

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

R.J. O'BRIEN & ASSOCIATES, LLC,

Plaintiff,

vs.

KEMOFINA AG.,

Defendant.

Civil Action No: 1:24-cv-2885

**PLAINTIFF R.J. O'BRIEN & ASSOCIATES, LLC'S COMPLAINT  
AT LAW AGAINST DEFENDANT KEMOFINA AG**

Plaintiff R.J. O'Brien & Associates, LLC ("RJO") by and through its attorneys, Kopecky Schumacher Rosenberg, LLC, for its Complaint against Defendant Kemofina AG ("Kemofina"), alleges, on knowledge of its own actions, and otherwise upon information and belief, as follows:

**THE PARTIES**

1. RJO is a limited liability company organized under the laws of the state of Delaware which maintains its principal place of business in Chicago, Illinois. RJO is a futures broker and is registered with the Commodity Futures Trading Commission as a futures commission merchant.

2. Kemofina is a corporation organized under the laws of Switzerland which maintains its principal place of business in Zug, Switzerland. Kemofina is an international soft commodity trading corporation, specialized in sourcing cocoa beans and acting as a supplier to the cocoa processing and chocolate industries globally.

**JURISDICTION**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1332(a)(1), because this matter is between citizens of different states, as detailed above, and

because the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, as RJO seeks \$2,886,710.51 plus interest and attorney's fees.

4. This Court has personal jurisdiction over Kemofina because Kemofina contractually consented to this Court's jurisdiction and because this action arises out of activities undertaken by Kemofina within this District, including, but not limited to, opening a futures trading account with RJO, making representations, warranties and promises to RJO in connection with its futures trading account, entering into a written agreement with RJO, and breaching its agreement with RJO.

### **VENUE**

5. Venue is proper pursuant to 28 U.S.C. Section 1391(b)(2) in that a substantial part of the events giving rise to the claim occurred within the Northern District of Illinois.

6. Venue is also proper because the parties entered into a contractual agreement in which they consented to "the jurisdiction of any state or federal court or arbitration forum located within the Northern District of Illinois." Moreover, under the agreement, Kemofina agreed to waive any right it may have to transfer or change the venue of any litigation between the parties.

### **BACKGROUND**

7. Kemofina opened its futures trading account No. U50-05346 (the "Account") with RJO by completing RJO's Account Application (attached hereto as Exhibit A) and executing RJO's Account Agreement (attached hereto as Exhibit B) on June 9, 2022.

#### **The Entity Account Application**

8. In completing the Account Application, Kemofina, through its Director Stefan Karadzic, represented that Kemofina understood: (1) "the basics of futures trading"; (2) "the risks of loss and the possibility of incurring a debit"; and (3) RJO's Margin Policy. Kemofina also confirmed to RJO that futures trading was suitable for Kemofina. (Exhibit A, p. 3).

9. Kemofina further indicated in the Account Application that it had annual income of

\$47,000,000.00 and assets of \$3,500,000.00. (*Id.*, p. 2)

10. Kemofina also informed RJO in completing the Account Application that it had more than three years of prior trading experience trading both futures and options on futures. (*Id.*, p. 3).

**The Account Agreement**

11. Section 3 of RJO's Account Agreement entitled "MARGINS" states, in relevant part:

"Client agrees at all times to maintain such margin in the Account as R.J. O'Brien may from time to time (at its sole discretion) require, and will meet all margin calls in a reasonable amount of time."

and

"Client further agrees that, notwithstanding anything in this Agreement to the contrary, in the event that the Account is under margined, or has zero equity or is equity deficit at any time, or in the event that R.J. O'Brien is unable to contact Client due to Client's unavailability or due to a breakdown in electronic communications, R.J. O'Brien shall have the right to spread or liquidate all or any part of Client's positions through any means available without prior notice to Client."

(Exhibit B, p. 1).

12. Section 6 of the Account Agreement entitled "DEBIT BALANCES, COMMISSIONS, FEES AND OTHER COSTS" states, in relevant part:

"Client agrees to pay and R.J. O'Brien is hereby authorized to charge the Account for (i) the amount of any trading loss, debit balance or deficiency, and any applicable interest thereon, in any of the Accounts;"

and

"If Client does not promptly pay a debit in the Account and R.J. O'Brien deems it necessary to take collective action, Client will hold R.J. O'Brien harmless for all losses and expenses and will reimburse R.J. O'Brien for the debit and all costs incurred, including reasonable attorneys' fees in connection with such collection actions. Client agrees to pay interest on debits and deficiencies at the greater of 2% per month or at an annual rate of 2% over the prime rate at the Harris Trust & Savings Bank of Chicago."

(*Id.*, p. 3).

13. Section 17 of the Account Agreement entitled "INDEMNIFICATION" states, in relevant part:

“Along with any other indemnification obligation set forth herein, Client agrees to indemnify, defend and hold harmless R.J. O’Brien and its directors, officers, employees and agents from and against any loss, cost, charge, claim, damage (including any consequential costs, loss or damage), liability, tax or expense (including reasonable attorneys’ fees) and any fine, sanction, or penalty made or imposed by any regulator or self-regulatory authority or any exchange (collectively, “Losses”) as incurred by R.J. O’Brien or such other persons in connection with the Account and/or any Contracts or positions established or maintained therein.”

“Such indemnification shall include, without limitation, Losses resulting, directly or indirectly from: (a) Client’s failure, breach, or refusal to fully and timely comply with any provision of this Agreement or perform any obligation on its part to be performed pursuant to this Agreement;”

“Client additionally agrees to pay promptly to R.J. O’Brien all reasonable attorney’s fees incurred by R.J. O’Brien (i) in the enforcement of any of the provisions of this Agreement;”.

(*Id.*, p. 7).

**Risk Disclosures Provided to Kemofina**

14. On June 9, 2022, Kemofina, through its Director, Stefan Karadzic, acknowledged in writing having “received and understood” the Risk Disclosure Statement provided by RJO. A copy of the Risk Disclosure Statement is attached hereto as Exhibit C.

15. That Risk Disclosure Statement warned Kemofina that:

“The risk of loss in trading commodity futures contracts can be substantial. You should, therefore, carefully consider whether such trading is suitable for you in light of your circumstances and financial resources. You should be aware of the following points:

(1) You may sustain a total loss of the funds that you deposit with your broker to establish or maintain a position in the commodity futures market, and you may incur losses beyond these amounts. If the market moves against your position, you may be called upon by your broker to deposit a substantial amount of additional margin funds, on short notice, in order to maintain your position. If you do not provide the required funds within the time required by your broker, your position may be liquidated at a loss, and you will be liable for any resulting deficit in your account.”

(Exhibit C, p. 1).

16. Kemofina’s Account with RJO was self-directed at all times, meaning that Kemofina

made all of its own trading decisions for its Account and no one else made trading decisions for its Account.

17. Minimum margin requirements are set by futures exchanges. Exchanges set minimum margin requirements, which is the amount of funds that an account holder must hold in its account to buy or sell a futures contract. Once an account holder establishes a futures position, the account-holder continuously must meet minimum maintenance margin requirements. That is, the net liquidating value of the account (i.e., the amount of money that would remain in the account if all positions were sold) plus the value of any cash in the account must be higher than the minimum maintenance margin requirements.

18. Futures commission merchants ("FCMs") like RJO are free to add to the minimum maintenance margin requirements set by the exchange and require that its account-holder post additional margin, but FCMs cannot set margin requirements that are lower than exchange minimums.

19. In March 2024, Kemofina's Account became under margined as a result of trading decisions made by Kemofina.

20. On March 14, 2024, RJO issued a margin call to Kemofina in the amount of \$3,752,162.34.

21. Kemofina did not meet the margin call and RJO subsequently exercised its contractual right to liquidate the open positions in Kemofina's Account. Following that liquidation, the Account had a debit balance in the amount of \$2,886,710.51.

22. RJO has demanded payment of the debit balance amount by Kemofina to RJO, but Kemofina has refused to make any payment of the debit balance owed on the Account.

**Count I**  
**Breach of Contract**

23. RJO repeats and realleges paragraphs 1 through 22 hereof, as if fully set forth herein.

24. Upon Kemofina executing the Account Agreement on June 9, 2022, the Account Agreement became a validly binding contract between RJO and Kemofina.

