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**APPLICATION / RENEWAL FORM FOR MEMBERSHIP**

**I hereby apply for Membership of the TUSAM for the year 2023.**

Full name: GAUTA KOMANE

Name of Organization (if representing)

Home address: 101 BALTIMORE ROAD, CROWN GARDENS, JOHANNESBURG SOUTH

Postal address:

Identity Number: 5909075912086

Telephone (home): Telephone (work):

Mobile phone : +27827363454 Email: gautakomane@gmail.com

**TYPE OF MEMBERSHIP**

Individual Donor Representative of Organization Staff

X

New Renewal

I can offer the following skills on a volunteer basis, if requested / required

Accounting/Financial Human Resource Economic

Media / Public Relations Legal Environmental

Developmental (sector specific for example social, youth, women, etc.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other STRATEGY AND POLICY DEVELOPMENT \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I am in Agreement with the Vision and Mission of the TUSAM and will adhere to the Conditions of the Constitution and maintain the Confidentiality of the Organization.

**Duly Signed** on this 27th day of January 2023 at Bulle, Fribourg, Switzerland

GAUTA KOMANE GJ Komane

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Name and Surname Signature

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**NON-DISCLOSURE AGREEMENT**

**Confidentiality Agreement**

entered into between:

**TUSAM**

**Reg No:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

“Party A”

and

**GAUTA KOMANE**

**Reg/ID NO: 5909075912086**

“Party B”

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**PARTIES**

1. TUSAM is a Non Profit Company in South Africa with registered number 2021/448627/08 and with registered offices at 29 Sandhurst Road, Wynberg, 7800 and will be known for purposes of this Agreement as Party A;
2. XXX is Citizen in South Africa with ID No XXX and will be known for purposes of this Agreement as Party B.

**BACKGROUND**

Party A is a Non Profit Company with a Constitution and Strategy Document that will be shared with Party B on condition that Party B is aligned with the documents, structures, procedures, principles and values shared by all members of Party A and by becoming a member, party B will discuss and explore confidential information, ideas and contribute to any strategy of Party A which Party A may, from time to time, share in the manner set out in this document or any other type of communication.

**POPIA COMPLIANCE**

TUSAM will keep on striving to remain fully compliant with all aspects of the constantly changing POPI ACT 4 of 2013. As defined by the South African Independent Regulator it pertains to the following:-

## **POPI, the Cybercrimes Bill and Personal Information**

POPI and the Cybercrimes Bill define it to mean “information relating to an**identifiable, living, natural** person, and where it is applicable, an identifiable, existing **juristic** person, including, but not limited to:

a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

b) information relating to the education or the medical, financial, criminal or employment history of the person;

c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;

d) the biometric information of the person;

e) the personal opinions, views or preferences of the person;

f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;

g) the views or opinions of another individual about the person; and

h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.”

**‘‘Processing’’**, as defined in POPIA, means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including:-

* the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
* dissemination by means of transmission, distribution or making available in any other form; or
* merging, linking, as well as restriction, degradation, erasure or destruction of information.

**“Unique Identifier”,** as defined in POPIA, means any identifier that is assigned to a data subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party”.

