

# **GUARANTEE AND WARRANTY GUIDELINES**

## **General section**

**PALFINGER**





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# GUARANTEE AND WARRANTY GUIDELINES

## General section

### 1. Area of applicability

These Guarantee and Warranty Guidelines apply to the Palfinger Group companies listed in [Appendix 1](#) (hereinafter referred to also as 'PALFINGER') and in respect of the PALFINGER products named in [Appendix 2](#).

[Appendix 3](#), 'Product-specific Guarantee and Warranty Guidelines', governs any different provisions in relation to the length and scope of guarantees for certain Palfinger products. It also includes specific requirements about forms (e.g. e-Claim, Excel) related to processing guarantee and warranty claims for these PALFINGER products. In that regard [Appendix 3](#), 'Product-specific Guarantee and Warranty Guidelines', takes precedence over these Guarantee and Warranty Guidelines.

### 2. Contents

These Guarantee and Warranty Guidelines contain for the one part the guarantee and warranty agreement between Palfinger and its contract partner. In addition, they define the terms and procedures to be adhered to when making and processing guarantee and warranty claims.

### 3. Contract partner

PALFINGER sells PALFINGER products either directly or via a network of independent PALFINGER distributors. These Guarantee and Warranty Guidelines set out the contractual conditions between PALFINGER and its contract partners, who in any given instance purchase from PALFINGER a PALFINGER product.

Through a corresponding agreement between PALFINGER and these contract partners these Guarantee and Warranty Guidelines become an integral part of the contract.

This does not constitute the granting of any manufacturer's guarantee that has a direct impact on the end customer (or the contract partner's customer). However, if they are resellers (i.e. Palfinger distributors, truck superstructure builders, original equipment manufacturers [OEMs] etc.), Palfinger urges its contract partners to pass on by way of a minimum standard the guarantee and warranty terms granted by PALFINGER to their own customers and/or to ensure that these are granted in the extended sales chain (see Section 27 below).

In this regard these Guarantee and Warranty Guidelines do thus have an effect in relation to end customers.



#### **4. Contract partners that are resellers with their own service and sales structure**

If the contract partner is a reseller, then said partner does not use and operate the PALFINGER product itself. Any deficiencies in the PALFINGER product frequently only come to light when it is used by the end customer.

If the contract partner has its own service and sales structure for Palfinger products, then in the event of any end customer warranty or guarantee claims to which it is exposed, the contract partner shall carry out the repair itself or via employees of its service and sales structure that it commissions (e.g. sub-partners or service partners). This shall be based solely on the terms agreed between the contract partner and the end customer. Section 27 must in any case be taken into account.

In the relationship with PALFINGER this way of proceeding represents a self-remedy of defects by the contract partner, for which PALFINGER herewith gives its express authorization.

As a result of the guarantee and/or warranty work properly carried out within the course of this self-remedy, the contract partner shall be entitled to a right to claim recourse from PALFINGER. The right of recourse covers the labor and material costs incurred in relation to the repair, with the precise level of the claimable costs being based on these Guarantee and Warranty Guidelines.

No requests from the contract partner over and above the recourse claim (e.g. to have the repair carried out by PALFINGER itself) shall be entertained.

Consequently, every reference in these Guarantee and Warranty Guidelines to the contract partner's 'guarantee and warranty entitlements' mean the right to claim recourse (unless expressly specified otherwise).

#### **5. Agreed form of communication**

All guarantee claims are to be submitted using e-Claim. If for certain product groups (e.g. MBB PALFINGER, PALFINGER RAILWAY) no provision is made for the use of e-Claim, the forms provided by PALFINGER for such situations are to be used (MS Excel, online warranty form).

All other necessary communication must be solely with the PALFINGER service department responsible for a specific product group.

#### **6. Taking delivery**

When taking delivery (i.e. when goods are received / delivered to the contract partner), the contract partner must check the consignment at once for any damage or deficiencies that can be spotted through external inspection and to ensure that nothing is missing.

In the event that anything has been damaged or lost in transit, this must be recorded in detail on the waybill and notified immediately to the carrier. Photos should be taken, giving a clear picture of the situation. General comments and/or reservations are inadmissible.

Any identified damage, deficiencies, wrong quantities or incorrect deliveries are to be notified to PALFINGER without delay and in any case by not later than two weeks after delivery in the agreed form (in general by e-Claim as a 'Wrong Part Complaint').