25. RJO fully performed all of its obligations under the Account Agreement.

26. By way of executing the Account Agreement on June 9, 2022, Kemofina agreed that it would be liable for any debit balance in its Account as expressly provided under Section 6 of the Account Agreement. (Exhibit B, p. 3).

27. Following the liquidation of Kemofina's Account, Kemofina's Account incurred a debit balance of \$2,886,710.51.

28. Pursuant to Section 6 of the Account Agreement, Kemofina is liable for any debit balance in its Account.

29. RJO has made numerous requests to Kemofina to make payment of the debit balance of \$2,886,710.51.

30. Kemofina has not paid the debit balance in its Account and the debit balance remains outstanding.

31. Kemofina has breached the Account Agreement with RJO because Kemofina has failed to satisfy its obligations under the Account Agreement and make payment to RJO in the amount of \$2,886,710.51.

32. As a direct and proximate result of Kemofina's breach, RJO has and continues to incur damages in the amount of \$2,886,710.51.

33. Pursuant to Section 6 of the Account Agreement, Kemofina further agreed to pay interest on debits and deficiencies at the greater of 2% per month or at an annual rate of 2% over the prime rate at the Harris Trust & Savings Bank of Chicago. (Exhibit B, p. 3).

34. As a result of Kemofina's failure to pay the debit balance owed on its account, Kemofina additionally owes RJO payment at the greater of 2% per month or at the annual rate of 2%

over the prime rate at the Harris Trust & Savings Bank of Chicago.

35. Pursuant to Paragraph 6 of the Account Agreement, RJO is contractually entitled to an award of the attorneys' fees it incurs in this action as a result of Kemofina's breach of the Account Agreement.

**WHEREFORE**, Plaintiff R.J. O'Brien & Associates, LLC requests judgment on Count I of the Complaint awarding damages in favor of R.J. O'Brien & Associates, LLC in the amount to be determined at trial but not less than the \$2,886,710.51 debit balance due and owing from Kemofina AG to R.J. O'Brien & Associates, LLC, plus attorney's fees and cost and pre-judgment interest as well as such other relief as the Court deems just and proper.

Dated: April 10, 2024

Respectfully submitted,

/s/ Martin Doyle  
An Attorney for R.J. O'Brien &  
Associates, LLC

Martin Doyle (IL Bar No. 6198322)  
John Miceli (IL Bar No. 6333063)  
Kopecky Schumacher Rosenberg LLC  
120 N. LaSalle Street, Suite 2000  
Chicago, IL 60602  
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*Counsel for Plaintiff R.J. O'Brien & Associates, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2024, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ John J. Miceli



# EXHIBIT A



MIMM2206090017

Kemofina AG

**ACCOUNT APPLICATION**

Please verify the information you provided in the online account application.

Kemofina AG

LLC

Account Title

Account Type

Office

Michael Sabo

R.J. O'Brien &amp; Associates, LLC

Broker

Brokerage

Futures &amp; Options

SZ

Asset Class

Country of Entity Organization

**Entity Information**

Kemofina AG

Legal Account Name

2015-02-10

CHE-394.632.80

Date of Formation

Tax ID

Other - Commodities Trading

Nature of Business

967600CRC6M4AQLRRY60

No

No

LEI

+41445861666

Is Entity a Fund?

Is Entity a Commodity Pool?

Contact Phone Number

**Registered Address****Mailing Address**

Address 1

Gotthardstrasse 26

Address 2

Apt/Ste/Unit

City

Zug

State

Postal Code

CH-6300

Country

SZ

Contact Name

Kemofina AG

**ACCOUNT APPLICATION****Related Party Information**

Full Name	Type	Title	Owner	Email	Guarantor	Signer	Online Access
Stefan Karadzic	Contact	Director	YES	SK@KEMOFINA.COM		NO	YES

**Financial Information**

47,000,000

Annual Income (\$)

3,200,000

Liquid Assets(\$)

3,500,000

Assets (\$)

2,000,000

Liabilities (\$)

350,000

Initial Deposit (\$)

**Bank and  
Brokerage  
Details**

	Bank 1	Bank 2
Currency	USD	GBP
Account Type		
Name	Zuger Kantonalbank	Zuger Kantonalbank
City	Zug	Zug
State	Switzerland	Switzerland
Account Number	CH5700787785507282673	CH7900787785507282665

**Current Accounts**

Yes

Futures/Commodities

Several brokers/clearers

Futures Brokerage Name

No

Securities

Securities Brokerage Name

Kemofina AG

**ACCOUNT APPLICATION****Other Information**

Current open accounts at RJO?

No

Account Numbers

Does the entity have any unsatisfied debit balances with RJO or any other brokerage?

No

Is the entity an "Affiliate" or "Control Person" of a public company as defined in SEC Rule 144?

No

Has the entity ever been subject to bankruptcy proceedings, receivership or similar actions (voluntary or involuntarily)?

No

Year

Description

Has the entity ever been involved in a legal dispute or arbitration proceedings related to futures/securities?

No

**Investment Experience**

Experience trading	Years Traded	Contracts per Year
Futures	3+	100+
Options on Futures	3+	100+
Securities/Equities	3+	100+

Do you understand the basics of futures trading?

Yes

Do you understand the risks of loss and the possibility of incurring a debt?

Yes

Do you understand RJO's margin policy?

Yes

Is futures trading suitable for you?

Yes

**EXCHANGE MEMBERSHIPS**

Exchange	Qty	Own/Lease	Membership Type	Badge/ID
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DocuSigned by:

Stefan Karadzic

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Signature

Stefan Karadzic

Print Name

Director

Title, if applicable

6/9/2022 | 4:43 PM CDT

Date

Signature

Print Name

Title, if applicable

Date

# **EXHIBIT B**



## ACCOUNT AGREEMENT

### 1. ACCOUNT STATUS

This Account Agreement ("**Agreement**") sets forth the terms and conditions upon which R.J. O'Brien & Associates, LLC ("**R.J. O'Brien**") will accept and maintain for the undersigned ("**Client**") one or more accounts (individually, "**Account**" and collectively, "**Accounts**") and act as broker or dealer for Client in the execution and clearing of orders for transactions (whether domestic or foreign) involving the purchase and sale of futures contracts; options on futures contracts; commodities and forward contracts, option, spot and forward foreign exchange transactions; exchange for physicals ("**EFPs**"); and any other cash transaction or derivative, or any similar instruments which may be purchased, sold or cleared by or through a futures commission merchant ("**FCM**") (individually, a "**Contract**" and collectively, "**Contracts**").

If the Account has been introduced to R.J. O'Brien by a broker ("**Introducing Broker**"), all references to R. J. O'Brien in this Agreement shall include the Introducing Broker, and the Introducing Broker shall enjoy all benefits and rights hereunder. Client understands that if using an Introducing Broker, R.J. O'Brien's only relationship between it and the Introducing Broker is to execute or clear trades introduced to Client by the Introducing Broker and that the Introducing Broker is not controlled by R. J. O'Brien. Supervision and/or control of the activity in the Account (as hereinafter defined) rest with the Introducing Broker, subject to Applicable Law, if relevant for the type of Contract traded, unless the Introducing Broker is a Guaranteed Introducing Broker of R.J. O'Brien and in such case only to the extent required by Applicable Law. Client acknowledges that R.J. O'Brien pays a portion of its fees and commissions to the Introducing Broker. Commissions charged to the Account are established by the Introducing Broker. Client agrees and acknowledges that the Introducing Broker, or any other entity or person if so authorized by Client including any broker of R.J. O'Brien (the "**Agent**"), and R.J. O'Brien may share information with each other regarding or relating to the Account.

Client agrees to permit verification of relevant information by R.J. O'Brien through third parties (including credit reporting entities). In any event, this Agreement and the Accounts permitted hereunder become effective only upon acceptance by an authorized representative of R.J. O'Brien at its principal office in Chicago, Illinois.

### 2. APPLICABLE LAW

All Accounts, Contracts and Agreements in respect of such Accounts shall be subject to: (i) the Commodity Exchange Act ("**CEA**") and all rules and interpretations of the Commodity Futures Trading Commission ("**CFTC**"); (ii) the constitution, by-laws, rules, regulations, policies, procedures, interpretations and customs of any applicable board of trade, exchange, contract market, trading facility or execution facility, including, without limitation, an electronic trading system, facility or service, or clearing organization or of any clearing firm or self-regulatory agency or organization; and (iii) any other laws, rules, interpretations, customs or usage of the trade applicable to Client's trading of Contracts. All such laws, rules, regulations, policies, procedures, interpretations, customs and usage, as enforced from time to time, are hereinafter collectively referred to as "**Applicable Law**."

