



Purchase Application Form

Fax Form To Silver Alexander at 818-361-5102.

Date:

First Order? Yes No

Bill to Information

Contact Name:	
Company Name:	
Street Address:	
City and State*:	
Postal Code & Country:	
Telephone:	Fax:
Customer's Purchase Order Number (if applicable):	
E-mail Address:	

Ship to Address: (If shipping address is different than above, please write it below)

Contact Name:	
Company Name:	
Street Address:	
City and State*:	
Postal Code & Country:	
Telephone:	
Shipping Company and Account Number (see Note 3):	
<i>*If Located in California, include Tax Exemption Certificate Number (if applicable):</i>	

Items Requested for Purchase (see Notes 1, 2 and 3)

Part Number	Efficiency	Item Description	Quantity Requested	Unit Price US\$	Total US\$
Product Division: (Internal use only)		Total (Spectrolab to Add Tax & Shipping if Applicable):			

Export Regulations Compliance: *(see Note 4)*

Spectrolab's products are subject to either the U.S. Department of State's International Traffic in Arms Regulations or the U.S. Commerce Department's Export Administration Regulations. Accordingly, it is necessary that the following information be completed prior to advancing to the next phase of this enquiry.

Country of Ultimate Destination:
Ultimate End User:
Is End User A US Person? <i>(see Note 4)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No
Ultimate End Use:
Check one: <input type="checkbox"/> Business Use <input type="checkbox"/> Personal Use

Credit Card Information *(see Note 5 & 6)*

Name on Credit Card:
Credit Card Number:
Credit Card Types Accepted <i>(see Note 6)</i> : <input type="checkbox"/> Visa or <input type="checkbox"/> M/C Expiration Date:

Spectrolab Terms and Conditions of Sale

Spectrolab's Terms and Conditions of Sale (attached to this document) apply exclusively to this purchase request and subsequent order(s). Delivery is EXWORKS, Sylmar, California, USA.

Note 1: The price indicated herein **DOES NOT** include shipping, handling and/or insurance costs, which will be added to the invoice, and charged to your credit card, as required.

Note 2: Shipping rates include handling, freight and insurance. Shipment can be made through Federal Express (Priority Next Day delivery) or UPS Ground. For international shipments, the best method of shipment will be selected and charged at the time of delivery.

Note 3: Providing a FedEx, UPS or other shipping account number will help expedite delivery.

Note 4: US Person is defined as a natural person, a US citizen or a person holding a resident Alien Card (also known as a Green Card), who is a lawful permanent resident as defined by §USC 1101(a)(20) or who is a protected individual as defined by §USC 1324b(a)(3)

Note 5: If you prefer to call-in your credit card number, please contact Melanie Blakely, Spectrolab's Credit Card Processor at (818) 898-2805 and provide her with your information.

Note 6: Spectrolab only accepts VISA or MasterCard.

Comments: *(write on extra sheets of paper if necessary)*

Signature of Customer: _____

TERMS AND CONDITIONS OF SALE FOR SPACE PHOTOVOLTAICS PRODUCTS**1. Entire Contract**

This document, including attachments, contains all of the terms and conditions of sale of Spectrolab products and supersedes the terms and conditions of any purchase order and all prior or contemporaneous understandings, representations or warranties (including those contained in sales, promotional and/or marketing materials). All other terms and conditions are hereby rejected.

2. Delivery

- 2.1 Delivery shall be FOB Spectrolab's factory (for international sales transactions, delivery shall be FCA Spectrolab's factory [INCOTERMS 2000]).
- 2.2 Spectrolab may make partial and advance deliveries.
- 2.3 Spectrolab will notify Customer if a scheduled delivery is expected to be delayed more than 15 days. If Customer requests, Spectrolab will arrange for shipment by premium transportation, and if the delay is not excused will pay the additional shipping cost.
- 2.4 At Spectrolab's option, Customer may be invoiced for additional costs incurred by Spectrolab due to delays in delivery caused by Customer, including costs of storage and insurance.

