



MPI Certification Standard: Organisation Requirements

20 November 2020

TITLE

Plant Export Requirement: MPI Certification Standard: Organisation Requirements

COMMENCEMENT

This Plant Export Requirement is effective from the date of issue.

ISSUING BODY

This Plant Export Requirement is issued by the Ministry for Primary Industries

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Contents	Page
Introduction	3
Part 1: MPI Approval of an Organisation	5
1.1 General requirements	5
1.2 Roles and responsibilities of an MAO	5
1.3 MAO service delivery options	5
1.4 Process for MPI approval of organisations	6
1.5 Communication of MPI approval status	7
1.6 Request for dispensation and recognition of equivalence	8
Part 2: MAO System Requirements	9
2.1 MAO systems	9
2.2 Organisation system overview	9
2.3 Document control	11
2.4 Service delivery procedures	11
2.5 Maintaining product security	12
2.6 Staff competency	13
2.7 Trace-backs and investigations	14
2.8 Maintenance of records	15
2.9 Reporting	16
2.10 Sub-contracting	16
Part 3: MAO System Amendments	17
3.1 Amendments to existing MAO systems	17
3.2 MAO transfer to another IVA	18
3.3 Change of MAO name and ownership	18
Part 4: Non-compliance	19
4.1 Classification of non-compliance findings	19
4.2 Critical non-compliance findings	19
4.3 'Other non-compliance' findings	20
4.4 Managing non-compliance findings	20
Part 5: Suspension and Termination of MPI Approval	23
5.1 Suspension of MPI Approval	23
5.2 Termination of MPI approval	23
Appendix 1: Application for Approval as an MAO	24
Appendix 2: Contract for Approval of an Organisation	27

Introduction

This introduction is not part of the Plant Export Requirement but is intended to indicate its general effect.

Purpose

This Plant Export Requirement specifies requirements for MPI Approved Organisations (MAO) providing services relating to plants and plant products intended for export.

Background

This Plant Export Requirement is an integral part of the MPI system for official assurances for plants and plant products. It describes the responsibilities of MAOs participating in MPI's plant export certification system.

This delegation of authority to MAOs is consistent with MPI's regulatory model as described in the MPI Plant Export Certification Standard: *Assurance System Framework*.

It is not necessary to become an MAO to participate in MPI's plant export assurance system. MAOs are, however, obliged to abide by the requirements of this Plant Export Requirement. This Plant Export Requirement is in addition to all relevant legislative requirements.

Who should read this?

This Plant Export Requirement applies to all plant and plant products organisations seeking MPI approval to undertake service delivery options (refer to Part 2).

Why is this important?

Operating other than in accordance with this Plant Export Requirement will result in the MAO losing their MPI approval to provide services recognised by MPI (refer to Part 2).

Document history

Version Date	Section Changed	Change(s) Description
20 November 2020	Whole document	<p>Strengthened requirements for:</p> <ul style="list-style-type: none"> • management of conflicts of interest. • product security • self-identified critical non-compliance. • dispensations and equivalences. • change of name/ change of ownership. <p>Application form and contract updated for greater ease of business.</p> <p>More generic language used throughout.</p> <p>Other clarifications, corrections and guidance.</p>
10 June 2016	Purpose and Part 1: General Requirements 1.1 (2) a) and e) and addition of clause 1.1(3).	Clarification that there is not an automatic contract upon meeting the standard and application of 'fit and proper person'

Version Date	Section Changed	Change(s) Description
	Appendix 2.	Added MPI address details for returning completed and signed contracts. Warranties – amended clause 5.4 to clarify when MPI needs to know changes for ownership and directorship for unlisted companies; added clause 5.8 for notification to MPI when an organisation ceases or intends to cease to be an MAO. Intellectual Property – amended clause 7.2 to clarify ownership of new IP and deleted clause 7.4 Clause 16, added address for service table (including MPI address details)
23 June 2015	Appendix 2: Template Contract for Approval of an Organisation	Clause 10.1 of the contract amended to read 'Under no circumstances will MPI be liable to the organisation for any loss'.
8 April 2015	Whole document	Full review and reissue of this standard.

Other information

Guidance versus Requirements

The information contained within a border throughout this Plant Export Requirement (example below) is for guidance only and is not part of the requirements. Guidance is not mandatory.

Guidance

- This is an example of a guidance box.

Guidance may include:

- interpretative material or further explanation;
- help for where the reader can find more information; or
- examples or indications of preferred ways of doing things.

MAOs do not have to show that they have followed guidance.

Requirements of this Standard are presented as numbered clauses and Schedules. Requirements are mandatory. They present:

- requirements that must be met;
- prohibitions that must be met; or
- allowances/approval that may be approved, provided set conditions are met.

Useful reference Information

This standard should be read in conjunction with MPI Certification Standard: Assurance System Framework which includes references (Appendix 1) and definitions (Appendix 2) applicable to this Standard.

Part 1: MPI Approval of an Organisation

1.1 General requirements

- (1) An organisation must be formally recognised and approved by the Ministry for Primary Industries (MPI) to provide services.
- (2) An applicant seeking to become an MPI Approved Organisation (MAO) must:
 - a) satisfy MPI that it, and its key personnel are fit and proper persons to hold MPI approval status conferred by the contract (Appendix 2); this enquiry shall be made at MPI's sole discretion;
 - b) meet the conditions in Appendix 1: Application for Approval as an MAO;
 - c) document and gain MPI approval of their system that addresses the requirements of this Plant Export Requirement and other applicable MPI Technical Standards or Requirements;
 - d) comply with importing country requirements;
 - e) meet any other requirements that MPI considers may be relevant to the applicant's application.
- (3) Meeting the requirements as set out in this Plant Export Requirement does not guarantee that MPI will enter into an approval contract with the applicant.

1.2 Roles and responsibilities of an MAO

- (1) An MAO's role is to provide services in accordance with its MPI approval, that produce outputs that comply with MPI and importing countries requirements.
- (2) MAOs are responsible for:
 - a) accurately documenting their organisation system to fully describe actual activities undertaken (sub-part 2.4);
 - b) gaining MPI approval to provide services under one or more service delivery options (sub-part 1.3);
 - c) operating in compliance with their MAO system (part 2);
 - d) maintaining their organisation system to meet the requirements of this Plant Export Requirement and the MPI Technical Standards or Requirements applicable to the scope of their MPI approval (part 3);
 - e) ensuring their outputs comply with the applicable importing country requirements;
 - f) ensuring their decisions are impartial;
 - g) identifying and managing actual, potential and perceived conflicts of interest of all staff involved in service delivery.

1.3 MAO service delivery options

- (1) An organisation may gain MPI approval to provide one or more of the services in Table 1.

Table 1: MAO Service Delivery Options and the Applicable MPI Technical Standard or Requirement

Option	Service	Reference MPI Standard
1	Phytosanitary inspection*.	Technical Standard: Phytosanitary Inspection.
2	Phytosanitary treatment*.	Treatment Requirement: Treatment Supplier Requirements. Note: MAOs incorporating treatments within their scope of activities only need to have documented procedures for the following parts of the MPI

Option	Service	Reference MPI Standard
		Treatment Requirement: Treatment Supplier Requirements: 2.6, 2.7, 4.1.1, 4.1.3, 4.2, 4.3, 4.6, 4.7, 4.8, and Appendix 3.
3a	Managing supporting documentation for phytosanitary certificates.	Technical Standard: Phytosanitary Certificates.
3b	Printing phytosanitary certificates.	Technical Standard: Phytosanitary Certificates.
4	Pest survey*.	Technical Standard: Pest Freedom Survey.
5	Activities associated with the use of the certification mark for wood packaging*.	Technical Standard: Certification Mark for Wood Packaging.
6	Seed varietal activities*.	Technical Standard: Seed Varietal Certification.
7	Audits of their suppliers of services.	Technical Standard: Audit.
8	Maintaining product security*.	MPI Certification Standard: Organisation Requirements.

Note: * These options include a product security component.

