

Company Registration:  
**Palantír (Pty) Ltd.**  
**(Registration number 2001/018928/07)**

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**INFORMATION MANUAL IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION  
OF ACCESS TO INFORMATION ACT, No. 95 OF 2000.**

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**INTRODUCTION**

Palantír was formed by a trio of like-minded individuals, in order to take a different approach to enterprise software development to the market. These individuals had been working together for a number of years at Investec, and believed that the IT industry required a level of professionalism not often seen or practised.

Palantír prides itself in its carefully selected team of professional, highly qualified staff with experience in all aspects of architecture design and development. The vast majority of our staff are tertiary graduates made up of architects and application developers to ensure the effective delivery of enterprise application software.

Palantír takes full responsibility for the entire design and development of the client's solution, from the initial initiation workshops through to ongoing support and maintenance. Palantír has a proven track record in both J2EE development, as well as .NET development, and believes that the choice of technology should be made with the client, and not for the client. Our innovative staff have years of experience and this combined with their commitment to customer needs, creates a highly successful team.

Palantír keeps on the forefront of technology, and maintains the skills levels of its staff with training and internal education, so as to ensure that our valued clients have the best possible service from us.

## **CONTACT DETAILS**

### **[Section 51 (1)(a)]**

#### **Physical address**

1<sup>st</sup> Floor Lumley House  
177 Jan Smuts Avenue  
Rosebank  
Johannesburg

#### **Postal address**

P.O. Box 784939  
Sandton  
2146

Tel: (011) 422-0544  
Fax: (011) 880-1380

**Customer Service Help line:** 422-0544

#### **E-mail:**

info@palantir.co.za

#### **Web site:**

<http://www.palantir.co.za>

#### **Managing Director:**

Mr Bruce Barret  
E-mail: [bruce@palantir.co.za](mailto:bruce@palantir.co.za)

#### **Compliance Officer & Company Secretary:**

Mr Bruce Barret  
E-mail: [bruce@palantir.co.za](mailto:bruce@palantir.co.za)

#### **Technical Director:**

Mr Andrew Burton  
E-mail: [andrew@palantir.co.za](mailto:andrew@palantir.co.za)

#### **Director:**

Mr Craig Main  
E-mail: [craig@palantir.co.za](mailto:craig@palantir.co.za)

## **DESCRIPTION OF THE ACT**

### **Summary:**

03 February 2000 saw the enactment of the Promotion of Access to Information Act, 2 of 2000 ("the Act"), giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of this Act, the private or public body to which the request is made is obliged to release the information, except where the Act expressly provides that the information must not be released. The Act sets out the requisite procedural issues attached to such request.

### **Background:**

Section 32 of the Constitution of the Republic of South Africa, No. 108 of 1996 ("the Constitution") provides:

- (1) Everyone has the right of access to –
  - (a) any information held by the state; and
  - (b) any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

The Act gives effect to this constitutional right of access as required in terms of sub-section (2). With the exception of sections 10, 14, 16 and 51, the Act came into operation on 9 March 2001. Government Gazette number 23119 brought the remaining sections into operation on 15 February 2002.

Section 32 of the Constitution affords everyone the right to access information held by the State or any other person. The Constitution required that national legislation be enhanced to give effect to this right. This resulted in the drafting of the Open Democracy Bill, which gave rise to much debate, particularly over certain data privacy provisions which had been included.

### **Access to information:**

The Act provides that a person must be given access to any record of a private body if the record is required to for the exercise of any right<sup>1</sup>, and the procedural requirements relating to a request have been complied with. The Act applies to any recorded information, regardless of form or medium, under the control of the private body, and whether or not the private body created it. Palantir has confirmed its status as a private body in terms of the definition in the Act.

### **Granting/declining of information:**

Within 30 days after receipt of a request, the private body must advise the requester whether the request has been granted or declined. If declined, reasons must be given. Furthermore, if the record pertains to a third party, the third party must be notified of the request, and be given an opportunity to either consent to the release, or make representations in favour of declining the request. A dissatisfied requester or third party is entitled to an appeal process by way of application to court.

### **Compulsory declining of requests for information:**

A request for a record must be declined to protect:

- The privacy of a third party
- Commercial information of a third party
- Confidential information of a third party
- The safety of individuals and the protection of property
- Records privileged from production in legal proceedings,
- Research information of a third party

### **Discretionary declining of requests:**

A request may be refused in order to protect the private body's own commercial or research information.