3. Packaging and Shipment

- 3.1 Spectrolab will package and arrange for shipping according to customary standards.
- 3.2 Customer will be invoiced for the costs of shipping and special packaging.
- 3.3 If applicable, Spectrolab shall apply to the U.S. Government for authority to export the products. Customer shall be responsible for obtaining from any other government any required permission to import the products. Customer shall use its best efforts to assist Spectrolab in obtaining U.S. Government export licenses if Spectrolab requests such assistance. Customer assumes the risk that such export licenses and permission shall be obtained and shall remain in effect. If any required export license or permission is not obtained or is withdrawn or not extended, Spectrolab may terminate the order or portion thereof affected thereby.

4. Security Interest

- 4.1 Spectrolab shall retain a purchase money security interest in the products and in any sums due or paid to Customer therefor by any third party, until Customer has paid the purchase price to Spectrolab in full. Customer shall cooperate with Spectrolab in taking whatever actions are reasonably necessary to perfect and maintain the security interest.
- 4.2 If Spectrolab requests, Customer shall insure the Products in the full amount of the security interest against all loss, damage or destruction from the time the

Products are delivered to the FOB/FCA point until the security interest is removed.

- 4.3 If Customer is in default of any obligation hereunder, or if a proceeding in bankruptcy, dissolution, liquidation, insolvency, receivership or reorganization is instituted by or against Customer, Customer's property or business, Spectrolab shall have the right to declare the unpaid balance owing under any orders to be immediately due and payable, and to take immediate possession of the products or any portion thereof without demand, further notice or legal process.

5. Prices

Unless guaranteed in a written quotation, all prices are subject to change without notice and all sales will be invoiced at prices in effect on the date Spectrolab accepts Customer's order.

6. Letters of Credit

At Spectrolab's option, Customer shall establish confirmed and irrevocable letters of credit in favor of Spectrolab at a financial institution selected by Spectrolab in the amount of the total order price less any initial payments previously made. Letters of credit shall be valid until all payments under the order are made to Spectrolab. Letters of credit shall specifically instruct the financial institution to make payment to Spectrolab in U.S. dollars against the letters of credit in accordance with the terms hereof. Such payments are to be made upon demand, without delay and without the necessity of any judicial or administrative action. If the validity of any letter of credit expires prior to completion of all payments under the subject order, at Spectrolab's request Customer shall arrange for the validity of such letter of credit to be extended for an appropriate period. All charges related to letters of credit established hereunder shall be paid by Customer.

7. Invoicing and Payment

- 7.1 Spectrolab shall issue an invoice for any initial payment on the date an order is accepted, and an invoice for the balance of the order price on the date it makes delivery. If Customer causes a delay in delivery, Spectrolab, at its option, may issue its invoice at any time on or after the scheduled delivery date.
- 7.2 Payment in U.S. dollars is due in full within 30 days following the invoice date. Invoiced amounts are not subject to reduction by set-off or otherwise, without the express, prior written consent of Spectrolab.
- 7.3 If Spectrolab believes Customer's financial condition does not justify delivery on the terms of payment above, Spectrolab may require full or partial payment in advance, stop delivery of products in transit, reclaim products upon demand or terminate any order or any portion thereof.

TERMS AND CONDITIONS OF SALE FOR SPACE PHOTOVOLTAICS PRODUCTS**8. Taxes and other Assessments on Sales**

- 8.1 Product prices do not include taxes, excises and other assessments on sales, which shall be invoiced to Customer.
- 8.2 If Customer provides a copy of a resale or other tax exemption certificate, Spectrolab shall not invoice Customer for taxes covered by such certificate.
- 8.3 Customer shall indemnify, hold harmless and, at Spectrolab's option, defend Spectrolab at Customer's expense against all liability for any taxes or assessments, plus any interest, fines and penalties, assessed by any governmental entity, which are not paid in reliance upon an exemption certificate or a representation by Customer that they are not applicable to the sale.

