

# CONTRACT GRANTING A NON-EXCLUSIVE LICENCE TO USE THE COLLECTIVE MARK "MARMO BOTTICINO CLASSICO"



## Between

**Consorzio Produttori Marmo Botticino Classico**, with registered office at Piazza Aldo Moro 1, 25080 Botticino (BS), Italy, Fiscal Code and VAT Number 02910590179, represented by its pro tempore legal representative, the President, .....  
(hereafter "**Consortium**")

## and

..... with registered office at Via .....  
n.....VAT number ..... represented by its pro tempore legal representative  
.....(hereafter "**Licensee**")

## Whereas

1. The **CONSORTIUM** is a non profit organisation set up to, amongst other things, "promote the image and develop the use and diffusion of Botticino Classico marble on domestic and international markets, in traditional areas of use and in those which are likely to develop in the future, and to take action to protect its name and image, also by adopting a collective mark on Italian, European Community and international markets, regulated by the associated Technical Specification, to guarantee the geographical provenance, composition and quality of products, with the power to grant licences regarding same, also to parties who are not members of the consortium".
2. The **CONSORTIUM**, by resolution of 5 May 2005, has decided to adopt a collective mark and relative Technical Specification for the purposes of guaranteeing the geographical provenance, composition and quality of products, and with the power to grant licences regarding same.
3. The **CONSORTIUM**, pursuant to the aforementioned resolution, has made the following filings: on 17 May 2005, collective figurative mark application no. MI2005c05440, with the Ufficio Italiano Marchi e Brevetti (UIBM); on 20 May 2005, collective figurative mark application no. 0044459574, with the Office for Harmonisation in the Internal Market; and on 26 October 2005, with the OMPI, Geneva, application no. 12058D/2005 for the international registration of the collective figurative mark (hereafter also "Mark"), with the relative Technical Specification, which is intended as being referred to here in its entirety (**Annex A**).
4. The **CONSORTIUM** has established, by means of the amendment on 12 April 2005 of its bye-laws, an entity known as the Technical Committee, to which it has exclusively delegated all activities addressed to verifying the observance of the provisions of the Technical Specification by the members of the Consortium and licensees.
5. The **LICENSEE** (also referred to as "User") is a subject who transforms and/or sells Botticino Classico marble purchased from producers who are members of the Consortium or from other licensed producers who are not consortium members, transformers or retailers.
6. The **LICENSEE** has an interest in using the mark to distinguish its products and has presented an application (**Annex D**) to the Technical Committee, pursuant to Section G, point 1 of the Technical Specification (**Annex A**).
7. The Technical Committee has verified that the **LICENSEE** has the technical capabilities and resources needed to observe the standards detailed in the Technical Specification (**Annex A**).

For the purposes of governing their legal and financial relationship, the **CONSORTIUM** and the **LICENSEE** intend to stipulate a contract at the following terms and conditions.

## In consideration of all these recitals, which form an integral part of this contract, the consortium and the licensee agree and stipulate that

### SECTION A - DEFINITIONS AND SUBJECT

#### 1. Definitions

In this contract the following expressions have the meaning indicated herebelow:

- **Consortium**: the owner of the "Marmo Botticino Classico" collective figurative mark.
- **Marchio**: the "Marmo Botticino Classico" collective figurative mark with which the **LICENSEE** intends to distinguish products having the geographical provenance, composition and quality described in the Technical Specification and which are typical characteristics of Botticino Classico marble.
- **Technical Specification**: regulations governing the use of the mark, verifications and sanctions.

#### 2. Subject

- 2.1. The **CONSORTIUM** grants the **LICENSEE** a non-exclusive international licence, limited to the reproduction of the mark on products having the geographical provenance, composition and quality described in the Technical Specification and which are typical characteristics of Botticino Classico marble, as produced and/or sold by the **LICENSEE** and on documents as indicated in the brand manual (**Annex E**) which, for the purposes of this contract, is understood to have been read and approved and of which it forms an integral part.
- 2.2. The **CONSORTIUM** is and remains the sole and exclusive owner of the mark.