Guidance

- Applicants seeking to only deliver product security services may do so providing that the requirements of this standard can be met (excluding clause 2.6.3 regarding competency of decision makers).
- MPI will publish information on the MPI website about the MAO scope of approval including other services not in the above table, such as those associated with Official Assurance Programmes.

1.4 Process for MPI approval of organisations

- (1) The process for an organisation to gain MPI approval is described in Table 2.
- (2) Organisations must engage the services of an IVA to facilitate an effective approval process.
- (3) The formal MPI approval record consists of:
 - a) a copy of the MPI counter signed contract of approval;
 - b) the MPI approved copy of the applicant's system.

Table 2: Pathway for MPI approval of an applicant organisation

Step	Applicant action	IVA action	MPI action
1	Contact your nominated IVA (refer to MPI website for a list of authorised IVAs).	Clarify any queries from the applicant.	
2	Complete the application form (Appendix 1) and forward this with the application fee to MPI.		Process application and copy to nominated IVA.
3	Document your organisation system to comply with this standard and the applicable technical requirements (refer to Part 2.1(1)).		

Step	Applicant action	IVA action	MPI action
4	Mutually agree on a time frame for evaluating your documented system.		
5	Submit the system to your IVA and attach two copies of the completed Contract of Approval (Appendix 2).	Evaluate (desk audit) the documented system against MPI Standards and Requirements and importing country requirements. Request any additional information if required.	
6	Provide your IVA with any requested additional information.	Undertake an on-site system audit to validate that the actual operations correspond to the applicants documented procedures at each location where MPI services will be undertaken.	
7		Notify the applicant of any non-compliance(s) and request corrective action(s). Advance to Step 9 if there are no non-compliance findings.	
8	Identify, implement and request IVA verification of the corrective action(s).	Verify the agreed corrective actions have been implemented.	
9		Write a recommendation to MPI stating whether the applicant's system is compliant and fit for approval. Attach a copy of the applicant's system.	Considers the IVA recommendation. Where criteria are met, approve the applicant by signing the contract of approval. Notify the IVA of the approval and the contract number by email.
10		Notify applicant of MPI's approval and confirm the date the organisation will start operating as an MAO.	Forward the organisation a copy of the counter signed contract of approval, MPI approval letter, and MPI certificate of approval.
11	Operate services as per scope of the MPI approval.		Update the MAO register on the MPI website.

1.5 Communication of MPI approval status

- (1) In making reference to its approval status in all media forums, an MAO must only use the following phrase or an equivalent phrase approved by MPI:
 - a) "approved by the Ministry for Primary Industries to provide "[state the service options for which the MAO holds current MPI approval]".
- (2) The MPI logo or acronym is not to be used (in any form), unless authorised by MPI.

1.6 Request for dispensation and recognition of equivalence

- (1) An MAO seeking a dispensation from any specification within this Standard or the Standards and Requirements in Table 1 must submit a formal request to MPI, copying in their IVA;
- (2) When an MPI dispensation has been granted the MAO must supply a copy of the MPI dispensation and the MAO's amended procedures to their IVA.
- (3) An MAO seeking recognition of a risk management process as achieving an equivalent output must submit a formal request to MPI, copying in their IVA.
- (4) When an MAO has received MPI recognition for equivalence the MAO must supply a copy of the MPI equivalence notification and their amended procedures to their IVA.

Table 3: Pathway for requesting dispensation or equivalence

Step	Requestor action	IVA action	MPI action
1	Send MPI (copying in the nominated IVA) a request for dispensation or equivalence including the reason why it is wanted, technical justification and proposed amendments to procedures. Send also a completed request for services form to enable MPI to prioritise the request and to recover costs.	Advise MPI of any concerns.	Consider the request, make a decision and communicate the decision and any conditions to requestor and IVA.
2	If request is conditionally granted, hold the communication from MPI on file as part of the audited MAO documented system. Meet all conditions stated in the communication from MPI.	Prior to implementation, and as part of scheduled audits; verify compliance with all conditions stated in the dispensation or equivalence communication from MPI. Conditions may include additional verification. Advise MPI of any non-compliance with conditions.	Monitor compliance with any dispensations and equivalence recognitions.

Part 2: MAO System Requirements

2.1 MAO systems

- (1) The MAO documented system must include as a minimum:
- a) an organisation system overview (sub-part 2.2);
 - b) documented procedures describing how the following requirements are met:
 - i) the applicable MPI Technical Standards (clause 2.4.2);
 - ii) maintaining product security. Not applicable to organisations approved only to undertake service delivery options 3a, 3b or 7. (sub-parts 1.3 and 2.5);
 - iii) staff competency (sub-part 2.6);
 - iv) the applicable Official Assurance Programmes (OAPs) and Pre-clearance programmes.
- (2) In addition to clause 2.1(1), MAOs must meet the following minimum requirements in operating their system:
- a) document control (sub-part 2.3);
 - b) trace-backs and investigations (sub-part 2.7);
 - c) maintenance of records (sub-part 2.8);
 - d) MPI reporting (sub-part 2.9);
 - e) sub-contracting, where applicable (sub-part 2.10).

Guidance

- An “MAO documented system” is comprised of an organisation system overview, documented procedures for specific activities, and all referenced documents. Examples of referenced documents are load out sheets, checklists, inspection records, treatment certificates.
- Although MPI does not require documented procedures for the requirements specified in clause 2.1(2), MAOs should consider the value of having documented procedures for these areas for their own internal use. Compliance with clause 2.1(2) is verified at audit even though documented procedures are not required.
- If the MAO decides not to document these as procedures it may be beneficial to copy and paste the minimum requirements into the documented organisation system so operating requirements are not overlooked.

2.2 Organisation system overview

- (1) MAOs must provide full details as described in Tables 4a, 4b and 4c:

Table 4A: MAO details

Organisation name	Legal entity		
Head Office	Street address	Town/City	Area/Province
Postal address	Street/Box no./RD no.	Town/city	Area/Province
Office	Office phone no.	Alternate phone no.	Fax no.

Table 4B: Key personnel

MAO contact details	Contact person	Phone	Email address
Contact for the owner of the MAO	Name Position	Mobile DDI	Email
Manager of organisation system	Name Position	Mobile DDI	Email
Alternative contact of organisation system	Name Position	Mobile DDI	Email
Contact person for IVA liaison	Name Position	Mobile DDI	Email

Table 4C: Site/facility details

Site/facility name <i>Repeat for each site</i>	Name		
Facility type (e.g. sawmill, packhouse, cool store)			
GPS coordinates (main entrance of each facility)			
Physical address	Street address	Town/City	Area/Province
Postal address	Street/Box no./RD no.	Town/City	Area/Province
Office contacts	Office phone no.	Alternate	Fax no.
Site contact person	Name Position	Mobile DDI	E-mail
Scope of Services (include specific treatments for option 2).	(refer to Table 1)	(refer to Table 1)	(refer to Table 1)
Special programmes (e.g. Official Assurance Programmes, workplans)	Name	Name	Name
Commodity type(s) handled (Refer guidance below)	Name	Name	Name
	Name	Name	Name
	Name	Name	Name

Guidance

- Examples of commodity types include, but are not limited to: fresh apples, fresh pears, fresh kiwifruit, fresh stone fruit, frozen fruits/vegetables, dried fruits/vegetables, fresh onions, timber products.
- Examples of specific treatments include, but are not limited to: heat treatment, cold treatment, dipping, dusting and preservative treatments (including name of chemical).

- (2) MAOs must include an organisational structure/chart showing line control, including all MPI recognised staff. The titles in the organisation chart must align with those listed in procedures and staff competency registers.
- (3) MAOs must define and document the product pathway as applicable to the scope of the MAO's services.

Guidance

The product pathway may include, but not be limited to, the following stages:

- production site (e.g. forest, farm or orchard);
- place of handling initial harvested plant products (e.g. packhouse, seed cleaning plant, log yard, sawmill);
- storage;
- treatment;
- application of registered certification marks;
- processing;
- dispatch and inventory control;
- transport;
- export documentation to obtain MPI certification.

