

TERMS AND CONDITIONS

The following terms and conditions apply:

- All pricing is in USD.
- The pricing provided within this proposal is valid for sixty (60) days.
- All invoices are due within net forty-five (45) days of the invoice date, unless otherwise specified. A finance charge of 1.5% per month will be levied on all past due invoices.
- Pricing is predicated on Incoterms 2010 of **EXWORKS** delivery from Plymouth, MI, unless expressly indicated.
- CUSTOMER will be responsible for any and all taxes, duties, value-added tax (VAT), export/import fees, customs, onsite working fees/taxes, and any additional commercial fees that might apply.
- Any changes instituted by the CUSTOMER to the quoted concept or delivery are subject to price revisions at current rates and revised delivery date(s). Bauer must be advised within twenty (20) days of the changes.
- Software or hardware modifications required to accommodate a PCS or PDMS version change, Operating System (MS Windows and/or Microsoft Server) changes or hardware changes (component obsolescence) occurring beyond the 90 days validity period, and which are beyond the control of Bauer Controls, are subject to additional charges.
- Cancellation charges will be based on material, labor, and engineering completed on all work at the time of cancellation, and a cancellation fee to cover administrative costs associated with returning purchased items (for example: phone calls, restocking charges, crating, and compiling the data).
- A minimum of fourteen (14) days' notice must be provided to delay or cancel a Bauer training session to avoid cancellation charges.
- Statistical and endurance acceptance must be completed at the machine builder facility, prior to shipment of the test stations to the customer installation site. Support and installation hours quoted as part of this project are dependent upon receiving statistical and endurance acceptance of the test stand at the machine builder facility. If the test stands are shipped to the customer assembly plant prior to statistical and endurance acceptance, extra charges will apply.
- No support will be provided beyond the acceptance of the machines at the customer installation site, unless purchased separately. Production start-up support is not included in the base offer and will only be provided unless purchased separately.
- Onsite support for test stations at END USER is based on Monday to Friday, 8 hours per day between the hours of 7am to 5 pm daily. No additional overtime, weekend or holiday support is budgeted beyond what is stated within this proposal. Any request to work overtime, weekends or holidays is subject to additional charge

ACCEPTANCE

The deliverable items of this quote are defined on the pricing segment of this document. When items are completed, they will be submitted for acceptance. The machine builder will designate a representative who will have the power of acceptance for this contract.

When an item has been submitted for acceptance, the CUSTOMER will have a period of fifteen (15) days to reply in writing with any deviances found between the actual operation of the item and the performance criteria specified for the item in the specification. If no reply is received within the fifteen-day period, the item is considered accepted.

If an item is not initially accepted, and a list of deviances is supplied, the deviances on the list will be addressed one at a time. When a deviant item is brought up to the performance level specified, the representative of the machine builder will acknowledge, in writing on the deviance list, that the deviance has been satisfied. When all the deviances have been satisfied, the item is considered accepted.

PAYMENT SCHEDULE

The components and services quoted in this proposal will be invoiced in stages "Billpoints". When a stage has been completed it will be submitted, with an invoice, to the CUSTOMER for acceptance. If the builder produces a deviance list for the stage (see ACCEPTANCE), the invoice will be valid when the last item on the list has been satisfied. All invoices will be paid in U.S. dollars.

DELIVERY

At no time will Bauer be responsible for any consequential damages for late, lost, stolen or circumstances that delay delivery from provided estimates.

WARRANTY

The following warranty is included for the quoted system.

Hardware Warranty

Bauer warrants that new hardware delivered by Bauer under this contract will be free of defects in material and workmanship under normal use and service for a period of twelve (12) months after delivery to the customer. Bauer's obligation under this warranty shall not arise until the defective equipment has been returned, freight prepaid, to Bauer's facility or another specified location. Bauer will, at its option, repair or replace the defective component of such equipment free of charge.

Software Warranty

Bauer warrants that qualified personnel will produce the software supplied. Bauer also warrants that, for a period extending until twelve (12) months after final acceptance, the software will perform in accordance with the requirements set forth in the approved System Specification.

This warranty will be null and void if any part or portion of the software system is modified by persons other than Bauer, or without prior written approval of Bauer.

