

## TO ALL INTERESTED PARTIES

### **SUBJECT: Extract from the Technical Specifications for the Collective Trademark “Marmo Botticino Classico”**

Consortio Produttori Marmo Botticino (hereafter, the “*Consortium*”) holds sole title to the collective Italian and community trademark, “Marmo Botticino Classico” reproduced below (hereafter, also the “*Trademark*”):



the use of which is governed by the Technical Specifications (hereafter, also “*Specifications*”).

The Regulations, after providing a **description of the products** to which the Trademark may be affixed:

“The Marmo Botticino Classico is extracted from a Mesozoic Formation of a calcareous composition known in geological literature as Corna rising in the Prealps of Brescia. The Corna formation dates back to an age between the upper Rhaetic and the lower Lias (Sinemuriano-Hettangian) and was therefore sedimented in the interval of time between 190 and 200 million years ago. Paleogeographically speaking it is part of the Subalpine Dominion, which extends south of the Insubric or Periadriatic Line.

Stratigraphically speaking the Corna is included between the Zu Limestone above and below, the Medolo or locally, the Corso (The Italian Stratigraphic Commission of the Italian Geological Society, within the scope of the Proj. Carg. has recently proposed to establish a new formation called Encrinite of Rezzato for the portion of Corso which is found directly above the Corna in this area).

The sedimentation environment was composed of an internal carbonate platform, in a lagunar marine basin of a depth limited to a few metres, with modest but continuous oscillations which often led to temporary emersions.

The deposit of Botticino Classico is composed of a pile of levels with a maximum cultivated thickness of about 76 metres. The thickness of the individual levels is between 1.00 and 4.80 metres; their inclination varies between 25° in the bottom part to about 15° in the upper part, while the immersion is of 260° +/- 10°. In the majority of the levels it is possible to recognise three levels, called Top (C), Middle (M) and Bottom (F), usually the first and the last are of a similar thickness and about double that of the intermediate level. Within the levels further intervals can be distinguished (up to seven, more often four) with different facies, which reflect the oscillations, mentioned above, of the marine depth, with prevalent sub-tidal levels with respect to the intermediate ones while the above-tidal ones are absent here.

The levels are identified and distinguished by levels of millimetric and centimetric thickness of pelites for the most part of ilitic composition, of a light green or hazelnut colour.

The levels within the levels are identified by thinner or more intensely and finely fractured pelitic levels. In any case, these weak surfaces have been exploited, and still are, by quarrymen in operations of cultivation.

Considering the entire area of extraction from the bottom up, the levels are distinguished by numbers in decreasing order upwards as far as level 1 and above this, by letters of the alphabet in increasing order upwards.

The mass shows diffused signs of karstification.

The stylolites which have surfaces of pressure solution are characteristic; those in agreement with the stratification are due to the load of the sediments above, while those variously directed (for the most part sub-vertically) are attributable to tectonic thrusts connected with alpine oro-genesis.

The lytho-type is a micritic limestone with limited porosity at the scale of hand sample and at observation by optic and electronic microscopes.

The presence of oncolites, a type of stromatolite consisting of a bio-clastic or micritic nucleus on which the algae have developed fixing calcium carbonate during their growth of a diameter mostly between 1 and 2 centimetres, variously abundant in the different layers, is characteristic.

Overall, the material marketed as Botticino Classico has excellent physical and technical features even if, clearly, the sedimentological differences mentioned above influence the technical features of the different materials extracted.

Three marketable qualities of Botticino Classico are distinguished, called Extra, Prima or Normal and Commercial; the criteria followed to attribute the level of quality is based essentially on the aesthetic aspect, and in particular on the uniformity of the design and colour”.

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and the **characteristic elements of the raw material** used to produce the products:

"The table below shows the average values and the main physical and chemical features of the Marmo Botticino Classico, as they have been obtained from experimental tests carried out by the Applied Petrographic Laboratory of the Department of Earth Sciences, Università degli Studi, Parma in 2005".

