temperatures, suitable recording methods are necessary, e.g. thermographs for kiln sterilisation, maximum/minimum thermometers for fumigants, temperature sensitive bacteria in steam sterilisation, etc.

For application of fumigants a method shall be used to verify the presence of the gas, e.g. detector tubes, thermal conductivity analysers, interference refractometers/gas chromatography, fumiscope, control insects, colour indicator sachets, etc.

Where an easily discernible organism (on imported risk goods) is the reason for treatment, to ensure effectiveness of a particular treatment beyond all doubt, a re-inspection option may be carried out to verify pest mortality in lieu of the above methods.

## **4.6 RECORDS**

### **4.6.1 Treatment Register**

The approved treatment suppliers shall keep and maintain a treatment register that shall: be kept up to date; be available at all times for the purpose of MAF Biosecurity or IVA audit; and be kept for a period of at least twelve months from the date of treatment.

The register shall capture the following information:

- Treatment date
- Treatment location
- Treatment type (e.g. fumigation, active ingredient or physical action)
- Dose rate, time, product temperature (specification where declaration is required by importing country)
- Product description
- Who carried out the treatment (including signature)

The register may also capture the following information

- Treatment certificate number (if issued)
- Product type and origin
- Identification of product
- Shipping details (e.g. conveyance, exporter, importer)
- Reference to other clearance documents (e.g. Biosecurity directive)
- Date of collection and disposal
- Date of product receipt.

### **4.6.2 Treatment Supplier Records**

The treatment supplier's current certificate of approval must be assessable during audits and an up to date register of treatment technicians maintained as part of the treatment supplier's system.

The treatment supplier shall document how the necessary checks on equipment, application and product handling will be done to ensure the treatment is successful.

Equipment calibration records shall be maintained for 12 months.

#### **4.7 PROVISION OF TREATMENT CERTIFICATES**

If requested the treatment supplier shall sign a “Certificate of Treatment” with the appropriate information from section 4.6 on completion of each treatment.

### **5. AUDITS**

#### **5.1 GENERAL**

Nothing within this standard shall prevent the Director or representative (IVA), when auditing, from having access to any approved treatment suppliers facilities, staff and records at a reasonable time when treatments are likely to be carried out.

Verification of any non-compliance corrective action is to be considered part of the surveillance audit where the non-compliance was found.

MAF Biosecurity Authority (Plants/Forestry) will be available to arbitrate where disputes arise over the setting of audit frequencies.

#### **5.2 SYSTEMS AUDIT**

A systems audit of all approved treatment suppliers will be undertaken annually unless a critical non-compliance is identified during the previous 12 months in which case the ongoing approval status shall be determined by the Director. Where the Director decides that approval may continue, the ongoing audit frequency (both system and surveillance audits) shall be increased as determined by the Director.

Where an approved treatment supplier is only in operation for two months or less in any one year at least one full systems audit shall be conducted in the first year and then every second year thereafter.

#### **5.3 SURVEILLANCE AUDITS**

Surveillance audits will be undertaken by MAF Biosecurity or IVA unannounced. The surveillance audit frequency shall be determined by the level of confidence attained through prior systems and surveillance audits (i.e. any major non-compliance found during these audits).

##### **5.3.1 Categorisation of surveillance audit frequency**

The IVA and the Director will determine surveillance audit frequency by incorporating such factors, as non-compliance history, treatment supplier's experience, independence from product owner and consequence of treatment failure.

Surveillance audit levels for treatments will be a minimum of two surveillance audits per 12 months to a maximum of one in five treatments.

Where the treatment supplier is in operation for less than 12 months in the year the required number of surveillance audits shall be carried out within the actual operating period.

## **6. NON-COMPLIANCE**

### **6.1 CRITICAL NON-COMPLIANCE**

The treatment supplier will be automatically considered (by MAF Biosecurity) to lose their approval for any critical non-compliance.

Examples of critical non-compliance include:

- Incompetent staff operating, where the results of their activities are the key elements of treatment.
- Live target pests (above the allowable maximum pest limits) found during inspection/audit of the treated product (once the required mortality time has elapsed).
- Product not being treated.
- Deliberate provision of incorrect assurances or use of MAF certificates.
- Required sample efficacy test not being taken.
- Failure to follow approved procedures.
- Failure to notify start or recommencing of seasonal operations (where applicable).
- Untreated product not segregated or separately identified from treated product.
- Three or more major non-compliance faults detected in the two previous consecutive audits.

