

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30<sup>TH</sup> JUDICIAL CIRCUIT  
INGHAM COUNTY

JENNIFER M. GRANHOLM  
Attorney General of the State of Michigan  
on Behalf of the People of the State of Michigan

Plaintiff,

v

File No. 01-93750-CP  
Hon. Lawrence M. Glazer

LEVEL PROPANE GASES, INC., and  
WILLIAM H. MALOOF,  
Jointly and Severally,

Defendants.

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**CONSENT DECREE**

At a session of said Court held in the  
City of Lansing, County of Ingham, Michigan  
this 6th day of November, 2001.

PRESENT: HONORABLE LAWRENCE M. GLAZER  
Ingham County Circuit Court Judge

**I. PREAMBLE**

1.1 Plaintiff Jennifer M. Granholm, Attorney General of the State of Michigan, on behalf of the People of the State of Michigan, commenced this action on June 12, 2001, pursuant to the Michigan Consumer Protection Act (MCPA), MCL 445.901 *et seq.*

1.2 Defendant Level Propane Gases, Inc. ("Level"), and Defendant William H. Maloof ("Malooof"), acknowledge that each has been served with the Summons and Complaint. The entry of

this Consent Decree by Level and Maloof is neither an admission of liability with respect to any issue dealt with in this Consent Decree nor is it an admission or denial of any factual allegations or legal conclusions stated or implied herein.

1.3 Level and Maloof represent and warrant that they are represented by the undersigned legal counsel and corporate officers, that they are advised of s their legal rights, and that the persons signing below are fully authorized to act on behalf of Defendants.

1.4 Level and Maloof recognize and state that this Consent Decree is entered into voluntarily and that no promises have been made by the Attorney General's Office or any member, officer, agent or representative thereof, to induce Level or Maloof to enter into this Consent Decree, except as provided herein.

1.5 Level and Maloof each waive any and all rights to trial or other adjudication of any issue of law or fact and each waives any right that either may have to appeal from this Consent Decree.

## **II. JURISDICTION**

2.1 This Court has jurisdiction of the subject matter of this action pursuant to the MCPA, as well as personal jurisdiction over Level. Level and Maloof waive all objections and defenses that either may have with respect to jurisdiction of the Court or to venue.

## **III. PARTIES BOUND**

3.1 This Consent Decree shall apply to and bind Level its shareholder(s), officers, directors, agents, servants, employees, subsidiaries, successors or assigns, or any person or entity acting through any corporation or other propane businesses whose acts, practices, or policies are, in any respect,

directed, formulated or controlled by Level or Maloof.

3.2 Level and each of its directors, officers, and managers shall immediately inform Level employees, or representatives in a supervisory capacity of the existence, and terms and conditions, of this Consent Decree and shall direct those persons and/or entities to comply with this Consent Decree. Level shall certify in writing to the Plaintiff within sixty (60) days of the entry of this Consent Decree that it has specifically informed its telemarketers, customer service representatives, drivers and all personnel having responsibility for sales, credit and accounting issues of all relevant prescriptive and injunctive matters addressed in this Consent Decree. The certification shall describe in detail the efforts undertaken to inform and train such employees and representatives.

3.3 In the event Level or its stock is sold, transferred or conveyed, or Level is merged into another entity, this Consent Decree and the obligations contained therein shall be expressly referenced and incorporated within the documents transferring or merging Level, or transferring its stock and the successor will be legally obligated under this Consent Decree.

#### **IV. DEFINITIONS**

4.1 As used in this Consent Decree and any injunctive provision made under it, the following terms shall have the following meanings:

A. "Advertisement" means any oral, written, graphic, electronic or pictorial statement or representation directed to consumers in the course of business, regardless of the medium of communication employed.

B. “Budget plan” means consumers are required to pay for propane in not less than six (6) equal monthly installments in advance of delivery of propane in exchange for the opportunity to purchase propane on a fixed payment schedule.

C. “Business Day(s)” means Monday through Friday of any given week.

D. “Calendar Day(s)” means Sunday through Saturday of any given week.

E. “Clear, conspicuous, and unambiguous” means that the statement, representation or term being disclosed is of such size, color, contrast and audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. The disclosure of any written statement or term must be in close proximity to the terms it purports to clarify, modify, or explain. All written statements must employ plain English, be comprehensible to the average consumer, be accurate, and be free of conflicting provisions.

F. “C.O.D.” means cash on delivery.

G. “Charge back” means Level will provide a consumer’s other credit provider with the necessary information to do a charge back to the consumer’s credit card account or other account.

H. “Consumer” means any person, natural person, individual, governmental agency or entity, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized. It includes any former, present or future customer of Level.

I. “Contract” means any written contract or any written agreement entered into between Level and the consumer prior to the entry of this Consent Decree.

J. “Contract Price” means any of the following:

1. a clear, conspicuous, and unambiguous written price representation by Level to a consumer or consumers;
2. the price guaranteed in correspondence sent by Level to consumers in April 2000;
3. the price set forth in a Contract executed by Level and the consumer (even if the price has a “good until [date]”), provided the contract has an automatic renewal clause and the consumer has not voluntarily paid a price higher than that stated in the Contract;
4. an oral price quote by any employee or agent of Level, including, but not limited to, drivers and customer service representatives that is confirmed by Level pursuant to 5.3B;
5. a web site quote.

K. “Courtesy Fill” means Level will deliver propane to consumers according to Level’s estimate of the consumers’ propane use.

L. “Credit” means Level will adjust the consumer’s account to reduce the balance of the debt the consumer owed to Level; provided however, if 1) the reduction results in a credit balance; 2) the reduction would result in a credit balance for those consumers who no longer have a Contract with Level; or 3) the consumer wishes to terminate the Contract, Level shall refund the amount of the credit balance to the consumer.

M. “Good Faith” means honesty in fact in any conduct or transaction any party to the Contract is required to do or refrain from doing under the terms of this Consent Decree. Level

must govern its respective conduct so as to act with an honest belief, the absence of malice, and the absence of design to defraud or to seek an unconscionable advantage. Further, Level is required to perform all obligations owed to any consumer without any conduct which is arbitrary, reckless, negligent, indifferent, or an intentional disregard of the interests of those consumers who were, are, or may become its customers.

N. "Honor" means that Level will refund to the consumer, charge back, or credit the consumer's account, as the case may be.

O. "Minimum Usage" means the minimum number of gallons of propane gas that a consumer must purchase during the term of the contract in order to avoid the payment of an underutilization fee.

P. "Market Price" means the actual price at which propane gas is currently sold or has recently been sold in the open market at retail in the usual and ordinary course of trade and competition between sellers and buyers equally free to bargain, as established by records of sales or the last reported price at which the stock sold.

Q. "New Contract" means the revised contract Level is required to draft and employ pursuant to Section 5.6 and all other applicable sections of this Consent Decree.

R. "Pre-Buy" Offer or Agreement means any Level offer to, or contractual agreement with, consumers whereby consumers are required to pre-pay for propane, in advance of its delivery, in a lump sum, a monthly payment, a weekly payment or a payment for some other stated time period or where the consumer pays a fee or fees, a

payment or payments in advance of delivery for the opportunity to purchase propane at a fixed rate. “Budget plans” are expressly excluded from the definition of “Pre-Buy.”

S. “Refund” means that Level will return a sum or sums of money to the consumer.

T. “Represent,” “Representing,” and “Representation” mean and include any communication, including any advertisement whether made in writing, orally, by picture, design, or other graphics, and made by any means or mode of transmission including, but not limited to, telephonic or electronic transmission. “Represent,” “Representing” and “Representation” include any representation, which is made by implication.