9. EXCLUSION OF LIABILITIES

- 9.1 Spectrolab makes no warranty or agreement, express or implied, to or for the benefit of any person or entity other than Customer concerning the performance of the space products sold hereunder. Customer shall indemnify and hold harmless Spectrolab and its affiliates and subcontractors from and against any loss, damage, liability or expense (including attorneys' fees and other expenses of investigating or defending claims) resulting from (i) and representation made by Customer to any third party relating to this Contract; (ii) any claim of any third party, whether or not such third party deals with or through Customer (including customers or insurers) or any agency or other governmental authority of Customer's country; or (iii) any other claims relating to the products and arising after the launch of the spacecraft onto which the products delivered under this Contract are installed.
- 9.2 **DISCLAIMER AND RELEASE. THE WARRANTIES, CONDITIONS, REPRESENTATIONS, OBLIGATIONS AND LIABILITIES OF SPECTROLAB AND REMEDIES OF CUSTOMER SET FORTH IN THIS CONTRACT, ARE EXCLUSIVE AND IN SUBSTITUTION FOR, AND CUSTOMER HEREBY WAIVES, RELEASES AND RENOUNCES ALL OTHER WARRANTIES AND OTHER OBLIGATIONS AND LIABILITIES OF SPECTROLAB, AND ANY OTHER RIGHTS, CLAIMS AND REMEDIES OF CUSTOMER AGAINST SPECTROLAB, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO:**
- A) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS;
- B) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE;
- C) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF SPECTROLAB; AND

- D) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OF OR DAMAGE TO ANY PROPERTY OF CUSTOMER, INCLUDING WITHOUT LIMITATION ANY PHOTOVOLTAIC PRODUCTS.
- 9.3 EXCLUSION OF CONSEQUENTIAL AND OTHER DAMAGES. SPECTROLAB SHALL HAVE NO OBLIGATION OR LIABILITY, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF BOEING, OR OTHERWISE, FOR LOSS OF USE, REVENUE OR PROFIT OR FOR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES WITH RESPECT TO ANY NONCONFORMANCE OR DEFECT IN ANY SOLAR CELLS, PANELS OR OTHER THINGS PROVIDED UNDER THIS CONTRACT OR RESULTING FROM ANY OTHER BREACH OF THIS CONTRACT.
- 9.4 WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF SPECTROLAB EXCEED THE AMOUNT PAID BY CUSTOMER TO SPECTROLAB UNDER THIS CONTRACT.
- 9.5 DEFINITIONS. For the purpose of this section, "SPECTROLAB" includes The Boeing Company, its divisions, subsidiaries, the assignees of each, subcontractors, suppliers and affiliates, and their respective directors, officers, employees and agents.
- 9.6 NEGOTIATED AGREEMENT. Customer and Spectrolab agree that this section has been the subject of discussion and negotiation and is fully understood by the parties, and that the goods and services and the other mutual agreements of the parties set forth in this Contract were arrived at in consideration of each of such provisions, specifically including this Section.

10. Excuse of Performance

Spectrolab shall not be liable for failure to perform any of its obligations due to causes beyond its reasonable control. Such causes shall include, but shall not be limited to, such things as fire, flood, earthquake or other natural disaster, war, embargo, riot, the intervention of any governmental authority, strikes (regardless of the characterization thereof), labor slowdowns or walkouts, shortages of labor, material or transport, and failures of suppliers to deliver in accordance with the terms of their contracts.

11. Default

If Customer defaults in the performance of any obligation or if Customer prevents Spectrolab from performing any obligation for a period of 90 days or longer, in addition to any other remedies available under applicable law, Spectrolab may terminate the affected orders or any part thereof.

TERMS AND CONDITIONS OF SALE FOR SPACE PHOTOVOLTAICS PRODUCTS**12. Waivers**

Spectrolab's election not to enforce any provision hereof or of any order issued hereunder shall not be construed to be a continuing waiver and Spectrolab reserves the right subsequently to enforce such provision unless it agrees otherwise in writing.