#### **6.1.1 Corrective Action**

Where a critical non-compliance is identified during any audit the treatment supplier's approval may be suspended. If suspended the treatment supplier will have to re-apply for approval.

Should the treatment supplier's approval not be suspended, a minimum of two and a maximum of five consecutive treatments shall be audited. During these audits the treatment supplier must identify and implement an agreed corrective action strategy, and have the successful implementation of the strategy verified by the auditor.

The treatment supplier will lose approval should the treatment supplier fail to comply with any agreed corrective action(s) within the suspension period.

## **6.2 MAJOR NON-COMPLIANCE**

Where a major non-compliance is identified the treatment supplier shall remain on full monitoring by the IVA until the non-compliance is corrected and an audit completed.

Examples of major non-compliance include:

- A significant difference between auditor and auditee defect findings.
- Auditee fails to identify, classify or record defects correctly.
- Frequency of sampling/efficacy does not meet minimum requirements.
- Equipment unreliable.
- Amendments to documented procedural details of treatment supplier's system not notified to the IVA.
- Actions taken following inspections/audits not recorded.
- Treatment specifications (when specified) not available to inspection/audit staff.
- Corrective action for a minor non-compliance not implemented within the agreed time frame.
- Three or more minor non-compliance in any one audit.

### **6.2.1 Corrective action**

Corrective action needs to be implemented promptly in order to retain confidence that treatments are meeting the requirements.

Where one or more major non-compliance are identified during an initial system audit all treatments carried out by the treatment supplier will be monitored until the non-compliance are corrected.

A critical non-compliance is to be recorded for every three major non-compliance identified during a single audit.

## **6.3 MINOR NON-COMPLIANCE**

A minor non-compliance does not immediately place treatment success at risk.

A major non-compliance is to be recorded for every three minor non-compliance identified during a single audit.

Where a non-compliance is identified and not covered by the above examples and definitions it is to be classified as a major non-compliance until clarified by the Director.

## **6.4 CORRECTIVE ACTIONS**

A corrective action and time frame for its implementation is to be agreed between the approved IVA (auditor) and treatment supplier (auditee) for each non-compliance. The corrective action shall record:

- What shall be done;
- by whom it shall be done;
  
- the time frame for implementation of the corrective action; and
- the verification activities to be undertaken to ensure that corrective action has been successfully implemented.

Where the non-compliance impacts on the eligibility of product treatment status, the approved IVA shall verify that any such product has been treated following implementation of the corrective action.

## **6.5 CONTINGENCIES FOR NON-COMPLIANCE**

Where the treatment supplier fails to implement agreed corrective actions for a critical or major non-compliance any risk goods or export produce must be subjected to re-treatment under IVA supervision.

## **7. SUSPENSION OR TERMINATION OF APPROVALS**

The Director may suspend or terminate an approved treatment supplier at any time having found evidence that the treatment supplier is not performing to the required standard.

A treatment supplier may withdraw from being an approved treatment supplier by applying in writing to the Director.

## APPENDIX I

No:

### TREATMENT SUPPLIER APPROVAL APPLICATION

APPLICANT NAME	
BUSINESS ADDRESS	
<b>Treatment Type(s)</b>	
<b>Contact Name</b>	
<b>Phone/Fax</b>	
<b>Name and Title of Person Responsible for Treatment supplier's System</b>	
<b>I.V.A Selected</b>	

#### APPLICANT'S STATEMENT

I, ..... (Applicant), wish to apply for approval under the requirements set down in MAF Biosecurity Standard Approval of Suppliers Providing Treatment of Imported Risk Goods and Forestry/Plant Related Material for Export and;

1. I agree to meet the requirements of the above MAF Biosecurity Standard and attach for approval the critical control points I have identified within my operating system; and
2. I have documented my treatment supplier system meeting the requirements specified by the MAF Biosecurity Standard as attached; and
3. I agree to operate to the above documented system and procedures once approved by the Director Biosecurity Authority.