2.2.1 Multiple Operational sites

- (1) The MAO's system overview must clearly document the IVA audit regime, and how that will be applied to the multiple operational sites. Options are either:
 - a) each site has a separate audit regime; or
 - b) all sites are audited as one group under one audit regime; or
 - c) multiple site-groupings are created, with an audit regime applied to each grouping.

Guidance

- Where an MAO chooses to run multiple operating sites under one audit regime, any non-compliance found at one site will be applied equally to the other sites in the audit regime.

2.3 Document control

- (1) The MAO must ensure each page of their organisation system (including their operating procedures) has a unique version number or the date which identifies the most recent version of the system, procedure or individual page released.
- (2) Changes made to an organisation system must be highlighted or tracked to assist with efficient evaluation of the changes.
- (3) Amendments to the organisation system are permitted to correct spelling mistakes provided the original wording is crossed out, initialled and dated. Handwritten amendments must not be covered up using correction fluid or tape.
- (4) Up-to-date procedures must be readily accessible to the person responsible for completing the activity.
- (5) Amendments made to an organisation system (other than those made to correct spelling mistakes) must be evaluated by the IVA and approved by MPI prior to implementation.
- (6) If the amendment in 2.3(5) is an update to the register of competent staff, this can be sent directly to MPI (copying in the IVA). See sub-parts 2.8 and 2.9 for record keeping and reporting requirements.

2.4 Service delivery procedures

- (1) The MAO must document procedures relevant to the scope of service(s) for which they are seeking MPI approval (Table 1).

Guidance

- Systems and procedures submitted for MPI approval that are not relevant to the approval being sought will be considered relevant if they are not clearly differentiated (e.g. health and safety information). All systems and procedures that are considered relevant are subject to MPI/IVA audit.

2.4.1 Procedures for services

- (1) The MAO's documented procedures must describe:
 - a) what activities are undertaken;
 - b) how activities are undertaken;
 - c) where activities are undertaken;
 - d) when activities are undertaken;
 - e) who undertakes the activities, or supervises them as in clause 2.6.1(1)a).
- (2) Documented procedures must be descriptive in nature.

Guidance

- Procedures should be concise and list descriptive actions
- A useful method for writing procedures is to write them in the present tense, (e.g. turn on the tap), not the future tense, (e.g. workers will turn on the tap).
- Steps within a procedure should start with an action word, as demonstrated in the following examples:
 - open each package
 - remove all wrapping
 - record findings in the database
- Terms such as 'must', 'shall' or 'will' should be avoided when documenting procedures.

2.4.2 Technical requirements

- (1) The MAO's documented procedures must describe how they meet the technical requirements, as applicable, contained in:
 - a) the relevant technical standards in Table 1;
 - b) MPI recognised importing country's requirements e.g. phytosanitary, grade, residue/food safety;
 - c) import permits;
 - d) work plans for pre-clearance programmes;
 - e) special programmes (e.g. Official Assurance Programmes, workplans).

2.4.3 MPI pre-approved procedures

- (1) MPI pre-approved procedures (e.g. those associated with OAPs) are available from MPI for the MAO to incorporate into their documented system.
- (2) Where these procedures are included in the organisation system without changes, IVA/MPI must not re-evaluate the content except to check the content has not changed.
- (3) Where an MAO changes MPI pre-approved procedures (e.g. tailors these to reflect their method of operating), modified procedures must be submitted for IVA evaluation and MPI approval.

2.5 Maintaining product security

- (1) The security of product that is eligible for MPI certification must be maintained to the point of export (or ISPM 15 marking) by MAO(s) in accordance with their approved product security procedures.

- (2) The documented procedures of MAOs approved to provide services which have a product security component (Table 1, options 1, 2, 4, 5, 6 and 8) must describe:
- a) how product that is eligible for certification is protected from becoming infested, contaminated or substituted (mixed) with product that is not eligible for MPI certification;
 - b) the actions taken to minimise the risk or monitor the occurrence of infestation, contamination and deterioration occurring up to the point the product leaves the MAO's responsibility;
 - c) the actions taken to prevent substitution or mixing and in particular, when plant products require rework, how the eligibility for certification is maintained;
 - d) the actions undertaken when the certification status is compromised or suspended;
 - e) corrective actions to bring any non-complying product and/or operational process back into compliance with specification(s);
 - f) how product identification and traceability (i.e. inventory records) from the place of production to the point of export or the point of ISPM 15 marking for wood packaging material are managed;
 - g) how the certification eligibility status of product destined for export is communicated to another MAO or IVA;
 - h) how the transfer of responsibility for maintaining product security to another MAO or IVA to ensure the product maintains its certification status is managed.

Guidance

- Eligibility for MPI certification is lost if responsibility for maintaining product security is not retained by an MAO or IVA (e.g. if responsibility is transferred to a non-MAO).
- Product security is a broad term that includes activities such as phytosanitary security, post-inspection phytosanitary security and label security. MAO's may continue to use the language most appropriate to the form of product security undertaken within their scope of approval.
- The product security of imported plant products intended for re-export is considered to be maintained while the product is located within a controlled area at a transitional facility (TF) and managed by the facility's MPI approved TF Operator.
- Examples of some actions that can be taken towards addressing product security requirements include physical barriers (such as shrouding, plastic wrapping, walls etc.) and minimum segregation distances.

2.6 Staff competency

2.6.1 Competency assessment

- (1) The MAO's documented procedures for staff competency assessment must describe:
- a) how trainee staff are supervised (i.e. within line of sight) by a competent staff member. Where the outcome impacts the MPI certification decision, the maximum ratio for supervisory purposes is one supervisor (i.e. competent staff member) to three trainees;
 - b) the method used to assess staff competency to undertake specified MPI activities;
 - c) how the assessor of staff competency is involved in the observation of the trainees completing practical implementation tasks;
 - d) how competencies are confirmed annually;
 - e) actions undertaken as a result of competency assessment outcomes.

Guidance

- The competency assessor should have been assessed as being competent in the competency that they are assessing.
- Annual confirmation of competency may include observation of each person being assessed in a real time work situation. Where it is not possible to assess a competency by observing an activity

being undertaken in real time, it may be appropriate to use other assessment methods such as hypothetical scenarios (e.g. “what would you do if..”, pest specimens on product samples).

2.6.2 General staff competency

- (1) In addition to competency requirements stated in this Plant Export Requirement and associated Technical Standards or Requirements, the assessed staff must also be competent in:
- a) understanding and undertaking their role in accordance with the MAO’s system;
 - b) accurately recording findings, decisions and actions taken;
 - c) exercising impartiality.

Guidance

- Consider staff reporting lines and methods of separating remuneration and other incentives from the decision outcomes (e.g. avoid paying competent staff based on the number of decisions made or on the results of the decisions).
- In cases where it is impossible to separate remuneration or other incentives from the decision outcomes, other means, such as recording duration and digital photographic evidence, could be used to demonstrate that decisions are not compromised by financial considerations.

2.6.3 Decision-making staff competency

- (1) In addition to the general staff competency requirements in clause 2.6.2, staff involved in making decisions relating to the market eligibility of product for MPI certification must be competent in the following, as relevant to their role:
- a) managing and controlling information used in making decisions;
 - b) accessing, interpreting and applying importing country requirements (e.g. ICPRs and Import permit requirements);
 - c) knowing the required documents to facilitate decision making;
 - d) reconciling the eligibility of products with the decisions made.

2.6.4 Product security staff competency

- (1) In addition to the general staff competency requirements in clause 2.6.2, staff involved in maintaining security of product must be competent in:
- a) confirming that product eligible for certification has not become infested, contaminated or substituted (mixed) with product that is not eligible for MPI certification e.g. with pests, seeds, feathers, soil or organic matter.