13. Modification

Any modification or departure from these terms and conditions, including an agreement to accept Customer's terms and conditions of purchase, shall be valid only if in writing and signed by an authorized representative of Spectrolab.

14. Proprietary Information

Customer shall keep in confidence and shall take reasonable and appropriate measures to safeguard any data, such as specifications, drawings, software and information (including, without limitation, designs, reports, software documentation, manuals, models, process information and the like), revealed by Spectrolab and containing proprietary information marked or identified as proprietary. Such data shall not be duplicated, disclosed to others or used other than with respect to a purchase from Spectrolab without Spectrolab's written permission. These obligations shall not apply to any information which becomes generally available to the public other than as a result of a disclosure by Customer, or was available to Customer on a non confidential basis prior to its disclosure to Customer by Spectrolab, or becomes available to Customer on a non confidential basis from a source other than Spectrolab, provided that such source is not prohibited from disclosing such information to Customer by a contractual, legal or fiduciary obligation to Spectrolab. This obligation shall survive the expiration, cancellation or termination of any order subject to these terms and conditions.

15. Export Restrictions

Customer represents and warrants that no hardware or technical data which may be subject to the International Traffic in Arms Regulations or the Export Administration Act, furnished to it by Spectrolab shall be disclosed to any foreign national, firm or country, including foreign nationals employed by or associated with Customer, nor shall any such hardware or technical data be exported from the United States, without first complying with all requirements of the International Traffic in Arms Regulations and the Export Administration Regulations, including the requirements for obtaining any export license, if applicable. Customer shall first obtain the written consent of Spectrolab prior to submitting any request for authority to export any such hardware or technical data.

16. Dispute Resolution

Spectrolab and Customer will cooperate with each other and will work together in good faith to resolve any disputes between them. If Spectrolab and Customer are unable to resolve a dispute despite such good faith, cooperative efforts, in lieu of litigation the parties will utilize arbitration in Los Angeles, California in accordance with the commercial arbitration rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Under no circumstances shall the arbitrator(s) be authorized or empowered to award punitive or multiple damages to either party. The award shall be final and binding, shall be the sole and exclusive remedy regarding any and all claims and counterclaims presented, and may not be reviewed by or appealed to any court except for purposes of enforcement.

17. Applicable Law

The validity and interpretation of these terms and conditions and performance hereunder shall be governed by the laws of the State of California, United States of America, without resort to California's conflict of laws rules and excluding the United Nations Convention on Contracts for the Sale of Goods.

18. Warranty

- 18.1 Spectrolab warrants that on the date of delivery, its solar cells and panels ("Products") shall meet applicable specifications, be free from defects in material and manufacture and to the extent manufactured to Spectrolab's designs, be merchantable.
- 18.2 Term: This warranty shall apply to defects that appear within one year from the date Products are delivered. Replaced Products are warranted as new. Warranty repairs performed by Spectrolab are warranted hereunder for the remainder of the original warranty period applicable to the repaired Product or, if longer, for 90 days from the date such repairs are completed.
- 18.3 Remedy: The sole and exclusive remedy for defective Products shall be repair, replacement, credit, or refund, and payment and/or reimbursement of shipping costs, as provided in section 7 of this warranty.
- 18.4 Limitation of Liability: In no event shall Spectrolab be liable for indirect, incidental, special or consequential damages hereunder, whether arising in tort, contract or otherwise. Spectrolab's maximum aggregate liability for all other damages for which liability is not or cannot be disclaimed or limited shall not exceed the price paid to Spectrolab for the Product that is the subject of the damage claim.
- 18.5 Exclusions: Products are extremely fragile, are easily damaged and must be handled with extreme care. Therefore, this warranty does not cover damage occurring during shipment, storage, handling, installation, or testing. Additionally, this warranty does not cover damage caused by abuse, accident, application or operation other than for

TERMS AND CONDITIONS OF SALE FOR SPACE PHOTOVOLTAICS PRODUCTS

the Product's intended purpose, failure to perform maintenance or repairs, extreme environmental condition, the malfunction of another component or part of any device in which the Product is installed or with which the Product interfaces, or to Products which have been modified or repaired other than by Spectrolab.