• Physical parameters:

Description	Average Value
REAL DENSITY (UNI EN 1936, JANUARY 2001)	2710 Kg/m <sup>3</sup>
WATER ABSORPTION AT ATMOSPHERIC PRESSURE (UNI EN 13755, DECEMBER 2002)	0,14%
COMPRESSION STRENGTH (UNI EN 1926, DECEMBER 2000)	183 MPa
COMPRESSION STRENGTH AFTER ALTERNATED FREEZING-UNFREEZING CYCLES (UNI EN 1926, DECEMBER 2000)	164 MPa
FLEXURAL STRENGTH UNDER CONCENTRATED LOAD (UNI EN 12372, APRIL 2001)	12,7 MPa
FLEXURAL STRENGTH UNDER CONCENTRATED LOAD AFTER ALTERNATING FREEZING-UNFREEZING CYCLES (UNI EN 12372, APRIL 2001)	12,9 MPa
ABRASION RESISTANCE (UNI EN 14157, OCTOBER 2004)	20,0 mm

The data is obtained using samples from the different areas of the basin without clear visible defects.

- Chemical characteristics:

Always on the basis of the data obtained with the study conducted by the Applied Petrographic Laboratory of the Department of Earth Sciences, Università degli Studi, Parma, Marmo Botticino Classico has an average content of CaCO<sub>3</sub> > 97%. The remaining part consists of MgO with traces of heavy minerals (Fe, Al, etc)".

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delimits, in compliance with the provisions of point 3.4 of standard PR UNI EN 12440 ([www.uni.com](http://www.uni.com)), **the geographical area of extraction and processing** of the marble which can - legitimately - be distinguished by the Trademark.

"The extractive basin of Marmo Botticino Classico settles in the rising area of the Coma, a vast ridge which pushes northwards from the plains of Botticino to the southern slopes of Mount Fratta and develops on a surface of about 824,600 sq m.

All the deposits belonging to the Coma formation, like those identified in the Quarry Plan of the Brescia Province, census of the Botticino town council, are part of the basin.

The extractive basin can be easily reached by going along the Marble route, historical route used by the steam train, which connects the quarries to the main primary and secondary roads. It is located 7 km North East of the city of Brescia and 6 km from the tollbooth of the A4 Milan-Venice motorway with which it is connected by a handy ring road".

### Sheet C

The Regulations also define the **subjects which may become holders of the licence of use of the Trademark:**

"The following may hold the licence:

- A) associated companies;
- B) non-associated producers;
- C) users.

and the methods of **granting licences to use the Trademark by the Technical Committee:**

A) ) **associated companies** are considered rightful licence holders, therefore they must not present any application, or pay any amount to the Commission.

The following must also be considered rightful licence holders of the Trademark:

- Companies controlled by associated companies
- Companies controlling associated companies.

**Companies controlled** by associated companies is understood as:

- companies in which an associated company has the majority of the votes that can be exercised at the ordinary meeting (the votes due to the controlled companies, fiduciary companies and to persons in between are also counted; the votes due for third parties are not counted), or
- companies in which an associated company avails of sufficient votes to exercise a dominating influence at the ordinary meeting (the votes due to the controlled companies, fiduciary companies and to persons in between are also counted; the votes due for third parties are not counted) or,
- companies which are under the influence of an associated company by virtue of specific contractual bindings, or,
- companies that have a Board of Directors set up by a majority of the members that are part of the Board of Directors of an associated company, or,
- companies whose shares/equity are the ownership of partners who own at least 80% of shares/equity of an associated company.

For **controlling companies** is intended:

- companies that avail of the majority of votes exercisable at the ordinary meeting of an associated company (the votes due to the controlled company, to fiduciary companies and to the person in between are also counted; the votes due for third parties are not counted) or,
- the companies that avail of sufficient votes to exercise a dominating influence at the ordinary meeting of an associated company (the votes due to the controlled company, fiduciary company and to the person in between are also counted; the votes due to for third parties are not counted), or,
- the companies which exercise a dominating influence on one or more associated companies by virtue of specific contractual bindings.

