

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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In the Matter of)	
)	
DYNA-E INTERNATIONAL, INC.,)	DOCKET NO. 9336
a corporation, and)	
)	AGREEMENT CONTAINING
GEORGE WHEELER,)	CONSENT ORDER
individually and as an officer)	
of Dyna-E International, Inc.)	
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This agreement, by and between Dyna-E International, Inc., a corporation, and George Wheeler, individually and as an officer of Dyna-E International, Inc. (“respondents”), having been represented by counsel, and counsel for the Federal Trade Commission (“Commission” or “FTC”), is entered into in accordance with the Commission’s Rule governing consent order procedures. The parties hereby agree that:

- 1.a. Respondent Dyna-E International, Inc. is a Nevada corporation with its principal office or place of business at 115-11 227th Street, Cambria Heights, New York 11411.
- 1.b. Respondent George Wheeler is an officer of Dyna-E International, Inc. Individually or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices alleged in this complaint. His principal office or place of business is the same as that of Dyna-E International, Inc.
2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of Section 5(a) of the Federal Trade Commission Act.
3. Respondents admit all the jurisdictional facts set forth in the Commission’s complaint in this proceeding.
4. Respondents waive:
 - a. Any further procedural steps;
 - b. The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law;

- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the Commission's complaint, or that the facts as alleged in the Commission's complaint, other than the jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information about it public. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the decision containing the agreed-to order to respondents' address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

- 1. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

2. “Competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

3. “Is degradable, biodegradable, or photodegradable” shall mean that the entire product or package will completely decompose into elements found in nature within a reasonably short period of time after customary disposal.

4. Unless otherwise specified, “respondents” shall mean Dyna-E International, Inc., a corporation, and its successors and assigns, and its officers, agents, representatives, and employees; and George Wheeler, individually and as an officer of Dyna-E International, Inc.

I.

IT IS ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or package, in or affecting commerce, shall not represent, in any manner, expressly or by implication:

- A. That any such product or package is degradable, biodegradable, or photodegradable, unless the representation is true, not misleading, and, at the time it is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; or
- B. That any such product or package offers any other environmental benefit, unless the representation is true, not misleading, and, at the time it is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Commission for inspection and copying:

- A. All advertisements, labeling, packaging and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation;

- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. All acknowledgments of receipt of this order, obtained pursuant to Part III.

III.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall notify the Commission at least thirty (30) days prior to any change with regard to Dyna-E International, Inc. or any business entity that any respondent directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this order, including but not limited to formation of a new business entity; a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the business or corporate name or address. Provided, however, that, with respect to any proposed change about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent George Wheeler, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of any change in his residence, of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include, as appropriate, respondent's new residential address and telephone number, new business address and telephone number, and a description of the nature of the business or employment and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondent Dyna-E International, Inc., and its successors and assigns, and respondent George Wheeler shall, within sixty (60) days after the date of service of this order file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form in which they have complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, each respondent shall submit additional true and accurate written reports.

VII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such

dismissal or ruling is upheld on appeal.

Signed this _____ day of _____, 20____

FEDERAL TRADE COMMISSION

DYNA-E INTERNATIONAL, INC.

MICHAEL J. DAVIS
LAURA SCHNEIDER
Counsel for the FTC

By: _____
GEORGE WHEELER
President
Dyna-E International, Inc.

By: _____
GEORGE WHEELER, individually
and as an officer of Dyna-E International

JASON C. KRAVITZ
Nixon Peabody, LLP
Counsel for respondents

APPROVED:

JAMES A. KOHM
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Division of Enforcement

DAVID C. VLADECK
Director
Bureau of Consumer Protection