

PLYMOUTH, SS
COMMONWEALTH OF MASSACHUSETTS
PLYMOUTH SUPERIOR COURT
DOCKET NO.

MICHAEL R. MILANOSKI
Plaintiff,

JOHN P. DEWAELE, III
Plaintiff,

vs.

GRAFTON & UPTON RAILROAD
COMPANY
Defendant,

FIRST COLONY GROUP, LLC
Defendant,

JON DELLI PRISCOLI
Defendant.

VERIFIED COMPLAINT

SUMMARY OF CASE

Michael Milanoski (hereinafter, “Mr. Milanoski”) and John DeWaele (hereinafter, “Mr. DeWaele”) (collectively, Mr. Milanoski and Mr. DeWaele, the “Plaintiffs”), by and through their undersigned counsel, bring suit against Grafton & Upton Railroad Company (hereinafter, “Grafton & Upton”), First Colony Group, LLC (hereinafter, “First Colony”) and Jon Delli Priscoli (hereinafter, “Mr. Delli Priscoli”) (collectively, Grafton & Upton, First Colony and Mr. Delli Priscoli, the “Defendants”) for the nonpayment of earned wages and retaliation in violation of the Massachusetts Wage Act, breach of contract, the improper classification of Mr. Milanoski as an independent contractor and unjust enrichment.

Mr. Milanoski worked for Grafton & Upton and First Colony from on or about May 19, 2017 through February 10, 2023 and Mr. DeWaele worked for Grafton & Upton from February 22, 2018 through March 27, 2023. Based on the calculations of Grafton & Upton's Chief Financial Officer, John Cotter (hereinafter, "Mr. Cotter"), Mr. Milanoski is owed at least eight hundred and twelve thousand (\$812,000) dollars for the nonpayment of wages by Grafton & Upton and First Colony. Mr. DeWaele is owed at least eighty (\$80,000) dollars for the nonpayment of wages by Grafton & Upton. When Mr. Milanoski and Mr. DeWaele raised concerns about the nonpayment of earned wages, Mr. Delli Priscoli fired Mr. Milanoski and Mr. Delli Priscoli retaliated against Mr. DeWaele until Mr. DeWaele was forced to resign from his employment with Grafton & Upton.

PARTIES

1. Mr. Milanoski, Plaintiff, is a Massachusetts resident with an address of 171 South Main Street, Cohasset, Massachusetts 02025.
2. Mr. DeWaele, Plaintiff, is a Massachusetts resident with an address of 8 Crestwood Drive, Blackstone, Massachusetts 01504.
3. Defendant, Grafton & Upton, is a Massachusetts based corporation with a principal place of business of 42 Westboro Road, North Grafton, Massachusetts 01536.
4. Defendant, First Colony, is a Massachusetts based limited liability company with a principal place of business of 7 Eda Avenue, Carver, Massachusetts 02330.
5. Defendant, Mr. Delli Priscoli, is a Massachusetts resident with a residential address of 84 South Main Street, Southborough, Massachusetts 01772. Mr. Delli Priscoli is the President, Treasurer and Secretary of Grafton & Upton, the sole member of the company's

Board of Directors and the holder of all of the outstanding and issued shares of Grafton & Upton. Mr. Delli Priscoli also holds all of the membership interests of First Colony.

FACTS

Controlling Agreements and Relevant Provisions

6. Mr. Milanoski entered into an “Employment Agreement” and “Commission Agreement” with First Colony on or about May 19, 2017, “Employment Agreement,” (dated May 19, 2017), attached hereto as Exhibit A.
7. In accordance with the terms of this Employment Agreement, Mr. Milanoski became the President/Manager of First Colony and all other companies owned in whole or in part by Mr. Delli Priscoli. Mr. Milanoski received a base salary and bonuses, including an “Annual Bonus” equal to three (3%) percent of the “Net annual income” generated by all businesses owned “in whole or in part by an entity that is managed by [First Colony.]” Ex. A, at 2.
8. The Commission Agreement also provided Mr. Milanoski with a one and a half (1.5%) percent commission on the net proceeds of the sale of assets solely or partially owned by Mr. Delli Priscoli. Ex. A, at 10.
9. Next, Mr. Milanoski entered into an “Amended Employment Agreement” and “Commission Agreement” with Grafton & Upton and First Colony on or about April 17, 2020, “Amended Employment Agreement” (dated April 17, 2020), attached hereto as Exhibit B and “Commission Agreement” (dated April 17, 2020), attached hereto as Exhibit C.
10. According to the terms of the Amended Employment Agreement, Mr. Milanoski became the President of Grafton & Upton while retaining the other titles provided in the original

employment agreement. Mr. Milanoski received an increased base salary and a revised bonus structure, which included an “Annual Profit Share” of ten (10%) percent of the “Net Annual Income” “derived from all business (sic) owned in whole or in part by [Grafton & Upton or First Colony] or any entity that (sic) managed by either [First Colony] or [Grafton & Upton.]” Ex. B, at 2.

11. According to the terms of the Commission Agreement, Mr. Milanoski was entitled to a two (2%) percent commission on the net proceeds of the sale of many different companies and pieces of real estate, including, but not limited to, Grafton & Upton. Ex. C, at 1.
12. Mr. DeWaele entered into an “Employment Agreement” with Grafton & Upton on February 22, 2018, “Employment Agreement” (dated February 22, 2018), attached hereto as Exhibit D. Mr. DeWaele was hired as the Senior Vice President of Railroad Operations and the General Manager of Grafton & Upton. Mr. DeWaele was entitled to a base salary and bonuses, including an “Annual Bonus” equal to one and a half (1.5%) percent of Grafton & Upton’s “Net Annual Income.” Ex. D, at 2.
13. Mr. DeWaele’s Employment Agreement also provided Mr. DeWaele with a “Change of Control” bonus of one (1%) of the net proceeds of a sale of Grafton & Upton. Ex. D, at 2.
14. Mr. DeWaele entered into an “Employment Agreement Restated” with Grafton & Upton on January 3, 2020, “Employment Agreement Restated” (dated January 3, 2020), attached hereto as Exhibit E. Mr. DeWaele again received a base salary and bonuses, including an “Annual Bonus” of one and a half (1.5%) percent of Grafton & Upton’s “Net Annual Income.” Ex. E, at 2. Mr. DeWaele was again entitled to a “Change of Control” bonus of one (1%) percent of the net proceeds of a sale of Grafton & Upton. Ex. E, at 2.

Mr. Milanoski's Misclassification as an "Independent Contractor"

15. Starting in or about the fall of 2021, Mr. Milanoski recognized that Grafton & Upton and First Colony had improperly classified him as an "independent contractor."
16. Mr. Milanoski then discussed this improper classification with both Mr. Delli Priscoli and Brenda Johnson (hereinafter, "Ms. Johnson"), the Director of Human Resources at Grafton & Upton and First Colony.
17. Ms. Johnson, however, refused to change Mr. Milanoski's classification, which, based on the operational structure of Grafton & Upton and First Colony, was clearly at the behest of Mr. Delli Priscoli.
18. Over the years, Mr. Milanoski regularly brought up this misclassification with Ms. Johnson and Mr. Delli Priscoli.
19. Mr. Milanoski even noted the misclassification's serious financial consequences.
20. For example, Mr. Milanoski never had proper taxes taken out of his income, preventing his ability to receive unemployment benefits after his subsequent termination from Grafton & Upton and First Colony, as detailed herein.
21. Nonetheless, despite Mr. Milanoski's numerous attempts to discuss his misclassification with Ms. Johnson and Mr. Delli Priscoli, all of his concerns were ignored.
22. Because of this misclassification, Grafton & Upton also failed to make proper contributions to Mr. Milanoski's federal railroad pension.

Mr. Delli Priscoli's Duplicious Behavior and Retaliation

23. Starting in or about November 2022, Mr. DeWaele and Mr. Milanoski negotiated with Mr. Delli Priscoli to purchase Grafton & Upton and other related assets because of Mr. Delli

Priscoli's liquidity issues.

24. In fact, Mr. DeWaele, Mr. Milanoski and Mr. Delli Priscoli entered into a binding Letter of Intent on December 1, 2022, Binding Letter of Intent Between Mr. Milanoski, Mr. DeWaele and Mr. Delli Priscoli (dated December 1, 2022), attached hereto as Exhibit F.
25. Shortly after reaching this agreement, Mr. Delli Priscoli attempted to renegotiate the terms of the deal and market Grafton & Upton to other third parties in violation of the terms of the binding letter of intent.
26. Despite Mr. Delli Priscoli's duplicitous behavior, Plaintiffs continued to act in the best interests of Defendants in all of their dealings on behalf of First Colony or Grafton & Upton.
27. On December 28, 2022, consistent with Grafton & Upton's end of year review process and prior practices, Mr. DeWaele received a salary increase of thirty-five thousand (\$35,000) dollars, Mr. DeWaele's 2022 Year End Review (dated December 28, 2022), attached hereto as Exhibit G.
28. Mr. DeWaele earned this salary increase because the quality of his work consistently exceeded expectations throughout 2022. Ex. G.
29. In his role as President of Grafton & Upton, Mr. Milanoski communicated this salary increase to Mr. Cotter, Grafton & Upton's Chief Financial Officer, on December 28, 2022, Email from Mr. Milanoski to Mr. Cotter (dated December 28, 2022) attached hereto as Ex. H.
30. Mr. Milanoski asked Mr. Cotter to apply Mr. DeWaele's salary increase starting in the first pay period of January 2023. Ex. H.

31. At this same time, Mr. Milanoski also approved raises for various other employees at Grafton & Upton, including Ms. Johnson.
32. In this same communication with Mr. Cotter, Mr. Milanoski followed up on an earlier conversation with Mr. Cotter about the failure of Grafton & Upton and First Colony to make earned bonus payments to several executives of Mr. Delli Priscoli's companies. Ex. H.
33. Mr. Milanoski even offered to provide a portion of his bonus payments to Ms. Johnson, who was unlikely to be entitled to any bonus payments because of the poor performance of Ms. Johnson's division. Ex. H.
34. Even prior to any communications with Mr. Cotter, Mr. Milanoski has discussed the potential impact of this noncompliance with Mr. Delli Priscoli on many occasions.
35. Mr. Delli Priscoli, however, displayed a casual indifference to Mr. Milanoski's legitimate concerns.
36. So, on December 28, 2022, Mr. Milanoski followed up with Mr. Cotter on the calculation of earned and unpaid bonus payments, intending to again present this information to Mr. Delli Priscoli and stress the seriousness of Mr. Delli Priscoli's wrongdoing.
37. In response to Mr. Milanoski's aforementioned communication, Mr. Cotter circulated a spreadsheet to Mr. Milanoski on January 12, 2023, Email from Mr. Cotter to Mr. Milanoski (dated January 12, 2023), attached hereto as Exhibit I. Mr. Cotter calculated that Mr. DeWaele was owed at least eighty thousand (\$80,000) dollars for earned and unpaid bonus payments from 2018 to 2022. In his calculation, Mr. Cotter used estimated financial figures for Grafton & Upton's 2022 results.