Any claims based on late notifications or that relate to wrong quantities and/or incorrect deliveries or externally visible defects or other damage, which would have been spotted if properly inspected in time, will be rejected.

## **7. Storing products**

It must be ensured through appropriate, protected storage of the PALFINGER products that during the period of storage from delivery at the contract partner's premises until handover to the end customer there is no deterioration or impairment and that all components are thus in the same original condition in which they were shipped by PALFINGER.

When storing products for a period of more than 6 months, the contract partner must take appropriate measures to protect the products from environmental factors and where necessary to conserve them. Furthermore a thorough inspection shall be carried out. Information on this can be provided by the relevant Palfinger service department.

Any claims based on damage incurred as a result of deficient product storage will be rejected.

## **8. Handover to the end customer, notice on the start of the guarantee period**

The contract partner must ensure that prior to the handover to the end customer the product and all additional devices are put through an appropriate inspection as per the service manual and that no reservations exist in relation to them going into operation.

The product handover to the end customer must be done by qualified personnel, be fully documented and conveyed to PALFINGER in the agreed form (in general by means of an extranet application, such as Product Registration) by no later than 3 weeks after handover.

During product handover it is the contract partner's responsibility to sufficiently train and instruct the end customer or its operating personnel. In principle such training or service shall be carried out and documented in accordance with the 'Handover guideline' (separate document or part of the service manual).

The fully completed documentation of correct product handover shall include:

- a. Filling in the section 'Start of the guarantee period' in the service manual;
- b. Correct notice on the Start of the guarantee period (Product Registration);
- c. Filling in the handover protocol in the service manual;
- d. Submitting the handover protocol in the agreed form (Palipedia or Product Registration).

PALFINGER shall not be responsible for any losses as a result of a missing, inadequate or incomplete product handover to the end customer.



## 9. Guarantee

Palfinger grants the contract partner a guarantee for a specific period on the products listed in [Appendix 2](#). The applicable guarantee periods and special conditions for the respective products are those defined in [Appendix 3](#).

The guarantee period begins in general upon handover to the end customer (i.e. the factual passing of the power of disposition over the product). For a few of the products listed in [Appendix 2](#) the period begins not later than upon expiry of the times specified for these products in [Appendix 3](#).

Any claims going beyond the repair work (e.g. lost profits, simple pecuniary losses, consequential losses, missed earnings, downtime, travel allowances, costs of product fitting and removal, transport costs, transfer costs, replacement vehicle, etc.) are expressly not covered by the guarantee entitlement.

## 10. Warranty

Except as may be mandated otherwise by applicable law and except to the extent PALFINGER is compulsorily liable by applicable law, PALFINGER neither makes or assumes, nor authorizes contract partner or any other any person or entity to make or assume for it, any warranty, guarantee, liability or obligation in connection with the products other than as expressly set forth in these Guarantee and Warranty Guidelines or PALFINGER's General Terms and Conditions.

EXCEPT AS EXPRESSLY SET FORTH IN THESE GUARANTEE AND WARRANTY GUIDELINES OR PALFINGER'S GENERAL TERMS AND CONDITIONS, NO OTHER EXPRESS OR IMPLIED WARRANTY OF ANY KIND, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE WITH RESPECT TO ANY PRODUCTS.

## 11. Defects

Within the scope of guarantee and warranty, PALFINGER is liable to the contract partner solely for the specifications, functionalities and configuration as per the Technical Datasheets. If a product deviates from this, that constitutes a defect. Dimensions and weights may deviate slightly.

There exists no agreement to any more far-reaching guarantee or warranty and Palfinger expressly disclaims any such warranty or guarantee.

## 12. Amount of the recourse claim

### a. Hourly rate for guarantee work - work units

Reimbursement of expenses in the context of the right to recourse for guarantee and warranty work is calculated on the basis of a separately agreed hourly rate.

This hourly rate for guarantee work is worked out in particular on the basis of the average workshop hourly rate in the contract partner's sales and service network and the level of training that the staff involved have had.

The number of hours to be paid based on the most recently applicable agreed hourly rate for guarantee work is deduced from the current version of the respective product's list of repair times (published on the PALFINGER extranet and PALFINGER online portal).



Any time spent looking for faults or defects will be reimbursed only if PALFINGER deems its necessity and extent to be justified.

**b. Not Used**

**c. Replacement parts**

The contract partner shall order replacement parts as needed. Invoices for these will be issued by PALFINGER.