U. “Underutilization fee” means the amount of money a consumer is charged if the consumer did not purchase the minimum number of gallons of propane purportedly required under the terms of the Contract. Level’s Contract language formerly stated: “In the event a customer fails to purchase the minimum quantity, customer agrees to pay an amount per gallon for any short fall as of the anniversary of the effective date of the term in which a short fall occurs.” The charge to the customer shall be reasonable and relate to Level’s costs due to the underutilization.

V. “Will Call” means Level will deliver propane to consumers after the consumer requests delivery of propane.

## **V. INJUNCTIVE PROVISIONS**

The injunctions, which follow below, are orders requiring that affirmative acts be performed and/or that conduct be permanently ceased, enjoined, and restrained in Michigan.

5.1 Prohibited representations in advertisements, offers, contracts, and other writings.

Level is enjoined and restrained from:

A. Making any false representation that Level supplies propane gas at “lower,” the “lowest,” “always the lowest,” “level,” “fixed” prices, or prices that are “level or consistent all winter long,” or that the propane gas is “premium” propane gas.

B. Making any false representation that Level purchases fuel prior to any heating season and thus can ensure the customer that the customer will not be harmed by rise in fuel prices.

C. Making any price representation that does not clearly, conspicuously, and unambiguously disclose the price terms and all other material terms of any promise, condition, offer, promotion, contract or other incentive.

D. Making any representation that advises any consumer that failure to timely pay the charges assessed by Level will subject the consumer to late charges, a negative credit report entry, and/or delayed delivery of future orders of propane if:

1. the consumer has previously disputed in good faith any aspect of Level’s billing;

or

2. if Level’s written communications fail to comply with all federal and Michigan fair credit and other applicable billing laws and regulations.

E. Offering or entering into any Pre-Buy arrangement until Level provides and the Attorney General accepts in writing a CPA prepared audit letter evidencing Level's financial viability.

F. Advertising or offering a "lock-in" arrangement, or any contract containing a provision similar to a "lock-in," if the total consideration a consumer must give in advance of delivery is more than \$100.00 in one year, adjusted for inflation.

G. Making any false representation to any consumer that Level has attempted on numerous occasions to contact the consumer to resolve a dispute unless Level provides written documentation to the consumer indicating the date, time, and place of not less than three (3) communications, not including attempts which did not result in completed calls, to the consumer to which the consumer made no response.

H. Making any representation that advertises, promotes, or offers the sale of propane gas, unless the representation clearly, conspicuously and unambiguously states the total amount the consumer must pay in order to receive the quoted price per gallon by setting forth the minimum number of gallons which must be purchased multiplied by the quoted price per gallon, if the purchase of a minimum number of gallons is required.

I. Engaging in any conduct that violates any provision of the Michigan Consumer Protection Act (MCPA), MCL 445.901 *et seq.*

5.2 Prohibited business conduct.

Level is hereby enjoined and restrained from:

A. Withholding from any consumer any money, fee, new customer referral fee, credit to an account, deposit or other thing of value that is due the consumer.

B. Withholding from any consumer any money refunds or reimbursement for propane gas pumped out of the consumer's tank and taken back by Level as a result of 1) termination due to a breach of the Contract or New Contract by Level, or 2) Level's violation of this Consent Decree with respect to such consumer.

C. Charging or continuing to charge any late fees to any consumer who disputes, in good faith, any billing by Level on or before December 31, 2001, in writing to the Attorney General, Level, any Better Business Bureau, or any collection agent or any credit reporting agency, provided Level has notice of the dispute.

D. Charging the consumer for any propane gas not delivered to the consumer.

E. Employing or continuing to employ any unfair or deceptive practices against any consumer who, in good faith, refuses to pay Level for any price or prices not clearly, conspicuously, and unambiguously authorized by the Contract or New Contract.

F. Failing to make timely delivery of propane to any customer.

G. Engaging in any method, act or practice that violates any federal or Michigan fair credit law, rule, or regulation.

H. Employing, enforcing, or attempting to enforce, by any means, any Level contract clause in any Contract or New Contract that prevents the consumer from instituting and maintaining any lawsuit or other legal proceeding against Level in any appropriate Michigan state

or federal court, or that requires the consumer to submit to the jurisdiction of Ohio state and federal courts. Any such clause is null and void.

I. Failing to promptly provide to any consumer the appropriate services for handling and resolving the consumer's complaint. Level shall cease: (i) making any false or misleading representation regarding any matter or thing, including, but not limited to, the price of propane, (ii) engaging in any telephonic trick, artifice, device, method, act or practice which unreasonably keeps the consumer "on hold," which is verbally abusive to the consumer, which unreasonably requires the consumer to make more than one "call back," or (iii) which is any other conduct designed to thwart the consumer's attempt to resolve any complaint.

J. Failing to promptly and safely repair or replace the leased tanks and equipment Level provides to the consumer when reasonably necessary.

K. Failing to provide adequate staffing to meet consumer service needs to handle the delivery of propane, repairs, and maintenance to the consumer's tanks and equipment, or respond to a consumer's legitimate concerns.

L. Failing to provide properly sized tanks to prevent the consumer from incurring an underutilization fee.

M. Requiring that the consumer with the Courtesy Fill Plan call Level to fill the tank, when the consumer has not exceeded normal usage as established by Level.

N. Failing to permit the consumer to cancel the Contract or New Contract without any penalties or fees, when Level has failed to abide by the terms of the contract.

O. Failing to promptly provide consumers who have purchased tanks from Level with proof of ownership necessary for the consumer to exercise the consumer's right to have the tank filled by other propane suppliers.

P. Charging any damage fee, painting fee, or other fee that was not or is not clearly, conspicuously, and unambiguously disclosed by the terms of the Contract or New Contract.

Q. Failing to promptly remove the leased tank when the consumer notifies Level that the Contract or New Contract is terminated, or when Level terminates. Any tank removal made twenty-one (21) calendar days after the consumer's notice or after other termination is a failure of prompt removal, provided the consumer has allowed reasonable access to the tank. Commencing on the 22nd calendar day and for each day thereafter that Level's tank remains on the consumer's property, Level shall pay the consumer Ten Dollars (\$10.00) per day.

R. Using any unfair, unconscionable, or deceptive practice to collect a debt or an alleged debt owed to Level by the customer.

### 5.3 Price Guarantees, promises, representations.

Level is hereby restrained and enjoined from:

A. Charging any consumer any price for propane at delivery or after delivery that is a price higher than the price quoted to the consumer.

B. Failing, within three (3) business days of making the representation, to mail to the consumer a written price verification for propane orally quoted to the consumer if the consumer orders propane from Level at that price.

C. Failing to clearly, conspicuously, and unambiguously disclose the specific date after which the price of the propane no longer will remain firm under the Contract or New Contract.

D. Failing to clearly, conspicuously, and unambiguously disclose that the price charged at the time of any renewal term of the Contract or New Contract will be the market price or an increased price.

5.4 Prohibitions regarding charging of fees, penalties, and other charges.

Except where clear, conspicuous, and unambiguous in the Contract or New Contract, Level, after the date of this Consent Decree, is hereby enjoined and restrained from:

A. Charging any consumer any amount per gallon for any shortfall as of the anniversary of the effective date of the Contract or New Contract or any renewal term of the Contract or New Contract, in which Level claims a shortfall occurred if Level fails to demonstrate, by substantial documentary proof, the “reasonableness” of the charge and the charge’s relation to Level’s costs due to underutilization, and the method and manner upon which such fee is determined.

B. Charging any consumer a fee for removal of a leased tank.

C. Charging any consumer for a tank pump out fee.

D. Charging any consumer any emergency fee or other charge when the reason for the emergency or other charged event resulted from Level’s failure to meet its own time schedules or to meet other services it promised to timely deliver.