38. Mr. Cotter also estimated that Mr. Milanoski was owed at least eight hundred and twelve thousand (\$812,000) dollars for earned and unpaid bonus payments from both Grafton & Upton and First Colony for the period of 2017 through 2021. Mr. Cotter did not calculate any bonuses owed to Mr. Milanoski for 2022, but given the estimated figures, Mr. Milanoski earned a bonus payment for Grafton & Upton's fiscal performance in 2022.
39. Upon information and belief, Mr. Cotter discussed his findings with Mr. Delli Priscoli.
40. Mr. Milanoski also discussed Mr. Cotter's findings with Mr. Delli Priscoli, who again ignored Mr. Milanoski's protestations.
41. After raising these issues, Mr. Delli Priscoli retaliated against Mr. Milanoski and Mr. DeWaele.
42. As throughout their employment with Grafton & Upton and First Colony, Mr. Milanoski and Mr. DeWaele continued to act professionally, comply with the terms of their controlling employment agreements and use good faith efforts in all of their business dealings on behalf of Grafton & Upton, First Colony or any other companies associated with Mr. Delli Priscoli.
43. Throughout the tenure of Mr. DeWaele and Mr. Milanoski at Mr. Delli Priscoli's companies, Mr. Delli Priscoli regularly praised Mr. Milanoski and Mr. DeWaele, crediting them with turning around his businesses.
44. Nonetheless, on January 20, 2023, Mr. Delli Priscoli placed Mr. Milanoski on administrative leave at Grafton & Upton, Grafton & Upton – Certificate of Vote (dated January 20, 2023), attached hereto as Exhibit J. Mr. Delli Priscoli also ordered Mr. Milanoski to return all Grafton & Upton company property. Ex. J.

45. Mr. Delli Priscoli removed Mr. Milanoski as Manager and Registered Agent of First Colony on January 20, 2023, First Colony's Members Vote and Consent (dated January 20, 2023), attached hereto as Exhibit K.
46. To convey notice of his retaliatory actions, Mr. Delli Priscoli cruelly took advantage of Mr. DeWaele.
47. Mr. Delli Priscoli and Ms. Johnson ambushed Mr. DeWaele during a meeting on January 20, 2023 – the same day Mr. Delli Priscoli took his retaliatory actions against Mr. Milanoski.
48. Mr. Delli Priscoli stated that he urgently needed to speak with Mr. DeWaele and Mr. Delli Priscoli asked the other individuals to leave the conference room.
49. During this unannounced and unscheduled meeting, Mr. Delli Priscoli ordered Mr. DeWaele to call Mr. Milanoski.
50. When Mr. Milanoski connected with Mr. DeWaele, Mr. Delli Priscoli took over the conversation and notified Mr. Milanoski that he was placed on administrative leave and removed from his roles with Grafton & Upton and First Colony.
51. After hanging up on Mr. Milanoski, Mr. Delli Priscoli turned to Mr. DeWaele stating, "Now on to you."
52. Mr. Delli Priscoli rescinded Mr. DeWaele's salary increase.
53. Mr. Delli Priscoli declared that the raise was ineffective because Mr. Delli Priscoli did not personally approve the raise.
54. Mr. Delli Priscoli, however, never approved year-end salary increases during Plaintiffs' tenure with his companies.

55. Mr. Delli Priscoli rationalized his unilateral rescission of Mr. DeWaele's duly approved raise by declaring that "he should get paid first" and the "most" before anyone else at Grafton & Upton as the owner of the company.
56. When Mr. DeWaele defended the well-deserved pay raise, Mr. Delli Priscoli proclaimed his ability to "do every job at the railroad."
57. Mr. Delli Priscoli continued to belittle Mr. DeWaele by revising Mr. DeWaele's reporting structure in retaliation for addressing the unpaid wages.
58. Henceforth, Mr. DeWaele had to run all decisions by Mr. Delli Priscoli. If Mr. Delli Priscoli was unavailable, Mr. DeWaele was required to speak with either Eric Moffat, who was appointed as the Executive Vice President of Grafton & Upton on January 20, 2023, and had no relevant experience to support this appointment, Mr. Cotter or Ms. Johnson.
59. To assert further control over Mr. DeWaele, Mr. Delli Priscoli mandated weekly meetings at Grafton & Upton's primary office, even though Mr. DeWaele needed to travel to different company sites to fulfill his normal job responsibilities.
60. Lastly, Mr. Delli Priscoli declared that Grafton & Upton would not complete any capital projects with the ongoing litigation related to the binding letter of intent.
61. Mr. Delli Priscoli stated "we are not going to be someone else's piggybank so they can get rich off me."
62. Mr. Delli Priscoli knew this limitation would prevent Mr. DeWaele from doing his job effectively, given the capital-intensive nature of a railroad operation.
63. At the conclusion of Mr. Delli Priscoli's outburst, all of which the other Grafton & Upton employees heard through the door of the conference room, several of Mr. DeWaele's

colleagues asked if Mr. DeWaele was fired and needed a ride home, assuming his company vehicle was confiscated.

64. On January 25, 2023, Mr. DeWaele and Mr. Milanoski mailed demand letters to Mr. Delli Priscoli requesting the immediate payment of the unpaid and earned wages detailed herein, Demand Letter on Behalf of Mr. DeWaele (dated January 25, 2023), attached hereto as Exhibit L and Demand Letter on Behalf of Mr. Milanoski (dated January 25, 2023), attached hereto as Exhibit M.
65. Up to the date of this filing, Defendants have not responded to the aforementioned letters.
66. The very next day – January 26, 2023, Mr. Delli Priscoli called Mr. DeWaele to complain about Grafton & Upton’s ongoing litigation.
67. In an expletive laden rant (admittedly against the advice of his own counsel), Mr. Delli Priscoli raged about the ongoing litigation concerning the sale of Grafton & Upton and its potential impact on Grafton & Upton’s other ongoing legal proceedings.
68. Mr. Delli Priscoli acknowledged wanting to keep Grafton & Upton’s business dealings confidential because the “Facebook warriors” would spread misinformation about Grafton & Upton and its business operations.

Termination of Mr. Milanoski and Mr. DeWaele’s Forced Resignation

69. On February 8, 2023, Mr. Delli Priscoli terminated Mr. Milanoski’s employment with Grafton & Upton and First Colony effective February 10, 2023, Mr. Milanoski Termination Letter (dated February 8, 2023), attached hereto as Exhibit N.
70. After Mr. Milanoski’s termination, Mr. DeWaele continued to act professionally, comply with the terms of his controlling employment agreements and use good faith efforts in all

of his business dealings on behalf of Grafton & Upton.

71. Mr. Delli Priscoli, however, made it impossible for Mr. DeWaele to continue his employment with Grafton & Upton.
72. Mr. Delli Priscoli took many retaliatory acts against Mr. DeWaele and created a hostile work environment.
73. For example, Mr. Delli Priscoli continuously threatened to fire Mr. DeWaele, even suggesting Mr. Delli Priscoli's attorneys recommended the termination of Mr. DeWaele's employment.
74. Mr. Delli Priscoli also ignored all of Mr. DeWaele's professional recommendations, refused to properly staff Grafton & Upton and declined to allocate any capital to ensure the safety of Grafton & Upton's railroad operations.
75. On February 16, 2023, Mr. Delli Priscoli demoted Mr. DeWaele in his role as Vice President of Grafton & Upton, Mr. DeWaele Demotion (dated February 16, 2023), attached hereto as Exhibit O.
76. In perhaps his most humiliating act, Mr. Delli Priscoli ordered Mr. DeWaele to switch offices in connection with his demotion.
77. On February 28, 2023, Mr. DeWaele met with Mr. Delli Priscoli at a restaurant in Westborough, Massachusetts, as required by Mr. Delli Priscoli.
78. Mr. Delli Priscoli started this conversation by asking Mr. DeWaele to shut off his phone, which Mr. DeWaele perceived as Mr. Delli Priscoli's attempt to prevent the upcoming conversation from being recorded.
79. Mr. Delli Priscoli then stated "[t]his is off the record, it's not discoverable and I'll deny I

said any of it[.]”

80. During this meeting, Mr. Delli Priscoli attempted to negotiate with Mr. DeWaele to the detriment of Mr. Milanoski.
81. Mr. Delli Priscoli tried to convince Mr. DeWaele to back out of the ongoing litigation and relinquish any rights conveyed by the binding letter of intent.
82. Mr. Delli Priscoli likened Mr. DeWaele’s relationship with Mr. Milanoski as being “tied to a boat anchor.”
83. If Mr. DeWaele agreed to his proposal, Mr. Delli Priscoli would allow Mr. DeWaele to become a part owner of Grafton & Upton, but Mr. DeWaele and any other investor would have to pay more than the amount agreed to in the binding letter of intent, and in return, Mr. Delli Priscoli would name Mr. DeWaele the President of Grafton & Upton.
84. While further elaborating on this proposal, Mr. Delli Priscoli suggested Grafton & Upton could sell off some parts of the business and Mr. Delli Priscoli already knew the potential buyers, implying Mr. Delli Priscoli already had conversations with third parties, despite the terms of the binding letter of intent.
85. Mr. Delli Priscoli, however, was adamant about cutting Mr. Milanoski out of any deal, even stating Mr. Milanoski would never own Grafton & Upton, irrespective of the outcome of the ongoing litigation.
86. Mr. Delli Priscoli declared that he had “many, many counterclaims” against Mr. Milanoski, in an attempt to change Mr. DeWaele’s perception of Mr. Milanoski.
87. At the conclusion of this meeting, Mr. Delli Priscoli demanded an answer from Mr. DeWaele within a few days, and if Mr. DeWaele did not agree to Mr. Delli Priscoli’s offer,

Mr. Delli Priscoli would terminate Mr. DeWaele's employment with Grafton & Upton.

88. After suffering Mr. Delli Priscoli's retaliation and threats for several months, Mr. DeWaele resigned from employment with Grafton & Upton on March 13, 2023, effective two weeks thereafter, Mr. DeWaele Resignation Letter (dated March 13, 2023), attached hereto as Exhibit P.
89. On March 14, 2023, while in Grafton & Upton's office, Mr. DeWaele overheard Mr. Delli Priscoli disparaging Mr. DeWaele and Mr. Milanoski to Grafton & Upton's other employees.
90. On March 15, 2023, Mr. DeWaele was dismissed from Grafton & Upton's property and forced to return all of Grafton & Upton's company property.
91. Mr. DeWaele immediately provided all company property to Ms. Johnson.
92. All company property was returned in working order and Mr. DeWaele provided a log of all files on his company computer and the log-in information for all of his company accounts.
93. During the two-week period following Mr. DeWaele's circulation of his resignation letter, Mr. DeWaele discovered that Ms. Johnson was logged into his company account.
94. Ms. Johnson reviewed Mr. DeWaele's communications and forwarded the communications internally – without informing Mr. DeWaele of her actions.
95. While forwarding one message, Ms. Johnson disparaged Mr. DeWaele, referring to him as a "liar".
96. Mr. DeWaele confronted Ms. Johnson about her devious and defamatory actions.
97. Ms. Johnson apologized profusely and acknowledged her bad acts.

Attorney General Private Right of Action

98. On February 8, 2023, counsel for Mr. DeWaele and Mr. Milanoski received private right of action letters from the Massachusetts Office of the Attorney General related to Mr. Milanoski's claims against Grafton & Upton and First Colony and Mr. DeWaele's claims against Grafton & Upton.

Defendants' Nonpayment of Earned Wages

99. Up to the date of this filing, Defendants have not paid Mr. Milanoski any earned bonuses under the terms of his original or amended employment agreements.
100. From May 19, 2017 through April 17, 2020, Mr. Milanoski earned an "Annual Bonus" in connection with the terms of his original employment agreement.
101. From April 17, 2020 through his unjust termination effective on February 10, 2023, Mr. Milanoski earned an "Annual Profit Share" bonus according to the terms of his amended employment agreement.
102. As verified by the Company's CFO, Mr. Milanoski is owed at least eight hundred and twelve thousand (\$812,000) dollars in addition to any bonuses earned during 2022.
103. Up to the date of this filing, Defendants have never paid Mr. DeWaele any bonus under the terms of his original employment agreement or restated employment agreement.
104. From February 22, 2018 through January 3, 2020, Mr. DeWaele earned an "Annual Bonus" in connection with the terms of his original employment agreement.
105. From January 3, 2020 through his resignation effective on March 27, 2023, Mr. DeWaele earned an "Annual Bonus" in connection with the terms of his restated employment agreement.

106. Moreover, Mr. DeWaele never received any salary payments in accordance with the validly approved salary increase on December 28, 2022.
107. Mr. DeWaele is owed his increased salary for each pay period from January 1, 2023 through his resignation from Grafton & Upton effective on March 27, 2023.
108. Mr. DeWaele is owed at least eighty thousand (\$80,000) dollars.

COUNT I - BREACH OF WRITTEN CONTRACT

109. Plaintiffs reassert and reallege the allegations set forth above as if each were separately stated herein.
110. Mr. Milanoski entered into his original employment agreement with First Colony on May 19, 2017.
111. Mr. Milanoski entered into his amended employment agreement with First Colony and Grafton & Upton on April 17, 2020.
112. Mr. DeWaele entered into his original employment agreement with Grafton & Upton on February 22, 2018.
113. Mr. DeWaele entered into his restated employment agreement with Grafton & Upton on January 3, 2020.
114. Plaintiffs have not violated any terms of the binding, express written agreements.
115. Defendant has materially breached the terms of the binding, express written agreements.
116. Plaintiffs have suffered and will continue to suffer irreparable harm as a result of Defendants' breaches.

COUNT II – NONPAYMENT OF WAGES IN VIOLATION OF M.G.L. C. 149 § 148

117. Plaintiffs reassert and reallege the allegations set forth above as if each were separately

stated herein.

118. Pursuant to M.G.L. c. 149 § 150, the Massachusetts Attorney General Office has assented in writing to the commencement of this action.
119. The Massachusetts Wage Act, M.G.L. c. 149 § 148, requires the timely payment of all earned wages.
120. At all relevant times, Mr. Milanoski was an employee of Grafton & Upton and/or First Colony.
121. At all relevant times, Mr. DeWaele was an employee of Grafton & Upton.
122. At all relevant times, Defendants were all “employers” according to the Massachusetts Wage Act and thus required to compensate Plaintiffs in accordance with the requirements imposed on employers by said statute.
123. By failing to pay Mr. Milanoski his earned wages, in the form of due “Annual Bonus” or “Annual Profit Share” payments, Grafton & Upton and First Colony failed to pay Mr. Milanoski the amount of his earned wages when they became due and payable in violation of the Wage Act.
124. By failing to pay Mr. DeWaele his earned wages, in the form of due “Annual Bonus” payments and previously approved salary increases, Grafton & Upton failed to pay Mr. DeWaele the amount of his earned wages when they became due and payable in violation of the Wage Act.
125. As a direct and proximate cause of Defendants’ conduct, Plaintiffs have been harmed.
126. Defendants’ failure to comply with M.G.L. c. 149 § 148 entitles Plaintiffs to recover treble damages, interest, reasonable attorneys’ fees and costs pursuant to M.G.L. c. 149 § 150.

**COUNT III – RETALIATION IN VIOLATION OF
M.G.L. C. 149 § 148A**

127. Plaintiffs reassert and reallege the allegations set forth above as if each were separately stated herein.
128. By raising concerns and voicing internal complaints about Defendants’ failure to properly pay wages, Plaintiffs engaged in activity protected by M.G.L. c. 149 § 148A.
129. Mr. Milanoski was terminated from his employment because he complained about the failure to properly pay earned wages. This adverse action was motivated by a desire to retaliate against Mr. Milanoski for claiming unpaid wages properly due in violation of the Massachusetts Wage Act.
130. Mr. DeWaele was retaliated against and forced to resign because he complained about the failure to properly pay wages. This adverse action was motivated by a desire to retaliate against Mr. DeWaele for claiming unpaid wages properly due in violation of the Massachusetts Wage Act.
131. As a direct and proximate result of Defendants’ conduct, Plaintiffs have been harmed. Plaintiffs have suffered and continue to suffer damages, including, without limitation, loss of income, loss of employment and employment benefits, loss of professional opportunities, loss of professional reputation and emotional distress.

**COUNT IV - VIOLATION OF
M.G.L. C. 149 § 148B**

132. Plaintiffs reassert and reallege the allegations set forth above as if each were separately stated herein.
133. Defendants misclassified Mr. Milanoski as an “independent contractor,” even though Mr.

Milanoski was an employee of Grafton & Upton and First Colony.

134. Mr. Milanoski notified Defendants about this misclassification and the financial consequences of said misclassification on numerous occasions.
135. Defendants, however, refused to properly classify Mr. Milanoski as an “employee.”
136. This misclassification prevented Mr. Milanoski from receiving unemployment benefits after his unjust termination, among other damages.

COUNT V - UNJUST ENRICHMENT

137. Plaintiffs reassert and reallege the allegations set forth above as if each were separately stated herein.
138. Defendants received the benefit of Plaintiffs’ time, work and professional skill without compensating them for the same.
139. Defendants were unjustly and unfairly enriched by the amount of unpaid wages as well as any profits made as a result of Defendants’ work.
140. Defendants benefitted from their failure to pay Plaintiffs the unpaid wages and as a result Plaintiffs suffered damages.

WHEREFORE PLAINTIFFS DEMAND THAT THIS COURT:

- a) Award Plaintiffs treble damages, interest, reasonable attorneys’ fees and costs pursuant to M.G.L. c. 149 § 150 for failure to timely pay earned wages and misclassify Mr. Milanoski as an “independent contractor”;
- b) Award Plaintiffs contract damages and pre-judgment interest for Defendants’ breach of contracts;
- c) Award equitable damages for Defendants’ unjust enrichment; and

d) Such other relief as the Court deems just and reasonable.

JURY DEMAND

Plaintiffs demand a jury trial on all of their claims.

Respectfully submitted,
Michael R. Milanoski and John P. DeWaele, III
By their attorneys,

/s/ Jenifer M. Pinkham
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Date: August 15, 2023

Date: August 15, 2023

VERIFICATION OF COMPLAINT

I, Michael R. Milanoski, hereby certify that I have read the above Verified Complaint and each of the attached exhibits, and that each of the allegations set forth are true and accurate of my own knowledge, information and belief, and so far as based upon information and belief, I believe the information to be true and each of the exhibits to be authentic.

Signed under the pains and penalties of perjury this 15th day of August 2023.



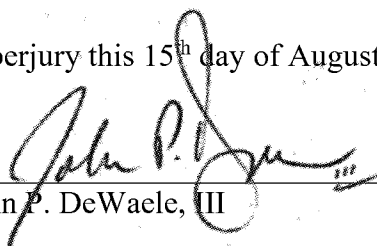
Michael R. Milanoski

Date: August 15, 2023

VERIFICATION OF COMPLAINT

I, John P. DeWaele, III hereby certify that I have read the above Verified Complaint and each of the attached exhibits, and that each of the allegations set forth are true and accurate of my own knowledge, information and belief, and so far as based upon information and belief, I believe the information to be true and each of the exhibits to be authentic.

Signed under the pains and penalties of perjury this 15th day of August 2023.



John P. DeWaele, III

EXHIBIT A

Employment Agreement

This Employment Agreement ("Agreement") is entered into this 19th day of May 2017 by and between Jon Delli Priscoli ("Delli Priscoli") as Manager of First Colony Development Group, LLC with a business address of 7 Eda Avenue, Carver, Massachusetts 02330 ("FCG") and Michael Milanoski of 171 South Main Street, Cohasset, MA 02025 Massachusetts ("Milanoski")(collectively the "Parties").

FCG and Milanoski agree as follows:

1. **Employment.** FCG hereby employs Milanoski as Manager and Milanoski accepts employment as Manager upon the terms and conditions hereinafter set forth. Milanoski warrants that he is free to enter into and fully perform this Agreement and is not subject to any employment (other than Town of Carver Employment Agreement), confidentiality, noncompetition, or other Agreement to the extent that the other Agreement may restrict his ability to perform his duties and or comply with his obligations and covenants to FCG described in this Agreement.
2. **Duties.** During the term of this Agreement, Milanoski's services shall be completely exclusive to FCG and Milanoski shall devote substantially all of his time, attention, and energies to the performance of services as Manger of FCG, the business of FCG and other such duties as FCG assigns him from time to time including without limitation, the duties and authorizations set forth in Exhibit A. Milanoski agrees to perform his services well in faithful to the best of his ability and carry out the policies and directives of FCG and Milanoski agrees to take no action knowingly prejudicial to the interests of FCG during his employment hereunder.
3. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until such time as Milanoski shall deliver written notice as required in paragraph 16 of his election to terminate this Agreement or alternatively in Milanoski's termination of employment by FCG.
4. **Compensation and Benefits.** In consideration for this Agreement, FCG agrees to provide Milanoski with compensation, bonuses and severance pay described below Milanoski understands that his base pay and bonuses shall be determined by FCG and may be adjusted from time to time with mutual agreement, based on a variety of factors including by way of example and without limitation, Milanoski's performance, FCG's financial position and/or FCG's business strategy.
 - (a) **Base Salary.** As of the date of this Agreement, Milanoski shall provide eight (8) hours per week of services to fulfill his position for which FCG shall pay Milanoski a base salary of \$880 per week (\$110/hour). Effective May 1, 2018 Milanoski shall provide an additional eight (8) hours for a total of sixteen (16) hours per week under the same terms. Any increase in the amount of hours Milanoski is required to perform services for FCG shall be mutually agreed by the parties, taking into

consideration Milanoski's full time position which he is currently fulfilling unrelated to this Agreement.

Annually on January 1st, after the execution of this Agreement, the annual salary shall increase by two and a half percent (2.5%) and shall remain at this rate until or unless the parties agree in writing to an increase in annual salary or an alternate salary structure.

(b) Bonuses and Commissions. Milanoski shall be paid bonuses as follows:

(i) Annual Bonus. Milanoski shall be paid an annual bonus equal to three percent (3%) for all business owned in whole or in part by an entity that is managed by FCG, based on "Net annual income" for the purposes of this paragraph shall be defined as all corporate income remaining after all corporate expenses are paid, including but not limited to: taxes, all operating expenses, and salaries.

(ii) Refinancing Commission. Milanoski shall be paid one percent (1%) commission on any refinancing which directly results from Milanoski's personal contacts that he presents to FCG which are not otherwise existing personal or professional contacts of FCG or any entities that FCG manages, and/or Delli, and which contacts FCG pursues to obtain refinancing during the Term of this Agreement.

(iii) Additional Real Estate Commission. Any sales of real estate managed by FCG completed as a direct result of Mr. Milanoski's personal contacts will be compensated based on similar market rates to those generally completed by third parties and those commissions will be negotiated on a case-by-case basis by FCG and Milanoski separate from this Agreement.

(iv) The Parties acknowledge that other Commissions may be payable to Milanoski during the term of his employment, outside of this Agreement, pursuant to the Commission Agreement of Exhibit B.

(c) Severance Pay.

All severance payments shall be provided as identified herein subject to all lawful and applicable withholdings and deductions.

(i) In the event that Milanoski's employment is terminated by FCG other than for cause or as terminated by FCG in connection with a change in corporate control (as defined below in subsection for (d)), then Milanoski shall be paid all Bonuses to which he is entitled as identified in (b) above for a period of twelve (12) months.

(ii) In the event that Milanoski's employment is terminated by Milanoski prior to his the completion of his second anniversary of his employment (which shall be defined as two (2) years from the date of this Agreement), then Milanoski shall be paid whatever income is due to him at the time of his termination, however he will not be paid any annual bonuses or unearned commission.

Handwritten signatures in black ink, appearing to be initials and a full name, located in the bottom right corner of the page.

(iii) In the event that Milanoski's employment is terminated by Milanoski after completion of his second anniversary of employment, as defined herein, then he shall be paid the pro-rated share of any Bonuses for time worked that year [for example, if he left his position on July 1st of the year, he shall be paid for six (6) months of that year's Bonuses and for any earned commissions.

(d) Change In Control. For the purposes of this Agreement, a change in control shall be deemed to be (i) a sale of all or substantially all of the assets of the company, (b) a merger, consolidation or similar transaction of FCG with or into any other person after which the equity holders of FCG (immediately prior to the transaction) failed to own at least: fifty percent (50%) or more of the voting power of the surviving entity, or (C) a sale (whether through one sale or multiple sales to a single person or group of related persons during any period of time after the date here) by the equity holders of FCG immediately prior to the transaction of an aggregate of at least fifty percent (50%) or more of the equity interests (by voting power) of FCG owned by such equity holders in the aggregate (immediately prior to the transaction).

e) Expenses. Milanoski shall be entitled to reimbursement for expenses reasonably incurred in connection with the performance of his duties hereunder in accordance with such procedures as FCG may establish from time to time. Such reimbursement shall include travel related expenses for travel incurred for business related matters. "FCG shall provide Milanoski Edaville Family Theme Park entrance tickets that he can use to promote FCG and its companies.

(g) Additional Benefits. Milanoski shall be entitled to any additional employee benefits as part of this Agreement pro-rated.

5. Resignation, Termination and Termination Benefits. Notwithstanding the provisions of section 3, Milanoski's employment under this Agreement shall terminate under the following circumstances set forth in this section 5:

(a) Termination By FCG For Cause. Milanoski's employment under this Agreement may be terminated for cause without further liability (including no obligation to pay severance) on the part of the company and shall be effective on the date set for termination in the written notice to employee. The following shall constitute "cause" for such termination:

(i) the conviction of Milanoski for a crime involving moral turpitude, deceit, dishonesty or fraud that has caused or is reasonably likely to cause harm to FCG or any affiliate of FCG; or

(ii) Milanoski 's gross negligence or willful misconduct with respect to FCG or any affiliate of FCG which causes harm; or

(iii) Milanoski's willful and continued failure to substantially perform (other than by reason of disability) his duties and responsibilities assigned or delegated under this Agreement; or

(iv) any intentional act of dishonesty, deceit, fraud, moral turpitude, misconduct, breach of trust or act intentionally against the financial or business interest of FCG by Milanoski or Milanoski's use or possession of illegal drugs in the workplace; or

(v) the material breach by Milanoski of any of his obligations under this Agreement, and if such breach is capable of a reasonable and timely cure (in FCG's sole discretion), after Milanoski has been given a notice of such breach in writing and a reasonable opportunity to cure it.

(b) Termination By FCG Without Cause. Milanoski's employment under this Agreement may be terminated without cause upon written notice to Milanoski, subject to the obligation to provide severance pay as described in section 4 (c) above, but otherwise without any further liability on the part of FCG.

(c) Resignation By Milanoski.

Milanoski may resign his employment by written notice to FCG and delivered in accordance with paragraph 16.

6. Confidentiality/Nondisclosure. As a condition of employment, Milanoski shall be required to sign the confidentiality/Nondisclosure Agreement attached hereto as Exhibit C and Incorporated herein and made a part hereof.

7. Solicitation of Employees. Milanoski agrees that he shall not for a period of twelve (12) months following termination of employment with FCG for any reason, whether with or without cause, either directly or indirectly, solicit or encourage any employee or independent contractor or business associate of FCG to end or diminish in any way his or her employment or other relationship with FCG or any of the companies it manages.

8. Covenants Against Competition.

(a) for the purpose of this section:

(i) "competing product" means any product, process, or service of any person or entity other than FCG or any of the companies it manages in existence or under development, (A) which is identical to, substantially the same as, or an adequate, substitute for any product, process, or service of the company, in existence or under development, on which Milanoski works during the time of employment with FCG were about which Milanoski acquires confidential information and (B) which is (or could reasonably be anticipated to be marketed or distributed in such a manner and in such a

geographic area as to actually compete with such, product, process or service of FCG and/or any of the companies which it manages.

(ii) "competing entity" means any person or entity, including Milanoski, engaged and, or about to become engaged in, research on or the acquisition, development, production, distribution, marketing, or providing of a competing product.

(b) in order to protect the confidential information and goodwill of FCG, Milanoski agrees to the following stipulations:

(i) for a period of twelve (12) months following termination of employment with the company for any reason, whether with or without cause, Milanoski will not directly or indirectly solicit or diverged, or attempt to solicit or diverged, or accept business relating in any in any manner to competing products or to products, processes or services of FCG or the Companies from any of the customers or accounts of FCG and/or at FCG with which Milanoski had any contact during employment by FCG.

(ii) for a period of twelve (12) months following termination of employment with the company for any reason, whether with or without cause, Milanoski will not render services, directly or indirectly, as it employee, consultant or otherwise to any competing entity in connection with research on or the acquisition, development, production, distribution, marketing or providing any competing product.

(c) Milanoski agrees that the restrictions set forth in this section are fair and reasonable in our reasonably required for the production of the interests of FCG. However, should an arbitrator or court nonetheless determined at a later date that such restrictions are in reasonable in light of the circumstances as they then exists, then Milanoski agrees that this section shall be construed in such a manner as to impose on Milanoski such restrictions as may then be reasonable and sufficient to assure FCG the intended benefits of this section.

9. Insurance. FCG may, at its election and for its benefit, ensure Milanoski against accidental loss or death, in Milanoski shall submit to a reasonable physical examination and supply such information as may be reasonably required in connection there with.

10. Consent To Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of Massachusetts. Accordingly with respect to any such court action Milanoski and FCG each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.



11. Integration. This Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.

12. Assignment: Successors and Assigns, etc. Milanoski may not make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of FCG. This Agreement shall inure to the benefit of and be binding upon FCG in Milanoski, the respective successors, personal representatives, administrators, heirs, and permitted assigns.

13. Enforceability. If any portion or provision of this Agreement (including, without limitation, any portion or provision of any section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and in each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Injunctive Relief and Litigation Costs. It is agreed and understood that FCG shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Agreement. In particular, Milanoski acknowledges that a breach of his obligations under paragraph 6, 7, or 8 of this Agreement will cause irreparable injury to FCG and the entities under its control such that a remedy at law will be inadequate and FCG will be entitled to preliminary and other injunctive relief. In the event the FCG obtains such injunctive relief, Milanoski agrees that FCG will be entitled to recover any attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Agreement, each party shall bear such party's own costs and expenses including without limitation, attorney's fees related to such enforcement.

15. Indemnification. It is agreed and understood that FCG shall defend, save harmless and indemnify Milanoski against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as President, even if said claim has been made following his termination from employment, provided that the Milanoski acted within the scope of his duties. Said indemnification shall not include claims in which it has been adjudicated in a decision on the merits that Milanoski engaged in fraudulent, grossly negligent, or any criminal acts, including sexual harassment. FCG shall reimburse the Milanoski for any attorneys' fees and costs incurred by Milanoski in connection with such claims or suits involving Milanoski in his professional capacity as limited herein.

16. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

17. Notices. Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at their addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier or three (3) days after the date mailed.

18. Amendment. This Agreement may be amended or modified only by written instrument signed by Milanoski and Jon Delli Priscoli or his by a duly authorized representative of FCG, but in no event shall Milanoski be considered the duly authorized representative for purposes of this Agreement.

19. Governing Law. This Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts, without giving effect to the conflict of laws principles of such state.

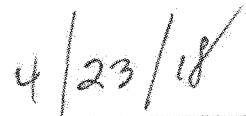
20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be all original, but it's counterparts shall together constitute one and the same document.

In witness whereof, this Agreement has been executed as a sealed instrument by FCG by Jon Mark Delli Priscoli, and by Milanoski as of the Effective Date.

First Colony Development Group, LLC:

By 

Jon Mark Delli Priscoli, Manager



Date



Michael Milanoski



Date

Exhibit A
DUTIES AND AUTHORIZATIONS

Date: May 17, 2017

Job Title: President, First Colony Group (and all other companies owned in whole or part by Jon Delli Priscoli)

Job Classification: Salaried Position; further detailed in employment agreement

Reports to: Jon Delli Priscoli

Job Summary:

Objective:

The president is responsible for providing strategic leadership for FCG (and all other companies owned in whole or part by Jon Delli Priscoli) and all its entities on behalf and by working with Jon Delli Priscoli to establish long-range goals, strategies, plans and policies, and operations management oversight.

Essential Position Functions:

- Plan, develop, implement, direct and evaluate FCG's fiscal function and performance.
- Participate in the strategic development of FCG's plans and programs.
- Evaluate and advise on the impact of long range planning, introduction of new programs/strategies and regulatory action.
- Provide timely and accurate analysis of budgets, technical financial advice, financial reports and financial trends in order to assist John Delli Priscoli and other department heads in performing their responsibilities.
- Enhance and/or develop, implement and enforce policies and procedures of the organization by way of systems that will improve the overall operation and effectiveness of the corporation.
- Improve the budgeting process on a continual basis through education of department managers on financial issues impacting their budgets.
- Optimize the handling of bank and deposit relationships and initiate appropriate strategies to enhance cash position.
- Act as an advisor on any contracts, evaluation of potential alliances acquisitions and/or mergers and investments into which FCG may enter.
- Advocate for businesses under the control of FCG with external groups and governmental bodies including marketing of said businesses.

Supervisory Responsibilities:

The president serves as president and manages the FCD's Chief Financial Officer, General Manager of Edaville Family Amusement Park, Grafton & Upton Railroad Company, First Colony Development, and Mass Rail Systems (and all other companies owned in whole or part by Jon Delli Priscoli) and is responsible for the performance management and input regarding hiring of senior level management.

Amendments:

This job description is not designed to cover or contain a comprehensive listing of all activities and responsibilities that are required of the president and may be amended from time to time at the discretion of Jon Delli Priscoli with notice to the employee.



Exhibit B
COMMISSION AGREEMENT

This Commission Agreement ("Commission Agreement") is entered into this 19th day of May 2017 by and between Jon Delli Priscoli with a business address of 7 Eda Avenue, Carver, Massachusetts 02330 ("Delli") and Michael Milanoski of 171 South Main Street, Cohasset, MA 02025 Massachusetts ("Milanoski")(collectively the "Parties").

Delli and Milanoski agree as follows:

Whereas the First Colony Group, LLC ("FCG") and Milanoski have entered into an Employment Agreement on this same date; and

Whereas, resulting from that Agreement, the Parties wish to enter into this Commission Agreement to further set out terms and commissions related to matters outside and within the control of FCG, but otherwise within the sole or partial control or ownership of Delli and to which the Parties wish to create an agreement relating to the payment of commission to Milanoski based on Delli's percent ownership;

Now therefore, the Parties agree as follows:

1. **Duties.** During the term of this Commission Agreement, Milanoski's overall management, sales and refinance services as related to the assets subject to this Commission Agreement shall be completely exclusive to and in the best interest of Delli. Milanoski shall use best practices and attention to detail the performance of his services, and act at all times in the best interest of Delli. Milanoski agrees to perform these services well in faithful to the best of his ability and carry out the policies and directives of Delli and Milanoski agrees to take no action knowingly prejudicial to the interests of Delli in association with the any of the assets subject to this Commission Agreement.
2. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until such time as Milanoski or Delli shall deliver written notice of his (or their mutual) election to terminate this Agreement.
3. **Compensation and Benefits.** In consideration for this Agreement, Delli agrees to provide Milanoski with compensation described below:



- (a) Commission on Sale of Assets Subject to this Agreement. Milanoski shall be paid one and a half percent (1.5%) commission on the net proceeds (after all related expenses, not limited to those identified on the closing statement) at closing for the sale of assets sole or partially owned and/or in the sole or partially control of Delli not otherwise covered under the Employment Agreement of even date as of date of May 21, 2017 (ie: Sampson Pond or Elm Street) and excluding all personnel residences owned currently or in the future in whole or in part by Delli. Said personal residences currently include homes in Carver, Marion, and Southborough, Massachusetts and Sanibel Island, Florida.
- (b) Refinancing Commission. Milanoski shall be paid one percent (1%) commission on any refinancing which directly results from Milanoski's personal contacts that he presents to Delli which are not otherwise existing personal or professional contacts of FCG or any entities that FCG manages, and/or Delli, and which contacts Delli pursues to obtain refinancing during the Term of this Agreement.
- (c) Other Commissions and Compensation. Any other commission, benefit, or compensation not otherwise agreed to herein, shall be agreed upon by further writing, signed by the parties.
- (d) Real Estate Sales Commissions and Compensation. In addition to commission as identified in subparagraph (a) of this paragraph 3 above, Any sale of real estate done with Milanoski's contacts will be compensated to Milanoski based on similar market rates to those generally done by third parties to be negotiated with Delli and Milanoski. However, in no event shall Delli pay both commission to Milanoski and a broker commission to a third party unless the Parties agree otherwise in writing.
4. Expenses. Milanoski shall be entitled to reimbursement for expenses reasonably incurred in connection with the performance of his duties hereunder in accordance with such procedures as Delli may establish from time to time.
5. Consent To Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of Massachusetts. Accordingly with respect to any such court action Milanoski and Delli each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.
6. Integration. This Commission Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.

7. **Assignment: Successors and Assigns, etc.** Milanoski may not make any assignment of this Commission Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of Delli. This Agreement shall inure to the benefit of and be binding upon Delli in Milanoski, the respective successors, personal representatives, administrators, heirs, and permitted assigns.
8. **Enforceability.** If any portion or provision of this Commission Agreement (including, without limitation, any portion or provision of any section of this Commission Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Commission Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, a in each portion and provision of this Commission Agreement shall be valid and enforceable to the fullest extent permitted by law.
9. **Injunctive Relief and Litigation Costs.** It is agreed and understood that Delli shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Commission Agreement. In particular, Milanoski acknowledges that reach of his obligations of this Commission Agreement will cause irreparable injury Delli such that a remedy at law will be in adequate and Delli will be entitled to preliminary and other injunctive relief. In the event the Delli obtains such injunctive relief, Milanoski agrees that Delli will be entitled to recover any attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Commission Agreement, each party shall bear such parties own costs and expenses including without limitation, attorney's fees related to such enforcement.
10. **Waiver.** No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Commission Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
11. **Notices.** Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at their addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier or three (3) days after the date mailed.
12. **Amendment.** This Commission Agreement may be amended or modified only by written instrument signed by Milanoski and Delli, or a duly authorized representative of Delli; however, in no event shall Milanoski be considered said duly authorized representative for purposes of this Commission Agreement.

13. **Governing Law.** This Commission Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts, without giving effect to the conflict of laws principles of such state.
14. **Counterparts.** This Commission Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be all original, but its counterparts shall together constitute one and the same document.

In witness whereof, this Agreement has been executed as a sealed instrument by Jon Delli Priscoli, and by Michael Milanoski as of the Effective Date.



Jon Delli Priscoli

Date

Michael Milanoski

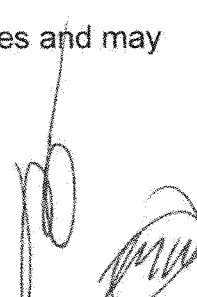
Date

Exhibit C CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement ("Agreement") is entered into this 19th day of May 2017 by and between Jon Delli Priscoli ("Delli Priscoli") as Manager of First Colony Group, LLC with a business address of 7 Eda Avenue, Carver, Massachusetts 02330 ("FCG") and Michael Milanoski of 171 South Main Street, Cohasset, MA. 02025 Massachusetts ("Milanoski") (collectively the "Parties").

Milanoski will perform services for FCG which may require FCG to disclose confidential and proprietary information ("Confidential Information") to Milanoski. To protect FCG and the Confidential Information, Milanoski agrees as follows:

1. Milanoski acknowledges that during the course of his employment, he will come into the possession of confidential information belonging to FCG including but not limited to trade secrets, financial information, methods, processes, and marketing plans ("Confidential Information").
2. Milanoski covenants and agrees to hold the Confidential Information received from FCG in strict confidence and shall exercise a reasonable degree of care to prevent disclosure to others and will not use Confidential Information for his own benefit or the benefit of others.
3. Milanoski will not disclose or divulge either directly or indirectly the Confidential Information to others beyond that which is required for his job duties, unless first authorized to do so in writing by Delli Priscoli.
4. Milanoski will not reproduce nor commercially use Confidential Information for any purpose other than the performance of his duties for FCG.
5. Milanoski shall immediately, upon the request or upon termination of his relationship with FCG, deliver to FCG all documents, notes, drawings, equipment, and materials whether electronic or hard copy in his possession and he shall not maintain, possess, or disseminate any copies of Confidential Information.
6. FCG reserves the right to take disciplinary action, including termination of Milanoski for violations of this Confidentiality Agreement and the pursuit of legal remedies to enforce this Confidentiality Agreement and protect Confidential Information at the discretion of FCG.
7. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any part of this agreement which is determined to be invalid, illegal or unenforceable shall have no effect on any other portion of this agreement, which shall remain in full force and effect.
8. This agreement shall be binding on all of the parties, their heirs, successors and assigns.
9. This agreement constitutes the entire agreement between the parties and may only be modified in writing by the parties.



Milanoski represents that he has read this Confidentiality Agreement, agrees to abide by the terms and conditions stated herein.

First Colony Development Group, LLC:

By



Jon Dell Priscoli, Manager

4/23/18

Date



Michael Milanoski

4/23/18

Date

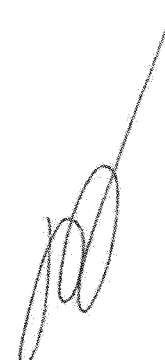


EXHIBIT B

Amended Employment Agreement

This Amended Employment Agreement ("Agreement") is entered into this 17th day of April 2020 by and between Grafton & Upton Railroad Company of 7 Eda Avenue, Carver, Massachusetts 02330 ("GU"), First Colony Group, LLC of 7 Eda Avenue, Carver, Massachusetts ("FCG") (collectively hereinafter the "Companies") and Michael Milanoski of 171 South Main Street, Cohasset, MA 02025 Massachusetts ("Milanoski")(collectively the "Parties").

Companies and Milanoski agree as follows:

1. **Employment.** GU hereby employ Milanoski as a President of GU, FCG employs Milanoski as Manager of FCG and Milanoski accepts employment with the Companies upon the terms and conditions hereinafter set forth. Milanoski warrants that he is free to enter into and fully perform this Agreement and is not subject to any employment (other than as Executive Consultant to Town of Carver and Town of Gosnold) confidentiality, noncompetition, or other Agreement to the extent that another agreement may restrict his ability to perform his duties and or comply with his obligations and covenants to Companies described in this Agreement.

2. **Duties.** Notwithstanding Milanoski's obligations as listed above, during the term of this Agreement, Milanoski's services shall be completely exclusive to the Companies and Milanoski shall devote substantially all of his employment time of twenty-four (24) hours per week, attention, and energies to the performance of services to the Companies in the proportional shares as the needs of the Companies so dictate, the business of the Companies and other such duties as Companies assign him from time to time including without limitation, the duties and authorizations set forth in Exhibit A. Milanoski agrees to perform his services well and faithful to the best of his ability and carry out the policies and directives of the Companies. Milanoski acknowledges that his position is executive management and agrees to take no action knowingly prejudicial to the interests of the Companies during his employment hereunder.

3. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until such time as Milanoski shall deliver written notice as required in paragraph 16 of his election to terminate this Agreement or alternatively in Milanoski's termination of employment by the Companies.

4. **Compensation and Benefits.** In consideration of this Agreement, the Companies agree to provide Milanoski with compensation, bonuses and severance pay described below Milanoski understands that his base pay and bonuses shall be determined by Companies proportionately and may be adjusted from time to time with mutual agreement, based on a variety of factors including by way of example and without limitation, Milanoski's performance, the Companies' financial position and/or Companies' business strategy.

- (a) **Base Salary.** As of the date of this Agreement, Milanoski shall provide twenty-four (24) hours per week of services to fulfill his position for which the Companies shall pay Milanoski a base salary of two hundred thousand dollars per year (\$200,000/annually). Any increase in the number of hours Milanoski is required to perform services for Companies shall be mutually agreed upon in writing by the parties at a per diem rate.

Annually on January 1st, after the execution of this Agreement, the annual salary shall increase by two and a half percent (2.5%) and shall remain at this rate until or unless the parties agree in writing to an increase in annual salary or an alternate salary structure.

- (b) **Annual Profit Share.** Milanoski shall be paid Profit Share as follows:

(i) **Annual Profit Share.** Milanoski shall be paid an annual Profit Share equal to ten percent (10%) of the Net Annual Income (as defined hereinbelow as EBITDA plus regularly scheduled debt service) derived from all business owned in whole or in part by Companies or any entity that managed by either FCG or GU (specifically excluding all personal residences, automobiles, collectibles, antiques, and all other personal property ("Personal Assets") owned currently or in the future by Jon M. Delli Priscoli ("Delli"), notwithstanding the manner in which the title to said Personal Assets may be held or managed. As of the execution of this Agreement the personal residences include at the time of execution of this Agreement: homes in Carver, Massachusetts, Marion, Massachusetts, Southborough, Massachusetts, 80, 94 Prides Crossing, and 150 Wayside Inn Road, Sudbury, Massachusetts, and Sanibel Island, Florida), for the fiscal year for which the Annual Bonus is being determined. For the purposes of this paragraph in order to measure the Companies' overall financial performance of the year, Net Annual Income shall be defined as the total net earnings of all of the combined Companies and the Entities managed by the Companies (as one figure), before interest, taxes, depreciation, and amortization, or "EBITDA", (however scheduled debt service shall be added to adjust EBITDA for the purpose of calculating annual profit share) as determined by the then serving Certified Public Accountant of Companies, in his or her sole discretion reasonably applied. Net proceeds of any sale of real property shall be incorporated into business and if Milanoski also received a Commission on that real property the profit share will be adjusted after all normal business expenses have been properly expensed in an effort to avoid double counting the sale net profits to the business.

- (c) **Severance Pay.**

All severance payments shall be provided as identified herein subject to all lawful and applicable withholdings and deductions.

(i) In the event that Milanoski's employment is terminated by Companies other than for cause or as terminated by the Companies in connection with a change in corporate control (as defined below in subsection for (d)), then



Milanoski shall be paid all Bonuses to which he is entitled as identified in (b) above for a period of twenty-four (24) months.

(ii) In the event that Milanoski terminates his employment then he shall be paid the pro-rated share of any Bonuses for time worked that year [for example, if he left his position on July 1st of the year, he shall be paid for six (6) months of that year's Bonuses.

(d) Change In Control. For the purposes of this Agreement, a change in control shall be deemed to be (i) a sale or transfer of all or substantially all of the assets or stock of the Companies from the Companies (except transfers made for estate planning purposes and/or the death of Jon M. Delli Priscoli and in which event Milanoski continues to be employed pursuant to the terms of this Agreement or substantially similar terms), (b) a merger, consolidation or similar transaction of Companies with or into any other person after which the equity holders of the Companies (immediately prior to the transaction) failed to own at least: fifty percent (50%) or more of the voting power of the surviving entity, or (C) a sale (whether through one sale or multiple sales to a single person or group of related persons during any period of time after the date hereof) by the equity holders of Companies immediately prior to the transaction of an aggregate of at least fifty percent (50%) or more of the equity interests (by voting power) of Companies owned by such equity holders in the aggregate (immediately prior to the transaction). For the purposes of this Agreement any such sale of any business entities managed by Companies, excluding Personal Assets, shall also qualify under this provision.

e) Expenses. Milanoski shall be entitled to reimbursement for expenses reasonably incurred in connection with the performance of his duties hereunder in accordance with such procedures as the Companies may establish from time to time. Such reimbursement shall include travel related expenses for travel incurred for business related matters.

(g) Additional Benefits. Milanoski shall be entitled to any additional employee benefits as part of this Agreement pro-rated.

5. Resignation, Termination and Termination Benefits. Notwithstanding the provisions of section 3, Milanoski's employment under this Agreement shall terminate under the following circumstances set forth in this section 5:

(a) Termination By Companies For Cause. Milanoski's employment under this Agreement may be terminated for cause without further liability (including no obligation to pay severance and no bonuses due for the year of termination) on the part of the Companies and shall be effective on the date set for termination in the written notice to employee. The following shall constitute "cause" for such termination:

(i) the conviction of Milanoski for a crime involving moral turpitude, deceit, dishonesty or fraud that has caused or is reasonably likely to cause harm to Companies or any affiliate of Companies; or

(ii) Milanoski's gross negligence or willful misconduct with respect to Companies, any Companies it manages, or any affiliate of the Companies which causes harm; or

(iii) Milanoski's willful and continued failure to substantially perform (other than by reason of disability) his duties and responsibilities assigned or delegated under this Agreement; or

(iv) any intentional act of dishonesty, deceit, fraud, moral turpitude, misconduct, breach of trust or act intentionally against the financial or business interest of the Companies by Milanoski or Milanoski's use or possession of illegal drugs in the workplace; or

(v) the material breach by Milanoski of any of his obligations under this Agreement, and if such breach is capable of a reasonable and timely cure (in the Companies sole discretion), after Milanoski has been given a notice of such breach in writing and a reasonable opportunity to cure it.

(b) Termination By the Companies Without Cause. Milanoski's employment under this Agreement may be terminated without cause upon written notice to Milanoski, subject to the obligation to provide severance pay as described in section 4(c) above, but otherwise without any further liability on the part of the Companies.

(c) Resignation By Milanoski.

Milanoski may resign his employment by written notice to the Companies and delivered in accordance with paragraph 16.

6. Confidentiality/Nondisclosure. As a condition of employment, Milanoski shall be required to sign the confidentiality/Nondisclosure Agreement attached hereto as Exhibit B and Incorporated herein and made a part hereof.

7. Solicitation of Employees. Milanoski agrees that he shall not for a period of twenty-four (24) months following termination of employment with the Companies for any reason, whether with or without cause, either directly or indirectly, solicit or encourage any employee or independent contractor or business associate of the Companies to end or diminish in any way his or her employment or other relationship with the Companies or any of the Companies it manages.

8. Covenants Against Competition.

(a) for the purpose of this section:

(i) "competing product" means any product, process, or service of any person or entity other than the Companies or any of the Companies it

manages in existence or under development, (A) which is identical to, substantially the same as, or an adequate, substitute for any product, process, or service of the Companies, in existence or under development, on which Milanoski works during the time of employment with Companies were about which Milanoski acquires confidential information and (B) which is (or could reasonably be anticipated to be marketed or distributed in such a manner and in such a geographic area as to actually compete with such, product, process or service of the Companies and/or any of the Companies which it manages.

(ii) "competing entity" means any person or entity, including Milanoski, engaged and, or about to become engaged in, research on or the acquisition, development, production, distribution, marketing, or providing of a competing product.

(b) in order to protect the confidential information and goodwill of the Companies, Milanoski acknowledges and agrees that as an executive employee of the Companies he may not compete with the Companies or the closely held entities that it manages during his employment including but not limited to:

(i) for a period of twenty-four (24) months following termination of employment with the Companies for any reason, whether with or without cause, Milanoski will not directly or indirectly solicit or diverged, or attempt to solicit or diverged, or accept business relating in any in any manner to competing products or to products, processes or services of the Companies or the closely held entities it manages from any of the customers or accounts of the Companies and/or in the possession of the Companies.

(ii) for a period of twenty-four (24) months following termination of employment with the Companies for any reason, whether with or without cause, Milanoski will not render services, directly or indirectly, as an employee, consultant or otherwise to any competing entity in connection with research on or the acquisition of, development, production, distribution, marketing or providing any competing product.

(c) Milanoski agrees that the restrictions set forth in this section are fair and reasonable and are reasonably required for the production of the interests of the Companies. However, should an arbitrator or court nonetheless determine at a later date that such restrictions are unreasonable in light of the circumstances as they then exist, then Milanoski agrees that this section shall be construed in such a manner as to impose on Milanoski such restrictions as may then be reasonable and sufficient to assure the Companies the intended benefits of this section.

9. Insurance. The Companies may, at its election and for its benefit, ensure Milanoski against accidental loss or death, in Milanoski shall submit to a reasonable physical examination and supply such information as may be reasonably required in connection there with.

10. Consent To Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of Massachusetts. Accordingly with respect to any such court action Milanoski and the Companies each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

11. Integration. This Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.

12. Assignment: Successors and Assigns, etc. Milanoski may not make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the Companies. This Agreement shall inure to the benefit of and be binding upon the Companies and Milanoski, their respective successors, personal representatives, administrators, heirs, and permitted assigns.

13. Enforceability. If any portion or provision of this Agreement (including, without limitation, any portion or provision of any section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Injunctive Relief and Litigation Costs. It is agreed and understood that the Companies shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Agreement. In particular, Milanoski acknowledges that a breach of his obligations under paragraph 6, 7, or 8 of this Agreement will cause irreparable injury to the Companies and the entities under its control such that a remedy at law will be inadequate and Companies will be entitled to preliminary and other injunctive relief. In the event that the Companies obtains such injunctive relief, Milanoski agrees that the Companies will be entitled to recover any attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Agreement, each party shall bear such parties own costs and expenses including without limitation, attorney's fees related to such enforcement.

15. Indemnification. It is agreed and understood that the Companies shall defend, save harmless and indemnify Milanoski against any third party tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as President and/or Manager, even if said claim is made following his termination from employment, provided that the Milanoski acted within the scope of his duties as President and/or Manager. Said indemnification shall not include claims in which it has been adjudicated in a decision on

the merits that Milanoski engaged in fraudulent, grossly negligent, or any criminal acts, including sexual harassment. Companies shall reimburse the Milanoski for any attorneys' fees and costs incurred by Milanoski in connection with such claims or suits involving Milanoski in his professional capacity as limited herein

16. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

17. Notices. Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at their addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier or three (3) days after the date mailed.

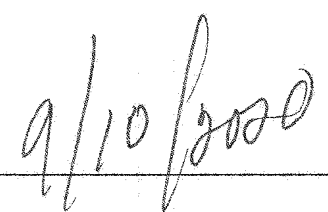
18. Amendment. This Agreement may be amended or modified only by written instrument signed by Milanoski and the Companies or the duly authorized representatives of the Companies, but in no event shall Milanoski be considered the duly authorized representative of the Companies for purposes of this Agreement.

19. Governing Law. This Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts.

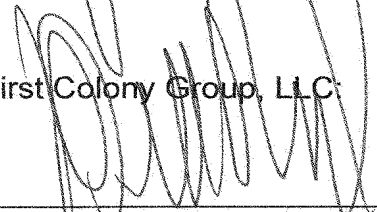
In witness whereof, this Agreement has been executed as a sealed instrument by the Parties on the date hereinabove of the above Date.

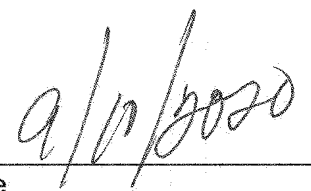
Grafton & Upton Railroad Company,


By 
Jon Mark Delli Priscoli, Chief Executive Officer


Date

First Colony Group, LLC


Jon M. Delli Priscoli, Manager


Date


Michael Milanoski



Date

Exhibit A
DUTIES AND AUTHORIZATIONS

Date: April 17, 2020

Job Title: President, Grafton and Upton Railroad Company, and Manager of First Colony Group

Job Classification: Salaried Position; salary further detailed in employment agreement

Reports to: Jon Delli Priscoli

Job Summary:

Objective:

Milanoski is responsible for providing strategic leadership for the Companies and the entities that the Companies manage to establish long-range goals, strategies, plans and policies, and operations management oversight.

Essential Position Functions:

- Plan, develop, implement, direct and evaluate the Companies' fiscal function and performance.
- Participate in the strategic development of the Companies' plans and programs.
- Evaluate and advise on the impact of long-range planning, introduction of new programs/strategies and re Compensatory action.
- Provide timely and accurate analysis of budgets, technical financial advice, financial reports and financial trends.
- Enhance and/or develop, implement and enforce policies, procedures, and systems that will improve the overall operation and effectiveness of the Companies and the entities it manages.
- Improve the budgeting process on a continual basis through education of department managers on financial issues impacting their budgets.
- Optimize the handling of bank and deposit relationships and initiate appropriate strategies to enhance cash position.
- Act as an advisor on any contracts, evaluation of potential alliances acquisitions and/or mergers and investments into which the Companies may enter.
- Advocate for entities under the control of the Companies with external groups and governmental bodies including marketing of said businesses.

Supervisory Responsibilities:

Milanoski is responsible for the performance management and input regarding hiring and supervision of senior level management. FCG currently manages all businesses owned in whole or part by Jon Delli Priscoli including but not limited to: Edaville Operations, LLC, Edaville Land Holdings, LLC, First Colony Development Company, Inc., Mass Rail Systems, Hopping Brook Industrial Park.

Amendments:

This job description does not cover or contain a comprehensive listing of all activities and responsibilities that are required of Milanoski and may be amended from time to time at the discretion of the Companies with notice to the Milanoski.



Exhibit B
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement ("Agreement") is entered into this 17th day of April, 2020 by and between Grafton and Upton Railroad Company of 7 Eda Avenue, Carver, Massachusetts 02330 ("GU"), First Colony Group, LLC of 7 Eda Avenue, Carver, Massachusetts ("FCG") (collectively hereinafter the "Companies") and Michael Milanoski of 171 South Main Street, Cohasset, MA 02025 Massachusetts ("Milanoski")(collectively the "Parties").

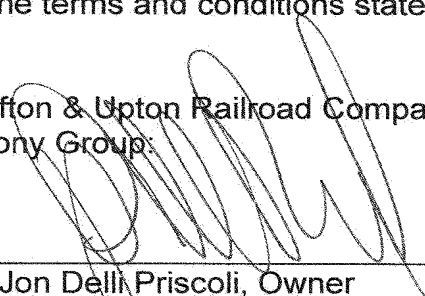
Milanoski will perform services for the Companies which may require the Companies to disclose confidential and proprietary information ("Confidential Information") to Milanoski. To protect the Companies and the Confidential Information, Milanoski agrees as follows:

1. Milanoski acknowledges that during the course of his employment, he will come into the possession of confidential information belonging to the Companies including but not limited to trade secrets, financial information, methods, processes, and marketing plans ("Confidential Information").
2. Milanoski covenants and agrees to hold the Confidential Information received from the Companies in strict confidence and shall exercise a reasonable degree of care to prevent disclosure to others and will not use Confidential Information for his own benefit or the benefit of others.
3. Milanoski will not disclose or divulge either directly or indirectly the Confidential Information to others beyond that which is required for his job duties, unless first authorized to do so in writing by Delli Priscoli.
4. Milanoski will not reproduce nor commercially use Confidential Information for any purpose other than the performance of his duties for the Companies.
5. Milanoski shall immediately, upon the request or upon termination of his relationship with the Companies, deliver to the Companies all documents, notes, drawings, equipment, and materials whether electronic or hard copy in his possession and he shall not maintain, possess, or disseminate any copies of Confidential Information.
6. The Companies reserve the right to take disciplinary action, including termination of Milanoski for violations of this Confidentiality Agreement and the pursuit of legal remedies to enforce this Confidentiality Agreement and protect Confidential Information at the discretion of the Companies, the expense of which shall be paid by Milanoski.
7. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any part of this agreement which is determined to be invalid, illegal or unenforceable shall have no effect on any other portion of this agreement, which shall remain in full force and effect.
8. This agreement shall be binding on all of the parties, their heirs, successors and assigns.

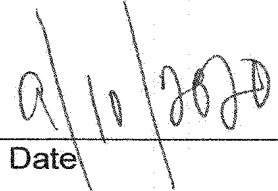
9. This agreement constitutes the entire agreement between the parties and may only be modified in writing by the parties.

Milanoski represents that he has read this Confidentiality Agreement, agrees to abide by the terms and conditions stated herein.

Grafton & Upton Railroad Company, First Colony Development and Rail Holding, First Colony Group:

By 

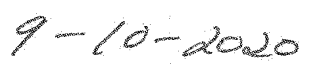
Jon Delli Priscoli, Owner



Date



Michael Milanoski



Date

Exhibit C
BUSINESS ENTITIES MANAGED BY FIRST COLONY GROUP, LLC AND
GRAFTON & UPTON RAILROAD COMPANY

The following business entities or Real Estate are managed by First Colony Group, LLC:

1. First Colony Group, LLC
2. Fast Forward Auto Sales
3. First Colony Development, Inc.
4. Edaville Land Holding, LLC
5. Railway Productions, LLC
6. Northwoods, LLC (Sudbury)
7. New Hopping Brook Trust
8. Fayville Hall LLC
9. 57 Long Point, Lakeville
10. 250 Locke Drive Corp
11. 2548 White Mountain, Conway, NH
12. 92 Crowley Drive, LLC
13. New Parcels in Edaville (4 lots plus lot in Edaville)

The following business entities or Real Estate are managed by Grafton & Upton Railroad Company:

1. Grafton & Upton Railroad Company
2. Seaview Transportation, Inc.
3. Upton Development Corp.
4. First Colony Development and Rail Holdings, Inc.
5. 1 Fitzgerald Drive, LLC (141 Mendon Street)
6. Carpenter Road, Hopedale
7. New Parcel in Hopedale Under Agreement

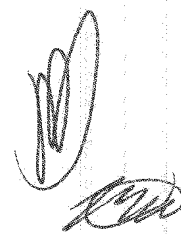


EXHIBIT C

COMMISSION AGREEMENT

This Commission Agreement ("Commission Agreement") is entered into this 17th day of April, 2020 by and between Grafton and Upton Railroad Company of 7 Eda Avenue, Carver, Massachusetts 02330 ("GU"), First Colony Group, LLC of 7 Eda Avenue, Carver, Massachusetts ("FCG") (collectively hereinafter the "Companies") and Michael Milanoski of 171 South Main Street, Cohasset, MA 02025 Massachusetts ("Milanoski")(collectively the "Parties").

The Parties agree as follows:

Whereas, the Parties wish to enter into this Commission Agreement to further set out terms and commissions related to the sale and/or refinancing of entities within the control of the Companies in whole or in part, ("Entities") (the current entities are attached as Exhibit A) and to which the Parties wish to create an agreement relating to the payment of commission to Milanoski based on the percent of Entity ownership interest managed by the Companies;

Now therefore, the Parties agree as follows:

1. **Duties.** During the term of this Commission Agreement, Milanoski's overall management, sales and refinance services as related to the Entities subject to this Commission Agreement shall be completely exclusive to and in the best interest of the Entities. Milanoski shall use best practices and attention to detail the performance of his services, and act at all times in the best interest of the Entities. Milanoski agrees to perform these services well and faithful to the best of his ability and carry out the policies and directives of the Entities and Milanoski agrees to take no action knowingly prejudicial to the interests of Entities subject to this Commission Agreement.
2. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until the earlier of (i) such time as Milanoski, FCG and/or GU shall deliver written notice of his (or their mutual) election to terminate this Agreement or (ii) Milanoski is no longer employed by the Companies.
3. **Commission.** In consideration for this Agreement, Milanoski shall be provided with Commission as follows:
 - (a) **Commission on Sale of Entities Subject to this Agreement.** Milanoski shall be paid two percent (2.0%) commission on the net proceeds after all related expenses, identified on the closing statement are allocated for the sale of the Entity. This Agreement shall specifically exclude all personal residences, automobiles, collectibles, antiques, and all other personal property ("Personal Assets") owned currently or in the future by Jon M. Delli Priscoli ("Delli"), notwithstanding the manner in which the title to said Personal Assets may be held or managed. As of the execution of this Commission Agreement the personal residences include: homes in Carver, Massachusetts, Marion,

Massachusetts, Southborough, Massachusetts, 80 AND 94 Prides Crossing and 150 Wayside Inn Road, Sudbury, Massachusetts, and Sanibel Island, Florida.