The associated companies, for the material purchased by other producers or resellers, must keep the following up to date:

- an attesting load register:

- purchase date;
- the document number (DDT/accompanying invoice);
- origin;
- type of material purchased;
- quantity of material purchased.
- an attesting unloading register:
- sale date;
- document number (DDT/accompanying invoice);
- destination;
- type of material sold;
- quantity of material sold.

B) **Non-associated producers** who are in commercial negotiations with an interested third party to purchase the material distinguished by the Trademark, can, to use the Trademark on their products, present an 'Application for concession in licence of use of the Collective Trademark' (hereinafter, for short, also 'Application') to the Commission, on pain of non-receipt, with documentation confirming the payment of € 200.00 for preliminary expenses, for the first annuity, to pay upon signing the Contract; and of /ton 0.025 (except for updates resolved by the Ordinary Meeting of the Consortium) for the total tons excavated during the previous year before signing Contract, on the basis of the data of weight (communal weighing machine) of all the material produced during the yearly activity of excavation, to pay by the month of January, following the invoice issued by the CONSORTIUM.

**Non-associated producers** must provide:

- a. a description of their own extracting department, by way of application with information and documentation suitable to providing proof of the possession of the technical ability and availability of the resources required with respect to the standards indicated in this regulation, and in particular in **Sheet B** of the same;
- b. a declaration of acceptance, by way of pre-printed application prepared by the Consortium in which he commits himself to observing the conditions dictated by the contract of concession in licence of use;
- c. the weight data (communal weighing machine) of all the material produced during the yearly activity of excavation;

**Non-associated producers**, for the material purchased by other producers or resellers, must keep the following up-to-date:

- a. an attesting load register:
  - purchase date;
  - the document number (DDT/accompanying invoice);
  - origin;
  - type of material purchased;
  - quantity of material purchased;
- b. an attesting unloading register:
  - sale date;
  - document number (DDT/accompanying invoice);
  - destination;
  - type of material sold;
  - quantity of material sold.

Following receipt of the documentation and payment mentioned above the Commission, Assessors and Inspectors initiate the Preliminary Phase.

Investigation of the Application is carried out by the Commission, resorting to the procedures required by the verifications as regulated by the following points.

The investigative phase cannot last longer than thirty days (30) days; if this period expires uselessly the Application is considered accepted. Within the fortieth day of the presentation of the Application the Consortium shall transmit to the requesting party, by now, Licensee, the loading/unloading register and the contracts of License of use which the requesting party must sign and send by way of registered mail to the secretary of the Consortium within 5 (five) working days. From the moment that the Consortium receives the License of use signed by the requesting party, the latter can use the Trademark.

C) **Non-producing users** (hereby, for short, the 'Users') interested in using the name 'Marmo Botticino Classico' on the packaging of processed products or in documents accompanying the products of the same processed or simply sold, must present an application, on pain of non-receipt, to the Commission, with the documentation testifying the payment of € 200.00, for preliminary expenses, for the first annuity and € 100.00 over the subsequent years except for actions by the Ordinary Meeting.

The **users** must keep the following updated:

- a. an attesting load register:
  - the date of purchase;
  - document number (DDT/accompanying invoice);
  - origin;
  - type of material purchased;
  - quantity of material purchased;
- b. an attesting unloading register:
  - sale date;
  - document number (DDT/accompanying invoice);
  - destination;
  - type of material transformed and or sold;
  - quantity of material transformed and or sold.

The procedure for issuing the Licence of use is the same as that required and described at the preceding point for non-associated Producers.

The operations of fixing the Trademark are performed according to the criteria and procedures which will be established with the subsequent resolutions of the Commission.

The Technical Commission manages the drawing up, storage and updating of the List of producers and users to whom the use of the Trademark has been granted, as well as a List of those who have presented applications.

Anyone is entitled to consult the lists".



In compliance with the provisions of articles 11 and 14 of D.Lgs. 30, 10 February 2005 (hereafter, also "code of Industrial Ownership") the Specifications establish a system of **supervision**:

"The Commission, in addition to the aforementioned activities of preliminary assessment geared to the concession of the Licence of use, performs the activity of supervision understood as supervision of the correct observance of the rules of the regulation with the licensees; essentially, the Commission verifies the possession of the justifiable requirements of the concession of the Licence of use of the Trademark.