2.7 Trace-backs and investigations

2.7.1 Trace-backs

- (1) The MAO must fully cooperate with their IVA in providing trace-back information in relation to consignment(s) where MPI has been notified of a potential non-compliance. Information that may be required includes, but is not limited to:
- a) inspection records;
 - b) declaration of conformity (DOC) number (if applicable);
 - c) phytosanitary certificate;
 - d) other documentation with pertinent information (e.g. load out reports, treatment certificates).

Guidance

- Trace-backs are commonly implemented following interceptions. The purpose of a trace-back is to determine why an issue of concern has occurred so that action can be taken to prevent re-

occurrence.

- Examples of when trace-backs are implemented include: interception of export consignments due to detection of pests, incorrect information on phytosanitary certificates, illegible or incorrectly applied ISPM 15 stamps, etc.
- The IVA costs associated with the trace-back will be recovered from the MAO that provided the services to gain MPI certification.

2.7.2 Investigations

- (1) The MAO must fully cooperate with MPI and/or the IVA in providing information for the investigation.
- (2) MPI shall determine who will be involved in the cost recovery of an investigation as it may involve one or more MAO's.

Guidance

- MPI may initiate an investigation when an incident or a number of interceptions have occurred which compromise the MPI certification system.

2.8 Maintenance of records

- (1) All records pertaining to MPI service delivery activities must be complete, accurate, legible, and readily accessible.
- (2) Handwritten amendments are permitted to correct records provided the original finding is crossed out and not covered up using correction fluid or tape. Handwritten amendments must be initialled and dated.
- (3) The MAO must maintain and, at the request of MPI or its agents, make available the records listed in Table 5, in hard copy or electronic format.

Table 5: Records to be maintained

Organisation record type	Duration to be held (year)
Complete copy of their documented organisation system approved by MPI.	Current
Copy of dispensation and/or equivalence communication from MPI (as applicable).	Current
Register of competent staff including: <ul style="list-style-type: none"> • the name of competent staff employed by the MAO; • scope of activity undertaken by the specific person; • identified conflicts of interest, including potential and perceived conflicts, and their ongoing management. 	Current
Individual staff competency assessments.	2
Records associated with the delivery of MPI services (i.e. records specified in the applicable technical standards).	2 (7 years for seed & propagatable material)
All other records relevant to the MAO's role including those impacting on, leading to or influencing decisions.	2
Interception records related to MPI certified export products which the MAO has been made aware of.	2
New importing country requirements, from sources other than MPI, including import permits.	2

2.9 Reporting

- (1) The MAO must provide reports to their IVA, and MPI where specified, to meet requirements in Table 6.

Table 6: Reporting Requirements

Reports and content	Time frame
Notification to MPI and IVA of changes to: <ul style="list-style-type: none"> MAO ownership; MAO name. 	Within 5 working days prior to change.
Notification to IVA of changes to key personnel listed in Part 2.2.	Within one working day of event
Notification to IVA of commencement and completion of operating periods.	Prior to operating, allowing sufficient time for audit as agreed with the IVA.
Changes to their register of competent staff must be sent directly to plantexports@mpi.govt.nz and copied to the IVA.	Within 5 working days of change.
Notification and reporting to the IVA of self-identified critical non-compliances. Note: MPI will not impose a critical non-compliance against the MAO in these instances. Report content to include: <ul style="list-style-type: none"> Name of person preparing the event report; Date of non-compliance finding; Description of event; MAO corrective and preventive action taken. 	Notify the IVA within 90 minutes of event awareness: Report to the IVA within 5 working days of the initial MAO notification being confirmed by the MAO.
Notify the IVA of interceptions by importing countries where an MPI official assurance has been provided.	Within 5 working days of interception.
Report to the IVA a copy of any official communication issued by the importing country regarding the interception.	Within 5 working days of interception.
Notify the IVA of issues raised by importers or other offshore organisations identifying risks relevant to the MAO's role as defined in sub-part 1.2.	Within 5 working days of receipt of issue.
Notify the IVA of importing countries' requirements that are different to, or not included in, information sourced from MPI (e.g. ICPRs).	Prior to requesting certification.

2.10 Sub-contracting

- (1) Where any part of an MAO service is provided by a sub-contractor, the MAO must ensure their sub-contractor(s) providing services have a copy of, and are implementing the MAOs operating procedures.

Part 3: MAO System Amendments

3.1 Amendments to existing MAO systems

- (1) The process for the approval of amendments to an existing MAO system must be undertaken as described in Table 7.

Table 7: Process for Approval of MAO System Amendments

Step	MAO action	IVA action	MPI action
1	<p>Submit the amendment(s) to your IVA.</p> <p>Agree on an acceptable time frame for evaluation of amendment(s) from your IVA.</p> <p>Highlight or use track changes to assist with efficient evaluation of the changes.</p> <p>Correct spelling mistakes or formatting changes in accordance with clause 2.3(3) and forward a copy to your IVA. These changes can be implemented immediately.</p>	<p>Review and evaluate amendment(s).</p> <p>Where amendment(s) are correction of spelling mistakes or formatting changes, forward a copy to MPI. These changes can be implemented immediately.</p>	Refer and action as per step 4 where appropriate.
2		Where the amendment(s) are procedural changes or change of scope, evaluate the amendment(s) against the appropriate MPI Standard(s) and Requirement(s) and request any additional information if required.	
3	Provide any additional information to the IVA if requested.	Where the evaluation/risk assessment is not able to determine if the Requirements are being met or risks are managed - contact MPI to determine if an on-site visit is required.	Respond to IVA queries on MAO system amendments.
4		<p>Make a written recommendation to MPI, attaching a copy of the amendment(s).</p> <p>Amendments recommended by the IVA must be clearly identified.</p>	MPI considers the IVA recommendation and where appropriate approves the amendment and notifies the IVA by email. The standard response time is 5 working days unless there is an agreement for urgency.
5		Notify MAO of the approval of the amendment.	

Step	MAO action	IVA action	MPI action
6	MAO implements the approved amendment.		

3.2 MAO transfer to another IVA

- (1) An MAO may elect to transfer to another IVA, subject to the MAO:
- gaining agreement with the new IVA to transfer and notifying the existing IVA of their decision to transfer to the new IVA;
 - continuing with the existing IVA until the new IVA has formalised the transfer;
 - agreeing that the newly selected IVA will undertake a systems audit within one month of accepting the transfer, and this system audit is to be regarded as the annual system audit.

3.2.1 Eligibility for transfer

- (1) MAOs shall not be eligible for transfer until all non-compliance findings have been closed out with the existing IVA.

Guidance

- Transfer of an MAO with non-compliance findings which are not closed out is at the sole discretion of MPI and on a case-by-case basis.

3.3 Change of MAO name and ownership

- (1) An MAO must notify its nominated IVA and MPI of any changes to its legal name within 5 working days prior to the change taking effect;
- (2) An MAO that is not a listed company must notify its nominated IVA and MPI of any material change in the legal or beneficial ownership of any of its shares, and any change to the composition of its board of directors (as defined in section 127 of the Companies Act 1993) within 5 working days prior to the change taking effect;
- (3) An MAO must amend its MAO system with its new name and/or owner in accordance with the process for approval of MAO system amendments in sub-part 3.1.
- (4) An MAO that has a material change in ownership must immediately (and in any case no later than 5 working days following the change taking effect):
- return its contract of approval to MPI;
 - complete a new application form (Appendix 1);
 - sign two copies of the contract of approval (Appendix 2); and
 - submit a copy of the signed contract to its nominated IVA.
- (5) For the avoidance of doubt, a new application form and contract of approval is needed where there is a change in company number or NZBN, except where the new owner is an existing MAO.

Guidance

- If the only change is a change in name, the MAO can email MPI (cc the IVA), requesting from MPI a dispensation from treating its system as a new applicant system.

Part 4: Non-compliance

4.1 Classification of non-compliance findings

- (1) Any non-compliance found must be classified as either critical non-compliance, other non-compliance or self-identified non-compliance depending on its effect on the MAOs or IVAs confidence in the auditee.