### 3. MARGINS

Client agrees at all times to maintain such margin in the Account as R.J. O'Brien may from time to time (at its sole discretion) require, and will meet all margin calls in a reasonable amount of time. Client agrees that, if requested to do so, Client will promptly wire-transfer such funds upon demand by R.J. O'Brien. Market conditions permitting, R.J. O'Brien agrees to make reasonable efforts to notify Client of margin calls and/or deficiencies. Such notice may be made orally, by electronic notice or through notation of a margin deficit or otherwise on daily confirmation statements. Client will be allowed a reasonable period of time to provide funds.

FOR PURPOSES OF THIS AGREEMENT, A REASONABLE AMOUNT OF TIME SHALL BE DEEMED TO BE ONE (1) HOUR, OR LESS THAN ONE (1) HOUR IF, IN R.J. O'BRIEN'S BUSINESS JUDGMENT, MARKET CONDITIONS WARRANT.

Client further agrees that, notwithstanding anything in this Agreement to the contrary, in the event that the Account is under margined, has zero equity or is equity deficit at any time, or in the event that R.J. O'Brien is unable to contact Client due to Client's unavailability or due to a breakdown in electronic communications, R.J. O'Brien shall have the right to spread or liquidate all or any part of Client's positions through any means available without prior notice to Client.

Client acknowledges that R.J. O'Brien has no obligation to establish uniform margin requirements among products or clients that margins required by R.J. O'Brien may exceed the minimum margin requirements of the applicable exchange or clearinghouse, and that margin requirements may be increased or decreased from time to time in R.J. O'Brien's discretion without advance notice to Client.

## ACCOUNT AGREEMENT

All checks and funds from Client, to be credited to the Account, must be payable only to "R.J. O'Brien". All deposits shall be deemed made only when cleared funds are actually received by R.J. O'Brien. If a check is not honored or paid by a bank upon presentment, R.J. O'Brien will immediately debit the Account for the amount of the returned check as well as any fees incurred.

Any failure by R.J. O'Brien to call for margin at any time shall not constitute a waiver of R.J. O'Brien's right to do so any time thereafter, nor shall such failure create any liability to the Client.

### 4. CLIENT DEFAULT, LIQUIDATION OF ACCOUNTS AND OTHER RIGHTS OF R.J. O'BRIEN

As used herein, each of the following shall be an "**Event of Default**": (i) Client defaults on any obligations to R.J. O'Brien hereunder or otherwise in respect of any transaction or agreement; (ii) Client fails to deposit or maintain required margin (as determined by R.J. O'Brien in its sole discretion), fails to pay required premiums or fails to make any other payments required hereunder or otherwise in respect of any Contract, or R.J. O'Brien determines that Collateral (as hereinafter defined) deposited to protect one or more Accounts is inadequate, regardless of current market quotations, to secure the Account; (iii) any representation made by Client is not or ceases to be accurate and complete in any material respect; (iv) a case in bankruptcy is commenced or a proceeding under any insolvency or other law for the protection of creditors or for the appointment of a receiver, trustee or similar officer is filed by or against Client, or Client makes or proposes to make any arrangement or composition for the benefit of its creditors, or Client or any of its property is subject to any agreement, order or judgment providing for Client's dissolution, liquidation or reorganization, or for the appointment of a receiver, trustee or similar officer of Client or such property; (v) any warrant or order of attachment is issued against any Account or a judgment is levied against any Account; or (vi) any event where R.J. O'Brien reasonably considers it necessary, as determined in its sole discretion, to take the actions set forth herein for its protection. Upon the occurrence of an Event of Default, R.J. O'Brien shall have the right, without limitation, to (A) liquidate or close out any or all of Client's open Contracts in whole or in part; (B) cancel any or all of Client's outstanding orders, Contracts or any other commitments made on behalf of Client; (C) treat any or all of Client's obligations due to R.J. O'Brien as immediately due and payable; (D) set-off any obligations of R.J. O'Brien to Client against any obligations of Client to Collateral or the proceeds of the sale of any Collateral to satisfy R.J. O'Brien; (E) sell any securities, Contracts or Collateral held or carried for Client and/or set-off and apply any obligations of Client to R.J. O'Brien; (F) borrow or buy any securities, Contracts or other property for any Account; (G) terminate any or all of R.J. O'Brien's obligations for future performance to Client; (H) take such other further action as R.J. O'Brien, in its sole discretion, deems necessary or appropriate under the circumstances.

So long as R.J. O'Brien's rights or position would not be jeopardized thereby, R.J. O'Brien shall make a good faith effort to notify Client of its intention to take any of the actions specified in (A) through (H) above before taking any such action provided that R.J. O'Brien shall not be deemed to have breached any obligation to Client if no such notice is given. Any sale or purchase hereunder may be made in any manner determined by R.J. O'Brien to be commercially reasonable. It is understood that in all cases, a prior demand or notice shall not be considered a waiver of R.J. O'Brien's right to take any action provided for herein and that Client shall be liable for the payment of any deficiency remaining in each Account after any such action is taken, together with interest thereon and all costs relating to liquidation and collection (including reasonable attorneys' fees).

### 5. SECURITY

As security for the payment or performance of all obligations to R.J. O'Brien or any of its affiliates now or hereafter existing (collectively, the "**R.J. O'Brien Entities**") presently outstanding or to be incurred under this or any other agreement or otherwise, Client grants the R.J. O'Brien Entities a security interest, in and right of, setoff against any and all property belonging to Client or in which Client may have an interest, and the proceeds thereof, held by any R.J. O'Brien Entity or carried in any account of Client with any R.J. O'Brien Entity, or which are or may become, due to Client or to R.J. O'Brien Entities for any account (including amounts from any exchange or clearing broker in respect of any Contracts) and all rights Client may have against any of the R.J. O'Brien Entities (collectively, the "**Collateral**"). The Collateral shall be subject to such security interest and right of set-off to discharge all obligations of Client to any of the R.J. O'Brien Entities, wherever or however arising, and without regard to whether or not any R.J. O'Brien Entity has made loans with respect to such Collateral.

The R.J. O'Brien Entities are authorized to take any or all actions authorized in Section 4 without notice in order to satisfy such obligations. In taking any such action, the R.J. O'Brien Entities shall have the discretion to determine the amount, order and manner of property to be sold and shall have all the rights and remedies available to a secured party under Applicable Law. Without the consent of R.J. O'Brien, Client will not cause or allow any of the collateral held in any Client account, whether now owned or hereafter acquired, to be or become subject to liens, security interests, mortgages or



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**ACCOUNT AGREEMENT**

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encumbrances of any nature other than the security interest in favor of the R.J. O'Brien Entities. Client acknowledges that R.J. O'Brien and each of its affiliates act as agents for each other in respect of the Collateral subject to the security interest, lien and right of set-off described above.

Client acknowledges that R.J. O'Brien is hereby authorized for its account and benefit, from time to time and without notice to Client, either separately or with others, to lend, repledge, hypothecate or rehypothecate, either to itself or to others, any and all property (including but not limited to securities, commodities warehouse receipts or other negotiable instruments) in any Account and by delivery of property of the same kind and amount.

**6. DEBIT BALANCES, COMMISSIONS, FEES AND OTHER COSTS**

Client agrees to pay and R.J. O'Brien is hereby authorized to charge the Account for (i) the amount of any trading loss, debit balance or deficiency, and any applicable interest thereon, in any of the Accounts; (ii) all commissions, fees and other costs incurred or owed in connection with Contracts executed, carried and/or cleared by R.J. O'Brien, including but not limited to, Introducing Broker or Agent, if any, and floor brokerage, clearing, exchange and NFA fees; (iii) all regulatory, exchange and other self-regulatory fees, fines, penalties and charges incurred or imposed with respect to Contracts or other transactions in or for the Account; (iv) any applicable taxes; (v) any other service-related fees charged to an Account, including, but not limited to, wire transfer fees, statement fees and transaction fees and; (vi) any other amount owed by Client to R.J. O'Brien with respect to the Account. In the event that an Account is transferred to another FCM, transfer commissions and/or service fees may be charged.