- 18.6 Entire Warranty; Disclaimer of Implied Warranties: THIS WARRANTY IS THE EXCLUSIVE WARRANTY GIVEN BY SPECTROLAB ON THE PRODUCTS AND SUPERSEDES ALL PRIOR OR CONTEMPORANEOUS, CONTRARY OR ADDITIONAL REPRESENTATION, WHETHER ORAL OR WRITTEN. SPECTROLAB HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY (EXCEPT AS GIVEN IN PARAGRAPH 1), FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND OF PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT. THE TERM OF ANY IMPLIED WARRANTY WHICH APPLICABLE LAW DOES NOT PERMIT SPECTROLAB TO DISCLAIM IS LIMITED TO THE TERM OF THE EXPRESS WARRANTY GIVEN HEREIN.
- 18.7 Warranty Claim Procedure:
- 18.7.1 Customer shall give Spectrolab written notice of a warranty claim within ten (10) business days of its discovery of the claimed defect.
- 18.7.2 Customer shall allow Spectrolab or Spectrolab's representatives to examine the Products claimed to be defective and shall furnish all reasonably available information concerning the circumstances under which the defect became apparent.
- 18.7.3 If Spectrolab determines that it is practical and preferable for a Product to be returned to Spectrolab for examination or warranty adjustment, Spectrolab will issue Customer a return authorization number. The return authorization number shall be placed conspicuously on the outer package shipping label. Returned Products shall be accompanied by a written description of the reasons for return, the circumstances under which the defect became apparent and the date the defect occurred or, if not known, the date the defect was discovered. Products shall be returned to Spectrolab's facility shipping charges pre-paid. Spectrolab shall reimburse Customer for those shipping charges if the returned Products are found to be defective and the defects are covered by this warranty
- 18.7.4 If a Product is found not to be defective, no warranty adjustment shall be made. If the Product has been returned to Spectrolab, Spectrolab shall ship it back to Customer and invoice Customer for the costs of testing and return shipment. The risk of loss, damage and destruction of such Product shall remain with Customer

except while such Product is at Spectrolab's facility and under Spectrolab's control.

- 18.7.5 If a Product is found to contain a defect which is not covered by this warranty, Spectrolab shall provide a written quotation showing the estimated cost of repair or the price of a replacement. If the Product has been returned to Spectrolab and Customer does not provide instructions as to disposition within thirty (30) days from its receipt of the estimate or quotation, Spectrolab shall ship the Product back to Customer and invoice Customer for the costs of testing and return shipment. The risk of loss, damage and destruction of such Product shall remain with Customer except while such Product is at Spectrolab's facility and under Spectrolab's control.
- 18.7.6 If a Product is found to be defective and the defect is covered by this warranty, Spectrolab shall, at its option and at no charge to Customer, repair or replace the Product or offer the Customer the choice of a refund or credit in the amount of the purchase price paid for it. If the Product has been returned to Spectrolab, following the repair or replacement, Spectrolab shall ship the Product back to Customer at Spectrolab's expense. The risk of loss, damage and destruction of such Product shall remain with Spectrolab until the Product or a warranty replacement is received by Customer.

19. Waiver of Subrogation

Customer waives and shall cause its insurer(s) to waive all rights of subrogation against Spectrolab and against Spectrolab's directors, officers, agents, servants, subsidiaries, affiliates, subcontractors, employees and assignees, with respect to all rights, obligations, remedies and claims under, or related to, or arising from this Contract, including all work performed, deliverables, or liabilities of any kind whatsoever, whether sounding in Contract or in tort (including, but not limited to, negligence), to the fullest extent authorized by law.