E. Charging any consumer any fee in excess of \$0.25 per page for any copy of the consumer's contract or for a copy of any other document that the consumer may request.

F. Charging any consumer any additional amount per gallon of propane gas if the consumer requests a delivery of propane for less than a full fill.

5.5 Prohibitions and directions regarding contract clauses and obtaining of contracts.

Level is hereby restrained and enjoined from doing the following:

A. Requiring any consumer to sign any Contract or New Contract without first allowing the consumer to have access to the complete terms of the Contract or New Contract.

B. Using any contract form that fails to clearly, conspicuously, and unambiguously disclose, the price terms of propane gas and all other material terms and conditions relating to the purchase, delivery of, and service for propane gas, and the sale, lease or rental of propane tanks and related propane gas equipment and accessories.

C. Employing, enforcing, or attempting to enforce, any term or terms which permit Level to unilaterally modify the Contract or New Contract. Any such existing term or terms are null and void.

D. Failing to clearly, conspicuously, and unambiguously disclose the amounts of any fees, penalties, charges or other assessments Level may lawfully impose.

E. Representing to any consumer that the consumer has made a settlement with Level, which amounts to a full and complete settlement of any claims the consumer filed against Level unless Level has clear, conspicuous and unambiguous written proof of such settlement.

5.6 Directions regarding revision of contracts.

Level is hereby directed to do all of the following:

A. Within 30 calendar days from the date of the entry of this Consent Decree, Level shall revise its Contracts to comply with all of the injunctive provisions of this Consent Decree, the MCPA, and all applicable federal and Michigan laws and regulations (“New Contract”). The New Contract shall be mailed to the consumer with the option to cancel the consumer’s current Contract or enter into the New Contract with the price of propane guaranteed for the time period set forth in the consumer’s current Contract.

B. Level shall make available, via mail, facsimile, or electronic transmission, its New Contract to any potential consumer who requests service from Level, for the consumer’s review and acceptance at least three business days prior to delivering propane and/or setting of the tank according to the terms of the New Contract.

C. The New Contract shall state all terms and conditions in clear, conspicuous, and unambiguous language in order to be easily understood by a consumer, including, but not limited to, the following terms, if applicable:

1. The cost of the propane equal to the minimum number of gallons of propane required to be purchased, multiplied by the price per gallon. Such amount shall be initialed by the consumer;

2. The amount of the fixed price per gallon and the date that the fixed or “lock-in” price per gallon expires;

3. A statement that if a fixed price per gallon is offered, it will remain the same during the initial term of the contract regardless of whether the consumer uses more than the minimum number of gallons of propane;

4. The actual amount of any and all fees, penalties, charges, costs, discounts, credits, and refunds that may be lawfully assessed, charged, or owed to the consumer. The New Contract shall have blocks for the consumer to initial beside each fee, penalty, charge, cost, discount, credit, and refund that may be assessed or charged to and/or owed by the consumer or Level;

5. The complete terms and conditions of all pricing programs offered in the Contract.

6. The terms and conditions under which Level may switch a consumer from Courtesy Fill to Will Call, C.O.D., or Payment in Advance, including the amount of any additional charge per gallon for Will-Call, C.O.D., or Payment in Advance consumers. To be binding, such amount shall be initialed by the consumer;

7. Level shall not charge consumers a higher rate or levy a surcharge when it places the consumer on C.O.D., Payment in Advance, or Will-Call status, unless the consumer has specifically assented, by initialing, to a provision in the New Contract that clearly describes the circumstances under which a consumer may be switched from Courtesy Fill to Will Call, C.O.D., or Payment in Advance and the consequences of such a switch, including all additional fees, surcharges, and rate increases;

8. The definition of the “Market Price” which shall be initialed by the consumer;

9. A statement that in the event Level breaches any term of the New Contract, the consumer may cancel the New Contract without incurring any additional fees, penalties, charges or costs;

10. A statement that if the consumer cancels the New Contract due to Level’s breach of the New Contract, Level will reimburse on a pro rata basis any prepaid fees, charges for equipment, and the amounts paid for any propane remaining in the tank at the time Level picks up the tank;

11. A statement that the consumer may cancel the New Contract orally; however, in order to ensure cancellation, any notice of cancellation from the consumer should be made in writing and sent to Level via the Internet, United States mail or facsimile.

5.7 Other affirmative obligations of Level.

Level is directed to do all of the following:

A. Level shall provide properly sized tanks to consumers according to the consumers’ needs.

B. In the event Level breaches the terms of a Contract or New Contract or violates this Consent Decree, with respect to the consumer, the consumer may terminate the contract without incurring any additional fees, penalties, charges or costs and Level shall reimburse customer on a pro-rata basis for any amount paid for any tank or equipment lease fees –

excluding installation charges.

C. Level shall automatically and regularly provide propane to Courtesy Fill consumers at regular intervals based upon a calculation of the consumer's needs and weather conditions over a certain period of time, provided that the consumer is current in his/her payment obligation and has complied with the material terms of the Contract or New Contract. This service shall be promptly and automatically provided irrespective of whether Level's Courtesy Fill consumers request such service. Level shall not allow the propane in the consumer's tank to fall below the level of 25%. In the event Level fails to deliver propane to the consumer within five (5) business days of a request, when the propane in the tank is 25% or less: (i) the consumer may cancel the Contract or New Contract without incurring any additional fees, penalties, charges or costs; (ii) Level shall reimburse the amount paid by the consumer for any fuel remaining in the tank at the time Level picks up the tank; and (iii) upon the request of the consumer, Level shall provide the consumer with its written consent to have another propane supplier fill Level's leased tank on a one-time basis, unless the supplier has its own tank available. At the option of the consumer, said written consent shall be sent via facsimile to a telephone number designated by the consumer or to an Internet site designated by the consumer. Said written consent shall be sent within three (3) hours from the time of the request, if via facsimile or electronic mail, or shall be posted by the end of the current business day if mailed, provided the request is made during ordinary business hours of 8:00 a.m. until 5:00 p.m. Monday through Friday. If such request is made on a Sunday, Holiday or after ordinary business hours, Level shall provide said written consent within three (3) hours of the start of the

next business day, if via facsimile or electronic mail, or shall post it by the end of the next business day if mailed. Said written consent shall be in such form and content as necessary to induce a reasonable supplier to fill Level's leased tank. In the event Level fails to deliver propane to the consumer within said five (5) calendar days of the request, Level shall so notify the Attorney General, via facsimile, not later than 12:00 p.m. of the next calendar day following said (5) calendar days. Courtesy Fill consumers shall not be charged an additional amount per gallon for less than a full fill and may not be switched to Will Call, C.O.D., or Payment in Advance status without their consent.

D. Level shall provide propane gas to Will Call consumers within seven (7) business days after receipt of the consumer's call, provided that the consumer is current in his/her payment obligation and has complied with the material terms of the Contract or New Contract. In the event Level fails to deliver propane to the consumer within seven (7) business days of a request: (i) the consumer may cancel the Contract or New Contract without incurring any additional fees, penalties, charges or costs; (ii) Level shall reimburse the amount paid by the consumer for any fuel remaining in the tank at the time Level picks up the tank; and (iii) upon the request of the consumer, Level shall provide the consumer with its written consent to have another propane supplier fill Level's leased tank on a one-time basis, unless the supplier has its own tank available. At the option of the consumer, said written consent shall be sent via facsimile to a telephone number designated by the consumer or to an Internet site designated by the consumer. Said written consent shall be sent within three (3) hours from the time of the request, if via facsimile or electronic mail, or shall be posted by the end of the current business

day if mailed, provided the request is made during ordinary business hours of 8:00 a.m. until 5:00 p.m. Monday through Friday. If such request is made on a Sunday, Holiday or after ordinary business hours, Level shall provide said written consent within three (3) hours of the start of the next business day, if via facsimile or electronic mail, or shall post it by the end of the next business day if mailed. Said written consent shall be in such form and content as necessary to induce a reasonable supplier to fill Level's leased tank. In the event Level fails to deliver propane to the consumer within said seven (7) calendar days of the request, Level shall so notify the Attorney General, via facsimile, not later than 12:00 p.m. of the next calendar day following seven (7) calendar days.