4.2 Critical non-compliance findings

- (1) A critical non-compliance must be applied when there is a significant loss of MPI confidence in the MAO's ability to meet the requirements specified in the applicable MPI Standards or Requirements, ICPRs or OAP.
- (2) Where an MAO is found to be knowingly operating in non-compliance with the requirements of the applicable MPI Standards or Requirements, clause 11 of the Contract of Approval (Appendix 2) will come into effect immediately.
- (3) Critical non-compliance findings not listed in clause 4.2(3)a) to q) may be identified and must be agreed with the IVA and MPI prior to being confirmed. Examples of critical non-compliance findings:
 - a) no official treatment undertaken or incorrect treatment applied;
 - b) no inspection or insufficient inspection undertaken;
 - c) export (e.g. phytosanitary) status not identified correctly;
 - d) certification requested for ineligible product already exported or intended for export;
 - e) incorrect or incomplete information on export certificate requests (or supporting documentation) affecting export status;
 - f) maximum limits (e.g. pests, soil tolerances) exceeded during inspection/ testing/ audit and not actioned correctly;
 - g) required facilities and/or equipment not used;
 - h) equipment out of calibration where calibrated equipment is required for the activity;
 - i) amendments to auditee procedures not approved by MPI prior to implementation;
 - j) export decision criteria (e.g. ICPRs, Pre-harvest intervals (PHIs) or other phytosanitary requirements) not available or not applied by appropriate staff;
 - k) approved procedures not applied by appropriate staff resulting in, or potentially resulting in, incorrect certification or certification of ineligible product;
 - l) absence or loss of product traceability;
 - m) non-competent staff operating without supervision, where the results of their activities lead to certification/assurance of products;
 - n) registered competent staff not meeting the competency criteria;
 - o) failure to rectify an 'other non-compliance' finding already identified in a previous audit within the agreed timeframe;
 - p) any re-occurrence of an 'other non-compliance' finding detected in the two previous consecutive audits;
 - q) failure to implement agreed corrective actions for a previously identified critical non-compliance finding within agreed timeframes.

Guidance

- Where IVAs are uncertain of non-compliance categorisation, they are encouraged to discuss their audit findings with MPI as a means of defining agreed categorisation.

4.2.1 Self-identified critical non-compliance

- (1) Critical non-compliance findings identified by the MAO within their own system must be reported to the IVA as in sub-part 2.9.
- (2) Self-identified critical non-compliances include critical non-compliances found during an MAO audit of their suppliers.
- (3) A self-identified critical non-compliance will not have an impact on the IVA audit frequency provided corrective actions have been implemented and verified as effective.

Guidance

- MAOs are expected to work with their IVA to ensure corrective and preventive actions are appropriate.

4.3 'Other non-compliance' findings

- (1) The auditor must apply an 'other non-compliance' finding where there are incidences that create doubt and decrease confidence that an auditee is capable of producing an output that meets MPI Standards or Requirements, or the importing countries requirements. Examples of 'other non-compliance' findings include:
 - a) significant difference between the auditor and auditee findings;
 - b) failure to notify commencement and finish of operating period (where applicable);
 - c) staff competency records incorrectly documented;
 - d) failure to meet recording and/or reporting requirements;
 - e) incomplete inspection/treatment records where it can be validated that the product complies with the stated certification status;
 - f) an approved procedure is found to be deficient and not fully reflecting activities of the auditee. This is only in cases where there is evidence of no direct impact on the export status of the outputs;
 - g) procedures not readily available to appropriate staff;
 - h) incorrect or incomplete information on export certificate (or supporting documentation) requests not affecting export status.

4.4 Managing non-compliance findings

- (1) All non-compliance findings must be managed as described in Table 8A.
- (2) In addition to the actions described in Table 8A, critical non-compliance findings must be managed as described in Table 8B.

Table 8A: Managing all non-compliance findings.

Step	Auditor (IVA or MAO) actions	Auditee (MAO or MAO's subcontractor) actions
1	Categorise non-compliance findings as either critical, other or self-identified critical. <ul style="list-style-type: none"> • IVAs are to contact MPI where any doubt exists. • MAO auditors of their subcontractors are to contact their IVA where any doubt exists. 	Agree on categorisation of non-compliance findings. Identify corrective and preventive actions.
2	Agree corrective and preventive actions.	Identify an implementation plan for the agreed corrective and preventive actions.

Step	Auditor (IVA or MAO) actions	Auditee (MAO or MAO's subcontractor) actions
3	<p>Agree on a time frame for implementing the corrective and preventative action(s) and, as necessary, schedule a date to conduct the follow up audit to verify the effectiveness of corrective and preventative actions undertaken.</p> <p>Self-identified critical non compliances must be notified and reported as per Part 2.9.</p>	

Table 8B: Managing critical non-compliance findings (excluding self-identified critical non-compliances)

Step	Auditor (IVA) actions	Auditee (MAO) actions
4	Conduct either daily surveillance audits, supervision, or end point phytosanitary inspection (e.g. where the auditee is providing an inspection service) for a maximum 3 days in which time the IVA must successfully verify the effectiveness of corrective and preventative actions undertaken (e.g. follow-up audit).	Co-operate with the IVA.
5	Notify and report as per the reporting requirements of sub-part 2.9 of this Standard, or sub-part 2.10 IVA Requirements standard, as appropriate.	Implement the agreed corrective and preventative actions and monitor for effectiveness prior to the follow up audit.
6	<p>Complete the follow up audit:</p> <p>Corrective and preventative action effectively implemented?</p> <ul style="list-style-type: none"> Go to step 7. <p>Corrective and preventative action not effectively implemented?</p> <ul style="list-style-type: none"> If this is a third critical within 12 months go to step 7; otherwise, return to step 2. 	<p>Confirm and agree to follow up audit findings.</p> <p>Agree to any additional non-compliances and their categorisation.</p>
7	<p>Check the number of critical non-compliances in last 12 months.</p> <ul style="list-style-type: none"> If two or less, reinstate the auditee at the entry level audit frequency. If more than two: <ul style="list-style-type: none"> Review the organisation's approval as under Part 5. Work through the issues, requirements and timeframe for resolution with the auditee. 	
8	<p>Provide MPI a written report within 7 working days of initial notification containing:</p> <ul style="list-style-type: none"> Heading (event report: IVA reference) Report prepared by Date of event finding Name of organisation Description of event Background Implications of the event IVA actions taken Status of Organisations corrective actions 	

Step	Auditor (IVA) actions	Auditee (MAO) actions
	<ul style="list-style-type: none">• IVA recommendations to MPI• Previous critical non compliances within the last 12 months.	

Guidance

- More than two critical non-compliances would likely result in the auditee being placed under IVA supervision or end point inspection while the MAO's approval is reviewed under Part 5.

Part 5: Suspension and Termination of MPI Approval

- (1) An MAO's approval may be suspended or terminated in accordance with the suspension and termination provisions in the Contract of Approval (Appendix 2).
- (2) MPI may suspend an organisation's system entirely or partially (e.g. location(s), service delivery option(s))

Guidance

- MAOs can request MPI to suspend or terminate their MAO approval.
- MPI, in consultation with the IVA, will formally advise the MAO of their suspension or termination of MPI approval.
- It is at the sole discretion of MPI as to whether assurances or certification will be provided for product that was produced between the date of the last successful IVA audit and the date of the suspension or termination.
- At MPI's sole discretion, a suspended or terminated organisation may be permitted to operate under the supervision of an IVA.

5.1 Suspension of MPI Approval

- (1) MPI's approval may be suspended for a maximum of 12 consecutive months, after which time the approval will be terminated.
- (2) An MAO's approval by MPI to provide services must be reinstated only when all conditions prescribed by MPI and/or MPI's representatives have been met.

Guidance

- MPI, in consultation with the IVA, will formally advise the MAO of the date from which their approval will be reinstated.