No:

4. I agree to MAF Biosecurity making enquiries and using the information supplied by me, in connection with this application for the following purposes:
  - (i) to ensure that I am a fit and proper person to hold the approved status conferred by the contract; and
  - (ii) to ensure that I have appropriate consents, permits, licences and authorities in respect of my business operations and my business premises that are required; and
  - (iii) to notify the public of my approved status.
5. I consent to such enquiries being made to or by the Police, Customs Department, Ministry of Health and any statutory Board (or other statutory body) involved in import and export of products. I consent to publication of my approved status in any publication available to the public.
6. I agree to afford the Director or the Director's representatives reasonable co-operation and access necessary to carry out audits.
7. Included with this application is a non-refundable application fee of \$480.00 (+GST) for processing the application and formalising the contract of approval.
8. I note that any agreement of approval will be subject to desk evaluation and subsequent audits and that the above fee excludes these costs. I agree to pay any reasonable costs of such evaluation and audits as may be charged to me from time to time.
9. I understand that if I fail to provide all or any of the information requested in connection with this application, I may be denied approval or have my approval removed.
10. I understand that under the Information Privacy Principles of the Privacy Act 1993, I have rights of access to, and correction of, personal information held in connection with this application.

**NOTE TO APPLICANT**

MAF means any officer or agent of MAF Biosecurity including the Director's Representative.

This application does not in itself entitle the applicant to provide treatment services for MAF Biosecurity until the requirements of the MAF Biosecurity Standard have been met and approval received from the Director, and then only when actual operations meet the requirements of the Standard.

**APPENDIX I**

No:
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Signed for and on behalf of

)  
)  
)

Name:

Position:

Date:

---

**OFFICIAL USE ONLY**

Application Received (Date):

Additional Information Required:

Y / N

Date:

Application Forward to MAF Biosecurity Authority

Date:

Application Declined / Approved

Date:

## APPENDIX II

No:

### MAF BIOSECURITY AUTHORITY CONTRACT<sup>3</sup> OF APPROVAL TO SUPPLY EXPORT TREATMENT SERVICES

TREATMENT SUPPLIER'S NAME	
BUSINESS ADDRESS	
<b>Treatment Type(s)</b>	
<b>Contact Name</b>	
<b>Phone/Fax</b>	
<b>Name and Title of Person Responsible for Treatment supplier's System</b>	

#### TREATMENT SUPPLIER'S STATEMENT

I, ..... (treatment supplier), wish to operate treatment services under the requirements set down in MAF Biosecurity Standard Approval of Suppliers Providing Treatment of Imported Risk Goods and Forestry/Plant Related Material for Export.

1. I agree to meet the requirements of the above MAF Biosecurity Standard.
2. I agree to operate to my documented system and procedures as approved by the Director Biosecurity Authority.
3. I agree to MAF making enquiries and using the information supplied by me, in connection with this contract entered into for the following purposes:
  - (i) to ensure that I am a fit and proper person to hold the Approved status conferred by the contract;
  - (ii) to ensure that I have appropriate consents, permits, licences and authorities in respect of my business operations and my business premises that are required;
  - (iii) to notify the public of my Approved status.

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<sup>3</sup> Treatment suppliers wishing to only treat imported risk goods are not required to enter into a contract as obligations/liabilities are covered by the Biosecurity Act 1993. However, if there is any likelihood of treating export products for phytosanitary certification this contract is required.

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4. I consent to such enquiries being made to or by the Police, Customs Department, Ministry of Health and any statutory Board (or other statutory body) involved in import and export of products. I consent to publication of my Approved status in any publication available to the public.
5. I agree to afford the Director or the Director's representatives reasonable co-operation and access necessary to carry out audits.
6. I note that any agreement of approval will be subject to desk evaluation and subsequent audits and that the above fee excludes these costs. I agree to pay any reasonable costs of such evaluation and audits as may be charged to me from time to time.

### PRINCIPAL TERMS AND CONDITIONS

#### 1. TERM

- 1.1 This Contract commences on the date it is signed by the authorised representatives of both parties and will, subject to clauses 6, 7 and 8A 3, terminate as per section 7 of the standard.