**The parties agree to the FOLLOWING: -**

1. DEFINITIONS AND INTERPRETATION
   1. In this Agreement:

|  |  |
| --- | --- |
| “Authorised persons” | 1. means, in relation to a Recipient, any of the following only to the extent that they are engaged in the evaluation or negotiation of the purpose: its officers, directors, internal members and internal partners, employees, consultants, subcontractors or professional advisers, and any other person who has been previously approved in writing by the Discloser; |
| “Business day” | 1. means a day other than a Saturday, Sunday or public holiday in South Africa; |
| “Confidential information” | 1. means information listed in **Error! Reference source not found.**, if any, and any information in whatever form, whether in writing, electronic or digital form, verbally; by inspection of documents, computer systems or sites or pursuant to discussions; by any other means which is confidential in nature, designated orally or in writing by the Discloser as confidential or which may reasonably be 2. considered by a business person to be commercially sensitive provided by the Discloser, directly or indirectly, by any means to 3. the Recipient or to any authorised person, before or after the date of this agreement in connection with or in anticipation of the purpose including:    1. data, ideas and information, whether technical, commercial, financial or of any other type, in any form acquired under, pursuant to or in connection with this Agreement and any information utilised in or relating to the Discloser’s, or its group members’ business including information relating to products which are bought, manufactured, produced, distributed or sold; services which are bought or supplied; operations, processes, formulae, methods, plans, strategy, product information, know-how, design rights, trade secrets, market opportunities, customer lists, commercial relationships, marketing, sales materials and general business affairs;    2. information relating to the customers, suppliers, methods, products, plans, finances, trade secrets or otherwise to the business or affairs of the Discloser or its group members;    3. information acquired by observation by the Recipient or any authorised person at the offices of or other premises of the Discloser relating to the purpose or to the affairs of the Discloser or at any meeting held;    4. analyses, ideas, compilations, studies and other material created by the Recipient or any authorised person which contain or otherwise reflect or are generated or derived from the information referred to above; and    5. the contemplation and implementation of the purpose, and the existence and content of this Agreement; |
|  |  |
| “Discloser” | 1. means a Party (including but not limited to Party A) who provides its confidential information to any Party to this Agreement; |
| “Group member” | 1. means in relation to Party A, any person who willingly agrees with the terms of this Agreement, all TUSAM documents and the TUSAM Membership Form; |
| “Intellectual property rights” | 1. means intellectual and industrial property rights, including copyright, moral rights, patents, know-how, trade secrets, trademarks, service marks, trade names, design rights, registered designs, get-up, database rights, chip topography rights, mask works, utility models, domain names, rights in trade and business names and all similar rights and, in each case:    1. whether registered or not;    2. including any applications to protect or register such rights;    3. including all renewals and extensions of such rights or applications;    4. whether vested, contingent or future;    5. including rights in the nature of unfair competition rights and rights to sue in passing off; and    6. wherever existing; |
| “Purpose” | 1. means the evaluation, negotiation and completion of the TUSAM Strategy and Action planin a proper manner, including the carrying out of legal and financial due diligence and Compliance, assessment of risks and the negotiation of a legally binding Agreement to implement the Purpose and Constitution of Party A; |
| “Recipient” | 1. means the parties who receive any Confidential Information from a Discloser, Party A or signs up as Member in terms of this Agreement; and |
| “Use” | 1. means receive, store, transmit, access, read, analyse, disclose, share, print, copy, reproduce, extract, modify, adapt, incorporate, exploit or use confidential information in whole or in part in any manner whatsoever. |

* 1. In this Agreement:
     1. a reference to this Agreement includes its schedules, appendices and annexes, together with its Strategy Document, all Interim Documents, Minutes of its meetings, Discussion groups, Draft Documents and any other type Document to be received by the Recipient;
     2. any table of contents, background section and any clause, schedule or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;
     3. a reference to a ‘Party A’ includes that Party’s personal representatives, successors and permitted assigns whilst a reference to Party B refers to only that Party;
     4. a reference to a ‘person’ includes a natural person, corporate or unincorporated body, in each case whether or not having separate legal personality;
     5. a reference to a ’company’ includes any company, corporation or other judicial entity, wherever and however incorporated or established;
     6. a reference to a gender includes each other gender and all-inclusive genders to be referenced to, not excluding any type gender;
     7. words in the singular include the plural and vice versa;
     8. any words that follow 'include', 'includes', 'including', ‘in particular’ or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
     9. a reference to ‘writing’ or ‘written’ includes any method of reproducing words in a legible form **(**including or excluding**)** email;
     10. a reference to legislation is a reference to that legislation as is in force at the date of this Agreement and amended, extended, re-enacted or consolidated from time to time; and
     11. a reference to legislation includes all subordinate legislation made as at the date of this Agreement and from time to time under that legislation.