Any interest accrued in any Account on excess cash balances shall be retained by R.J. O'Brien. R.J. O'Brien shall be under no obligation to pay or account to Client for any interest income or benefits that may be derived from or use of client monies, reserves, deposits, cash equivalents or any other property. If Client does not promptly pay a debit in the Account and R.J. O'Brien deems it necessary to take collection action, Client will hold R.J. O'Brien harmless for all losses and expenses and will reimburse R.J. O'Brien for the debit and all costs incurred, including reasonable attorneys' fees in connection with such collection actions. Client agrees to pay interest on debits and deficiencies at the greater of 2% per month or at an annual rate of 2% over the prime rate at the Harris Trust & Savings Bank of Chicago.

R.J. O'Brien is authorized to transfer among a regulated Account and any other Account, including foreign exchange Accounts and non-regulated Accounts and vice versa, such excess funds as may be required for any reason R.J. O'Brien deems appropriate in R.J. O'Brien's sole and absolute discretion.

**7. FOREIGN EXCHANGE RISK**

If Client directs R.J. O'Brien to enter into any transaction which is effected in a foreign currency or if funds provided by Client involve the use of a foreign currency, any profit or loss arising as a result of a fluctuation in the exchange rate affecting such currency will be entirely for Client's account and risk. All initial and subsequent deposits for margin purposes shall be made in U.S. dollars unless otherwise approved in writing by R.J. O'Brien. R.J. O'Brien is authorized to convert funds in the Account into and from the relevant foreign currency at the rate of exchange obtained from R.J. O'Brien or R.J. O'Brien's bank plus appropriate fees.

**8. POSITIONS AND DELIVERIES**

Client acknowledges Client's reporting obligations (regarding certain sized positions) under regulations promulgated by the CFTC ("**CFTC Regulations**"), including the obligation to complete Form 40 upon request by the CFTC. Client acknowledges that the making or accepting of delivery pursuant to a futures Contract may involve a much higher degree of risk than liquidating a position by offset. R.J. O'Brien has no control over and makes no warranty with respect to grade, quality, or tolerances of any commodity delivered in fulfillment of a Contract. Client understands that unless the Contract specifications state to the contrary, every futures Contract contemplates delivery and Client shall promptly advise R.J. O'Brien if Client intends to make or take delivery. When Client intends to take delivery, Client shall deposit with R.J. O'Brien the full value of the commodity at least one (1) business day prior to the first notice day and in the case of short positions, at least four (4) business days prior to last trading day. Alternatively, sufficient funds to take delivery or the necessary documents must be in the possession of R.J. O'Brien within the same periods described above. If R.J. O'Brien does not receive the aforementioned instructions, funds or documents, R.J. O'Brien is authorized, at its discretion, to borrow or buy any property necessary to honor such obligation and Client shall pay and indemnify R.J. O'Brien for any Losses (as hereinafter defined) which R.J. O'Brien may incur in fulfilling this responsibility.

Client agrees that R.J. O'Brien, at its discretion, may establish trading limits for the Account and may limit the number of open positions (net or gross) which Client may execute, clear, and/or carry with or acquire through it. Client agrees (i) not



Kemofina AG

**ACCOUNT AGREEMENT**

to make any trade which would have the effect of exceeding such limits, (ii) that R.J. O'Brien may require Client to reduce open positions carried with R.J. O'Brien, and (iii) that R.J. O'Brien may refuse to accept orders to establish new positions. R.J. O'Brien may impose and enforce such limits, reduction, or refusal whether or not they are required by Applicable Law. Client shall comply with all position limits established by any regulatory or self-regulatory organization or any exchange. In addition, Client agrees to notify R.J. O'Brien promptly if Client is required to file position reports with any regulatory or self-regulatory organization or with any exchange and agrees to provide R.J. O'Brien with copies of any such report. R.J. O'Brien expressly disclaims any liability for Client's losses related to Client's exceeding applicable limits.

Approval for hedge margins does not exempt an Account from speculative position limits. To be exempt from speculative position limits requires application and approval of a hedge exemption from the CFTC and the Contract's respective exchange.

**9. OPTIONS**

CLIENT WILL NOT PURCHASE A PUT OR CALL UNLESS CLIENT IS ABLE TO SUSTAIN THE TOTAL LOSS OF THE PREMIUM AND RELATED TRANSACTION COSTS. CLIENT WILL NOT SELL (WRITE) A CALL OR PUT OPTION UNLESS CLIENT EITHER HAS AN OFFSETTING POSITION IN THE UNDERLYING FUTURES CONTRACT OR IS ABLE TO WITHSTAND SUBSTANTIAL FINANCIAL LOSSES.

Client recognizes that Client is fully responsible for taking action to exercise an option Contract. R.J. O'Brien shall not be required to take any action with respect to an option Contract, including any action to exercise a valuable option prior to its expiration date, except upon express instructions from Client. In this connection, Client understands that exchanges have established exercise cut-off times for the tender of exercise instructions and that Client's options may become worthless in the event that Client does not provide instructions promptly. Client also understands that some exchanges may automatically exercise long in-the-money options pursuant to the regulations of such exchange. Client further understands that R.J. O'Brien cut-off times may differ from the times established by the exchanges and hereby agrees to waive any and all claims for damage or loss which might arise out of an option not being exercised. R.J. O'Brien will not be responsible for information regarding option expiration dates and assignment notification. Additionally, R.J. O'Brien will not be responsible for any errors or omissions regarding such information. Client understands that short option positions are subject to assignment at any time, including positions established on the same day that exercises are assigned. Notices of assignment are allocated on a random basis among all clients' short option positions which are subject to exercise

**10. LIMITATION OF LIABILITY OF R.J. O'BRIEN**

Client authorizes R.J. O'Brien to purchase and sell Contracts in accordance with Client's or Introducing Broker's or Agent's (as applicable) oral or written instructions. In executing transactions on an exchange, R.J. O'Brien will not be responsible to Client for negligence or misconduct of any third party brokers selected by R.J. O'Brien. R.J. O'Brien will not be responsible to Client in the event of error, failure, negligence, or misconduct on the part of any non-Guaranteed Introducing Broker, Agent, Commodity Trading Advisor, or other person acting on Client's behalf and, without limiting the foregoing, R.J. O'Brien has no obligation to investigate the facts surrounding any transaction in the Account which is introduced by such non-Guaranteed Introducing Broker, Agent, Commodity Trading Advisor, or other person. Further, R.J. O'Brien is not responsible or liable whatsoever for any matter relating to the practices, actions or any other matter in regard to a non-Guaranteed Introducing Broker, Agent, Commodity Trading Advisor, or other person. If using an Introducing Broker, Agent, Commodity Trading Advisor or other person, Client agrees not to bring any action or counterclaim against R.J. O'Brien and will assert any such claim against only the Introducing Broker, Agent, Commodity Trading Advisor, or other person for any redress with respect to any matter other than R.J. O'Brien's gross negligence or willful misconduct in executing, clearing and/or accounting of transactions.

Client shall have no claim against R.J. O'Brien for any Losses (as defined in Section 17 herein) caused directly or indirectly by: (a) governmental, court, exchange, regulatory or self-regulatory organization restrictions, regulations, rules, decisions, or orders; (b) suspension or termination of trading; (c) war or civil or labor disturbance; (d) delay or inaccuracy in the transmission or reporting of orders due to a breakdown or failure of computer services, transmission, communication or execution facilities; (e) the failure or delay by any exchange or clearinghouse to enforce its rules or to pay to R.J. O'Brien any margin due in respect of Client's account; (f) the failure or delay by any bank, trust company, clearing organization, or other person which, pursuant to applicable exchange rules, is holding Client funds, securities, or other property to pay or deliver the same to R.J. O'Brien; (g) any other cause or causes beyond R.J. O'Brien's control; (h) as a result of any action taken by R.J. O'Brien or its agents to comply with Applicable Law; (i) as a result of any actions taken by R.J. O'Brien in connection with the exercise of available remedies pursuant to Section 4; (j) for acts or omissions of those neither employed nor supervised by R.J. O'Brien. R.J. O'Brien shall not be responsible for any Losses except to the extent that such Losses

## ACCOUNT AGREEMENT

directly arise from its gross negligence or willful misconduct. In no event will R.J. O'Brien or any of its service providers be liable to Client for consequential, incidental or special damages, even if advised of the possibility of such damages. R.J. O'Brien's violation of any Applicable Law shall not provide Client with either a defense to a claim by R.J. O'Brien or the basis of a claim against R.J. O'Brien. Client acknowledges and agrees that R.J. O'Brien does not provide banking services to Client, does not act as a bank for purposes of the Illinois Funds Transfer Act, and shall have no liability for any Losses if R.J. O'Brien is found to be acting as a bank or otherwise engaged in banking activities.