Bauer's software warranty does not extend to third party operating system problems caused by bugs or viruses introduced intentionally or unintentionally, nor to problems created in Bauer software due to the virus or the solution provided for the virus. The user is responsible for implementing a network design, procedures, processes, and protection to prevent the operating system software running Bauer applications from being contaminated. If Bauer is requested to assist in resolving contamination problems that do occur, Bauer will provide support, if available, and charge for that support on a time and materials basis. Bauer's support will be limited to assisting in resolving the problem to the extent of our abilities. This does not include solving the root cause.

Limitations on Warranty

THE WARRANTY SET FORTH ABOVE DOES NOT APPLY TO: Equipment or Software which has been repaired or altered by other than Bauer's personnel, unless the equipment has been properly altered or repaired in accordance with procedures previously approved in writing by Bauer, and/or Equipment or Software that has been subject to misuse, neglect, or accident.

NOTE:

To perform Bauer warranty support, Bauer requires high-speed remote access to the Bauer PCS and Host Systems. This needs to be either a cable modem or SSL VPN service. If high speed remote access is not provided, the Bauer response to questions and problems is severely limited. Bauer expects that provision of this access will be implemented by HTP Transmission with the same priority as that expected of Bauer in executing the services we provide as part of this project.

BAUER MAKES NO OTHER WARRANTY OR REPRESENTATION OF ANY KIND, WHETHER WRITTEN, ORAL, OR IMPLIED, EXCEPT THAT OF TITLE, AND ALL IMPLIED WARRANTIES OF FITNESS FOR PURPOSE OR MERCHANTABILITY ARE HEREBY DISCLAIMED.

LIMITATIONS OF LIABILITY

In no event shall Bauer be liable for special or consequential damages, whether or not the possibility of such damages has been disclosed to Bauer in advance or could have been reasonably foreseen by Bauer. In the event this limitation of damages is held unenforceable, then by reason of the difficulty in foreseeing possible damages, all liability to purchaser shall be limited to the purchase price of the item of this contract upon which such liability is based as liquidated damages and not as penalty.

COPYRIGHTS

The Bauer Production Data Management System (PDMS) and PCS control system software (the Software) provided to the end user/customer for this project contains valuable proprietary and confidential information and trade secret materials and is subject to copyright protection. Bauer is also committed to providing the customer the capability to maintain and modify the PDMS and PCS test software to meet their changing requirements. In order to provide this capability while protecting Bauer's proprietary rights, the Software will be broken down into two categories (user class software modules and licensed software modules), and the restrictions vary by category. The categories are described below.

User Class Software Modules

The user class software modules determine the unique user specific operation of the test software and hence the test station controller. The user class software modules include:

Test Station Controllers and Workstations including: custom windows, custom test steps, custom scanned procedures, safety conditions, PLC communications, custom maintenance mode/windows, test limits, test step parameters, model parameters, station parameters, custom RF tag and barcode formats, configuration tables, I/O configuration, project preferences, recording templates, PCS.INI

PDMS Applications/PDMS Database Servers including: PCS.INI, BAUER.INI

PDMS Report Stations including: Custom displays and reports, BAUER.INI

PDMS Repair Stations including: custom RF tag and barcode formats, configuration tables, configuration, project preferences, PCS.INI, BAUER.INI

The user class software modules will be supplied in both machine executable and source code form to the Customer. At the conclusion of the project and, after full and final payment, Bauer will place no restrictions on their use and distribution. The user class software modules may contain techniques and routines developed on previous projects with other customers, and Bauer retains the right to use techniques and routines from user class software modules in future projects with other customers without restriction or limitation. Modification of the user class software modules by the customer is expected, and telephone support for the customer programmers who will be maintaining the user class software modules will be provided as part of this project. However, Bauer cannot be responsible for the correct and safe operation of modified user class software modules or of a system containing modified user class software modules.

Licensed Software Modules

The licensed software modules comprise the Bauer licensed software products. They will be supplied in machine-executable form to the Customer. These modules will include the following:

Test Station Controllers and Workstations, including: PCS, standard apps, standard editors, O'scope, standard windows, basic auto, detail auto, manual, standard test, mode change handling, automatic cycle handling, manual cycle handling, test result displays, standard test steps, standard ECM/PCM/TCM communications.