E. Absent unsafe weather and road conditions rendering timely performance impossible, Level shall repair and/or service leased tanks within five (5) business days of a consumer request for such repair and/or service. However, in the event an emergency exists whereby a consumer is unable to use his/her propane, Level shall repair and/or service the leased tank within twenty-four (24) hours of the consumer's request. In the event Level fails to repair and/or service leased tanks as set forth in this paragraph, the consumer may cancel the Contract or New Contract without incurring any additional fees, penalties, charges or costs and Level shall reimburse the amount paid by the consumer for any fuel remaining in the tank at the time Level picks up the tank.

F. Level shall not charge more for an emergency delivery when the emergency condition was the result of Level's failure to provide a timely delivery of propane.

G. Level shall clearly, conspicuously, and unambiguously notify in writing all consumers

whose Contract or New Contract renews on an annual basis, no more than ninety (90) calendar days, but at least thirty (30) calendar days before the expiration of the Contract or New Contract, of their option to renew the Contract or New Contract for an additional one (1) year term. If the consumer, after being informed of any change in price and all other material facts, agrees to renew the Contract or New Contract at a different price per gallon than his/her previous New Contract, Level shall send an addendum to the original Contract or New Contract setting forth the new amount of the price per gallon, whether the price is fixed or “locked-in” for a certain period, and the date that the price per gallon expires, which date shall be as represented in the notification.

H. If, at the end of any term of the Contract or New Contract, Level requires the consumer to pay the Market Price for propane, then the consumer will only be obligated to enter into a month-to-month contract, which does not require the payment of any underutilization fees. Either party may cancel the Contract or New Contract upon thirty (30) calendar days’ prior written notice to the other party.

I. Within thirty (30) calendar days of execution of this Consent Decree, Level shall implement and maintain business practices sufficient to avoid the service related concerns, including, but not limited to: failure to provide deliveries, repeated missed delivery dates, inability of consumers to reach Level, billing questions immediately turned over to Level’s collection department regardless of the circumstances, and other billing disputes. To address these issues, Level agrees to maintain a staff sufficient to serve the needs of its customers and to comply with the provisions of this Consent Decree.

J. In the event the consumer breaches the terms of the Contract or New Contract, Level shall notify the consumer in writing ten (10) business days prior to terminating the Contract or New Contract or changing the consumer to C.O.D, Payment in Advance or Will-Call status.

K. To the extent permitted by the applicable law, Level shall not charge more than \$20.00 for a late payment, adjusted for inflation, provided that Level has proof the payment was in fact late, *e.g.*, a postmarked envelope indicating the payment was mailed after the required payment was to be received, and provided that the charge was clearly, conspicuously, and unambiguously disclosed.

L. Level shall maintain records, correspondence, complaints, receipts and any other documentation relating to all accounts for consumers of Level while they are consumers of Level and for a period of two (2) years after termination of any relationship between Level and the consumer.

M. Level shall quote the price of the propane per gallon to the consumer. Price quotes over the telephone or via the Internet or via other transmission equipment, shall be guaranteed firm for seven (7) business days from the date of the quote. Level shall post any and all said quotes made to Michigan consumers on the Internet within three calendar days of making said quote. Level shall keep a record of all such quotes for a period of two years from the date the quote was made.

N. Level shall not charge any price cap fee, damage fee, painting fee or other fee that was not, or is not clearly, conspicuously, and unambiguously disclosed by the terms of the

Contract or New Contract.

O. Within three (3) years of the entry of this Consent Decree, Level shall state the price of propane per gallon on all delivery receipts and invoices.

5.8 Level has presented the Attorney General with copies of its documents entitled “Level Propane Purchase And Sale Agreement” and “Level Propane Tank System Lease Agreement.” The Attorney General’s receipt of these documents shall not be construed as nor constitute the Attorney General’s endorsement or approval of any of the terms, the language used, the type size or overall size of the documents, nor shall receipt of the documents be construed as or constitute the Attorney General’s approval of Level’s use of said documents. Level’s obligations are those stated in this Consent Decree.

## **VI. IMPLEMENTATION OF CONSUMER REDRESS**

6.1 Attachment 1 to this Consent Decree is the text of a letter that will be sent to consumers who have filed complaints with the Michigan Department of Attorney General. Attachment 2 to this Consent Decree is the text of a letter that will be sent to consumers who are customers of Level in Michigan but who have **not** filed complaints with the Michigan Department of Attorney General. The letters inform consumers that the parties have reached a voluntary settlement and specify the redress being provided to consumers, including refunds, charge backs and/or credits as appropriate under this Section VI. The letters shall be sent out by the Third-Party Administrator established in Section VII of this Consent Decree within fifteen days of the entry of this Consent Decree.

6.2 Level shall immediately begin to contact all Michigan consumers who have filed

complaints that have been previously forwarded to Level by the Attorney General or by any other entity including, but not limited to, any Better Business Bureau. Level shall make all good faith efforts to resolve the consumer's complaint consistent with all applicable provisions of the Consent Decree. Level shall contact all Michigan consumers whose complaints have been previously forwarded to Level by the Attorney General or any other entity including, but not limited to, the Better Business Bureau within 45 days of the entry of the Consent Decree. Level shall propose a resolution to the consumer utilizing the letter set forth in Attachment 3.

6.3 Consumers who are not complainants of record shall have ninety (90) days after entry of the Consent Decree to file a consumer complaint with the Attorney General. Consumers who have already filed complaints with the Attorney General, as well as those that file complaints within 90 days of entry of the Consent Decree shall be referred to as "consumers who have filed complaints." The Attorney General shall promptly forward the consumer's complaint to Level for Level's resolution of it pursuant to the terms and conditions of this Section VI of the Consent Decree. Upon receipt of these consumers' complaints, Level shall undertake to resolve each complaint by utilizing the process in subsection 6.2 and all other applicable redress provisions.

6.4 Level shall refund, charge back, and/or credit to Michigan consumers who have filed complaints the full amount, regardless of whether Level claims that such consumers have already settled their consumer complaints with Level or signed a release, all of the following:

- A. all underutilization fees assessed;
- B. all tank pick up fees and taxes assessed;
- C. all tank pump-out fees assessed;

D. any amount in excess of the consumer's pre-buy or lock-in contract.

6.5 For certain of Level's price representations received by or acted upon by Michigan consumers who have filed complaints, Level shall refund, charge back, and/or credit , as appropriate, the difference between the cost actually charged and the price of propane represented in the writing or represented as the Contract Price plus twenty percent (20%)<sup>1</sup>. This formula applies to the following categories of complainants:

A. Consumers who received or acted upon any guarantee, promise, advertisement, or Contract specifying a certain contract price per gallon. If consumers have not yet paid the increased amount to Level, Level will adjust the consumers' bills to reflect the price of propane as set forth in this subsection 6.5.<sup>2</sup>

B. Consumers who were mailed the April 5, 2000 letter subject to paragraph 6.6.

6.6 Level shall refund, charge back, and/or credit the full amount to Michigan consumers who have filed complaints, who received the April 5, 2000 letter, and who

A. paid the up-front fee of \$59.95 specified in the terms of the second paragraph of the April 5, 2000 letter; and/or

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<sup>1</sup> The term "refund" applicable to subparagraph 6.5 only, shall be the meaning ascribed in subparagraph 6.5, i.e., Refund = Price charged – [Quoted price per gallon + (.20 x Quoted price per gallon)].