### 11. COMMUNICATIONS AND ORDERS

Since Contracts may experience rapid movements in price, Client's attention is required in the placement of orders and execution of the same by R.J. O'Brien. Unless a managed (discretionary) account has been arranged through the execution of a written trading authorization, each order should be communicated to R.J. O'Brien by the Client or Client's Introducing Broker or Agent as may be applicable. Instructions should include, but may not necessarily be limited to, the commodity involved, quantity, price, and delivery month. Any trade not specifically authorized by Client must be immediately reported by Client directly to R.J. O'Brien's Compliance Department. Client will be financially responsible for all trades not so reported and for any Losses arising by virtue of a course of dealing involving his/her grant of de facto control over the Account to Introducing Broker or Agent.

Orders are good for one (1) day only (regular day trading session) unless specified and accepted as being "open", in which case the order will remain open until filled or the Client specifies otherwise. The price at which an order is actually executed shall be binding even if incorrectly reported. Similarly, an order actually executed, but in error reported as not executed is also binding.

Client agrees that when R.J. O'Brien executes sell or buy orders on Client's behalf, R.J. O'Brien, its directors, officers, employees, agents, affiliates, and any floor broker or terminal operator may take the other side of Client's order for the account of such person subject to such order being executed in accordance with and subject to the limitations and conditions, if any, contained in Applicable Law.

R. J. O'Brien offers certain internet-based, electronic order entry platforms for the purpose of facilitating the entry of Client orders trading in Contracts ("**RJO Platform(s)**"). If Client wants to use an RJO Platform, Client acknowledges that Client must first sign an additional agreement that will govern such use. R.J. O'Brien may, in its sole discretion, accept orders and/or instructions submitted by electronic mail. Client agrees and understands that any order submitted through electronic mail is not held until the undersigned receives a confirmation with an order number from R.J. O'Brien. R.J. O'Brien has no obligation with respect to the execution, confirmation and/or settlement of orders transmitted by electronic mail until R.J. O'Brien has actually received such order. Further, R.J. O'Brien may accept or reject any order in its sole discretion. Client acknowledges and agrees that it is Client's responsibility to contact R.J. O'Brien if a confirmation is not received. Any order submitted through electronic mail is not valid unless the order has all of the following criteria: (1) the buy/sell; (2) the quantity; (3) the month; (4) the price, order type, day or open order; (5) the account number.

Client accepts full responsibility for the use and protection of Client's electronic mail address or access methods to an RJO Platform as well as for any transmission or order submitted under his/her electronic mail address or via an RJO Platform. Client acknowledges and agrees that use of electronic mail or an RJO Platform to submit requests for funds, orders or other instructions will be at the sole risk of, and will for all purposes be binding upon, the Client as if the electronic mail or transmission on the RJO Platform had been submitted by Client. Client agrees to any financial liability for any instructions or orders transmitted under the undersigned's electronic email address or through an RJO Platform. All transmissions including, but not limited to, requests for funds or placement of orders sent or generated by electronic mail or through an RJO Platform will be deemed to be authorized and made by Client and Client agrees to indemnify, defend and hold R.J. O'Brien and its directors, officers, employees, agents or affiliates harmless from and against any claims, costs, expenses (including reasonable attorney's fees) and Losses that R.J. O'Brien incurs arising out of (i) Client's use of electronic mail or an RJO Platform or (ii) R.J. O'Brien's reliance on any instruction, transmission or order received under Client's electronic mail address or RJO Platform and any subsequent action taken by R.J. O'Brien. For avoidance of doubt, R.J. O'Brien shall have no liability, and Client shall make no claim against R.J. O'Brien, in the event Client's electronic mail address or access methods to an RJO Platform has been compromised or for any actions taken by R.J. O'Brien pursuant to instructions or orders received under Client's electronic mail address or through an RJO Platform.

R.J. O'Brien reserves the right at any time, in its sole discretion, to temporarily or permanently restrict the use of electronic mail or RJO Platforms to submit orders. Further, R.J. O'Brien reserves the right, in its sole discretion, to institute or change policies at any time.

## ACCOUNT AGREEMENT

### 12. REPORTS AND NOTICES

SHOULD INACCURACIES OR DISCREPANCIES APPEAR ON CLIENT'S STATEMENTS OF ACCOUNTS, MARGIN CALLS, OR NOTICES, CLIENT AGREES THAT IT IS CLIENT'S DUTY TO INFORM R.J. O'BRIEN OF THE PROBLEM BY TELEPHONE OR EMAIL IMMEDIATELY UPON THE EARLIER OF ACTUAL RECEIPT OF THE STATEMENT BY CLIENT, OR THE TIME THE STATEMENT IS DEEMED RECEIVED BY CLIENT PURSUANT TO THIS SECTION 12. IN THE EVENT THAT CLIENT DOES NOT RESPOND IMMEDIATELY, EXECUTED ORDERS AND STATEMENT REPORTS SHALL BE CONSIDERED RATIFIED BY CLIENT AND SHALL RELIEVE R.J. O'BRIEN OF ANY RESPONSIBILITY WHATSOEVER RELATIVE TO THE TRANSACTION(S) IN QUESTION. ALL REPORTS OF INACCURACIES OR DISCREPANCIES MUST BE MADE TO CLIENT'S INTRODUCING BROKER OR AGENT AND TO R.J. O'BRIEN'S COMPLIANCE DEPARTMENT.

Client has the responsibility to maintain contact with Client's Introducing Broker or Agent (as applicable) at all times when Client has market positions or has placed orders, but is not available at Client's regular address or telephone number to receive reports. Client authorizes R.J. O'Brien to transmit electronically (which may include electronic mail) to Client or post on an RJO Platform all statements, which may include margin deficit (call) notices, compilations and details of transactions, and other notices, and Client hereby consents to such methods of receiving such information. This consent to receiving such information electronically shall be effective until revoked by Client in writing and received by R.J. O'Brien. It shall be Client's responsibility to check Client's electronic mail and the RJO Platform site on a regular basis and no less than daily, to receive statements, compilations and details of transactions, and other notices from R.J. O'Brien. Client agrees to download or print such statements, compilations and details of transactions, and other notices if such statements or information are available for downloading or printing. Information sent by electronic mail shall be deemed received by Client by 10:00 a.m. (Central Time) the next business day after R.J. O'Brien sends the electronic mail. Information and notices posted on an RJO Platform shall be deemed received by Client by 10:00 a.m. (Central Time) after R.J. O'Brien posts such information and notices. Client shall promptly notify R.J. O'Brien of any difficulty in accessing, opening or otherwise viewing an electronically transmitted document or information.

Upon Client's request, R.J. O'Brien will use an alternative method of delivering such documents or information to Client, at Client's sole expense, at a fee established by R.J. O'Brien, which may be adjusted from time to time. Such alternative means of delivery shall not affect the date such document or information is deemed received by Client as set forth above. Details of trades and any other similar information or notices, either sent to Client or posted on an RJO Platform, shall be conclusive and binding unless Client notifies R.J. O'Brien to the contrary: (i) where a report or notice is sent electronically, posted on an RJO Platform or made orally, then, as the case may be, at the earlier of the time actually received, or deemed to be received pursuant to this paragraph 12 by Client, or (ii) where a report or notice is in writing by 8:00 a.m. (Central Time) on the next business day following receipt of such report.