5.2 Termination of MPI approval

- (1) Where an MAO's approval by MPI is terminated by MPI, the MAO must return the MAO contract of approval to MPI (or through their contracted IVA) within five working days of the termination date. In addition, any equipment for the application of certification marks or material advertising MPI approval status must be disposed of, and disposal verified to MPI by an IVA.

Guidance

- MPI, in consultation with the IVA, will formally advise the MAO of the reasons for the termination of the approval and the effective date of the termination.

Appendix 1: Application for Approval as an MAO

New Zealand Business Number (NZBN)	
Applicant's Name	
Business Address	
Scope	
Phone	
Email	
Contact Name	
Name and title of person responsible for applicant's system	

Applicant's Statement

I wish to apply for approval to operate as an MPI approved organisation (MAO) under the requirements set down in the document entitled MPI Certification Standard: Organisation Requirements (the "**Organisation Standard**") and in the Technical Standards associated with the following service delivery options I have selected:

Please tick	Service Delivery Options	Associated Standards
	Option 1 Phytosanitary inspection	Technical Standard: Phytosanitary Inspection
	Option 2 Phytosanitary treatment	Treatment Supplier Programme - Requirements for the supplier of official treatments
	Option 3a Managing supporting documentation for phytosanitary certificates.	Technical Standard: Phytosanitary Certificates
	Option 3b Printing phytosanitary certificates	Technical Standard: Phytosanitary Certificates
	Option 4 Pest Freedom surveys	Technical Standard: Pest Freedom Survey
	Option 5 Activities associated with the use of the certification mark for wood packaging.	Technical Standard: Certification Mark for Wood Packaging
	Option 6 Seed varietal activities	Technical Standard: Seed Varietal Certification
	Option 7 Audits of their subcontractors providing services	Technical Standard: Audit
	Option 8 Maintaining product security	MPI Certification Standard: Organisation Requirements

- (1) I agree to meet the requirements of the MPI Certification Standard: Assurance System Framework, MPI Certification Standard: Organisation Requirements and the requirements of the above standards as appropriate to my chosen service options.

- (2) I agree to document my organisation system meeting the requirements specified by the MPI Certification Standard: Organisation Requirements.
- (3) I agree to operate to the above documented system and procedures approved by MPI.
- (4) I agree to MPI making enquiries and using the information supplied by me, in connection with this application or any contract entered into as a result of this application, for the following purposes:
- a) To ensure that I, the organisation and key personnel are fit and proper to hold the MPI approval status conferred by the contract;
 - b) To ensure that I have appropriate consents, permits, licences and authorities in respect of my business operations and my business premises that are required;
 - c) To notify the public of my MPI approval status.
- (5) I consent to such enquiries being made to or by the Ministry of Justice, Police, Customs Department, New Zealand Horticultural Export Authority and any statutory board involved in import and export of products. I consent to publication of my MPI approval status in any publication available to the public.
- (6) I agree to afford MPI or MPI's representatives reasonable co-operation and access necessary to carry out audits.
- (7) I understand that my application will not be processed until the non-refundable application fee is received.
- (8) I understand that amendments to my MAO documented system will incur a non-refundable processing fee.
- (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 MPI approval.
- (10) I understand that under the information privacy principles of the Privacy Act 2020, I have rights of access to, and correction of, personal information held in connection with this application.

State here the Independent Verification Agency (IVA) you are contracting to undertaken pre approval evaluation and initial audits of your organisation's system.

.....
(IVA)

.....
(signature of applicant)

.....
(Date)

.....
(name of applicant – please print)

.....
(Title)

MPI Service Charge**ON PAYMENT THIS BECOMES A TAX INVOICE****MINISTRY FOR PRIMARY INDUSTRIES****GST REG NO: 64-558-838**

- Application for approval as an MAO.
- This application does not in itself entitle the applicant to provide any service delivery options (as per the table above) for MPI. This application will be considered by MPI, and whether or not approval is granted by MPI is at MPI's absolute discretion.

Application for Approval as an MAO Fee: NZ\$552.00 (incl GST)

- Payment Date: _____
- Payment options are direct debit or credit card. MPI does not accept cash. Please tick the appropriate section:

 Direct Debit

Bank account name: Ministry for Primary Industries
Bank account held with: Westpac Banking Corporation, NZ Government Branch, Wellington
Bank Account Number: 03-0049-0001709-02

Reference

Please use either: Forestry: 1652.22010.000000; or
Plants: 1627.22010.000000.

- Once payment has been made, please email plantexports@mpi.govt.nz to confirm.

 Credit Card

To pay by credit card (Visa or MasterCard) please contact the Plants Exports Team Support Officer. See below for contact details.

Please scan and return the completed application to plantexports@mpi.govt.nz

OR

Post this application to:

Team Support Officer
Plant Exports
Plants & Pathways Directorate
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Appendix 2: Contract for Approval of an Organisation

Insert your details and sign this contract, then return it to MPI marked "Attention: Plant Exports Team".

Made this day of 20

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF NEW ZEALAND acting by and through the Minister for Primary Industries ("**MPI**")

AND

[**INSERT FULL LEGAL ENTITY NAME**], a company having company number [insert company number] (the "**Organisation**")

WHEREAS

MPI is responsible for ensuring that forestry, plants and their products certified for export are properly and competently inspected and/or tested and documented.

The Organisation has demonstrated procedural ability and proficiency in the provision of the scope of approval.

Under this Contract, MPI approves the Organisation to provide specific services for export phytosanitary, and seed certification programmes and treatment supplier programmes for import risk goods.

(1) DEFINITIONS

"**Certificate**" means an officially recognised original MPI document, designed in accordance with international specifications, and used to provide assurances to control authorities in importing countries that produce meets their requirements. Certificates currently in use are:

- a) Phytosanitary Certificate (Ag.G81 Reg.4)
- b) Phytosanitary Certificate for Re-Export
- c) OECD Seed Scheme Varietal Certificate
- d) Grade Certificate

"**Certification**" means all those activities leading to, and including, the issuance of an official assurance.

"**Confidential Information**" means all information:

- a) provided by either party to the other in connection with this Agreement; or
- b) relating to either party which becomes known to the other in connection with this Agreement,

whether that information was provided to or became known by receiving party of the information before, on, or after the date of this Agreement.

"**Conflict of Interest**" in relation to the Organisation means any conflict of the Organisation's interests or obligations with its rights or obligations under this Contract and the Service Delivery such that the Organisation's objectivity or impartiality can be called into question, whether the conflict of interest is actual (where the conflict currently exists), potential (where the conflict is about to happen or could happen), perceived (where other people may reasonably think that a person is compromised), or otherwise.

“Contract” means this contract, including:

- a) this “Contract for Approval of an Organisation”;
- b) the Organisation Standard; and
- c) the Organisation’s System;

in each case, as may be updated by MPI (or with MPI’s approval) from time to time.

“Organisation System” refers to the Organisation’s System which meets the Organisation Standard.

“Organisation Standard” means the document entitled “MPI Certification Standard: Organisation Requirements”.

“Loss” includes liability, damage, cost, loss, expense, and harm, each however caused, and whether arising directly or indirectly.

“Service Delivery” means providing specific services recognised by MPI as meeting importing country requirements for plants and plant products. Scope of approval may include product inspection, phytosanitary treatment services, auditing of sub-contractors, completing pest surveys, use of the certification mark for wood packaging, undertaking seed varietal activities, and preparation of Certificates for an official signature and stamp of authorisation relating to Certification that are specified in the attached document entitled “Organisation System”.

(2) INTERPRETATION

2.1 In this Contract, unless the context requires otherwise:

- a) to the extent that there is any conflict or ambiguity between the various parts of this Contract, the following descending order of priority shall prevail:
 - i) this “Contract for Approval of an Organisation”;
 - ii) the Organisation Standard;
 - iii) the Organisation System
- b) headings are for guidance only and do not affect interpretation;
- c) subject to clause 17, anything that this Contract requires to be done in writing, may be done by email;
- d) a reference to any statute, regulation, or expression of government policy includes any amendments, re-enactments or replacements of that statute, regulation, or expression of government policy from time to time.