<sup>2</sup> If consumers have entered into a separate agreement with Level which provides for a greater refund, such refund will be honored by Level.

B. accepted and paid for the “Pre-Buy Program” promise made in the April 5, 2000 letter.

6.7 Level shall refund, charge back, and/or credit the full amount to those consumers who have filed complaints and who had an existing Contract or entered into a Contract with Level on, or after August 1, 1998, which Contract or Contract Price had any terms stating “price firm until” (or similar words), “Level Plan -----Length----- Year(s)-----Ending -----“(or similar representation), and which contained terms stating the Contract was automatically renewed, unless Level demonstrates, by credible documentary evidence, that within the first two months after the price increase, the consumer voluntarily paid Level a higher price per gallon than that stated in the Contract (“Later Price”), and in such cases, Level shall refund, charge back, and/or credit the consumer any amounts Level billed the consumer in excess of the Later Price.

6.8 Level shall refund, charge back, and/or credit to Michigan consumers who have filed complaints, the full amount for those consumers who received delivery of propane after the end of the term of the Contract at a price per gallon greater than the price set forth in their Contracts and who canceled the Contract at the end of the term due to the increase in the price per gallon of propane, but were billed at the increased amount. The consumer shall also receive a refund, charge back, and/or credit for any propane remaining in a tank which was leased from Level at the time Level removes/ removed such tank.

6.9 Level shall refund, charge back, and/or credit the full amount of any overcharge and any lock-in fee paid by any Michigan consumers who have filed complaints if the consumer

did not receive the price promised by Level at any time the locked-in price promise was to remain effective.

6.10 In addition to its obligations stated in paragraph 6.4 above, Level shall refund, charge back, and/or credit to Michigan consumers who have filed complaints the full amount of any fee, deposit, interest payment, or other payment paid to Level which was not clearly, conspicuously, and unambiguously disclosed in the Contract or not lawfully charged, including, but not limited to, surcharges for consumer's use of credit (or credit card), adjusting the customer's account to zero balance when the customer had a credit balance in the account, miscellaneous fees, deviation fees, painting fees, and damages fees.

6.11 Level shall refund, charge back, and/or credit to Michigan consumers who have filed complaints the full amount of any late payment penalty that has been assessed based upon an underutilization charge, tank pump-out fee, disconnection fee, reconnection fee, tank pick-up fee interest charge, or any other fee or charge that was not clearly, conspicuously, and unambiguously disclosed by the Contract.

6.12 In addition to other applicable cancellation provisions, consumers may cancel service with Level as follows:

A. Within sixty (60) days of entry of this Consent Decree, all consumers who wish to cancel service with Level shall be allowed to cancel service, whether or not said consumer filed a consumer complaint.

B. Consumers who exercise the option to cancel service set forth in paragraph 6.12A

above shall not be assessed cancellation and pump out fees or any other fees associated with cancellation of service.

C. Consumers who exercise the option to cancel service set forth in paragraph 6.12A above shall be reimbursed for unused propane at the actual cost to consumers at the time of purchase.

6.13 Level shall reimburse consumers who cancel propane service under paragraph 6.12 for the value of unused propane that is pumped out of a consumer's propane tank at the time of cancellation of service, minus fees for pumping out propane from the tank but only if fees for pumping out were clearly, conspicuously and unambiguously disclosed in the Contract or New Contract.

6.14 In attempting in good faith to resolve any dispute with a consumer, Level shall not employ any method, act, or practice that involves coercion, duress, retaliation, or threats of any kind including, but not limited to, threatening collection actions, or threatening to turn over the consumer's account to a collection agency, threatening to report negative information about the consumer to a consumer credit bureau.

6.15 In the event Level, after a good faith effort, is unable to resolve a consumer's complaint, Level shall within seven (7) days of the first contact with the consumer under this Consent Decree, refer the complaint to the Third-Party Administrator pursuant to Section VII.

## **VII. RETENTION OF THIRD-PARTY ADMINISTRATOR**

7.1 Level must select and employ an impartial third-party certified public accounting firm located in Michigan ("Third-Party Administrator") to review the consumer complaints and determine the

amount of the refund, charge back, and/or credit under Section VI of this Consent

Decree in those situations where the consumer has requested a refund or billing adjustment and Level, in good faith, disagrees with the consumer's position.

7.2 Level shall have fourteen (14) days from the date of entry of this Consent Decree to advise the Attorney General of its Third-Party Administrator selection. The Attorney General may object to Level's selection of a Third-Party Administrator. In the event the Attorney General objects to Level's selection of the Third-Party Administrator, Level shall, within seven (7) days, select another and advise the Attorney General. In the event the Attorney General objects to the second proposed Third-Party Administrator, the Attorney General shall select the Third-Party Administrator subject to Section X (Dispute Resolution).

7.3 Level shall pay all of the fees and costs of the Third-Party Administrator. Level shall pay all fees and costs of any mailing made to consumers pertaining to redress of the consumers' complaints.

7.4 If the consumer has requested a refund or billing adjustment and Level, in good faith, disagrees with the consumer's position, the Third-Party Administrator shall employ the following criteria to determine the outcome of disputed matters:

A. The Michigan Consumer Protection Act (MCPA) 445.901 *et seq.*, keeping in mind that the MCPA is to be liberally construed in favor of those it was designed to protect.

B. All documentation, including, but not limited to, affidavits provided to the Third-Party Administrator.

C. The Third-Party Administrator shall consider any method, act, or practice of Level that demonstrates, or tends to demonstrate, repeated acts of, or a pattern of conduct employed on one or more consumers, which is unfair, unlawful, deceptive, or unconscionable, including, but not limited to, conduct which has the probability to mislead, deceive, or confuse the consumer.

7.5 The Third-Party Administrator shall conduct a statistically reliable sample of the Level customers in Michigan who receive the letters that are Attachments 1 and 2 to determine whether all of the consumers were provided with the required notification letters. The Third-Party Administrator shall provide a written report to the Attorney General within thirty (30) business days from the mailing that certifies that Level, through the Third-Party Administrator, has sent the required notification letters and describes the process used to locate consumers whose letters were returned undeliverable.

7.6 The Third-Party Administrator shall employ procedures compliant with the applicable standards established by the American Institute of Certified Public Accountants and shall include testing and such other procedures sufficient to enable to the Third-Party Administrator to render an opinion concerning Level's compliance with this Consent Decree.

7.7 The Third-Party Administrator's determination shall be binding upon Level but not the consumer.

7.8 Level shall provide notice to the consumer within fifteen (15) days of the Third-Party Administrator's determination of the amount due the consumer by Level. The notice shall be in the form of Attachment 4 to this Consent Decree. If the consumer accepts the determination of the Third-Party Administrator by completing the Election form and returning it to the Third-Party Administrator, Level

shall refund, charge back, and/or credit the consumer or the consumer's account, as the case may be, within seven (7) days of Level's receipt of the consumer's return of the consumer's acceptance of the Third-Party Administrator's determination.

7.9 If there is any delay caused by the process of selecting of the Third-Party Administrator, or any delays caused by the Third-Party Administrator that arise from causes beyond the control of, and without the fault of Level, the parties shall agree to extend the time limit for a reasonable period of time. Any disputes shall be resolved pursuant to Section X.