### 13. CLIENT REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Client represents, warrants to and agrees with R.J. O'Brien that:

- A. Client, if an individual, represents that he or she is of legal age and competence to enter into this Agreement;
- B. Client, if a legal entity, represents that it is duly organized, validly existing, and empowered to enter into this Agreement to establish the Account and to enter into transactions in Contracts as contemplated hereby. Client further represents that the person executing this Agreement on its behalf has been duly and validly authorized to do so;
- C. Neither Client nor any of its partners, directors, officers, members, managers, employees affiliates are a partner, director, officer, member, manager, or employee of an FCM, broker dealer, Introducing Broker, or regulatory of self-regulatory organization except as previously disclosed in writing to R.J. O'Brien;
- D. Except as disclosed on the accompanying Account Application or otherwise provided in writing: (i) Client is not a commodity pool operator or is exempt from registration under CFTC rules, and (ii) Client is acting solely as principal and no one other than Client has any interest in any Account. Client agrees to notify R.J. O'Brien of the identity of any other person or entity that controls the trading of the Account, has a financial interest of 10% or more in the Account, or the identity of any other account in which the Client controls or has a 10% or greater ownership interest;
- E. If the Account has been designated as a "hedge account" and unless Client notifies R.J. O'Brien to the contrary at the time it places an order with R.J. O'Brien, Client represents that each such order will be a bona fide hedging transaction as defined in CFTC Regulation 1.3(z);
- F. Client represents that it will maintain its Account in accordance with and shall be solely responsible for compliance with Applicable Law;



## ACCOUNT AGREEMENT

- G. Client has determined that trading in commodity interests is appropriate for Client, is prudent in all respects, and if applicable, does not and will not violate Client's charter or by-laws (or other comparable governing document) or any law, rule, regulation, judgment, decree, order, or agreement to which Client or its property is subject or bound;
- H. As required by CFTC Regulations, Client shall create, retain, and produce upon request of the applicable contract market, the CFTC or the United States Department of Justice documents or any other relevant regulator (such as contracts, confirmations, telex printouts, invoices, and documents of title) with respect to cash transactions underlying exchanges of futures for cash commodities or exchanges of futures in connection with cash commodity transactions;
- I. Absent a separate written agreement between Client and R.J. O'Brien with respect to give-ups, R.J. O'Brien, in its discretion, may, but shall have no obligation to, accept from other brokers Contracts executed by such brokers on an exchange for Client and proposed to be "given up" to R.J. O'Brien for clearance and/or carrying in the Account; and
- J. All responses made in connection with this Agreement and the accompanying Account Application (including any financial statements furnished in connection therewith) are true, correct, and complete.
- K. Client has in place, and will continue to have for the duration of this Agreement, appropriate security measures, safeguards and virus protection to protect the hardware, software, network, system and any other device or server which Client uses for, or in relation to, an RJO Platform or Client's electronic mail address, against any actual or potential cyber-attacks, hackings, worms, viruses, Trojan horses or other malware.

Client agrees to promptly notify R.J. O'Brien in writing if any of the warranties and representations contained in this Section 13 becomes inaccurate or in any way ceases to be true, complete, and correct, or if there is any material change in Client's financial information.

### 14. TAPE RECORDING

Client hereby authorizes R.J. O'Brien to make recordings of telephone conversations between Client and R.J. O'Brien and consents to the use of such tape recordings in any forum in connection with resolving disputes. R.J. O'Brien and its affiliates may also, at their discretion, utilize a telephone recording system to place Client's orders. R.J. O'Brien may erase or dispose of such tapes in accordance with its normal procedures.

### 15. ENTIRE AGREEMENT

This Agreement reflects the entire agreement between R.J. O'Brien and Client and supersedes all prior oral and written agreements between the parties relating to the subject matter hereof.

### 16. GOVERNING LAW AND WAIVER OF STATUTES OF LIMITATIONS

This Agreement shall be governed by the internal laws of the State of Illinois. Client agrees that no lawsuit, arbitration proceeding or other claim or action relating to this Agreement or the transactions in an Account may be initiated by Client unless commenced within one (1) year from the date of the disputed transaction; provided, however, that any action brought under the provisions of Section 14 of the Commodity Exchange Act may be brought at any time within two (2) years after the cause of action accrues.

### 17. INDEMNIFICATION

Along with any other indemnification obligation set forth herein, Client agrees to indemnify, defend and hold harmless R.J. O'Brien and its directors, officers, employees, and agents from and against any loss, cost, charge, claim, damage (including any consequential cost, loss or damage), liability, tax or expense (including reasonable attorneys' fees) and any fine, sanction or penalty made or imposed by any regulatory or self-regulatory authority or any exchange (collectively, "**Losses**") as incurred by R.J. O'Brien or such other persons in connection with the Account and/or any Contracts or positions established or maintained therein. Such indemnification shall include, without limitation, Losses resulting, directly or indirectly from: (a) Client's failure, breach, or refusal to fully and timely comply with any provision of this Agreement or perform any obligation on its part to be performed pursuant to this Agreement; (b) actions of any third party selected by Client which affect an Account; (c) Client's failure to timely deliver any security, commodity, or other property previously sold by R.J. O'Brien on Client's behalf; (d) any action taken or not taken by R.J. O'Brien in reliance upon any instruction, notice or communication that R.J. O'Brien reasonably believes to have originated from Client, Introducing Broker or Agent (including but not limited to any instruction, notice or communication received under Client's electronic mail address or through an RJO Platform); (e) the exercise of R.J. O'Brien's default remedies under Section 4; or (f) any failure in, or adequacy of, the Client's cybersecurity measures, safeguards and/or virus protection. Client additionally agrees to pay promptly to R.J. O'Brien all reasonable attorney's fees incurred by R.J. O'Brien (i) in the enforcement of any of the provisions of this Agreement, or (ii) in any action, claim or demand filed by Client arising out of this Agreement or any other agreements between R.J. O'Brien and Client where R.J. O'Brien is not found to be liable or responsible. This Section shall survive any termination of this Agreement.

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**ACCOUNT AGREEMENT**

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**18. TERMINATION**

This Agreement may be terminated by R.J. O'Brien or Client immediately upon written notice to the other party; however, in the event of Client's bankruptcy, death, incompetence, dissolution or failure to provide adequate margin, R.J. O'Brien may terminate immediately without prior notice to Client. In the event of termination and where R.J. O'Brien has not liquidated positions in the Account under its rights granted in this Agreement, Client shall immediately liquidate such positions, or transfer such positions to another FCM. If Client does not comply with the foregoing, R.J. O'Brien may liquidate the positions and Client agrees to indemnify and hold R.J. O'Brien harmless from any and all Losses resulting from such liquidation. Notwithstanding any termination, Client shall satisfy all obligations to R.J. O'Brien arising hereunder (including, but not limited to, payment of applicable debit balances, commissions, fees, including fees with respect to the transfer of positions to another FCM). The termination of this Agreement shall not affect the obligations of the parties arising from transactions entered into prior to such termination. Any section of this Agreement which is expressed or required to survive, or should by its nature survive, shall survive any termination.

**19. OFFSETTING POSITIONS**

If Client maintains separate Accounts in which, pursuant to CFTC Regulation 1.46, offsetting positions are not closed out, R.J. O'Brien hereby advises Client that (if held open) offsetting long and short hedge positions in the separate Accounts may result in the charging of additional fees and commissions and the payment of additional margin, although offsetting positions will result in no additional market gain or loss.

**20. CFTC Reg.15.05 DESIGNATION OF R.J. O'BRIEN AS AGENT OF FOREIGN BROKERS, CLIENTS OF A FOREIGN BROKER AND FOREIGN TRADERS; REG 21.03 SELECTED SPECIAL CALLS – DUTIES OF FOREIGN BROKERS, DOMESTIC AND FOREIGN TRADERS, FCM AND CONTRACT MARKETS.**

If Client is a foreign broker it understands that pursuant to CFTC Regulation 15.05, R.J. O'Brien is Client's Agent (and in the case of a foreign broker, the Agent of its clients) for purposes of accepting delivery and service of any communication upon R.J. O'Brien shall constitute valid and effective service or delivery upon Client (and if it is a foreign broker, upon its clients). Client understands that said regulation requires R.J. O'Brien to transmit the communication promptly to it (or its client) in a manner which is reasonable under the circumstances or specified by the CFTC. Client also understands CFTC Regulation 21.03 requires it to provide to the CFTC upon special call, market information concerning its options and futures trading (or its clients') as outlined in the regulation. If Client fails to respond to the special call, the CFTC may direct the appropriate Contract market and all brokers to prohibit further trades for or on its behalf (or for its clients) in the contract specified in the call unless such trades offset existing open Contracts. Special calls are made where the information requested would assist the CFTC in determining whether a threat of market manipulation, corner, squeeze or other market disorder existed. Under Regulation 21.03(g), if Client believes it is aggrieved by the action taken by the CFTC, it shall have the opportunity for a prompt hearing after the CFTC acts.