In the event of a guarantee or warranty case, once the claim is approved a credit will be issued. PALFINGER will not reimburse any additional costs (e.g. customs duty, transport costs, etc.) exceeding pure material costs.

**d. Transport costs**

As long as the nature of the deficiency does not completely rule out transporting the product, it is assumed that the end customer will transfer it at its cost to the nearest authorized PALFINGER service workshop for the remedial work to be carried out.

If it is not possible to transport the product and if additional costs arise as a result of work being done away from the nearest PALFINGER service workshop, PALFINGER will not reimburse for said costs.

**e. Principle of most inexpensive and expedient execution**

As a fundamental principle, PALFINGER requires that any and all warranty and guarantee work is done by the contract partner in the most inexpensive and expedient way. Any expenses that run contrary to this principle in any specific case will not be reimbursed.

**f. Exclusion of other claims**

No claims beyond the foregoing (e.g. claims for consequential losses, transport costs, travel allowances or lost profits) made on no matter what legal basis and in particular within the context of the guarantee undertaking shall be admissible.

PALFINGER accepts no liability for any agreements between the contract partner and a consumer or end customer that go beyond this warranty and guarantee undertaking.

### 13. Guarantee and warranty processing

Any claims for recourse within the scope of the guarantee or warranty can be notified solely by means of a guarantee claim in the agreed form (generally by e-Claim) to the responsible PALFINGER service department.

Notifications that are not made in the agreed form are invalid and will not be processed by PALFINGER.

It is not generally necessary for the contract partner to consult PALFINGER before carrying out guarantee or warranty work. The contract partner can carry out the necessary repair work within the scope of the guarantee or warranty and claim recourse for this.

In the following cases, however, PALFINGER must be consulted in advance:

- a. The contract partner's initial cost estimate (materials and labor) is in excess of \$2,000 (net);





- b.** It is no longer possible to identify / work out retrospectively the cause of the defect relating to the repairs that need to be done;
- c.** The suspected cause of the defect suggests that it may not be an isolated incident, but that it could occur more frequently / affect multiple PALFINGER products.

If no prior consultation is undertaken, PALFINGER shall be entitled to reject the related guarantee claims.

Guarantee claims must be submitted to PALFINGER within four weeks of completing the guarantee or warranty work. PALFINGER will review the substance of the guarantee and warranty entitlements based on the guarantee claims.

PALFINGER is entitled to reject any guarantee claims that are incomplete or not received on time.

Guarantee cases must be comprehensibly described, documented where necessary with photographs and/or submitted together with relevant data from the PALdiag.net diagnosis system (e.g. a PALTRONIC file, component data, fault logs, cylinder data, etc.).

In the event of complaints relating to load-bearing components, documentation in the form of photographs must in any case be sent with the guarantee claim and direct contact is to be sought with the PALFINGER service department.

All additional information requested by PALFINGER in relation to any guarantee notification is to be provided without delay.

PALFINGER will process guarantee claims within 4 weeks of receipt of all information and materials needed to do so.

PALFINGER reserves the right to reclaim any sums in relation to already approved guarantee claims by means of retrospective charging within 4 months of issuing the credit if its own analyses or investigations find that a guarantee or warranty claim was not justified, because in particular:

- a.** Certain requirements for a claim under the guarantee or warranty are not met (and, insofar as expressly necessary, the defect is related to this - see Section 14);
- b.** A circumstance exists that rules out any guarantee or warranty claim and the defect is related to this (see Section 15; e.g. it was the claimant's own or a third party's fault); or
- c.** It emerges from any other circumstances or reasons that the contract partner is not entitled to any claim of recourse under the guarantee or warranty for the specific repair work undertaken (e.g. the returned component or guaranteed material is completely flawless and no defect therefore exists; the work was not carried out and the guarantee claim was improperly submitted).