PDMS Applications II/s and Database, including: PCS, all systems class modules

PDMS Report Stations, including: all standard displays and reports

PDMS Repair Stations, including: PCS, all systems class modules
Bauer reserves any and all proprietary rights, ownership, and title including, but not limited to copyrights, patents, trade secrets, and confidential information in the Bauer licensed software products including: software, manuals, and designs. Other software purchased by Bauer and included in the Bauer licensed software products remains the exclusive property of the original manufacturer(s) and is subject to their proprietary and ownership rights. Upon signing of a written license, Bauer will grant the Customer a nonexclusive, nontransferable license to use the Bauer licensed software products, subject to the following conditions: the Customer shall not install and operate more than the authorized number of copies of the licensed software, provide use of the software to anyone other than the Customer, remove the copyright notices from the software, reverse-engineer the software, sublicense, sell, lend, give or share the software with any third party not approved by Bauer.

Source Code for Licensed System Modules

Bauer recognizes that the Customer has a large investment in the test equipment that will be operated by licensed software. Bauer also feels that there are definite advantages in the areas of initial cost and the on-going development that Bauer is currently investing in its software products that can be realized by the Customer if these software products are licensed rather than purchased with 100 percent rights.

In order to maintain that advantage while protecting the Customer investment, Bauer will make the following agreements with respect to the source code of the licensed modules:

Bauer will maintain copies of source code for the licensed modules running in "stabilized" form on current the Customer systems. (Stabilized form is interpreted to mean software that has been running for 30 days on the Customer computers without objectionable defects.) This source code will be stored on IBM PC-compatible magnetic media, either high-density floppy disk, magnetic tape data cartridge, or CD/DVD and kept in a safe and secure place. With the source code will be kept a programmer's manual containing a description of the software structures, its operation, and instructions for creating an executable form from the source code modules.

Bauer will deliver to the Customer the source code for the licensed modules currently running on the Customer systems under the following circumstances: Bauer ceases to do business; Bauer ceases to market and support the products licensed to the Customer.

In the event that an outside 3rd party purchases a controlling interest in Bauer (51 percent or greater of voting stock), the Customer will have the right to obtain the source code for licensed modules currently running on the Customer systems. The Customer may or may not exercise this right, depending upon how well the new owners are perceived to be performing as a supplier or sub-supplier to the Customer. The Customer will have 180 days from receiving notification of this event to determine if this right will be exercised.

In the event that source code for licensed modules is supplied to the Customer, the Customer's use will be restricted to operating the software on the test equipment for which the licenses were initially purchased. If the Customer wants to use the licensed modules on additional test equipment, they may do so by paying the per-machine licensing fee last paid by the Customer to Bauer for the modules in question. The licensing fee will be paid to the party currently holding the rights to the Bauer product for which the Customer obtains the source code. Under no circumstance will obtaining source code entitle the Customer to distribute or sell the licensed software outside of the Customer facilities.

In the event that the Customer does obtain source code for licensed modules, as outlined above, Bauer will no longer recognize any liability or responsibility for the operation of those systems for which those modules are a part.

SERVICES BEYOND THE SCOPE OF THIS PROPOSAL

The prices quoted in this proposal are for a control and data acquisition system that meets the requirements as disclosed to Bauer. In the event that services are required in addition to those outlined, pricing for those services will be:

In-House or Local \$105/hour

Any 8-hour shift between 7am – 6pm Monday through Friday

Domestic Travel (Out-of State, Overnight) \$115/hour

Any 8-hour shift between 7am – 6pm Monday through Friday when an overnight stay is required.

International Travel \$131/hour

Any 8-hour shift between 7am – 6pm Monday through Friday when international travel is required.

Overtime \$158/hour

Any 8-hour shift (6:00 p.m. - 7:00 a.m.) Monday through Friday, 8:00 a.m. - 5:00 p.m. shift only Saturday

Double-Time \$209/hour

After 5:00 p.m. Saturday, Sunday or official U.S. holiday

Rates for on-site support do not include expenses. Travel and lodging expenses are additional and will be invoiced on a per-person basis.

The Bauer response to support requests will depend upon the nature of the request and the scheduling issues at Bauer at the time of the request. All additional support required would be billed at the rate in effect at the time of day the support is provided. If a response is required between 5:00 p.m. and 8:00 a.m. during weekdays, between 5:00 p.m. Friday and 8:00 a.m. Monday, or for anytime during a holiday, Bauer must be notified at least three (3) days in advance. Any support provided during these off-shift periods will be subject to a minimum charge of \$1,200.

Materials

Customer will be charged as materials are ordered.

Spare Parts

Spare parts for hardware in this quotation may be ordered directly through Bauer. There is a \$500 minimum order policy in effect.