- 2.3. The LICENSEE is prohibited from granting sub-licences to third parties regarding the use of the mark and/or from transferring it for any reason.
- 2.4. The LICENSEE undertakes to use the mark on Botticino Classico marble products produced and/or sold by it and in documentation as indicated in the brand manual (Annex E).
- 2.5. The LICENSEE also undertakes to provide the CONSORTIUM, in a timely and accurate manner, with all the information needed to perform the controls and verifications contemplated by the Technical Specification and indicated in the Application for a licence to use the collective mark (Annex D) which, for the purposes of this contract, is intended as read and approved and of which it forms and integral part.
- 2.6. The LICENSEE may not for any reason, cause and/or title transfer this licence either in part or entirely to third parties, even if they are members of the consortium.
- 2.7. The CONSORTIUM, in addition to the cases provided by the Technical Specification, reserves the right to suspend and/or withdraw the licence to use the brand in the event that:
  - (a) the mark is used in a manner which is not in compliance with the provisions established in this contract and the Technical Specifications;
  - (b) the mark is used in a manner which is defamatory, misleading, in breach of applicable legislation or in any other way which may damage the CONSORTIUM;
  - (c) the LICENSEE does not fulfil its obligation to provide the TECHNICAL COMMITTEE, set up for this purpose by the Consortium, with the technical information needed to perform verifications and controls pursuant to the Technical Specification, and to notify changes to same as necessary;
  - (d) the LICENSEE is in breach of the prohibition pursuant to point 2.6 above;
  - (e) the LICENSEE does not make payment pursuant to the following point on at least two consecutive expiries.

## **SECTION B - DURATION AND CONSIDERATION**

### **3. Duration of the contract**

- 3.1. The contract will have the duration of one (1) year from the date of signing.
- 3.2. The contract will be automatically renewed for one (1) further year unless one of the two parties gives notice of its intention not to renew this contract by registered letter with return receipt, which shall be received by the other party at least three (3) months prior to the expiry.

### **4. Consideration**

- 4.1. The CONSORTIUM grants the LICENSEE a licence to use the mark on a non-exclusive basis against payment of the sum of € 200.00 (plus VAT), for handling charges, in the first year, to be paid concurrently with the signing of the contract; and of € 100.00 (plus VAT), to be paid in subsequent years, no later than 31 January, after the relevant invoice has been raised by the CONSORTIUM.
- 4.2. The Ordinary General Meeting of the CONSORTIUM has the power to modify the annual amount of the royalties payable by the LICENSEE to use the mark. The CONSORTIUM undertakes to notify said variation to the LICENSEE within four (4) months from the expiry of the Contract, to allow the LICENSEE to express its intention not to renew the Contract pursuant to point 3.2 above.

### **5. Resolution of disputes**

- 5.1. The parties may refer disputes deriving and/or originating from and/or connected with this contract, for attempted settlement, to ExtraCuria ([www.extracuria.it](http://www.extracuria.it)), a non-jurisdictional entity for the extra-judicial resolution of business disputes, in accordance with the Regulations in force at the time of application.
- 5.2. In the event no settlement is reached, the dispute may be resolved by a Sole Arbitrator, appointed by agreement between the licensee and the Consortium or, if no agreement is reached within seven (7) working or non working days, by the President of the Special Marks and Patents Section of the Court of Milan.  
The arbitrator will reach a formal decision pursuant to the provisions of the Industrial Property Law, in observance of articles 35 and 36 of Section V of Italian decree law no. 5, 17 January 2003, as referred to by article 134, clause 2, of the Industrial Property Law. The arbitration proceedings will take place in the offices of the arbitrator.

Botticino, .....

.....  
**Consortium of Botticino**  
**Classico Marble Producers**  
*The President*

.....  
 THE LICENSEE