7.10 Within four (4) months of execution of this Assurance, Level shall file with the Plaintiff, an alphabetical list of the name and address of each consumer who requested an adjustment, the amount of each individual consumer's refund, charge back and/or credit, and the total amount of all refunds, charge backs, and/or credits provided for each such consumer. Such reports shall be supplemental as needed.

7.11 Within ten (10) business days of receipt of a request by Plaintiff for evidence that a specific consumer or consumers have received their refunds, charge backs and/or credits, Level shall provide written verification by providing any documents, books and records necessary to establish to the satisfaction of Plaintiff that the refund, charge back and/or credit process was completed in compliance with this Consent Judgment. Such documents shall include, not be limited to, copies of the front and back of cancelled checks and/or mailing records along with certified mail receipts indicating that the specific consumer or consumers received the required item. The documents, books or records shall be physically turned over and provided to the Plaintiff no later than ten (10) business days from receipt of such request.

## **VIII. REMEDIATION OF CREDIT RECORDS**

8.1 For any consumer who entered into a Contract with Level at any time before entry of this Consent Decree and who had a disputed matter with Level that was resolved in a manner that was beneficial to such consumer, Level shall immediately and within not more than forty-five (45) days after entry of this Consent Decree, notify all credit reporting agencies to remove any negative or derogatory information from the consumer's credit report and credit history by sending the letter included as Attachment 5.

8.2 Upon signing and entry of this Consent Decree the jurisdictional or venue provision or any similarly worded paragraph of Level's Contract with Michigan consumers shall be null and void for all Contracts; provided however, that any completed litigation of any Contract shall not be set aside by reason of this of this Consent Decree.

8.3 Upon signing and entry of this Consent Decree any Level Contract clause providing Level with unilateral rights to modify the Contract shall be null and void.

## **IX. PAYMENT TO THE STATE AND REIMBURSEMENT OF COSTS AND EXPENSES**

9.1 Level shall pay the sum of \$375,000 to the State of Michigan to reimburse the state for its legal, investigative and administrative expenses relating to historical compliance efforts directed at Level. The \$375,000 will be paid in installments as follows: \$100,000 upon entry of this Consent Decree; \$75,000 due on, or before, December 31, 2001; \$100,000 due on, or before, December 31,

2002, and \$100,000 due on, or before, December 31, 2003. Payment shall be made by cashier's check made out to the "State of Michigan" and remitted to the Assistant-In-Charge, Stanley F. Pruss, Consumer Protection Division and delivered with the Consent Decree signed by Level's authorized representatives, to the Office of the Attorney General, Consumer Protection Division, G. Mennen Williams Building, 525 West Ottawa Street, Suite 690, Lansing, Michigan.

9.2 If the Attorney General determines that Level has failed to comply with the terms of the Consent Decree and if in the Attorney General's sole discretion the failure to comply does not threaten the health or safety of the citizens of the State, the Attorney General agrees to notify Level of such failure to comply and Level shall then have ten (10) calendar days from the receipt of such notice to provide a good faith written response to the Attorney General's determination.

9.3 If after the Attorney General has permitted Level to respond in accordance with Section 9.2 of this Consent Decree, the Attorney General determines that Level has failed to comply with the terms of this Consent Decree, upon demand by the Attorney General, but subject to the dispute resolution procedures of Article X hereof, Level shall pay the amount of \$250,000 to the Attorney General as a civil penalty.

## **X. DISPUTE RESOLUTION**

10.1 The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Consent Decree and shall apply to all provisions of this Consent Decree. Any dispute that arises under this Consent Decree shall, in the first instance, be the subject of informal negotiations between the parties. The period of negotiations shall not exceed ten (10) days

from the date of written notice by any party that a dispute has arisen, but it may be extended by agreement between the parties. The period for informal negotiations shall end when Plaintiff provides a written statement setting forth its proposed resolution of the dispute to Level.

10.2 If the parties fail to resolve a dispute by informal negotiations, then the dispute shall be resolved in accordance with the resolution proposed by the Plaintiff unless, within ten (10) days after receipt of the Plaintiff's proposed resolution, Level files a petition for resolution with this Court setting forth the matters in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to insure orderly implementation of this Consent Decree.

## **XI. NOTIFICATION**

11.1 The Attorney General may notify or serve Level as provided under this Consent Decree or in any subsequent action at the following address and telephone number:

Legal Department  
Level Propane Gases, Inc.  
830 Canterbury Road  
Westlake, OH 44011  
(440) 808-9743 or 1-800-753-8351

Level shall maintain the telephone number and the address until all terms of this Consent Decree have been satisfied, unless prior permission for change is obtained from this Court.

11.2 If the Attorney General is unable to notify or serve Level at this address, the Attorney General may notify or serve Level's present attorneys: Dykema Gossett or its successor at 800 Michigan National Tower, Lansing, Michigan 48933-1742 and/or Kelley Cawthorne or its successors

at 101 South Washington Square, Lansing, Michigan 48933-1707.

## **XII. INDEMNIFICATION**

12.1 The State of Michigan and the Attorney General and the attorneys, agents, employees, or servants acting for the State and Department do not assume any liability by entering into this Consent Decree. This Consent Decree shall not be construed to be an indemnity by the State for the benefit of Level or any other person.

12.2 To the extent sovereign or governmental immunity does not apply, Level shall indemnify and hold harmless the State of Michigan, the Attorney General and all other State departments, agencies, officials, agents, employees, contractors and representatives for any claims or causes of action for damages or reimbursement from the State that arise from, or an account of, any contract, agreement, or arrangement between Level and any person or entity for the performance of activities required of Level in this Consent Decree.

12.3 Level shall waive all claims or causes of action against the State of Michigan, the Attorney General, and any state department, agency, official, agent, employee, and attorney for damages, reimbursement, or set-off of any payment made or to be made to the State, that arises from, or is on account of, any contract, agreement or arrangement between Level and any other person or entity for the performance of activities required under this Consent Decree.

## **XIII. NONCOMPLIANCE CONSEQUENCES AND CIVIL PENALTIES**

13.1 In the event Level fails to comply with all terms of this Consent Decree the entire monetary costs and fees shall be due and payable without notice and may be collected by execution,

garnishment, or other legal process, together with interest from the date of entry of the

Consent Decree. Level shall pay all attorney fees and costs, including, but not limited to, court costs, associated with any such collection efforts.

13.2 Participation by Level in any activity to form a separate entity or corporation for the purpose of engaging in acts prohibited in this Consent Decree or for any other purpose which would circumvent any part of this Consent Decree shall be deemed as non-compliance with the Consent Decree.

13.3 Under no circumstances shall this Consent Decree or the name of the State of Michigan, the Office of the Attorney General, Consumer Protection Division, or any of their employees or representatives be used by Level, or its officers, agents, servants, employees, successors, assigns, attorneys or other persons or entities acting in concert or participation with Level, in connection with any selling, advertising, or promotion of products or services, or as an actual or implied endorsement or approval of Level's acts, practices or methods of conducting business.

13.4 Neither the State, the Attorney General nor any other state department, agency, official, agent, employee, or representative shall be held out as a party to any contract that is entered into by, or on behalf of, Level for the performance of activities required by this Consent Decree. Nor shall Level, or any person, agent, or entity acting for Level be considered an agent of the State or of the Attorney General or any other state department or agency.

#### **XIV. COVENANT NOT TO SUE BY PLAINTIFF AND RESERVATION OF RIGHTS**

14.1 In consideration of the implementation of compliance measures, the reimbursement of the costs and expenses that will be made by Level under the terms of this Consent Decree, and except as specifically provided in this Section, Plaintiff covenants not to sue or to take administrative action against Level or Maloof for Covered Matters.