**21. MARKET INFORMATION**

Exchange and R.J. O'Brien brochures and market insights are often provided as trading tools. In addition, an RJO Platform may also contain certain market information. Client acknowledges that: (a) any information R.J. O'Brien's Market Insight department may communicate to Client may or does constitute an offer to sell or a solicitation of any offer to buy any Contract; (b) such recommendations and information, although based upon information obtained from sources believed by R.J. O'Brien to be reliable, are incidental to R.J. O'Brien's business as an FCM, may be incomplete and not subject to verification and will not serve as the primary basis for any decision by Client; (c) R.J. O'Brien makes no representation, warranty, or guarantee as to, and shall not be responsible for, the accuracy or completeness of any information or trading recommendation furnished to Client; (d) recommendations to Client as to any particular transaction at any given time may differ among R.J. O'Brien's personnel due to diversity in analysis of fundamental and technical factors and may vary from any standard recommendation made by R.J. O'Brien in its market letters or otherwise; (e) R.J. O'Brien has no obligation or responsibility to update any market recommendations or information it communicates to Client. Client understands that R.J. O'Brien and its officers, directors, affiliates, stockholders, representatives, or associated persons may have positions in and may intend to buy or sell Contracts which are the subject of market recommendations furnished to Client and that the market positions of R.J. O'Brien or any such officer, director, affiliate, stockholder, representative, or associated person may or may not be consistent with the recommendations furnished to Client by R.J. O'Brien.

**22. CONSENT TO JURISDICTION AND APPOINTMENT AS ATTORNEY-IN-FACT**

Client agrees that all disputes, claims, actions or proceedings arising directly, indirectly, or otherwise in connection with, out of, related to or from this Agreement shall be litigated or arbitrated exclusively in a court or arbitration forum located in

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**ACCOUNT AGREEMENT**

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Chicago, Illinois, unless otherwise agreed by R.J. O'Brien. Client consents and submits to the jurisdiction of any state or federal court or arbitration forum located within the Northern District of Illinois. Client hereby waives any right Client may have to transfer or change the venue of any litigation hereunder.

Client appoints and designates R.J. O'Brien (or any other party whom R.J. O'Brien may from time to time hereinafter designate) as Client's attorney-in-fact to act on Client's behalf to sign, seal, execute and deliver all documents and do all such acts as may be required to enable R.J. O'Brien to realize upon all rights in the Collateral.

**23. WAIVER, AMENDMENT AND ASSIGNMENT**

The failure of R.J. O'Brien to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision nor in any way to affect the validity of this Agreement or the right of R.J. O'Brien thereafter to enforce each and every provision hereof. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach. No waiver or amendment shall be implied from any conduct, action, or inaction. No provision of this Agreement may be waived or amended by Client unless such waiver or amendment is in writing and signed by an authorized officer of R.J. O'Brien. R.J. O'Brien may assign, transfer, sell or otherwise convey its rights and obligations hereunder to another FCM upon notice. This Agreement shall be binding upon Client's personal representatives and legal successors and shall inure to the benefit of R.J. O'Brien's successors by merger, assignment, consolidation or otherwise.

**24. ELECTRONIC SIGNATURE**

Client agrees that any records stored by a printed media storage method shall be deemed complete, true and genuine record of Client's account documents and signatures. If Client elects to open an account through the use of an electronic signature under the federal E-SIGN legislation, such electronic signature will meet the requirements of an original signature. However, at the sole discretion of R.J. O'Brien, documents signed and transmitted by facsimile machine or electronic mail may be accepted as original documents. The signature of any person or entity thereon, is to be considered as an original signature and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. No party hereto may raise the use of a facsimile or photocopier as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this section. Client attests that if Client has downloaded this Agreement from the internet or any electronic message, Client has printed it directly from the PDF or other electronic file provided by R.J. O'Brien without modification.

Client consents and agrees that its use of a key pad, mouse or other device to select an item, button, icon or similar act/ action while using any electronic service R.J. O'Brien offers, or in accessing or making any transactions regarding any agreement, acknowledgment, consent, terms, disclosures or conditions constitutes such Client's signature, acceptance and agreement as if actually signed by such Client in writing. Further, Client agrees that no certification authority or other third party verification is necessary to the enforceability of their signature or any resulting contract between them and R.J. O'Brien.

**25. SEVERABILITY**

If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity ascend without invalidating the remaining provisions of this Agreement.

## ACCOUNT AGREEMENT

### Corporate Account

Client represents and warrants that the Corporation is duly organized and in good standing under the laws of its state of incorporation and that trading commodity futures Contracts, options on futures Contracts and security futures Contracts is within the powers granted to it. **A copy of the latest audited financial statement, a Letter of Good Standing and the Articles of Incorporation are attached.** The undersigned represents that he/she has full authority to enter into the Account Agreement on behalf of the Corporation and is concurrently furnishing to R.J. O'Brien a Corporate Authorization as prescribed by R.J. O'Brien. Client also requests that all confirmations of transactions be sent as specified on the Statement Delivery Form in the Account Application.

\_\_\_\_\_  
 Name of Corporation

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Authorized Signature

\_\_\_\_\_  
 Print Authorized Signatory Name

\_\_\_\_\_  
 Title

### Personal Trust, Keogh Plan, Pension or Profit Sharing Trust or Plan

The undersigned Trustee warrants and represents that he/she is a Trustee of \_\_\_\_\_, a duly formed Trust (Plan), dated \_\_\_\_\_, for the benefit of \_\_\_\_\_ and a **copy of the instrument by which he/she was appointed Trustee is attached.** Trustee represents that he/she has the proper authority to sign this Account Agreement and all related documents on behalf of the Trust (Plan) and specifically represents that he/she or any successor Trustee is authorized to trade commodity futures Contracts, options on futures Contracts and security futures Contracts for the account and risk of the Trust (Plan). Trustee also requests that all confirmations of transactions be sent as specified on the Statement Delivery Form in the Account Application.

In the case of Keogh Plans, Pension and Profit Sharing Trust, and other entities governed by the Employee Retirement Insurance Security Act, Trustee acknowledges that the amount of assets of said entity allowed to be invested in such commodities is subject to a "prudent man" standard. Trustee acknowledges that any investment decisions made on behalf of such entity is solely that of the entity's internal investment management and not of R.J. O'Brien. Trustee expressly acknowledges that R.J. O'Brien is not its agent or fiduciary with respect to any "prudent man" standard, statutory or otherwise, and indemnifies R.J. O'Brien for any Losses resulting from any breach of said standard.

\_\_\_\_\_  
 Trustee Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Print Name

\_\_\_\_\_  
 Co-Trustee Signature, if any

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Print Name

Kemofina AG

**ACCOUNT AGREEMENT****Limited Liability Company**

Client represents and warrants that the Limited Liability Company is duly organized and in good standing under the laws of its state of organization and that trading commodity futures Contracts, options on futures Contracts and security futures Contracts is within the powers granted to it. The undersigned represents that he is a manager or otherwise has full authority to enter into the Agreement on behalf of the Company and is concurrently furnishing to R.J. O'Brien a Limited Liability Resolution as prescribed by R.J. O'Brien. Attached is the **Operating Agreement and Articles of Organization for this Limited Liability Company**.

Client also requests that all confirmations of transactions be sent as specified on the Statement Delivery Form in the Account Application.

Kemofina AG

6/9/2022 | 4:43 PM CDT

Name of Company

Date

DocuSigned by:

Stefan Karadzic

D34EE7A7EF3440F...

Authorized Signatory

Stefan Karadzic

Director

Print Name

Title



MMM2206090017

Kemofina AG

**ACCOUNT AGREEMENT****Partnership Account (General or Limited)**

The undersigned, \_\_\_\_\_ hereby represents to you that there is a general partner in a general or limited partnership known as , \_\_\_\_\_ (the "Partnership"), and attached hereto is a **copy of its signed Partnership Agreement and/or Certificate of Limited Partnership**. The Partnership is a duly organized, validly existing partnership under the laws of the state(s) in which it was formed and in which it does business. In consideration of your opening one or more commodities accounts for and in the name of the Partnership, the undersigned further represents that as a partner in the Partnership having a significant interest therein, he/she has proper authority to sign the Agreement and all related documents on behalf of the Partnership and, for the account and risk of the Partnership, to buy, sell, and trade in commodity futures Contracts, options on futures Contracts and security futures Contracts of every kind whatsoever, and to borrow money for such purposes in said account in accordance with your terms and conditions. Client understands that R.J. O'Brien is relying upon such information in opening this account, and agrees to promptly notify R.J. O'Brien, in writing, of the death or retirement of any of the General Partners or any material change in the appropriate partnership agreement. Client also requires that all confirmations of transactions be sent as specified on the Statement Delivery Form in the Account Application.