(3) TERM

3.1 This Contract commences on the date it is signed by the authorised representatives of both parties and will continue indefinitely, subject however to any right of termination or suspension set out in this Contract.

(4) APPROVAL OF THE ORGANISATION

4.1 MPI hereby approves the Organisation for the term of this Contract to perform the Service Delivery as per the scope of the organisation’s system.

4.2 The Organisation accepts that nothing in this Contract or in any dealings of any kind between the Organisation and MPI, or MPI’s agent, represents to the Organisation or otherwise creates any kind of expectation on the Organisation’s part that:

- a) any other approval or any Certification of any kind will be granted by MPI or will be granted within a certain time period; or
- b) any forestry, plants, their products, or other things that are accompanied by or otherwise reliant on any service provided by the Organisation will be accepted by an importing country’s official control authorities, or will be accepted within a certain time period.

(5) WARRANTIES

5.1 The Organisation warrants that all information (including written and oral information) supplied by the Organisation to MPI (or its agents) is correct and adequate in all respects, including:

- a) all information supplied in or in connection with the application forms submitted to MPI and relevant to this Contract;
- b) all other information supplied in connection with the approval of the Organisation under this Contract; and
- c) all information required to be supplied under the Organisation Standard.

5.2 The Organisation warrants that throughout the term of this Contract the Organisation will maintain its Organisation System and all other relevant practices to substantially correspond with all the information referred to in clause (5), except to the extent that any changes made are approved by MPI in accordance with the Organisation Standard.

5.3 The Organisation will notify MPI of any change to the organisation's name within 5 working days prior to the change taking effect.

5.4 The Organisation warrants that where it is an unlisted company, it will notify MPI as soon as reasonably practicable of any:

- a) material change in the legal or beneficial ownership of any of its shares; or
- b) change to the composition of the board of directors (as this term is defined in section 127 of the Companies Act 1993).

5.5 The Organisation warrants that it will fully comply with all the requirements and other specifications set out in the Organisation Standard.

5.6 The Organisation warrants that it will take all reasonable steps to enable and facilitate MPI, and any persons acting for or otherwise associated with MPI, to perform their tasks and functions as envisaged in, or otherwise in connection with, the Organisation Standard.

5.7 The Organisation acknowledges that it is approved to perform Service Delivery pursuant to this Contract, but that its status under this Contract does not approve it to perform any other action, and therefore warrants that:

- a) it will not hold itself out as being associated with or endorsed by MPI in any other respect;
- b) in making reference to its approval status in all publicity and media forums it will use only the following phrase or an equivalent phrase approved by MPI: "Approved by the Ministry for Primary Industries to provide "[service delivery options]".
- c) it will not use the MPI logo, crest, coat of arms, or any other device, other than as may be permitted by the Flags, Emblems, and Names Protection Act 1981.

5.8 The Organisation will notify MPI if it ceases or intends to cease to operate as an MAO, pursuant to this Agreement, for a period of at least twelve calendar months.

(6) CONFIDENTIALITY

6.1 Each party will keep confidential and secure and not use or disclose to any third party any of the other party's Confidential Information except:

- a) to its professional advisers or Personnel directly concerned with the implementation or operation of this Contract and to the extent necessary for performing its obligations under this Contract;
- b) as required by law, court order, other legal obligation, or Ministerial request, or parliamentary rules or convention;
- c) under the Official Information Act 1982 or Privacy Act 2020;
- d) to the extent necessary to subcontract to parties as approved by MPI in accordance with this Contract;
- e) by MPI in accordance with its other contractual arrangements;
- f) where the information subsequently becomes part of the public domain through no fault of the

party receiving the information.

6.2 Each party acknowledges that a breach of any obligation of confidence under this Contract may cause the other party irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to any claim for damages and any other remedies available at law or equity, the non-breaching party may seek specific performance or injunctive relief against any breach or threatened breach by the other party, its Personnel, agents or contractors of this clause (6). Each party undertakes to provide the other party with any assistance possible in any such action against any of that first party's Personnel, agents or contractors.

(7) INTELLECTUAL PROPERTY

7.1 Notwithstanding any other provision of this Contract, all means all intellectual property in existence at the commencement of this Contract or created outside the scope of this Contract ("**Pre-Existing IP**") will remain the property of its owner.

7.2 The ownership of all intellectual property developed or discovered by either party related to this Contract ("**New IP**") will remain the property of its creator.

7.3 The Organisation grants MPI a non-exclusive, worldwide, royalty free, perpetual, irrevocable and sub-licensable licence to use, copy, distribute, sub-licence, reproduce, modify, adapt, publish, transmit, translate, create derivative works from, display and perform, whether publicly or otherwise any and all Pre-Existing IP provided by the Organisation under this Contract.

(8) CONFLICT OF INTEREST

8.1 The Organisation:

- a) warrants that as at the commencement of this Contract, it has no conflict of interest except in accordance with the Organisation Standard; and
- b) must do its best to avoid situations that may lead to any new conflict of interest arising during the term of this Contract.

8.2 The Organisation must notify MPI, within a reasonable period and in writing of any matter, event or circumstance that gives rise to any conflict of interest. If a conflict of interest does arise the parties must discuss, and then, without prejudice to MPI's rights under this Contract, endeavour to agree and record in writing, how it will be managed.

8.3 The Organisation will use all reasonable endeavours to minimise the impact on MPI of any conflict of interest. Each party must pay their own costs in relation to managing a conflict of interest.

(9) INSURANCE

9.1 The Organisation must effect and maintain insurance with a reputable insurer sufficient to cover its obligations under this Contract, including but not limited to its liabilities and indemnities under this Contract. The Organisation must, on request, provide MPI with sufficient evidence of its insurance cover in relation to this Contract.

(10) LIABILITY

10.1 Under no circumstances will MPI be liable to the Organisation for any loss.

10.2 The Organisation hereby indemnifies MPI, or MPI's agent the same from and against any Loss arising from or connected with this Contract, including Loss arising from or connected with (directly or indirectly):

- a) the performance, or as the case may be, non-performance or partial performance, of the Organisation (or any of its contractors, sub-contractors, agents, or employees that are not a party to this Contract) of the Service Delivery or any of its other rights or obligations in this Contract;
- b) negligent acts or omissions on the part of the Organisation (or any of its contractors, sub-contractors, agents, or employees that are not a party to this Contract);

- c) suspension or termination in accordance with this Contract.

(11) SUSPENSION AND TERMINATION BY MPI

Termination

11.1 MPI may terminate this Contract, immediately on written notice to the organisation, where the Organisation commits a breach of this Contract that:

- a) is not capable of being remedied (in the reasonable opinion of MPI); or
- b) is capable of being remedied:
 - i) but has not been remedied to MPI's reasonable satisfaction within 10 business days (or such longer period as MPI may allow in writing) of MPI giving the Organisation written notice stating the nature of the breach, what is required to remedy it and the time and date by which it must be remedied; or
 - ii) in respect of which the Organisation's approval has been suspended by MPI in accordance with this Contract, but the suspension conditions prescribed by MPI are not met by the Organisation.

11.2 For the avoidance of doubt, it will be a material breach of this Contract if:

- a) MPI reasonably believes that the Organisation is not:
 - i) delivering output(s) in accordance with its Organisation System;
 - ii) operating in accordance with its approved procedures;
 - iii) meeting the requirements of this Contract, and any other standards associated with the scope of the organisation's approval from MPI;
 - iv) following the process for (or achieving the relevant corrective actions for) critical non-compliances, as provided for in section 4 of the Organisation Standard.
- b) the Organisation fails to make full payment of fees to MPI.