14.2 "Covered Matters" shall include any liability to the State of Michigan for the following:

A. All claims for violations of the MCPA through the date of approval of the Consent Decree; and

B. Reimbursement of costs and expenses incurred by the State through the date of approval of the Consent Decree.

14.3 The covenant not to sue set forth in this Section does not pertain to any matters other than those expressly specified in "Covered Matters" in paragraph 14.2. Plaintiff reserves, and this Consent Decree is without prejudice to, all rights against Level with respect to all other matters including, but not limited to, the following:

A. Liability arising from a violation by Level of a requirement of this Consent Decree;

B. Liability for violations of the MCPA that occur after approval of this Consent Decree.

14.4 In the event Level fails to perform any activity required of it or violates any injunctive provision of this Consent Decree, the Attorney General or her designee(s) upon the giving of ten (10) days notice to Level shall have the right to make application to secure a court order or other process to

A. Enjoin Level to comply with this Consent Decree.

B. Obtain all other appropriate relief.

14.5 The action against William Maloof is dismissed without prejudice.

## **XV. RETENTION OF RIGHTS OF ATTORNEY GENERAL**

15.1 The Attorney General retains all of rights under the MCPA and any other applicable law, rule, or regulation to obtain information, to do inspection, and otherwise enforce all applicable laws, rules, and regulations. Level agrees that a violation by Level of any requirement of this Consent Decree shall constitute a violation of the Michigan Consumer Protection Act, MCL 445.901 et seq.

15.2 Failure of the Attorney General to timely enforce any term, condition, or requirement of this Consent Decree shall not provide, nor be construed to provide, Level a defense for noncompliance with any term of this Consent Decree or any other law, rule, or regulation; nor shall it stop or limit the Attorney General from later enforcing any term of this Consent Decree or seeking any other remedy available by law, rule, or regulation.

15.3 The Attorney General expressly reserves the right to take action against Level if at any time she discovers that any material information provided by Level prior to or after entry of this Consent Decree was false or misleading.

15.4 Nothing in this Consent Decree shall limit the power of the State, the Attorney General, or any other State department, agency, or official to direct or order all appropriate action to protect the public, health, safety, or welfare.





## Attachment 1

### NOTICE ABOUT AFFECTED CONSUMERS' ENTITLEMENTS UNDER THE COURT ORDERED SETTLEMENT IN ATTORNEY GENERAL V. LEVEL PROPANE GASES, INC. ET AL.

Dear Consumer:

On November \_\_\_\_, 2001, a court order called a "**Consent Decree**"\*\* was signed and entered by Ingham County Circuit Judge, Lawrence M. Glazer in the case the Attorney General brought against Level Propane. As a part of the Decree certain Michigan consumers may be eligible to obtain a refund, a charge back to the consumer's account with a credit provider or a credit from Level reducing the balance the consumer owes to Level if the consumer continues to do business with Level. The provisions discussing refunds, charge backs and credits are set forth in Section VI of the Consent Decree under the heading "**Implementation of Consumer Redress.**" This Section VI is attached to this Notice.

Level Propane has been ordered to continue to attempt to resolve consumers' complaints. The complaints must be resolved consistent with the Redress Provisions. Level has already contacted you or will contact you to resolve your complaint. Level has 45 days from the date the Consent Decree was entered to obtain your agreement that your complaint has been resolved. If your complaint is not resolved to your satisfaction, you may utilize another process set forth in Section VII of the Consent Decree. Section VII, entitled "**Retention of Third-Party Administrator,**" requires Level to submit your complaint matter to an impartial Third-Party Administrator for a decision. This Section VII is attached to this Notice.

After receiving copies of your complaint and any documents Level desires to submit to the Third Party Administrator, the Third-Party Administrator will contact you requesting that you provide any additional information you want the Third-Party Administrator to consider. Additional information may include other billings you received from Level, Level's advertisements or letters, other documents, an affidavit you have made or an affidavit any other person, who has personal knowledge of the facts, has made on your behalf

The Third Party Administrator will then determine the dispute between Level and you. Level must abide by the Third Party Administrator's determination. You will have the option of agreeing to or rejecting the Third Party Administrator's determination and you are not obligated to have your claims determined in this manner. You may, at any time, exercise your rights and file a case in an appropriate court (provided you have not already agreed to settle your claim).

You will be notified of the Third Party Administrator's determination and will be given an **Election Form** to complete. You will be asked to select one of the elections by dating and signing your name under the election you chose and returning the Election Form to the Third Party Administrator. If you do not return a completed Election Form within the time provided your silence will be treated as a rejection of the Third-Party Administrator's determination.

Thank you for your cooperation and assistance. Your steadfast support has helped to produce a resolution of this matter which is designed to provide relief to all affected Michigan consumers. Some of you may believe you are not receiving full reimbursement or relief for all losses you believe you sustained. We would not disagree with you. But in order to afford relief to the greatest number of Michigan consumers in a timely manner, we believe this resolution will serve the best interests of the widest number of Michigan consumers.

Dated: \_\_\_\_\_

Jennifer M. Granholm  
Attorney General

**\*\*You may obtain a copy of the Consent Decree at the Attorney General's website, at [ag.state.mi.us](http://ag.state.mi.us). You may also file a complaint online or obtain a complaint form for submitting a complaint against Level to the Attorney General at the same website. You may also file a complaint by submitting a clear and legible handwritten or typewritten statement of your complaint (along with copies of any relevant documents) and mailing it to:**

**Michigan Attorney General  
Consumer Protection Division  
Level Propane Complaint Desk  
P.O. Box 30213  
Lansing, MI 48909.**

**Please keep a copy of your complaint and documents for your reference.**

**Attachment 2**

**NOTICE TO CONSUMERS WHO HAVE NOT YET FILED A COMPLAINT  
AND WHO MAY BE  
ENTITLED TO REDRESS UNDER THE COURT ORDERED  
SETTLEMENT IN**

**ATTORNEY GENERAL  
V.  
LEVEL PROPANE GASES, INC. ET AL**

Dear Consumer:

On November \_\_\_\_, 2001, a court order called a **Consent Decree\*\*** was signed and entered by Ingham County Circuit Judge, Lawrence M. Glazer in the case the Attorney General brought against Level Propane. As a part of the Decree certain Michigan consumers who filed complaints before the date of the Consent Decree and those who file a complaint within ninety (90) days of the date the court approves the Consent Decree, may be eligible to obtain a refund, a charge back to the consumer's account with a credit provider or a credit from Level reducing the balance the consumer owes to Level if the consumer continues to do business with Level. The provisions discussing refunds, charge backs and credits are set forth in Section VI of the Consent Decree under the heading "**Implementation of Consumer Redress.**" This Section VI is attached to this Notice.

**YOU MAY BE ENTITLED TO REDRESS UNDER THE COURT  
ORDERED SETTLEMENT. IN ORDER TO OBTAIN ANY REDRESS A  
CONSUMER MUST FILE A COMPLAINT\*\* WITH THE ATTORNEY  
GENERAL ON OR BEFORE (fill in date)\_\_\_\_\_.**

If you file a complaint, Level will be given an opportunity to resolve your complaint. If your complaint is not resolved to your satisfaction, you may utilize another process set forth in Section VII of the Consent Decree. Section VII, entitled "**Retention of Third-Party Administrator,**" requires Level to submit your complaint matter to an impartial Third-Party Administrator for a decision. This Section VII is attached to this Notice.

After receiving copies of your complaint and any documents Level desires to submit to the Third Party Administrator, the Third-Party Administrator will contact you requesting that you provide any additional information you want the Third-party Administrator to consider. Additional information may include other billings you received from Level, Level's advertisements or letters, other documents, an affidavit you have made, or an affidavit from any other person, who has personal knowledge of the facts, made on your behalf.