\_\_\_\_\_  
Signature of General Partner\_\_\_\_\_  
Date\_\_\_\_\_  
Print Name\_\_\_\_\_  
Signature of General Partner\_\_\_\_\_  
Date\_\_\_\_\_  
Print Name\_\_\_\_\_  
Signature of General Partner\_\_\_\_\_  
Date\_\_\_\_\_  
Print Name\_\_\_\_\_  
Signature of General Partner\_\_\_\_\_  
Date\_\_\_\_\_  
Print Name\_\_\_\_\_  
Signature of General Partner\_\_\_\_\_  
Date\_\_\_\_\_  
Print Name

***(All General Partners must sign this Account Agreement. Please attach an additional page, if necessary.)***

# EXHIBIT C

MMM2206090017

Kemofina AG



## RISK DISCLOSURE STATEMENT

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The risk of loss in trading commodity futures contracts can be substantial. You should, therefore, carefully consider whether such trading is suitable for you in light of your circumstances and financial resources. You should be aware of the following points:

### FUTURES

- (1) You may sustain a total loss of the funds that you deposit with your broker to establish or maintain a position in the commodity futures market, and you may incur losses beyond these amounts. If the market moves against your position, you may be called upon by your broker to deposit a substantial amount of additional margin funds, on short notice, in order to maintain your position. If you do not provide the required funds within the time required by your broker, your position may be liquidated at a loss, and you will be liable for any resulting deficit in your account.
- (2) The funds you deposit with a futures commission merchant for trading futures positions are not protected by insurance in the event of the bankruptcy or insolvency of the futures commission merchant, or in the event your funds are misappropriated.
- (3) The funds you deposit with a futures commission merchant for trading futures positions are not protected by the Securities Investor Protection Corporation even if the futures commission merchant is registered with the Securities and Exchange Commission as a broker or dealer.
- (4) The funds you deposit with a futures commission merchant are generally not guaranteed or insured by a derivatives clearing organization in the event of the bankruptcy or insolvency of the futures commission merchant, or if the futures commission merchant is otherwise unable to refund your funds. Certain derivatives clearing organizations, however, may have programs that provide limited insurance to clients. You should inquire of your futures commission merchant whether your funds will be insured by a derivatives clearing organization and you should understand the benefits and limitations of such insurance programs.
- (5) The funds you deposit with a futures commission merchant are not held by the futures commission merchant in a separate account for your individual benefit. Futures commission merchants commingle the funds received from clients in one or more accounts and you may be exposed to losses incurred by other clients if the futures commission merchant does not have sufficient capital to cover such other clients' trading losses.
- (6) The funds you deposit with a futures commission merchant may be invested by the futures commission merchant in certain types of financial instruments that have been approved by the Commission for the purpose of such investments. Permitted investments are listed in Commission Regulation 1.25 and include: U.S. government securities; municipal securities; money market mutual funds; certain corporate notes and bonds. The futures commission merchant may retain the interest and other earnings realized from its investment of client funds. You should be familiar with the types of financial instruments in which a futures commission merchant may invest client funds.
- (7) Futures commission merchants are permitted to deposit client funds with affiliated entities, such as affiliated banks, securities brokers or dealers, or foreign brokers. You should inquire as to whether your futures commission merchant deposits funds with affiliates and assess whether such deposits by the futures commission merchant with its affiliates increases the risks to your funds.
- (8) You should consult your futures commission merchant concerning the nature of the protections available to safeguard funds or property deposited for your account.
- (9) Under certain market conditions, you may find it difficult or impossible to liquidate a position. This can occur, for example, when the market reaches a daily price fluctuation limit ("limit move").
- (10) All futures positions involve risk and a "spread" position may not be less risky than an outright "long" or "short" position.

## RISK DISCLOSURE STATEMENT

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- (11) The high degree of leverage (gearing) that is often obtainable in futures trading because of the small margin requirements that can work against you as well as for you. Leverage (gearing) can lead to large losses as well as gains.
- (12) In addition to the risks noted in the paragraphs enumerated above, you should be familiar with the futures commission merchant you select to entrust your funds for trading futures positions. The Commodity Futures Trading Commission requires each futures commission merchant to make publicly available on its website firm specific disclosures and financial information to assist you with your assessment and selection of a futures commission merchant. Information regarding this futures commission merchant may be obtained by visiting our Website: [www.rjobrien.com/about/firmdisclosures](http://www.rjobrien.com/about/firmdisclosures).

### OPTIONS

(13) **Variable degree of risk**

Transactions in options carry a high degree of risk. Purchasers and seller of options should familiarize themselves with the type of option (i.e., put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.

- (14) The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on Futures above). If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable is ordinarily remote.
- (15) Selling ('writing' or 'granting') an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on Futures above). If the position is 'covered' by the seller holding a corresponding position in the underlying interest or a future or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.
- (16) Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

### ADDITIONAL RISKS COMMON TO FUTURES AND OPTIONS

(17) **Terms and conditions of contracts**

You should ask the firm with which you deal about the terms and conditions of the specific futures or options which you are trading and associated obligations (e.g., the circumstances under which you may become obligated to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

(18) **Suspension or restriction of trading and pricing relationships**

Market conditions (e.g., illiquidity) and/or the operation of the rules of certain markets (e.g., the suspension of trading in any contract or contract month because of price limits or 'circuit breakers') may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase

## RISK DISCLOSURE STATEMENT

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the risk of loss.

- (19) Further, normal pricing relationships between the underlying interest and the future, and the underlying interest and the option may not exist. This can occur when, for example, the futures contract underlying the option is subject to price limits while the option is not. The absence of an underlying reference price may make it difficult to judge 'fair' value.

**(20) Deposited cash and property**

You should familiarize yourself with the protections accorded money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

**(21) Commission and other charges**

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

**(22) Currency risks**

The profit or loss in transactions in foreign currency-denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency.

**(23) Trading facilities**

Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or member firms. Such limits may vary; you should ask the firm with which you deal for details in this respect.

**(24) Electronic trading**

Trading on an electronic trading system may differ not only from trading in an open-outcry market but also from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risk associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

**(25) Off-exchange transactions**

In some jurisdictions, and only then in restricted circumstances, firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterparty to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize yourself with applicable rules and attendant risks.

**ALL OF THE POINTS NOTED ABOVE APPLY TO ALL FUTURES TRADING WHETHER FOREIGN OR DOMESTIC. IN ADDITION, IF YOU ARE CONTEMPLATING TRADING FOREIGN FUTURES OR OPTIONS CONTRACTS, YOU SHOULD BE AWARE OF THE FOLLOWING ADDITIONAL RISKS:**

- (26) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally "linked" to a domestic exchange, whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery, and clearing of transactions on such an exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the

Kemofina AG

## RISK DISCLOSURE STATEMENT

transaction occurs. For these reasons, clients who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use domestic alternative dispute resolution procedures. In particular, funds received from clients to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

(27) Finally, you should be aware that the price of any foreign futures or option contract and, therefore, the potential profit and loss resulting therefrom may be affected by any fluctuation in the foreign exchange rate between the time the order is placed and the foreign futures contract is liquidated or the foreign option contract is liquidated or exercised.

**THIS BRIEF STATEMENT CANNOT, OF COURSE, DISCLOSE ALL THE RISKS AND OTHER ASPECTS OF THE COMMODITY MARKETS.**

I hereby acknowledge that I have received and understood this risk disclosure document.

### Individual, Joint or Sole Proprietorship Account

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Print Customer Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joint Party Signature

\_\_\_\_\_  
Print Joint Party Name

\_\_\_\_\_  
Date

### Corporation, Partnership or Other Entity Account

*(All General Partners must sign)*

Kemofina AG

\_\_\_\_\_  
Print Customer Name

DocuSigned by:

*Stefan Karadzic*

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\_\_\_\_\_  
Director

6/9/2022 | 4:43 PM CDT

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Date

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