11.3 MPI may terminate this Contract immediately on written notice to the organisation, if the organisation:

- a) becomes insolvent or bankrupt; has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed; becomes subject to any form of external administration; or becomes unable to pay its debts as they become due or is presumed to be unable to pay its debts under section 287 of the Companies Act 1993;
- b) is unable to perform its obligations for more than one month due to a Force Majeure event;
- c) if MPI is not satisfied that the organisation's business, or any aspect of it, remains compatible with the performance of the Service Delivery;
- d) fails or is unable to rectify any deficiency uncovered by MPI, or its agents as a result of an audit conducted under clause 12;
- e) does something, or fails to do something, that, in MPI's opinion, results in damage to MPI's reputation or business, or the reputation or business of the New Zealand government;
- f) has any conflict of interest that:
 - i) in MPI's opinion is so material as to impact adversely on the delivery of the Service Delivery, MPI or the New Zealand government;
 - ii) the Organisation failed to notify MPI of; or
 - iii) in MPI's opinion, the Organisation is unable or unwilling to resolve or deal with as required by MPI acting reasonably;
- g) any of the events in clause 5.4 occur; or
- h) provides information to MPI that is misleading or inaccurate in any material respect.

11.4 MPI may terminate this Contract:

- a) on the giving of two months' notice in writing to the Organisation in the event that MPI undergoes a merger, amalgamation, restructuring, or other form of organisational change which results in

- the Service Delivery no longer being reasonably required or no longer being within the strategic mandate of MPI; or
- b) immediately by giving notice to the Organisation that there has been a change in government policy.

11.5 MPI may terminate this Contract by giving two month's written notice to the organisation.

11.6 Where MPI has a right to terminate this Contract, that right shall be deemed to include the right to terminate any severable part of this Contract.

Suspension

11.7 If either:

- a) MPI has a right to terminate this Contract; or
- b) the Organisation Standard contemplates a right of suspension; or
- c) the Organisation provides MPI with at least 30 days' notice requesting suspension

11.8 then MPI may temporarily suspend (in whole or in part) the operation of this Contract and the organisation's approval to perform Service Delivery for such period of time, and subject to such conditions, as MPI sees fit in its absolute discretion.

11.9 MPI's right of suspension is without prejudice to its right to later terminate this Contract in its entirety, or to take any action available to it at law.

11.10 During the period of the suspension, the Organisation must not offer or perform any Service Delivery or hold itself out as being approved by MPI for the relevant purposes.

Consequences of suspension or termination

11.10 In the event of a suspension or termination pursuant to this clause 11, the Organisation must:

- a) acknowledge in writing its receipt from MPI of the suspension or termination;
- b) not offer to perform, or perform, any Service Delivery;
- c) provide to MPI all records requested by MPI related to the organisation's Service Delivery.

(12) AUDIT

12.1 At any time during the term of this Contract, or following it if the parties are in dispute, MPI, or its agents, may conduct an audit of the organisation, including for the purpose of determining whether there has been a breach of this Contract.

12.2 During an audit conducted under this clause, MPI may, at the organisation's cost:

- a) enter any premises of the Organisation or its subcontractors at any reasonable time during business hours;
- b) inspect any records held by the Organisation in relation to the provision of the Service Delivery, or any matter in dispute between the parties;
- c) meet with and/or contact and speak to any or all the organisation's or its sub-contractors' personnel involved with provision of the Service Delivery.

(13) DISPUTES

13.1 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 13.4, 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.

13.2 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.

13.3 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.

13.4 In the absence of agreement 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.

13.5 Nothing in this clause shall preclude either party from taking immediate steps to seek urgent equitable relief before a New Zealand Court.

(14) **ASSIGNMENT AND SUBCONTRACTING**

14.1 The Organisation may not subcontract any of its obligations under this Contract except where it has MPI's prior written approval or MPI has approved the sub-contractors and/or particular services to be subcontracted as specified in or in accordance with the Organisation Standard.

14.2 The Organisation must ensure that:

- a) each sub-contractor is fully aware of the organisation's obligations under this Contract to the extent necessary in order for the sub-contractor to properly perform its obligations;
- b) each subcontract it enters into is either approved by MPI in writing or is on terms that are consistent with this Contract, to the extent relevant and material for the performance of the sub-contractor's obligations; and
- c) each subcontract restricts the ability of the sub-contractor to further subcontract its obligations without first obtaining MPI's consent;
- d) its sub-contractor's documented procedures are a part of the organisation's own Organisation system/procedures.

14.3 The Organisation will not be relieved of any of its liabilities or obligations under this Contract by entering into any subcontract.

14.4 If a sub-contractor has failed to deliver any aspect of the Service Delivery being subcontracted as approved under this Contract and the failure cannot be remedied, MPI may, by notice to the organisation, require the Organisation to terminate that subcontract immediately. MPI will not be liable for any losses or costs of the Organisation associated with such termination.

14.5 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 be deemed to have automatically terminated without further action required by either party.

(15) **FORCE MAJEURE**

15.1 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 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 ("**Force Majeure**"), provided that the party alleging Force Majeure has taken all reasonable precautions to avoid or mitigate the consequences of such occurrence.

15.2 The party unable to fulfil its obligations due to Force Majeure will immediately:

- a) 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
- b) use all responsible endeavours to avoid or remove the cause and comply with the warranty or perform the obligation.

15.3 Upon receiving notice pursuant to clause 15.2, or upon otherwise being made aware of any Force Majeure circumstances affecting the organisation, MPI may at its absolute discretion suspend approval of the Organisation until such time as the circumstances have been avoided, removed or abated sufficiently to enable the Organisation to comply with the warranty or perform the obligation.

(16) NOTICES

16.1 Any notice or other communication under this Contract will be deemed to be validly given if in writing and delivered by hand, registered mail, national post or international post, facsimile, or email (subject to the remainder of this clause) to the address specified below, as updated on written notice from that party.

MPI Address for Service:	Organisation Address for Service:
Attention: Plant Exports Plant, Wine & Organic Assurance Assurance Directorate Ministry for Primary Industries P.O. Box 2526 Wellington 6140 plantexports@mpi.govt.nz	

16.2 Unless the contrary is shown, any notice will be deemed to have been given on the date when actually delivered personally or by registered mail, on the second business day following posting to a national address, on the seventh business day following international posting, on the date sent by facsimile transmission if transmitted before 5:00 pm or on the next business day if transmitted after 5:00 pm, and on the date that receipt of an emailed notice is acknowledged by the recipient personally (that is, not by any automatically generated system email).

16.3 The parties agree that no notice required or permitted to be given pursuant to clause 13 (Disputes) or clause 11 (Termination) may be given by email.

(17) GENERAL

17.1 No amendments to this Contract are effective unless they are in writing and signed by both parties, except in relation to the Organisation Standard, which MPI may amend from time to time in its sole discretion.

17.2 Nothing in this Contract creates an employment, fiduciary, partnership, agency or joint venture relationship between MPI and the Organisation. Neither party has authority to bind or represent the other party in any way or for any purpose.

17.3 This Contract is not an exclusive arrangement between the parties and each may enter into contracts with third parties in respect of the same or similar subject matters.

17.4 No waiver of any rights or benefits arising under this Contract is effective unless it is in writing and signed by the party waiving. A waiver of a breach does not prejudice the waiving party's rights in respect of any other breach. No delay, failure or forbearance by the parties to exercise (in whole or in part) any right, power or remedy under this Contract will operate as a waiver.

17.5 This Contract sets out the entire agreement between the parties.

(18) EXECUTION

18.1 This Agreement may be executed in counterparts, meaning that execution will be complete when each Party holds a copy (which can be a faxed or emailed copy) of this Agreement signed by the other Party, even though the signatures of both Parties do not appear on the same copy.

SIGNED for and on behalf of **MPI** by the person named below, being a person duly authorised to enter obligations on behalf of MPI:

SIGNED for and on behalf of the **Organisation** by the person named below, being a person duly authorised to enter obligations on behalf of the **Organisation**:

Signature

Name:

Title:

Date:

in the presence of:

Signature

Name:

Title:

Date:

in the presence of:

Witness Signature

Name:

Occupation:

Address:

Witness Signature

Name:

Occupation:

Address:

This section to be completed by MPI	
Date of approval:	