## **14. Other requirements for claiming against the guarantee or warranty**

Other requirements for enforcing rights to guarantee or warranty claims against PALFINGER are:



- a. The professional mounting and assembly of the product as per PALFINGER mounting and assembly guidelines. For any shortcomings of the product that may be connected to non-adherence to the PALFINGER mounting and assembly guidelines the contract partner is not entitled to make claims against PALFINGER of any sort.
- b. The use of trained and qualified personnel and the use of appropriate equipment and PALFINGER diagnostics tools (e.g. PALDIAG and tools as per the PALFINGER tools catalogue). For any shortcomings or additional costs as a consequence of breaching this obligation the contract partner is not entitled to make claims against PALFINGER of any sort.
- c. The presence of undamaged and correct seals on the product. In the event of any seals being damaged or removed, any and all claims against PALFINGER become inadmissible insofar as the shortcomings of the product could be connected with this.
- d. Adherence to and proper documentation of the prescribed servicing intervals as per the service manual and/or operating instructions. In the event of non-adherence to the prescribed servicing intervals, any and all claims become inadmissible insofar as any shortcomings could be connected with this.
- e. The use of original replacement parts bought via the PALFINGER sales channel. If any third-party parts are fitted, the contract partner is not entitled to make any guarantee or warranty claims in relation to them.

The burden of proof that any of the requirements described at (a) to (e) are not met vests with PALFINGER. That a defect is not / cannot be connected with the circumstances described at (a) to (d) is then a matter for the contract partner to prove.

## 15. No guarantee or warranty entitlement

There shall be no entitlement to guarantee or warranty claims nor shall there be any other liability for product damage or defects associated with any of the following reasons:

- a. Acts of nature;
- b. Mishandling the PALFINGER product;
- c. Using the PALFINGER product other than intended;
- d. Unauthorized modifications to the PALFINGER product and/or to its electronic or hydraulic settings;
- e. Incorrect repair of the PALFINGER product;
- f. Deficient or incorrect maintenance of the PALFINGER product (i.e. not in accordance with the stipulations of the servicing schedule; see service manual and/or operating instructions);
- g. The fault lies with contract partner or a third party;
- h. Failure to follow any product upgrade programs that were prescribed by PALFINGER;
- i. Non-adherence to the operating instructions.

The burden of proof that any of the circumstances described at (a) to (i) exist vests with PALFINGER. That a defect is not connected with the circumstances described at (a) to (i) is then a matter for the contract partner to prove.

Further, the guarantee does not extend to operating materials such as oils, greases, filter cartridges, air filters and all parts that have to be replaced in accordance with the maintenance schedule during the guarantee / warranty period.



PALFINGER has no liability and provides no guarantee or warranty for the mounting of any PALFINGER products or for any modifications retrospectively made to the same, save where PALFINGER itself has carried out or approved said setting up or modifications.

Responsibility for any and all defects or other consequences arising from or in connection with the installation or mounting of a PALFINGER product (e.g. on a truck or other carrier vehicle, stationary installation) or from / in connection with any other use of a PALFINGER product with a superstructure must be taken solely by the manufacturer of the superstructure or its workshops and/or the superstructure builder or the contract partner itself. PALFINGER has no liability nor provides any guarantee or warranty of any kind. This applies likewise to any electrical or hydraulic interfaces between carrier vehicle or stationary installation and the PALFINGER product (e.g. lines and electrical or electronic connections).

## 16. Service manual

In respect of the issue of adhering to and properly documenting the prescribed servicing intervals the service manual is the only document to be used.

All servicing and repair work, including details of current total operating hours (if technically possible), must therefore be recorded in the service manual.

Certain repairs (e.g. replacing larger components or systems) must be noted in the service manual's field provided for this purpose.

PALFINGER reserves the right to request a copy of the relevant pages of the manual.

## 17. Liability

To the maximum extent permitted by applicable law, PALFINGER shall have no liability for any losses arising due to negligence on PALFINGER's part (excluding personal injury). It is for the contract partner to prove that PALFINGER is guilty of any serious fault justifying any liability.

There shall be no liability for lost profits, simple pecuniary losses and consequential losses (e.g. missed earnings, downtime, travel allowances, lost profit, transfer costs, replacement vehicle, etc.) or any other indirect losses.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PALFINGER OR ANY AFFILIATE OF PALFINGER BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF SALES, LOSS OF PROFITS, LOSS OF BUSINESS, DOWN TIME, LOSS OF PRODUCTION, LOSS OF CONTRACTS, OR DAMAGE TO REPUTATION OR GOOD WILL, WHETHER OR NOT PALFINGER WAS AWARE OF OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, PALFINGER'S LIABILITY TO THE CONTRACT PARTNER IN CONNECTION WITH ANY PARTICULAR PRODUCT, SERVICE OR PART SHALL LIMITED TO THE ORIGINAL PRICE PAID TO PALFINGER BY THE CONTRACT PARTNER FOR SUCH PRODUCT, SERVICE OR PART.

## 18. Software updates



PALFINGER continuously enhances its products, including in the area of software. The importing of software updates suggested by PALFINGER - including within the context of servicing work or rectifying impairments of product functions - is not remunerated by PALFINGER, except if they are prescribed as part of a product upgrade program.

## 19. Goodwill

In individual cases, PALFINGER may voluntarily, at its sole discretion and without acknowledgment of any legal obligation make a gesture of goodwill.

This represents for PALFINGER a measure aimed at building customer loyalty. Even without any corresponding obligation, PALFINGER regards it as sensible to keep its customers satisfied in problem situations.

As part of such goodwill PALFINGER may therefore voluntarily provide repair or servicing work even after expiry of the statutory or individually contracted warranty or guarantee periods.

Where such a goodwill gesture is made, the contract partner has an obligation to pass on to the end customer verifiably and at least to the same extent the financial contributions to repairs that PALFINGER has made. Otherwise PALFINGER shall be entitled at any time within the statutory periods of limitation to issue a reclaim.

"To the same extent" means that where PALFINGER has agreed to cover a percentage of the material costs, the invoice to the end customer for material costs is reduced by the same percentage. Approved hours of work are to be deducted from the number of hours of work billed to the end customer.

## 20. Guarantee and warranty period for replacement parts and retrofit kits

The terms applicable to replacement parts and retrofit kits are the product-specific guarantee and warranty terms (see [Appendix 3](#)). The warranty and guarantee periods begin from the date of installation and in any case not later than 6 months after shipping by PALFINGER to the contract partner. Any guarantee or warranty case is to be submitted in the agreed form (generally using e-Claim as a 'Replacement part guarantee'). Every fitting of replacement parts is to be documented (including in the service manual) and on request from PALFINGER the relevant verification is to be sent.

Additionally purchased guarantee extensions for the PALFINGER product do not apply to replacement parts, even if these have been purchased for use with the PALFINGER product concerned.

No guarantee or warranty claim shall exist for any replacement parts wholly provided as a gesture of goodwill.

Tools sold via PALFINGER do not count as a PALFINGER product for the purpose of these Guarantee and Warranty Guidelines. There is consequently no guarantee agreement. Warranty and liability provisions pursuant to these guarantee and warranty terms apply analogously.

## 21. Seals and settings

Seals on valves and components may be removed only by qualified specialists from a PALFINGER distributor (or from a member of its sales and service network) authorized to perform such work and be reapplied only with the correct and properly registered tools.



Electronic, mechanical and hydraulic settings may be changed only by qualified specialists from a PALFINGER distributor (or from a member of its sales and service network) authorized to perform such work.

## 22. Guarantee parts

Any part covered by guarantee that PALFINGER requests, must be sent back to PALFINGER at the contract partner's expense within 4 weeks of being requested. If the requested guarantee part is not received / not received within this deadline by PALFINGER, the guarantee or warranty claim will be rejected.

Upon acknowledgement of the part's value in a guarantee case title and ownership regarding the reimbursed part passes to PALFINGER. This is necessary so that PALFINGER can exercise its rights in relation to its own suppliers. The contract partner must ensure appropriate authorization has been obtained from the end customer / owner of the product.

Any non-returned guarantee parts, for which a guarantee claim was approved by PALFINGER (i.e. acknowledgement of the part's value), must be destroyed by the contract partner within two months of completion of the guarantee case. It is not permitted to bring these guarantee parts back on the market or otherwise into circulation.

Requested guarantee parts must be cleaned, properly packaged and, labelled with the previously forwarded guarantee part request, returned to the responsible PALFINGER service department.

If a guarantee claim is not approved (i.e. the part's value is not acknowledged), the contract partner is then able to request the guarantee part back from PALFINGER, with the transport costs in this case having to be borne by the contract partner itself. Bringing these parts back to the market or otherwise into circulation is only permitted where there are no quality- or safety concerns. If the guarantee part is not requested back, it will be destroyed by PALFINGER.

When defective parts are being replaced by the contract partner, it is possible in individual cases and after consultation with PALFINGER for reconditioned, specially marked replacement parts bought from PALFINGER to be fitted instead of new parts.

## 23. The Palfinger contract partner's responsibilities

### a. The contract partner's responsibility towards the end customer

Based on its obligations as a distributor, the PALFINGER distributor must take on every defective product case, carry out the guarantee and warranty work and submit the guarantee claim to Palfinger.

This applies to those products (as per [Appendix 2](#)) that the PALFINGER contract partner does indeed itself sell.

### b. The contract partner's responsibility towards PALFINGER

Every contract partner shall employ a sufficient number of qualified and suitable workers, who are capable of performing every job within the work undertaken by the contract partner itself and of carrying out the relevant guarantee and warranty processing.

The Guarantee and Warranty Guidelines or other instructions used by PALFINGER are to be made known to the contract partner staff and the implementation of and adherence to them is to be monitored.

### c. The contract partner's responsibility towards sub-partners



The contract partner alone is responsible to PALFINGER for the administration of the guarantee and warranty claims pursuant to these Guarantee and Warranty Guidelines. This remains the case even if the contract partner makes use of a sub-partner (or any other members of its sales and service network) in the handling of guarantee and warranty work.

Wherever necessary, the contract partner shall pass on the resultant credit notes and information to sub-partners (or any other members of its sales and service network) without delay. Vice versa, the contract partner shall take on direct payment of all return debit notes or debit notes that are levied by PALFINGER within the context of the guarantee and warranty claims.

Sub-partners (or any other members in the contract partner's sales and service network) are to be obliged to adhere to these Guarantee and Warranty Guidelines - insofar as relevant obligations apply to the contract partner - and it must be ensured that they assume these obligations accordingly. The contract partner is responsible to PALFINGER in respect of its sub-partners (or any other members of its sales and service network) and shall ensure that they are appropriately instructed and monitored.

The contract partner must in particular provide adequate technical and administrative support for the management of claims in order to ensure that all necessary requirements are implemented at the sub-partner firm.

## **24. PALFINGER ancillary equipment and accessories**

Besides the PALFINGER product itself, guarantee and warranty claims can be made only in relation to PALFINGER ancillary equipment and accessories that were verifiably purchased from PALFINGER.

For PALFINGER ancillary equipment and accessories the applicable terms are the product-specific guarantee and warranty conditions relating to that product on/with which they are used (see [Appendix 3](#)).

The guarantee period begins from the date of installation and in any case not later than 12 months after shipping by PALFINGER.

Any complaints relating to ancillary equipment or accessories are to be sent to PALFINGER in the agreed form (generally by e-Claim) by the normal guarantee route, citing model, serial number and installation date. The guarantee claim is to be submitted under the equipment number for the product on which the device is fitted.

If the ancillary equipment or accessory is fitted to a third-party product or is being operated on a stand-alone basis, the guarantee claim is to be submitted with a dummy number agreed with the responsible PALFINGER service department.

## **25. Mitigation of losses and product upgrade programs**

The contract partner has a duty to mitigate any potential loss, damage or other detriment, in particular to carry out repairs as quickly and professionally as possible before any further loss or damage occurs or any loss or damage that has occurred gets worse.

The contract partner must participate as best as possible in product upgrade programs, communicate these verifiably and without delay to end customers or other buyers and carry them out as specified by PALFINGER. PALFINGER has the right to claim compensation of any losses that are the result of



inadequate participation in or execution of a product upgrade programs and/or of a breach of the duty to minimize loss.

If an end customer or other buyer demonstrably fails to react to repeated requests to carry out a product upgrade measure, the contract partner shall report this to PALFINGER in good time.

## **26. Procedures in the event of accidents**

If a product causes an accident with material damage or personal injury, the contract partner must without delay and in any case within 3 days of the incident send an exact report of the accident to PALFINGER using the form sheet available from PALFINGER and report the damage/injury to the service partner's insurer responsible for the location concerned.

The description of how the accident occurred must be supplemented with informative photographic documentation. All components that could be responsible for causing the accident must immediately be secured.

How to proceed further must be agreed without delay with the PALFINGER service department.

## **27. Legal relationship between contract partner and end customer / buyer**

The rights and conditions pursuant to these Guarantee and Warranty Guidelines represent a minimum standard that the contract partner undertakes to grant accordingly by contract to its buyers / end customers as well.

If the contract partner does not grant the buyer or end customer any corresponding conditions or rights, then PALFINGER too shall be released of its obligations pursuant to these Guarantee and Warranty Guidelines insofar as these match the contractual content agreed by the contract partner with the buyer or end customer. The same applies if guarantee or warranty claims granted by PALFINGER in the case in question are not passed on to the end customer. Any costs incurred by PALFINGER as a result of executed guarantee or warranty claims must, nevertheless, be reimbursed by the contract partner.