<sup>1</sup> After Palantir has satisfied itself that the requester is seeking to exercise or protect a right and not an interest, Palantir is then required to ascertain whether the information requested will actually assist the requester exercise or protect the right. The requester is therefore required to establish a nexus, or causal link between the right alleged and the information requested. It does not follow from the mere establishment of the right by the requester that he is automatically entitled to the information requested. The requester must establish that the information sought will assist him in the exercise or protection of his right.

## **SECTION 10 GUIDE HOW TO USE THE ACT**

### **[Section 51(1)(b)]**

The guide will be available from the South African Human Rights Commission by not later than August 2003. Please direct any queries to:

The South African Human Rights Commission:

PAIA Unit  
The Research and Documentation Department  
Postal address: Private Bag 2700  
Houghton  
2041

Tel: +27 11 484-8300  
Fax: +27 11 484-0582  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)  
Email: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

## **RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION**

### **[Section 51(1)(d)]**

Access to information may be granted in terms of such other legislation if the manner of request is not more onerous than a request under this Act.

Certain legislation mandates Palantír to allow any person access to specified information, upon request, irrespective of who that person may be. This would include the following legislation, amongst others:

Companies Act 61 of 1973

Prevention of Organised Crime Act 121 of 1998

Financial Intelligence Centre Act 38 of 2001

Value-Added Tax Act 89 of 1991

Income Tax Act 58 of 1962

Magistrates Court Act 32 of 1944

High Court Act 59 of 1959

Usury Act 73 of 1968

Insolvency Act 24 of 1936

Credit Agreements Act 75 of 1980

# **ACCESS TO RECORDS HELD BY PRIVATE BODY IN QUESTION**

## **[Sections 51(1)(c) and 51(1)(e)]**

### **i. Records/information available without formal request to be made and are automatically available without a person having to request access in terms of this Act:**

- Address and telephone details of company Head office & Provincial offices,
- Web site and company e-mail address,
- Management team names and company details (e-mail address, tel.& fax nr)
- Director's names,
- Total of staff members (numbers)
- Contents in Annual Reports
- Contents in Company magazine
- Contents in Product brochures
- Names of Suppliers of services (i.e. cleaning services, gardening etc.)

### **ii. List of records per subject (subject to qualifications below):**

- 1) Membership records
- 2) Medical records
- 3) Financial records
- 4) Property records
- 5) Investment records
- 6) Company records
- 7) Legal records
- 8) Other records

### **Categories of records held on abovementioned subjects:**

**Information in the categories below is not available without a formal request as per the instructions of the request procedure, and may be declined by Palantír to protect the body's own, commercial or research information.**

Section 64 mandates that a request must be refused if it relates to records containing third party information pertaining to:

- trade secrets;
- financial, commercial, scientific or technical information where disclosure would be likely to cause harm to the commercial or financial interests of that third party; or
- information supplied in confidence by the third party, the disclosure of which could reasonably be expected to put the third party at a disadvantage in contractual or other negotiations, or prejudice the third party in commercial competition.

The information must, however, be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

Section 65 prohibits disclosure of information if such disclosure would constitute a breach of any duty of confidentiality owed to a third party in terms of an agreement.

In terms of section 66, a private body must refuse a request if disclosure could reasonably be expected to:

- endanger the life or physical safety of an individual;
- prejudice or impair the security of a building, structure or system, means of transport, or other property; or
- methods, systems, plans or procedures for the protection of an individual in accordance with a witness protection scheme or safety of the public.

Section 67 mandates the refusal of a request if the record is privileged from production in legal proceedings, unless the person entitled to the privilege has waived the privilege.

Section 68 pertains to records containing information about the private body itself and unlike the other provisions pertaining to decline of a request, is not mandatory, but rather discretionary. The private body may refuse access to a record if the record:

- contains trade secrets of the private body;
- contains financial, commercial, scientific or technical information, the disclosure of which would be likely to cause harm to the commercial or financial interests of the private body;
- contains information which, if disclosed, could reasonably be expected to put the private body at a disadvantage in contractual or other negotiations, or prejudice the private body in commercial competition; or
- consists of a computer program owned by the private body.

Notwithstanding the above, the information will be released if it pertains to the results of product or environmental testing, the disclosure of which would reveal a serious public safety or environmental risk.

Section 69 prohibits the disclosure of information about research where disclosure is likely to expose the third party, the person conducting the research on behalf of the third party, or the subject matter of the research to serious disadvantage. Disclosure is discretionary if such research pertains to the private body itself.

Notwithstanding any of the above-mentioned provisions, section 70 provides that a record must be disclosed if its disclosure would:

- reveal evidence of a substantial contravention of or failure to comply with the law, or imminent and serious public safety or environmental risk; and
- the public interest in the disclosure clearly outweighs the harm.

#### 1) Financial records

- Financial statements of company,
- Financial documents compiled by Auditors,
- Financial documents compiled by Investment Advisors,
- Financial documents compiled by Actuaries,
- Internal budget documents,
- Cheque and banking facilities, bank account numbers,
- History documents on financial status of company
- Tax details

#### 2) Property records

- Names of properties owned by company,
- Property details: purchase/lease/selling information
- Legal documents as part of property information

#### 3) Investment records

- Details of investments of company on JSE
- Details of investment in property
- Investment portfolios and formulas
- Investment performance and documents compiled by advisers

#### 4) Company records

- Registration details
- Policies and procedures:
- Sales
- Products
- Strategy
- Business directives
- Alliance partners contracts and details
- Suppliers contracts
- Personnel/staff details
- Pension Fund details
- Medical Aid fund details

#### 5) Legal records

- Documents compiled by Attorneys,
- Records of legal cases
- Appeal records
- Cancellation/termination of membership legal records

#### 8) Other records

This includes four broad subjects:

- Personnel records;
- Customer-related records;
- Private body records; and
- Records in the possession of or pertaining to other parties.

### Personnel records

Personnel refers to any person who works for or provides services to or on behalf of Palantír and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting the business of Palantír. This includes, without limitation, directors, executives, non-executives, all permanent, temporary and part-time staff as well as contract workers.

Personnel records include the following:

- Any personal records provided to Palantír by their personnel;
- Any records a third party has provided to Palantír about any of their personnel;
- Conditions of employment and other personnel-related contractual and quasi-legal records;
- Internal evaluation records; and
- Other internal records and correspondence.

### Customer-related records

A customer includes any natural or juristic entity who receives services from Palantír. Customer-related information includes the following:

- Any records a customer has provided to a third party acting for or on behalf of Palantír;
- Any records a third party has provided to Palantír; and
- Records generated by or within Palantír pertaining to the customer, including transactional records.

## **Private body records**

The following are considered to include but not be limited to records which pertain to Palantír's own affairs:

- Financial records;
- Operational records;
- Databases;
- Information technology;
- Marketing records;
- Internal correspondence;
- Product records;
- Statutory records;
- Internal policies and procedures;
- Treasury-related records;
- Securities and equities; and
- Records held by officials of the private body.

## **Other Parties**

Palantír may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, service providers. Alternatively, such other parties may possess records, which can be said to belong to Palantír.

The following records fall under this category:

- Personnel, customer or private body records which are held by another party as opposed to being held by Palantír; and
- Records held by Palantír pertaining to other parties, including without limitation financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors / suppliers.

## **REQUEST PROCEDURE**

### **Details of submitting a formal request:**

- 1) Submit request for information to Information Officer on formal form as per provisions of the Act.
- 2) Information Officer will access the request and determine whether the information will be granted to the requester.
- 3) The Information Officer will answer the requester within 30 days, granting or declining the request, and supplying the reasons if declined.
- 4) The information, if granted, will be supplied to the requester in a format applicable to the request.
- 5) The requests for information will be documented and kept on file for reference.

### **Form of request (as per Act)**

- The requester must use the prescribed form to make the request for access to a record. This must be made to the head of the private body. This request must be made to the address, fax number or electronic mail address of the body concerned [section 53(1)].
- The requester must provide sufficient detail on the request form to enable the head of the private body to identify the record and the requester. The requester should also indicate which form of access is required. The requester should also indicate if any other manner is to be used to inform the requester and state the necessary particulars to be so informed [section 53(2)(a) and (b) and (c)].
- The requester must identify the right that is sought to be exercised or to be protected and provide an explanation of why the requested record is required for the exercise or protection of that right [section 53(2)(d)].
- If a request is made on behalf of another person, the requester must then submit proof of the capacity in which the requester is making the request to the satisfaction of the head of the private body [section 53(2)(f)].

### **Fees (as per Act)**

A requester who seeks access to a record containing personal information about that requester is not required to pay the request fee. Every other requester, who is not a personal requester, must pay the required request fee:

- The head of the private body must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request [section 54(1)].
- The fee that the requester must pay to a private body is R50. The requester may lodge an internal appeal or an application to the court against the tender or payment of the request fee [section 54(3)(b)].
- After the head of the private body has made a decision on the request, the requester must be notified in the required form.

If the request is granted then a further access fee must be paid for the search, reproduction, preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure [section 54(6)].