#### 2. CORRECTNESS OF INFORMATION

- 2.1 The treatment supplier warrants that the following information (including written and oral information) supplied by the treatment supplier to MAF is correct and adequate in all respects:
  - 2.1.1 All information supplied in or in connection with the application form entitled "Approved Treatment Supplier Application";
  - 2.1.2 All other information supplied in connection with the approval of the treatment supplier under this contract; and
  - 2.1.3 All information required to be supplied under the standard.

#### 3. TREATMENT SUPPLIER'S OTHER WARRANTIES

- 3.1 The treatment supplier warrants that throughout the term of this contract the treatment supplier will maintain its treatment supplier system and all other relevant practices to substantially correspond with all the information referred to in clause 2.1, except to the extent that any changes made are approved by MAF in accordance with the standard.

## APPENDIX II

3.2 The treatment supplier warrants to fully comply with all the requirements, guidelines, and other specifications set out in the Standard.

3.3 The treatment supplier warrants to take all reasonable steps to enable and facilitate MAF, and any persons acting for or otherwise associated with MAF, to perform their tasks and functions as envisaged in, or otherwise in connection with, the standard.

### 4. MAF'S OBLIGATION

4.1 MAF hereby accredits the treatment supplier for the term of this contract for the purpose of enabling the treatment supplier to provide treatment services for MAF on behalf of the Director Biosecurity Authority.

4.2 The treatment supplier accepts that nothing in this contract or in any dealings of any kind between the treatment supplier and MAF, Crown officers, or agents of or other persons associated with MAF or Crown officers, represents to the treatment supplier or otherwise creates any kind of expectation on the treatment supplier's part that:

4.2.1 Any other approval or any certification of any kind will be granted by MAF or will be granted within a certain time period; or

4.2.2 Any plants, plant products, or other things that are accompanied by, or otherwise reliant on any treatment services for MAF provided by the treatment supplier on behalf of the Director Biosecurity Authority will be accepted by an importing country's official control authorities or will be accepted within a certain time period.

### 5. EXCLUSION OF LIABILITY

5.1 **THE TREATMENT SUPPLIER ACCEPTS THAT UNDER NO CIRCUMSTANCES WILL MAF, CROWN OFFICERS, OR AGENTS OF OR OTHER PERSONS ASSOCIATED WITH MAF OR CROWN OFFICERS, BE LIABLE UNDER THE LAW OF TORT, AGREEMENT, OR OTHERWISE FOR ANY LOSS, CLAIM, ACTION, DEMAND, EXPENSE, INQUIRY, HARM, OR DAMAGE, HOWEVER CAUSED, ARISING DIRECTLY OR INDIRECTLY FROM OR CONNECTED IN ANY WAY TO:**

a) **THE PERFORMANCE, OR AS THE CASE MAY BE, NON-PERFORMANCE OF THE TREATMENT SUPPLIER (OR ANY OF ITS CONTRACTORS, SUB-CONTRACTORS, AGENTS, OR EMPLOYEES THAT ARE NOT A PARTY TO THIS CONTRACT) OF ANY OF ITS OBLIGATIONS IN RESPECT OF THIS CONTRACT; OR**

**b) THE PROVISION OR NON-PROVISION OF ANY INSPECTION AND/OR AUDIT AND/OR DOCUMENTATION SERVICE FOR MAF EXPORT CERTIFICATION BY THE TREATMENT SUPPLIER.**

**6. SUSPENSION AND TERMINATION BY MAF BIOSECURITY**

6.1 MAF Biosecurity may at any time suspend approval of the treatment supplier in accordance with section 7 of the Standard, in addition to any other rights of suspension provided by law.

6.2 MAF Biosecurity may at any time terminate approval of the treatment supplier in accordance with section 7 of the standard, in addition to any other rights of termination provided by law.

**7. EXTENSION FOLLOWING AUDIT OF TREATMENT SUPPLIER**

7.1 Where the results of the audits in Section 5 of the Standard indicate the requirements of the standard are being complied with, the Contract will be deemed extended, subject to clauses 6 and 8A.3, beyond the last audit date.