1. PROVISION AND USE OF CONFIDENTIAL INFORMATION
   1. Each Discloser may, but is not obliged to disclose during the term of this Agreement Confidential Information for the purpose of this Agreement, and each Recipient of any such information shall:
      1. keep all the Information secret and Confidential, and not disclose any of the Confidential Information to any person other than in accordance with clause 3;
      2. not use any Confidential Information in any way except to the extent reasonably necessary for the purpose set out by Party A, and not use or benefit from any Confidential Information to procure any type of advantage; and
      3. create and maintain the best industry standards of security, including any reasonable arrangements specified by Party A from time to time and the most secure arrangements that the Recipient maintains for its own trade secrets in order to ensure that the Confidential Information is secure from unauthorised access, inclusive of adhering to all relevant POPI ACT standards and shall immediately inform the Party A if the Recipient becomes aware of any apparent unauthorised access.
   2. To the extent determined from time to time by Party A, each of those of Party A’s group members, if any, whose information is contained in the Confidential Information disclosed to the Recipient under this Agreement shall be entitled to enforce the rights expressed in favour of Party A under this Agreement in respect only of that Confidential Information belonging to it as if such rights were expressed to be in its favour;
   3. None of Party A’s group members, its directors, officers, agents, employees, consultants, subcontractors, or advisers or anyone else working in any other capacity whatsoever for Party A makes any representation or warranty concerning the accuracy, efficacy, completeness or capabilities of the Confidential Information disclosed by it;
   4. No representation or warranty is made that the Confidential Information shall remain unchanged;
   5. There is no obligation on the part of Party A to update or correct any inaccuracies in any Confidential Information if not so instructed by the Disclosers of any such information to Party A;
   6. Any projected results or management accounts which may be contained in the Confidential Information are for indicative purposes only and are not warranted for accuracy or completeness;
   7. There is no representation, warranty or undertaking by Party A to continue to disclose any Confidential Information, to continue negotiations or enter into any further Agreement in relation to the purpose of Party A or share the Confidential Information being shared within the Membership of Party A if it is perceived that any member is not aligned with the structures, values, principles and ethics enshrined in the Constitution of Party A or any of its other documents, which Agreement can only be subject to a formal Written Agreement being agreed and signed by both Parties;
   8. Party B’s confidentiality obligations under this Agreement shall survive and subsist in relation to any Confidential Information, notwithstanding the prior termination or expiry of this Agreement, for a period of **5 (FIVE)** years from the date of the last disclosure under this Agreement of any Confidential Information by the Discloser;
2. AUTHORISED DISCLOSURE
   1. Each Recipient may disclose any of the Confidential Information to any of its authorised persons, provided that it informs Party A beforehand in terms of confidentiality, taking note of the duties of confidence under this Agreement, ensuring that they undertake that the new Recipient complies with the same duties of confidence, keeps a written account of each of the disclosures, in order for Party A to immediately become aware of any breach by an authorised person, and gives upon any request by the Discloser evidence of compliance with this clause;
   2. Each Recipient further undertakes to procure that all authorised persons to whom it discloses any Confidential Information shall comply with the confidentiality obligations under this Agreement and, if required by the Discloser, to procure them to enter into a confidentiality agreement directly with Party A in similar terms as those set out under this Agreement.
3. EXCLUDED INFORMATION
   1. A Recipient shall not be in breach of its obligations under this Agreement to the extent that any Confidential Information received by it may be required by law or regulation having force of the law, of the rules of any court or other body of competent jurisdiction or any other Governmental body to be disclosed by Party A, provided in each case the Recipient, to the extent permitted by the foregoing requirement, immediately notifies Party A in writing of any request or requirement for disclosure and of all relevant surrounding circumstances prior to disclosure and takes into account any representations made by the Discloser in relation to the disclosure;
   2. If the Recipient is unable so to notify Party A before such disclosure is made, it shall to the extent permitted by the foregoing requirement, notify Party A immediately afterwards;
   3. The Recipient shall make all reasonable endeavours to resist any requirement for disclosure and to assist Party A in resisting that requirement if not absolutely necessary or required for specific purposes under South African Legislation and in line with POPIA, PAIA and only for those purposes as required as stated in 4.1.;
   4. Any communications in terms of this clause should be done in terms of regulations set out in Clause 9 of this Agreement.
4. INTELLECTUAL PROPERTY RIGHTS

Each Recipient acknowledges that ownership of the Confidential Information given by members including all Intellectual Property Rights in the Confidential Information remains vested in and shall continuously vest in Party A and its members, and that no licence or right is granted other than to the extent expressly set out in this Agreement.

1. INDEMNITY

Each Recipient shall indemnify Party A from and against, and shall pay to Party A on demand all sums incurred by Party A in respect of any and all losses, damages, including any consequential, direct, indirect, special, incidental or punitive damages or loss or any other type form of economic loss, liability or costs inclusive of legal fees, expenses and claims made, including any settlements of claims before or after any type of actions or proceedings, fines and penalties, however arising out of or in connection with the breach of this Agreement by the Recipient or the unauthorised disclosure or use of any of the Confidential Information by the Recipient or by any of its authorised persons.

1. REMEDIES

Each Recipient recognises that any breach or threatened breach of this Agreement may cause Party A irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to Party A, Party B acknowledges and agrees that Party A is entitled to the remedies of specific performance, interdict and any other type of relief if in breach of this Agreement.

1. TERMINATION
   1. Without prejudice to the Confidentiality obligations under this Agreement, the term of this Agreement shall terminate in terms of, but is not limited to the following dates or events:-
      1. the date on which the Parties agree that the Purpose has been fulfilled;
      2. the entry by the Parties of a specific agreement providing for the completion of a specific purpose and that purpose having been fulfilled by a specific party;
      3. the date specified in a written notice of termination served by one Party on the other Party, being a date not less than 30 **days** following the date of service of such a notice;
      4. immediately upon service of a written notice served by one Party on the other Party following a material breach of this Agreement by the other Party; and
   2. Upon the expiry or termination of this Agreement:-
      1. Party A must return to Party B, or as Party A may require, destroy or procure the destruction of any and all materials containing the Confidential Information received in terms of this Agreement together with all copies thereof;
      2. Party B must destroy and delete all Confidential Information and media together with any electronic copies thereof and must ensure that any other Authorised user will do the same and also will not make use of any Confidential Information in any way whatsoever, but will endeavour to destroy all materials containing Confidential Information.
2. NOTICES
   1. Any notice or other communication**,** given by a Party under this Agreement shall:
      1. be in writing and in English;
      2. be sent via e-mail accepted format for reasons concerning Health and Safety measures together with that of the Environment;
      3. be sent to the relevant party at the address set out in clause 9.3.
   2. Notices may be given, and are deemed received:
      1. by e-mail on receipt of a delivery or read receipt e-mail from the correct address and it is accepted that this will be the accepted format for delivery, for reasons concerning Health and Safety measures together with that of the Environment;
   3. Notices and other communications shall be sent to:
      1. **TUSAM** for the attention of Managing Director at

[**info@tusam.co.za**](mailto:info@tusam.co.za) **as preferred e-mail address for service and other communications** and copied to the following recipients: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

* + 1. **Party B** for the attention of **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**at

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as preferred e-mail address for service and any other communications;**

* 1. Any change to the contact details of a party as set out in clause 9.3 shall be notified to the other parties in accordance with clause 9.1 and shall be effective:-
     1. on the date specified in the notice as being the date of such change; or
     2. if no date is so specified, 5 (FIVE) business days after the notice is deemed to be received;
  2. All references to time are to the local time at the place of deemed receipt;
  3. This clause does not apply to notices given in legal proceedings or arbitration.

1. NON-VARIATION

No variation of this Agreement or any other documents pursuant to this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed and agreed upon by each party.

1. ASSIGNMENT AND TRANSFER OF RIGHTS

No person or entity bound under this Agreement shall without prior written consent from Party A, assign, novate, hold on trust, subcontract or encumber any right or obligation under this Agreement, in whole or in part in any way whatsoever.

1. NO PARTNERSHIP OR AGENCY

The Parties are independent, natural persons or juristic persons and this Agreement only establishes between Party A and Party B that which this Contractual relationship expressly provides for in terms of membership and no member to Party A shall have or represent itself to have any Authority on behalf of Party A, except if so agreed upon by Party A in written format.

1. SEVERANCE
   1. If any provision of this Agreement, or part of any provision is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected;
   2. If any provision of this Agreement or part of any provision is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or amended, the provision or part-provision in question shall apply with such amendments as may be necessary to make the provision legal, valid and enforceable;
   3. In the event of a deletion or amendments such as in 13.2, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.
2. WAIVER

A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.

1. COMPLIANCE WITH LAW

Each party shall comply with all laws of South Africa, enactments, regulations, regulatory policies, guidelines and industry codes applicable to them in their separate professions and in terms of their own professional bodies and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform their obligations under or in connection with this Agreement.

1. SIGNATURE
   1. Each party may evidence their signature of this Agreement by email a signed signature page of this Agreement in PDF format, which shall constitute an original signed counterpart of this Agreement;
   2. Each party adopting this method of signing shall, following circulation, by e-mail, provide the original, electronically signed signature page to the other parties as soon as reasonably practicable.
2. COSTS AND EXPENSES

Each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of this Agreement, and any documents referred to in it, except if expressly agreed otherwise in a written agreement between Party A and Party B.

1. LANGUAGE
   1. The language of this Agreement is English and all documents, notices, waivers, variations and other written communications relating to this Agreement shall be in English;
   2. If this Agreement and any document relating to it is translated, the English version shall prevail.
2. GOVERNING LAW

This Agreement and any dispute or claim arising out of, or in connection with it, its subject matter or its formation, including non-contractual disputes or claims, shall be governed by the laws of South Africa.

1. JURISDICTION

The Parties to this Agreement agree that the courts of South Africa shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with this Agreement, its subject matter or its formation.

1. ENTIRE AGREEMENT
   1. The Parties agree that this Agreement and any documents entered into pursuant to this Agreement constitutes the Entire Agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

**Duly Signed** on this XX day of February 2023 at XXX

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PARTY A WITNESS

**Duly Signed** on this 1ST day of\_\_\_\_MARCH\_\_\_\_\_\_\_\_ 2023 at MAFIKENG

GAUTA KOMANE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PARTY B WITNESS