The Third Party Administrator will then determine the dispute between Level and you. Level must abide by the Third Party Administrator's determination. You will have the option of agreeing to or rejecting the Third Party Administrator's determination and you are not obligated to have your claims determined in this manner. You may, at any time, exercise your rights and file a case in an appropriate court (provided you have not already agreed to settle your claim).

You will be notified of the Third Party Administrator's determination and will be given an **Election Form** to complete. You will be asked to select one of the elections by dating and signing your name under the election you chose and returning the Election Form to the Third Party Administrator. If you do not return a completed Election Form within the time provided your silence will be treated as a rejection of the Third-Party Administrator's determination.

Thank you for your cooperation and assistance. The support of many consumers has helped to produce a resolution of this matter which is designed to provide relief to all affected Michigan consumers. Some of you may believe you are not receiving full reimbursement or relief for all losses you believe you sustained. We would not disagree with you. But in order to afford relief to the greatest number of Michigan consumers in a timely manner, we believe this resolution will serve the best interest of the widest number of Michigan consumers.

Dated: \_\_\_\_\_

Jennifer M. Granholm  
Attorney General

**\*\*You may obtain a copy of the Consent Decree at the Attorney General's website, at [ag.state.mi.us](http://ag.state.mi.us). You may also file a complaint online or obtain a complaint form for submitting a complaint against Level to the Attorney General at the same website. You may also file a complaint by submitting a clear and legible handwritten or typewritten statement of your complaint (along with copies of any relevant documents) and mailing it to:**

**Michigan Attorney General  
Consumer Protection Division  
Level Propane Complaint Desk  
P.O. Box 30213  
Lansing, MI 48909.**

**Please keep a copy of your complaint and documents for your reference.**

**Attachment 3**

**LEVEL PROPANE'S PROPOSAL FOR RESOLUTION\*\***

**RE: Consumer/Customer Name:  
Address:**

**AG Consumer Complaint No.** \_\_\_\_\_

**Level Account No.** \_\_\_\_\_

**Dear (name of customer):**

Level Propane Gases, Inc. makes the following Proposal For Resolution of the complaint you submitted to the Attorney General of Michigan (other: \_\_\_\_\_)  
Level Propane Gases, Inc. has determined it owes you the following amounts of money or other adjustments to your account:

- (1) \$ \_\_\_\_\_ for: (describe the reason for the refund).
  - (2) \$ \_\_\_\_\_ for: (describe the reason for the refund).
  - (3) \$ \_\_\_\_\_ for: (describe the reason for the refund).
  - (4) \$ \_\_\_\_\_ as a credit to your account for: (describe the reason for the credit).
  - (5) \$ \_\_\_\_\_ as a charge back to your account for: (describe the reason for the chargeback).
  - (6) \$ 0.00 \_\_\_\_\_ No refunds or adjustments are due.
  - (7) \$ 0.00 \_\_\_\_\_ All refunds and adjustments have previously been paid or made.
- A. The total money Level will refund to you is \$ \_\_\_\_\_.
- B. The total credit to your account that Level will make is \$ \_\_\_\_\_.
- C. The total charge back to your account that Level will make is \$ \_\_\_\_\_.

Please indicate your STATEMENT OF AGREEMENT or NON-AGREEMENT by signing your name(s) under the appropriate Statement below and returning your Statement in the Enclosed Envelope.

**STATEMENT OF AGREEMENT:** I/We agree to Level's proposed resolution of my/our complaint. Therefore upon my/our receipt of the sum of \$\_\_\_\_\_ and/or receipt of appropriate verification from Level or from my other credit provider that I received a credit to my Level account equal to \$\_\_\_\_\_and/or a charge back on my credit card (or other credit) account equal to \$\_\_\_\_\_, I/We will agree to release Level from any transaction arising from Level's business conduct covered by the Consent Decree, provided however, that my/our rights regarding any matter or thing involving or which may involve personal injury or wrongful death shall not be affected by my/our agreement to and signing of this Resolution.

Date:\_\_\_\_\_

Date:\_\_\_\_\_

**STATEMENT OF NON-AGREEMENT:** I/We do not agree to Level's proposed resolution of my/our complaint.  
I/We understand that our matter will now be referred to the Third Party Administrator as a matter which Level disputes and for determination by the Third Party Administrator.

Date:\_\_\_\_\_

Date:\_\_\_\_\_

Level Propane Gases, Inc.

**\*\*FOR YOUR REFERENCE AND PROTECTION PLEASE KEEP A COPY OF ALL OF THESE MATERIALS AFTER YOU HAVE DATED AND SIGNED THEM AND BEFORE YOU ENCLOSE THEM IN THE ENVELOPE FOR MAILING. YOU MAY WISH TO MAIL YOUR LETTER BY CERTIFIED MAIL TO INSURE THAT IT HAS ARRIVED AT THE PROPER DESTINATION AND FOR YOUR EVIDENCE OF MAILING.**

**Attachment 4**

**THIRD PARTY ADMINISTRATOR'S DETERMIANTION  
AND  
ELECTION FORM  
For**

**Attorney General v. Level Propane Gases, Inc et al**

**Third Party Administrator's Determination:**

The Third Party Administrator has determined that:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

-----perforated line-----

**Your Election :**

Please refer to the Third Party Administrator's Determination, above, in completing this Election Form.

Please select the Election choice you desire by dating and signing your name on the lines provided under your Election choice. **THEN MAIL YOUR COMPLETED ELECTION FORM IN THE ENCLOSED ENVELOPE TO:**

\_\_\_\_\_(the address needs to be complete by administrator)\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ELECTION 1**

I /We do not agree to accept the determination of the Third Party Administrator. I/We withdraw our complaint submitted to the Attorney General of Michigan (other: \_\_\_\_\_). I/We do not release Level from any claims or causes of action we have or may have.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**ELECTION 2**

I/We agree to accept the determination of the Third Party Administrator. If I am/we are paid (or my/our Level account is credited) as stated in the Third Party Administrator's Determination Letter, I/we agree to withdraw the complaint I/we submitted about Level Propane to the Michigan Attorney General (other: \_\_\_\_\_). I/We agree not to file any new or additional lawsuit against Level Propane Gases, Inc. for any transaction arising from Level's or Maloof's business conduct covered by the Consent Decree, provided however, that my/our rights regarding any matter or thing involving or which may involve personal injury or wrongful death shall not be affected by my/our agreement to and signing of this Election Form.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**Attachment 5**

**Date:** \_\_\_\_\_

**To:** (1) \_\_\_\_\_ (Trans Union) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(2) \_\_\_\_\_ (Experian) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) \_\_\_\_\_ (Equifax) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(4) \_\_\_\_\_ (other) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**From:** Level Propane Gases, Inc. *(or such other entity that submits the information on behalf of Level)*

\_\_\_\_\_

\_\_\_\_\_

**With Reference to :** (provide information necessary to identify the consumer Level previously submitted information about)

You are requested to immediately and permanently remove from your files and otherwise suppress and/or take all remedial measures to correct the credit history and credit report of the referenced consumer for the information supplied to you by \_\_\_\_\_ (name and address of organization that supplied the information), on (date it did so). The information which is to be removed is: \_\_\_\_\_.

The information supplied to you was disputed.

This submission to you is made as a part of the obligations of Level Propane Gases, Inc. under a Consent Decree entered in the Case and Court known as: ***Jennifer M. Granholm, Attorney General of the State of Michigan on Behalf of the People of the State of Michigan, Plaintiff v. Level Propane Gases, Inc, et al, Defendants, Ingham County Circuit Court, Case No. 01-93750-CP***