**8. INDEMNITY**

8.1 The Treatment supplier will **INDEMNIFY AND KEEP INDEMNIFIED** MAF Biosecurity from and against any liability, loss, damage, costs and expenses (including legal costs and any expenses of going to arbitration), which MAF Biosecurity may suffer or incur arising directly or indirectly from:

8.1.1 the performance, or as the case may be, non-performance of the treatment supplier (or any of its contractors, sub-contractors, agents, or employees that are not a party to this Contract) of any of its obligations in respect of this Contract;

8.1.2 negligent acts or omissions on the part of the treatment supplier (or any of its contractors, sub-contractors, agents, or employees that are not a party to this Contract);

8.1.3 suspension or termination of the treatment supplier's approval in accordance with clause 6; or

8.1.4 the provision or non-provision of inspection and/or audit and/or decontamination services for MAF Biosecurity plants export certification by the treatment supplier.

### 8A Force Majeure

- 8A.1 Notwithstanding any other provision of this Contract, neither party shall be liable to the other for any act or omission, or any failure to comply with any warranty or to perform any of its obligations under this Contract, where such, act, omission, or failure is caused by fire, flood, storm, earthquake, civil disturbance, war, act of God, or any other event or circumstances reasonably beyond its control (called “Force Majeure”), **provided that** the party alleging Force Majeure has taken all reasonable precautions to avoid or mitigate the consequences of such occurrence.
- 8A.2 The party unable to fulfil its obligations due to Force Majeure will immediately:
- 8A.2.1 notify the other in writing of the reasons for its failure to comply with the warranty or to perform the obligation, and the effect of such failure; and
- 8A.2.2 use all responsible endeavours to avoid or remove the cause and comply with the warranty or perform the obligation.
- 8A.3 Upon receiving notice pursuant to clause 8A.2, or upon otherwise being made aware of any Force Majeure circumstances affecting the treatment supplier, MAF Biosecurity may at its absolute discretion suspend approval of the treatment supplier until such time as the circumstances have been avoided, removed or abated sufficiently to enable the treatment supplier to comply with the warranty or perform the obligation.

### 9. ASSIGNMENT

- 9.1 The treatment supplier must notify MAF in writing of any change to the treatment suppliers name.
- 9.2 Neither party shall assign all or any of its rights, obligations, or liabilities under this Contract. In the event of a purported assignment in breach of this clause, this contract shall terminate.
- 9.3 Where this contract is used in the performance of treatments for imported goods it shall not override the obligations the treatment supplier has under the Biosecurity Act 1999.
- 9.4 Where this contract is used in the performance of treatments for exported goods it shall be a binding contract.

### 9A Disputes

- 9A.1 The parties agree to use their best efforts to resolve any dispute which may arise under the Contract through good faith negotiations. Except as provided in clause

## APPENDIX II

9A.4, no party shall commence any arbitration or litigation in relation to this Contract unless it has first invited the chief executive of the other party to meet with its own chief executive for the purpose of endeavouring to resolve the dispute on mutually acceptable terms.

- 9A.2 Should resolution of the dispute not be achieved at chief executive level, the dispute will be submitted to mediation before any litigation is commenced. Any party may initiate mediation by giving written notice to the other party of their intent to do so. Should the parties be unable to agree on a mediator within two (2) working days of receipt of notice of intent to seek mediation, then the mediator will be selected by the President for the time being of the Lawyers Engaged in Alternative Dispute Resolution (LEADR) or its successor.
- 9A.3 Any dispute arising under this Contract which cannot be settled by negotiation or mediation between the parties or their respective representatives shall be submitted to arbitration in accordance with the Arbitration Act 1996.
- 9A.4 In the absence of contract concerning the appointment of an arbitrator, either party may request the President of the New Zealand Law Society to appoint a suitably qualified independent arbitrator to hear and determine the dispute.
- 9A.5 Nothing in this clause shall preclude either party from taking immediate steps to seek urgent equitable relief before a New Zealand Court.

**10. ENTIRE CONTRACT**

This Contract sets out the entire contract between the parties.

Signed for and on behalf of:

HER MAJESTY THE QUEEN IN RIGHT OF )  
NEW ZEALAND acting by and through the )  
Minister responsible for Agriculture and Forestry by )

Name:

Position:

Date:

Signed for and on behalf of )  
 )  
 )

Name:

Position:

Date: