



## Terms of use PVS

THESE GENERAL TERMS AND CONDITIONS OF USE PVS ("ANB PVS") FORM PART OF THE USER AGREEMENT WHICH IS ENTERED INTO BETWEEN YOU ("THE CLIENT") AND BRUGG LIFTING AG, WYDENSTRASSE 36, 5242 BIRCH, SWITZERLAND ("BRUGG LIFTING") WHEN YOU DECIDE TO USE PVS. YOU AND BRUGG LIFTING ARE EACH REFERRED TO AS A "PARTY" OR TOGETHER AS THE "PARTIES".

YOU MUST READ AND CONFIRM THIS ANB PVS TO BRUGG LIFTING OR A RESELLER AUTHORIZED BY BRUGG LIFTING BEFORE YOU CAN USE PVS. BY ACCEPTING AND SIGNING A QUOTATION OR RECEIVING AN ORDER CONFIRMATION FROM BRUGG LIFTING OR A RESELLER AUTHORIZED BY BRUGG LIFTING, BY ORDERING A SUBSCRIPTION ONLINE BY CLICKING THE "ACCEPT" BUTTON OF THESE ANB AND/OR BY USING PVS, YOU AGREE TO BE BOUND BY THESE ANB PVS AND THE DOCUMENTS REFERENCED THEREIN. IF YOU DO NOT WISH TO AGREE TO THESE ANB PVS, YOU SHOULD REFRAIN FROM ACCEPTING A QUOTE FROM BRUGG LIFTING OR A RESELLER AUTHORIZED BY BRUGG LIFTING OR FROM ORDERING PVS ONLINE.

IF YOU ARE ACCEPTING THESE ANB PVS ON BEHALF OF ANOTHER PERSON, COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY OR GROUP OF COMPANIES VALIDLY TO THESE ANB PVS.

### A) SERVICES FROM BRUGG LIFTING

#### 1. Object

1.1. The subject of these General Terms and Conditions of Use PVS ("GTC PVS") is the use of the software application Brugg.PVS provided by Brugg Lifting, whereby the users of the customer can access the software application online via the web or via the PVS app for mobile devices available via the relevant web stores in the sense of 'Software-as-a-Service' and have the customer's application-related data stored on the servers of Brugg Lifting or a service provider of Brugg Lifting. This Brugg Lifting offer (including the PVS app for mobile devices) is hereinafter referred to in its entirety as **PVS**.

1.2. PVS is available in various editions, which are outlined in the functional description or other accompanying documents.

1.3. The mutually owed services in relation to the provision and use of PVS result from:

- This **ANB PVS**;
- the subscription (hereinafter referred to as "**Subscription**"), which lists the specific modalities of the purchase of PVS (including the contract term), as selected by the customer during the ordering process in response to an offer or as reconfirmed by Brugg Lifting in the web store after completion of the ordering process;
- the applicable **General Technical Information** for PVS, which is either enclosed with the subscription or available in the currently valid version in PVS or on the Brugg Lifting websites - this document contains, among other things, information regarding system requirements and operating systems and end devices suitable for the use of PVS;

- the applicable **functional description** for PVS, which is either enclosed with the subscription or available in the currently valid version in PVS or on the Brugg Lifting website;
- the additional **Terms of Use**, which (where available) can be accessed directly in PVS or on the Brugg Lifting websites for the information of users;
- the **Privacy Policy of Brugg Lifting or the Brugg Group**.

These GTC PVS as well as all of the aforementioned documents are to be understood as an integral part of the agreement between you and Brugg Lifting regarding the use of PVS (hereinafter referred to in its entirety as the **Usage Agreement**).

#### 2. Scope of PVS

2.1. During the term of the contract, the customer may use PVS in the selected edition in accordance with the provisions of the license agreement.

2.2. Brugg Lifting will provide its services in good faith and with the necessary care and in accordance with generally recognized and customary industry standards. However, 100% availability of the application part of PVS and the infrastructure used for its operation cannot be technically realized - for the operation of the infrastructure by Brugg Lifting (or by its subcontractors), the information set out in the General Technical Information shall apply as guidelines. However, Brugg Lifting endeavors on a 'best effort' basis with the means at its disposal and within the framework of economic efficiency to keep PVS available to a high degree. However, Brugg Lifting reserves the right to carry out maintenance-related interruptions of PVS and thus to temporarily restrict or interrupt the availability in parts or in total. Brugg Lifting endeavors to carry out scheduled maintenance work outside of the



office hours (i.e. Monday to Friday in a window between 8 p.m. and 7 a.m. CET) or at weekends and must be announced accordingly. In contrast, Brugg Lifting can carry out maintenance work that cannot be postponed at any time - such work will also be announced to the customer in advance if possible.

2.3. During the term of the usage contract, Brugg Lifting will keep PVS up to date and useful with regard to the technical and organizational framework conditions, but cannot guarantee that PVS will be free of faults. Brugg Lifting monitors the functionality of PVS on an ongoing basis and eliminates any malfunctions of the operation or the application that it discovers itself or that are reported by the customer on a 'best effort' basis within the scope of technical possibilities. Brugg Lifting is free to address malfunctions that do not significantly restrict the use or functionalities of PVS for the customer not directly, but in one of the subsequent releases of the software application on which PVS is based.

2.4. There is no entitlement of individual customers to a specific design of PVS or to the retention of functions accessible via PVS. Brugg Lifting has the right to adapt PVS and the functionalities and content offered thereunder at any time in order to maintain the quality standard, but also with regard to technical or economic developments. Accordingly, Brugg Lifting is also free to change the functions described in section

1.21.3 listed accompanying documents unilaterally at any time with prior notification to the customer.

### 3. Support

3.1. Brugg Lifting operates a helpdesk for information on the use of PVS and for reporting any faults and malfunctions (**support**), which the Customer can contact by telephone (**hotline**) and e-mail. The support desk is available to the customer Monday to Friday (excluding public holidays at Brugg Lifting's headquarters) between 8.30 am and 5.00 pm CET. The hotline access number will be communicated to the customer separately or is indicated on the Brugg Lifting website.

3.2. Brugg Lifting's support services are aimed at the diagnosis and analysis of reported faults or malfunctions and their rectification (see section 2.3) or maintaining the availability of PVS (see section 2.2). Further services such as implementation support, consulting, implementation of customer-specific requests are not included in the support.

### 4. Further services

For the scope of separately agreed services not covered by this contract of use, the agreement made in the individual case and the information published by Brugg Lifting on its website shall apply conclusively.

## B) RIGHT OF USE AND ACCESS

### 5. Right of use

5.1. Brugg Lifting (a) provides the customer with a defined storage space on a virtual server operated and hosted by Brugg Lifting or a subcontractor; (b) grants the customer the non-exclusive, non-transferable and non-sublicensable right, limited to the duration of the subscription, to use PVS as intended to manage the number of assets listed in the subscription (**right of use**). When purchasing a fee-based

PVS-Edition, the customer's right of use is subject to the timely payment of the applicable usage fees.

The scope of the subscription may change during the term of the contract of use in accordance with section 10.3.

5.2. The right of use includes the right to provide users with access data and to grant them the roles and rights provided for in PVS (e.g. administrator rights, read rights, etc.).

5.3. The Customer shall not be entitled to make PVS available or accessible to third parties outside its own company, either in whole or in part, for a fee or free of charge. This does not apply to PVS editions that explicitly permit the extension of use to companies affiliated with the customer (limited to parent companies, subsidiaries) or the creation of non-Group clients.

5.4. Unless otherwise agreed in writing with Brugg Lifting, this Usage Agreement conclusively regulates the content of the Customer's right of use. Any further use of PVS by the customer is not permitted.

### 6. Password-protected access

6.1. Access to PVS is password-protected via the web portal or via the PVS app for mobile devices. Users can be authorized and assigned roles in PVS by the Client in accordance with Section 5.2. Users can only connect the PVS App to the customer's PVS account if the customer's administrator has granted the corresponding rights and the user has connected their own PVS App to the customer's PVS account upon notification by the administrator.

6.2. The customer undertakes to ensure that the users authorized by him/her do not disclose their access data to unauthorized persons and that they are stored carefully and adequately protected against access by third parties. The customer is responsible for the administration of the users of their own PVS account.

6.3. Brugg Lifting rejects any liability for damages incurred by the customer due to misuse or loss of the access data provided to the respective users or chosen by the users themselves (e.g. user identification, password) or due to incorrect user administration by the customer.

### 7. Intellectual property

The software application on which PVS is based is protected by copyright. All rights to this software application are owned by Brugg Lifting itself and/or Brugg Lifting's contractual partners.

## C) OBLIGATIONS OF THE CUSTOMER

### 8. General

8.1. The customer shall support Brugg Lifting in the preparation and provision of its services to the extent reasonable, necessary and expedient and shall provide Brugg Lifting with all reasonably required services, information, material resources and rights at its own expense and risk.

8.2. The customer is responsible for ensuring that the technical requirements necessary for access to PVS exist and are maintained on his side. The technical requirements regarding the connection to and use of



PVS are based on the system requirements issued by Brugg Lifting in the currently valid version of the General Technical Information. The transfer point for the use of PVS is the router output of the data center used by Brugg Lifting.

8.3. It is the customer's responsibility to take the necessary precautions to secure their own systems. This includes, in particular, the security settings of the browsers used, the installation of a firewall, up-to-date protection software against computer viruses and regular data backups as well as physical access protection.

## **9. Obligation to refrain from unauthorized/avoid potentially harmful use (Acceptable Use)**

9.1. The customer is responsible for ensuring that the use of PVS by the users authorized by him/her (a) does not violate the provisions of the user agreement, the rights of third parties (e.g. B. copyrights, other intellectual property rights, rights of claim of any kind, property rights and other rights in rem as well as personal rights), statutory provisions and/or offends common decency; (b) in no way impairs the functionality of PVS and/or the underlying infrastructure negatively and to the detriment of Brugg Lifting, other users or other third parties.

9.2. The customer is responsible for the content of the information (data in any form) that it or its users record, store, transmit, process and/or make available in PVS. It is and shall always remain the responsibility of the customer to ensure the legally compliant operation of the assets managed via PVS.

9.3. The customer is obliged to ensure that its users check data and information for viruses or other harmful software routines prior to transmission and storage in PVS and to use state-of-the-art protection programs for this purpose.

9.4. Brugg Lifting is entitled to take technical precautions to detect and prosecute or prevent abusive and/or potentially harmful use of PVS. It is also permitted to remove, if necessary, any content that it deems to be in breach of the user agreement, without being held responsible for such removal or the failure or delay to do so. However, Brugg Lifting has no general monitoring or inspection obligations.

9.5. The customer shall indemnify Brugg Lifting against all claims asserted against Brugg Lifting by third parties that are attributable to the use of PVS in breach of contract and/or unlawful use by the customer or by the users ordered by the customer.

## **10. Subscription fees and other remuneration**

10.1. The customer undertakes to pay Brugg Lifting the annual subscription fee specified for the use of PVS in the subscription as well as any other fees resulting from the customer's selection during the ordering process or from a special agreement between the customer and Brugg Lifting. The prices stated in the General Technical Information or in other documents are for guidance only and are without guarantee - the specific agreement between the parties in the respective subscription remains decisive.

10.2. The amount of the subscription fee is generally based on the scope of use stated in the subscription (e.g. number of assets that the customer registers with the help of PVS and that are used by the customer).

then managed). At the end of each year, Brugg Lifting will determine whether the scope of use recorded as the basis for calculating the subscription fee is still accurate for the following year and may adjust it if necessary.

10.3. Brugg Lifting will calculate the subscription fee for each year based on the metric noted in the subscription and invoice the customer retroactively for the entire subscription year at the end of the calendar year. If the subscription begins or ends before the end of the year, the subscription fee will be charged for the actual period of use. Upon termination of the subscription, all outstanding amounts are due for payment.

10.4. The payment period for invoices from Brugg Lifting is 30 days net from the invoice date. The customer must notify Brugg Lifting immediately in writing of any complaints regarding invoices issued.

10.5. The customer acknowledges that in the event of non-payment of an invoice amount or part thereof, which has not been objected to in good faith, the customer is automatically in default upon expiry of the aforementioned period, even without a reminder from Brugg Lifting. In addition to charging the statutory default interest, Brugg Lifting is entitled to suspend the customer's PVS access in the event of default, subject to prior written warning, until the outstanding amount has been paid.

10.6. Unless expressly agreed otherwise, all prices and rates stated in the subscriptions or other contractual supplements or documents are always (a) in Swiss francs and exclusive of charges and other reimbursement of expenses; (b) exclusive of VAT and other applicable charges.

10.7. Brugg Lifting reserves the right to unilaterally adjust all fees and rates relevant to PVS for remuneration on a time and material basis. Brugg Lifting shall give reasonable notice of such adjustments at least four weeks in advance.

## **D) DATA**

### **11. General handling of data**

11.1. Brugg Lifting is obliged to take suitable precautions against loss, compromise and unauthorized access by third parties with regard to the data stored by the customer or its users on the PVS databases. Further details can be found in the functional description.

11.2. The storage volume covered by the usage contract is specified in the General Technical Information. If the storage space is no longer sufficient to store the data, Brugg Lifting will inform the customer in an appropriate manner and, if further storage space is ordered, make it available for an additional fee.

11.3. If the customer or their users request the deletion of certain information in PVS, this data will also be deleted accordingly and permanently.

11.4. Brugg Lifting is entitled to irrevocably delete all data stored in PVS within the scope of the contractual relationship from the PVS databases after 90 days from termination of the user contract without prior warning.

11.5. The customer alone remains entitled to the data stored by the customer or its users on the PVS databases. The customer may therefore request from Brugg Lifting at any time (within the scope of the waiting period pursuant to clause 11.4 also after termination of the user contract) the



demand the return of individual or all data to themselves. Unless otherwise agreed, the data shall be released by exporting it to Excel either by handing over data carriers or by sending it via the data network.

## 12. Personal data

12.1. Both parties shall comply with the applicable data protection and security provisions and the special statutory provisions. The personal data that the customer transmits or makes accessible to Brugg Lifting in the course of using PVS will only be processed by Brugg Lifting to the extent and exclusively for the purposes necessary for the provision of services in accordance with the contract and permitted by law or ordered by the legislator. The privacy policies of Brugg Lifting and the Brugg Group apply in this context.

12.2. In order to process the contractual relationship, Brugg Lifting collects and processes the necessary information about the customer and the users authorized by the customer (customer ID, user details and usage data). Brugg Lifting treats this data confidentially.

12.3. Brugg Lifting is entitled to use the data required for billing, user management and the administration of the products and/or specialist services subscribed to by the customer, such as billing number, name and address as well as the amount of remuneration and the e-mail address, and to pass this data on to any third parties involved in the fulfillment of these tasks.

12.4. Brugg Lifting is permitted to collect and use statistical data on the use of PVS by the customer (in particular with regard to the annual survey of the licensed scope of use).

## E) START OF CONTRACT, TERMINATION, SUSPENSION

### 13. Conclusion and termination of contract

13.1. The subscription/user contract between the customer and Brugg Lifting comes into effect upon acceptance of the offer from Brugg Lifting (in paper form or by confirmation from the customer when ordering online). Access to PVS takes place from the start date specified in the subscription, from which the subscription fee is also charged.

13.2. Both parties may terminate the contract of use at any time at the end of a month by giving three months' written notice.

### 14. Suspension of PVS access

14.1. Brugg Lifting reserves the right to suspend access to PVS as a whole or for individual users without prior notice or to restrict access to certain functions if

- the customer or individual users authorized by the customer repeatedly violate this contract of use;
- the unimpaired operation of PVS is jeopardized due to circumstances that lie within the customer's sphere of risk;
- the customer is in arrears with payment of the subscription fees in accordance with section 10.5.

In the event of such a suspension, Brugg Lifting is not obliged to waive the collection of subscription fees for the period of the suspension.

suspension and is also generally not liable for the consequences of a suspension.

## F) GENERAL PROVISIONS

### 15. Secrecy

15.1. All information, documents, records and data which the parties make available to each other in the course of the provision of the services or of which they become aware in connection with the provision or use of services and which are either considered to be

Information that is marked "confidential" or "secret" or whose confidentiality must be assumed in good faith due to the nature of the information or the circumstances of its provision must be treated confidentially by the respective recipient and adequately protected from access by third parties, whereby at least the same care is taken to protect such information as is taken to protect the recipient's own information of the same or a similar nature. Unless otherwise agreed, confidential information may only be used in connection with the provision or use of the contractual services.

15.2. The obligation to maintain confidentiality shall apply for an indefinite period and shall continue to apply after termination of the contract of use as long as there is a presumed interest in maintaining confidentiality with regard to the specific information. Statutory duties of clarification, information and, above all, disclosure remain reserved.

15.3. The parties shall ensure that all employees and subcontractors and their employees who reasonably require access to confidential information in order to use or provide services under this license agreement or otherwise in connection with the performance of this license agreement are subject either to equivalent contractual confidentiality obligations or to a professional obligation.

### 16. Liability

16.1. The liability of Brugg Lifting and the liability of Brugg Lifting for its auxiliary persons are excluded in full with regard to damages arising in the course of the provision of services in accordance with this contract of use, irrespective of the legal basis. However, this exclusion of liability does not apply to damage caused by gross negligence or intent on the part of Brugg Lifting.

16.2. Brugg Lifting's liability is also excluded or limited, to the extent permitted by law, for

- a) indirect damages and/or consequential damages (such as loss of profit, unrealized savings, additional expenses incurred by the customer, fines levied and/or third-party claims);
- b) Damage attributable to the conduct or omission of the customer and/or users authorized by the customer; and/or
- c) all damages that occur outside the reasonably controllable sphere of control of Brugg Lifting (including force majeure events).

16.3. Brugg Lifting accepts no liability for any PVS editions provided free of charge.





## 17. Varia

17.1. Brugg Lifting is permitted to engage subcontractors to fulfill its obligations under this contract of use.

17.2. Brugg Lifting is entitled to name the customer as a reference verbally or in written publications regardless of the medium (e.g. on websites, in reference lists and sales presentations). For this purpose, Brugg Lifting is permitted to use the customer's company name, logos and/or word and figurative marks, provided that Brugg Lifting complies with the customer's marketing, branding and/or other relevant guidelines communicated by the customer in writing.

17.3. The parties may transfer this license agreement to affiliated companies within the same group of companies. Otherwise, the parties may only transfer rights and obligations arising from this license agreement to third parties with the prior written consent of the other party, except in cases of universal succession in the course of a merger.

17.4. Should one of the provisions of this contract of use prove to be invalid or even void, this shall not affect the validity of the remaining provisions of the contract of use and the validity of the contract of use itself. In such a case, the parties shall adapt the contractual provision in question in such a way that the purpose intended by the invalid or ineffective part is achieved.

is achieved as far as possible. This section shall apply mutatis mutandis if the license agreement is silent on certain essential issues.

17.5. Any amendment, supplement or termination of this contract of use must be made in writing in order to be valid. However, Brugg Lifting reserves the right to make unilateral changes to provisions in accordance with sections 2.4 and 10.7.

17.6. The offsetting of subscription fees or other services invoiced by Brugg Lifting against other claims arising from the business relationship between the parties requires the prior written agreement of the parties.

## 18. Applicable law

This contract of use shall be governed exclusively by **Swiss** substantive **law** to the exclusion of (a) international conventions, including the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) and (b) conflict of laws rules.

## 19. Place of jurisdiction

The exclusive place of jurisdiction for disputes arising from or in connection with the use of PVS is **Brugg (Aargau), Switzerland**.

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