PALFINGER shall not be liable for any commitments made by a contract partner to its customers. As long as PALFINGER fulfils its own obligations pursuant to these Guarantee and Warranty Guidelines, the contract partner shall not be entitled to any further rights of recourse or other claims as a consequence of fulfilling its own warranty obligations or contractual guarantee obligations towards its buyer or end customer.

## **28. Applicable law, jurisdiction**

These Guarantee and Warranty Guidelines will be construed and governed by the laws of the State of New York (including Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York) without reference to it conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods (Vienna 1980) will not apply. Except as provided otherwise in a distributor, dealer or reseller agreement between PALFINGER and contract partner sole jurisdiction for all disputes arising from or in connection with these Guarantee and Warranty Guidelines shall be in a court located in or encompassing the city of Buffalo, New York.

## **29. Written form**





Any amendment and/or exception must be in written form, as must any waiver of the written form requirement. PALFINGER is entitled to unilaterally amend these Guarantee and Warranty Guidelines. In the event of any breach of the obligations defined in these Guarantee and Warranty Guidelines all rights to make claims are lost. These Guarantee and Warranty Guidelines replace all previously existing provisions on this subject.

### **30. Severability**

Should any provisions of these guidelines be or become invalid, legally inadmissible or unenforceable the remaining provisions shall remain unaffected by this and in full force and effect. If this is the case, then the invalid or unenforceable provisions shall be deemed replaced by agreements coming as close as possible to the purpose originally intended.

### **31. Priority of documents**

Any product-specific guarantee and warranty guidelines ([Appendix 3](#)) take priority over these general Guarantee and Warranty Guidelines and supplement these.

### **32. Applicability of the general terms and conditions**

Unless they are modified by the provisions of these Guarantee and Warranty Guidelines, PALFINGER's General Terms and Conditions (AGBs) in their latest version as published on the company website ([www.palfinger.com](http://www.palfinger.com)) apply in all other respects.

### **33. Special terms for contract partners that are resellers without their own service and sales structure**

If the contract partner is a reseller without its own service and sales structure in relation to PALFINGER products (e.g. an OEM), then these Guarantee and Warranty Guidelines apply subject to the following provisions:

In the event of any defects to the PALFINGER product, the contract partner will refer the end customer in accordance with PALFINGER's instructions to a PALFINGER distributor or a member of the latter's service and sales structure (e.g. a sub-partner or service partner), who will carry out the repair in accordance with these Guarantee and Warranty Guidelines on PALFINGER's behalf.

This repair is done on the basis and in respect of the contract partner's right to make guarantee and/or warranty claims against PALFINGER.

PALFINGER shall be liable solely for such defects as are asserted by the contract partner in writing within two weeks upon their emergence, setting a reasonable period of grace. If no notice of defect is delivered or if this is done only belatedly, no guarantee or warranty claim shall exist. If nothing to the contrary arises from the circumstances, a setting of a period of grace of four weeks from the notification of the defect shall be deemed reasonable.

Any defect to the product will be rectified at PALFINGER's discretion either by repair or replacement. If, however, repair or replacement are impossible or associated with disproportionately high expenditure for PALFINGER or if PALFINGER, even after at least three efforts at repair or replacement stretching simultaneously over a period of at least six months, is not able to remedy the defect, the contract partner





shall be entitled to cancellation or price reduction as long as the defect is neither a minor defect nor an immaterial defect that proper use does not prevent. For any minor or immaterial faults that proper use does not prevent neither cancellation nor price reduction are permitted.

Any claims beyond the foregoing (e.g. claims for consequential losses, transport costs, travel allowances or lost profits) are excluded irrespective of their legal basis and in particular within the context of the guarantee undertaking.

Any reimbursement as a consequence of the contract partner undertaking the work itself or having it done by a third party (substitute performance) will not be compensated.

### **34. Special terms if contract partner is not a reseller**

If the contract partner is not a reseller and is identical to the end customer, then these Guarantee and Warranty Guidelines apply subject to the following provisions:

In the event of any deficiencies, the contract partner shall contact PALFINGER directly. PALFINGER will then refer the end customer to a PALFINGER distributor or to a member of the latter's service and sales structure (e.g. a sub-partner or service partner), who will undertake the repair of the defect on PALFINGER's behalf.