The inspectors are in charge of this activity, who can carry out any type of certification, verification, inspection or control on anyone who produces, processes, stores or sells products with the trademark 'Marmo Botticino Classico'. For each irregularity found they draw up minutes and perform any and further certifications, while the Commission, if the case maybe, empowers the Assessors and Inspectors to protect the rights of the Consortium in front of the competent authorities.

Laboratory tests (physical mechanical and chemical) of Products distinguished by the Trademark are performed in analysis laboratories indicated in the list purposely set up and updated by the Technical Commission.

The Commission will perform a further activity of supervision consisting in identifying, in Italy and abroad, subjects that perform activities which violate the regulation, to protect the distinctive signs and unfair competition which may cause harm to the Trademark".

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**and verification performed by the Technical Committee** for the purposes of ensuring compliance with the provisions of the Specifications by Licensees.

"The verifications are direct and indirect.

The **direct verification** is conducted at the Licensee:

It is performed in three stages:

- a. preliminary contacts between the Assessors and the Inspectors and the Licensee for the communication of the type of verifications prepared and to agree times of their execution;
- b. execution of the technical verifications which allow, mainly, in the control of the loading/unloading registers that the Licensee must keep up-to-date and request to show Invoices and Documents of Transport indicated in the registers above;
- c. final discussion in which the Assessors/Inspectors inform the licensee on the results of the verification and those verified can make declarations and observations.

The **indirect verification** involves sending a copy of the loading/unloading Registers on request of the Commission, by the Licensee.

The Assessors /Inspectors deliver the Commission the results of the verification to which they must attach an explanatory report which keeps in mind the declarations and observations gathered.

In case of a negative result of the verification, the report must explain the initiatives that the Licensee must adopt to adapt to the standards indicated in this regulation. The time by which any adaptation must be performed is also indicated.

The Commission communicates to the licensee the results of the verification, any corrective action and consequential measures".

### Sheet G

Pursuant to the provisions of the Specifications, the Committee may, in the case of the violation of the following obligations

"The Licensees are obliged to constantly respect the conditions which have justified the issue of the License of use of the Trademark.

Any change in the productive conditions, for any reason, must be quickly communicated to the Commission. If it deems it necessary, the latter can suspend, with immediate effect, the licensee from the use of the Trademark and avail of a verification.

The measure of suspension is noted in the margin of the Roll of producers and users.

Licensees and aspiring licensees are obliged to observe the dispositions of this regulation and are subjected to the sanctioning power of the Commission".

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and, in every case in which conduct is not in compliance with the principles contained in the Specification, apply the following **sanctions**:

- a) written warning;
- b) fine up to a maximum of € 1.000.00;
- c) suspension of the use of the Trademark for a period not greater than one (1) year;
- d) withdrawal of the Certificate of Conformity and the license of use of the Trademark;

Imposition of the sanction of suspended use of the Trademark is noted in the margin of the list of producers and users.

Against the sanctions imposed by the Commission the licensee can make an attempt of conciliation towards ExtraCuria ([www.extracuria.it](http://www.extracuria.it)), a non-jurisdictional body of extra-judicial resolution of commercial disputes, according to the Regulation in force at the time of the presentation of the request.

This attempt having failed, the controversy can be resolved by one (1) Single Arbitrator, appointed by common accord by the licensee and consortium or in case of lack of agreement within seven (7) working days and inertia, by the Chairman of the Specialised Section trademarks and Patents of the Tribunal of Milan.

The arbitrator decides according to the standards of the Code of Industrial Ownership and in a ritual way, observing art. 35 and 36 of Title V of the legislative decree no. 5 dated 17th January 2003 as it is mentioned in art. 134, paragraph 2, of the Code of Industrial Ownership. The location of the arbitral procedure will be at the professional studio of the arbitrator".

### Sheet G

Please do not hesitate to contact us for any clarification you may require.

Kind regards