PALFINGER shall be liable solely for such defects as are asserted by the contract partner in writing within two weeks upon their emergence, setting a reasonable period of grace. If no notice of defect is delivered or if this is done only belatedly, no guarantee or warranty claim shall exist. If nothing to the contrary arises from the circumstances, a setting of a period of grace of four weeks from the notification of the defect shall be deemed reasonable.

Any defect to the product will be rectified at PALFINGER's discretion either by repair or replacement. If, however, repair or replacement are impossible or associated with disproportionately high expenditure for PALFINGER or if PALFINGER, even after at least three efforts at repair or replacement stretching simultaneously over a period of at least six months, is unable to remedy the defect, the contract partner shall be entitled to cancellation or price reduction as long as the defect is neither a minor defect nor an immaterial defect that does not prevent proper use. For any minor or immaterial defects that do not prevent proper use neither cancellation nor price reduction are permitted.


Any claims beyond the foregoing (e.g. claims for consequential losses, transport costs, travel allowances or lost profits) are excluded irrespective of their legal basis and in particular within the context of the guarantee undertaking.

Any reimbursement as a consequence of the contract partner undertaking the work itself or having it done by a third party (substitute performance) will not be compensated.



## APPENDIX 1: Companies

These Guarantee and Warranty Guidelines apply to the following companies:

<p>Omaha Standard PALFINGER, LLC 3501 S. 11<sup>th</sup> Street Council Bluffs, IA 51501 </p>	
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## APPENDIX 2: Products

These Guarantee and Warranty Guidelines apply to the following products:

PALFINGER Pickup Lifts (PPL)	A small icon of a truck with a lift mechanism, identical to the one in the top left corner.
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**GUARANTEE AND  
WARRANTY GUIDELINES**

**Product specific Guidelines**

**PALFINGER**



## APPENDIX 3: Product specific Guarantee and Warranty Guidelines

# PALFINGER Pickup Lifts (PPL)

### 1. Guarantee and warranty periods

Omaha Standard PALFINGER grants to the contract partner the following guarantee and warranty periods (in each case the condition which occurs first is decisive; wear and tear parts are always excluded):

- 12 months of full guarantee; and
- 36 months of guarantee for the pump and motor unit.
- **Spare Parts** - Omaha Standard Palfinger grants the end customer 6 months of full guarantee.

### 2. Begin of the guarantee period

The guarantee and warranty period begins in general upon handover to the end customer but in no case any later than 6 months upon delivery from PALFINGER to the contract partner.

### 3. Freight Allowance

Transport costs of spare parts supplied and used in a warranty repair will be reimbursed, when properly claimed, as a Freight Allowance, at a flat rate of 10% of the net value of reimbursed parts. Material number FRGHT\_ALW1 must be used on the agreed form when claiming freight allowance.

### 4. Hourly Rate Schedule

For all contracting partners, Omaha Standard Palfinger warranty reimburses at a \$75.00 shop rate for PALFINGER Pickup Lifts (PPL) beginning 2018.

*\*For contracting partners in Canada, the above dollar values are in Canadian Dollars. For contracting partners in United States, Mexico, Central America, Caribbean, and South America the values are in United States Dollars.*

### 5. Travel Cost Reimbursement

Travel expenses can be reimbursed, when properly claimed, in the event that the PALFINGER equipment cannot be returned to the contracting partner for repair.



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Labor: For all contracting partners, PALFINGER warranty reimburses \$60.00/hr\*. Maximum claimable travel labor cannot exceed 3 hours in one direction. Material number ZGA\_TRAVEL must be used on the agreed form when claiming travel time expenses.

Distance Traveled: For all contracting partners, as a minimum PALFINGER warranty reimburses \$0.50/mile\*\* or \$0.50/km\*\* with a maximum of 200 miles or 325 kilometers and a minimum of 20 miles or 35 kilometers in one direction. Material number ZGA\_MILE (when claiming miles) or ZGA\_KM (when claiming kilometers) must be used on the agreed form when claiming mileage expenses.

*\*\*For contracting partners in Canada, the above distance travelled values are in Canadian Dollars and the unit of travel distance must be claimed in kilometers. For contracting partners in United States, Mexico, Central America, Caribbean, and South America the above distance travelled values are in United States Dollars and the unit of travel distance must be claimed in miles.*