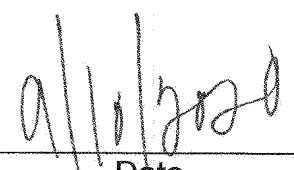
- (b) Refinancing Commission. Milanoski shall be paid one percent (1%) commission on any refinancing of any Entity which directly results from Milanoski's personal contacts that he presents to Delli which are not otherwise existing personal or professional contacts of Delli, FCG, GU or any entities that FCG or GU manages, and from which contacts Delli successfully obtains refinancing during the Term of this Agreement.
- (c) Other Commissions and Compensation. Any other commission, benefit, or compensation not otherwise agreed to herein, shall be agreed upon by further writing, signed by the parties.
- (d) Real Estate Sales Commissions and Compensation. In addition to commission as identified in subparagraph (a) of this paragraph 3 above, Any conveyance of real estate resulting from clearly identified contacts of Milanoski which are not otherwise existing personal or professional contacts of Delli, FCG, GU or any entities that FCG or GU manages will be compensated to Milanoski based on similar broker market rates at the time of the sale, such terms shall be negotiated as a separate written agreement. However, in no event shall commission be paid to both Milanoski and a broker unless the Parties agree otherwise in writing.
4. Expenses. Milanoski shall be entitled to reimbursement for expenses reasonably incurred in connection with the sale or refinancing of any Entity (as herein identified and defined) for transactions for which Commissions are paid.
5. Consent To Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of Massachusetts. Accordingly, with respect to any such court action Milanoski and Delli each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waive any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.
6. Integration. This Commission Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.
7. Assignment: Successors and Assigns, etc. Milanoski may not make any assignment of this Commission Agreement or any interest herein, by operation of law or otherwise (except for Economic Impact Associates, LLC of which Milanoski is its sole member, provided Milanoski is the controlling Manager of in Economic Impact Associates, LLC at the time of the transaction), without the prior written consent of the parties. This Agreement shall inure to the benefit of and be binding upon the parties, the respective successors, personal representatives, administrators, heirs, and permitted assigns.

8. **Enforceability.** If any portion or provision of this Commission Agreement (including, without limitation, any portion or provision of any section of this Commission Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Commission Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and in each portion and provision of this Commission Agreement shall be valid and enforceable to the fullest extent permitted by law.
9. **Injunctive Relief and Litigation Costs.** It is agreed and understood that the Companies shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Commission Agreement. In particular, Milanoski acknowledges that each of his obligations of this Commission Agreement will cause irreparable injury to one or more of the Companies and the Entities which are managed by the Companies such that a remedy at law would be inadequate and the Companies and/or the Entities will be entitled to preliminary and other injunctive relief. In the event that injunctive relief is obtained, the Companies shall be entitled to recover from Milanoski any and all attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Commission Agreement, each party shall bear such party's own costs and expenses including without limitation, attorney's fees related to such enforcement.
10. **Waiver.** No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Commission Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
11. **Notices.** Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at their addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier..
12. **Amendment.** This Commission Agreement may be amended or modified only by written instrument signed by Milanoski and the Companies, or a duly authorized representative thereof; however, in no event shall Milanoski be considered said duly authorized representative for purposes of this Commission Agreement.
13. **Governing Law.** This Commission Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts, without giving effect to the conflict of laws principles of such state.

In witness whereof, this Agreement has been executed as a sealed instrument by the Parties as of the Effective Date.

Grafton & Upton Railroad Company,

By 
Jon Mark Delli Priscoli, Chief Executive Officer


Date

First Colony Group, LLC:


Jon M. Delli Priscoli, Manager


Date


Michael Milanoski


Date

Exhibit A
BUSINESS ENTITIES MANAGED BY FIRST COLONY GROUP, LLC AND
GRAFTON & UPTON RAILROAD COMPANY
SUBJECT TO THIS COMMISSION AGREEMENT

The following business entities or Real Estate are managed by First Colony Group, LLC:

1. First Colony Group, LLC
2. Fast Forward Auto Sales
3. First Colony Development, Inc.
4. Edaville Land Holding, LLC
5. Railway Productions, LLC
6. Northwoods, LLC (Sudbury)
7. New Hopping Brook Trust
8. Fayville Hall LLC
9. 57 Long Point, Lakeville
10. 250 Locke Drive Corp *
11. 2548 White Mountain, Conway, NH
12. 92 Crowley Drive, LLC
13. New Parcels in Edaville (4 lots plus lot in Edaville)

The following business entities or Real Estate are managed by Grafton & Upton Railroad Company:

1. Grafton & Upton Railroad Company
2. Seaview Transportation, Inc.
3. Upton Development Corp.
4. First Colony Development and Rail Holdings, Inc.
5. 1 Fitzgerald Drive, LLC (141 Mendon Street)
6. Carpenter Road, Hopedale
7. New Parcel in Hopedale Under Agreement

EXHIBIT D

Employment Agreement

This Employment Agreement ("Agreement") is entered into this 22nd day of February 2018 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 02330 ("G&U") and John P. DeWaele, III of 695 Spring Lake Rd, Glendale, RI 02826 ("DeWaele") (collectively the "Parties").

G&U and DeWaele agree as follows:

1. **Employment.** G&U hereby employs DeWaele as Senior Vice President of Railroad Operations and General Manager of Grafton & Upton Railroad, and DeWaele accepts employment as Senior Vice President of Railroad Operations and General Manager, upon the terms and conditions hereinafter set forth. DeWaele warrants that he is free to enter into and fully perform this Agreement and is not subject to any employment confidentiality, noncompetition, or other contract to the extent that the other contract may restrict his ability to perform his duties and or comply with his obligations and covenants to G&U described in this Agreement.
2. **Duties.** During the term of this Agreement, DeWaele's services shall be completely exclusive to G&U and DeWaele shall devote substantially all of his time, attention, and energies to the performance of services as Senior Vice President of Railroad Operations and General Manager of G&U, the business of G&U and other such duties as G&U assigns him from time to time including without limitation, the duties and authorizations set forth in Exhibit A. DeWaele agrees to perform his services well and faithful to the best of his ability and carry out the policies and directives of G&U and DeWaele agrees to take no action knowingly prejudicial to the interests of G&U during his employment hereunder.
3. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until such time as DeWaele shall deliver written notice as required in paragraphs 5 (c) and 17 of his election to terminate this Agreement or alternatively in the event of DeWaele's termination of employment by G&U.
4. **Compensation and Benefits.** In consideration for this Agreement, G&U agrees to provide DeWaele with compensation, bonuses and severance pay described below. DeWaele understands that his base pay and bonuses shall be determined by G&U and may be adjusted from time to time with mutual agreement, based on a variety of factors including by way of example and without limitation, DeWaele's performance, G&U's financial position and/or G&U's business strategy.
 - (a) **Base Salary.** As of the date of this Agreement, DeWaele shall fulfill his position as a full-time salaried employee for which G&U shall pay DeWaele a base salary of \$116,000.00 per year, which salary shall include any and all financial expense consideration for gas and/or mileage, and cell phone.

Annually on January 1st, after the execution of this Agreement, the annual salary shall increase by two and a half percent (2.5%) and shall remain at this rate until or unless the parties agree in writing to an increase in annual salary or an alternate salary structure. Upon, the first freight real estate expansion beyond the existing G&U footprint of the railroad for CSX freight rail property that expands G&U footprint, a one-time ten percent (10%) salary increase will be added to the existing base salary effective when G&U takes over the additional freight rail, the freight rail is operationally approved by FRA, and freight volume is increased by at least one rail car more than there was at the time of the freight rail aquisition.

- (b) Annual Safety and Customer Bonus Incentives. DeWaele shall be paid annual safety and customer bonuses of \$2,500 for each itemized incentive ((i) through (iv) below) per calendar year to be paid no later than January 31st following the end of the applicable calendar year:
- (i) Absence of any on-the-job injuries reported to G&U or for which legal action seeking recovery has been sought by employees or contractors.
 - (ii) No Federal Railroad Administration ("FRA") reportable train derailments.
 - (iii) Absence of safety violations related to FRA, or any other safety violations on G&U property or related to G&U.
 - (iv) On time delivery of 97.5% or better.
 - (v) In the event that DeWaele's employment is terminated by either G&U or DeWaele, then DeWaele shall be paid all Bonuses to which he is entitled as identified in (b) above pro-rated, [for example, if he left his position on July 1^s, he shall be paid for six (6) months from January through June of that year's Bonuses].
- (c) Bonuses. DeWaele shall be paid bonuses as follows:
- (i) Annual Bonus. DeWaele shall be paid an annual bonus equal to one and a half percent (1.5%) of the Net Annual Income of G&U. For the purposes of this paragraph, "Net Annual Income" shall be defined as all corporate income remaining after all corporate expenses are paid, including but not limited to: taxes, all operating expenses, and salaries.
- (d) Severance Pay. In the event that DeWaele's employment is terminated by G&U, other than for cause, or is terminated by G&U in connection with a change in corporate control (as defined below in subsection (e)), then DeWaele shall be paid all Bonuses to which he is entitled as identified in (b) above prorated as of the date of termination. DeWaele shall be paid as severance one month of salary for each year of employment up to a maximum of twelve (12) months. All severance payments shall be provided as identified herein subject to all lawful and applicable withholdings and deductions.
- (e) Change of Control. In the event that during the term of DeWaele's employment as defined herein, there is a change of control of G&U as described in paragraph (f) below DeWaele shall be paid one percent (1%) of the net proceeds of the sale; said payment due and payable at the time of the conveyance.

- (f) Change in Control. For the purposes of this Agreement, a change in control shall be deemed to be:
- (i) a sale of all, or substantially all, of the assets of the company,
 - (ii) a merger, consolidation or similar transaction of G&U with or into any other person, after which the shareholders of G&U (immediately prior to the transaction) failed to own at least: fifty percent (50%) or more of the voting power of the surviving entity, or
 - (iii) a sale (whether through one sale or multiple sales to a single person or group of related persons during any period of time after the date hereto) by the shareholders of G&U immediately prior to the transaction of an aggregate of at least fifty percent (50%) or more of the equity interests (by voting power) of G&U owned by such equity holders in the aggregate (immediately prior to the transaction).
- (g) Expenses. DeWaele shall be entitled to reimbursement for expenses reasonably incurred in connection with the performance of his duties hereunder in accordance with such policies and procedures as G&U may establish from time to time. Such reimbursement shall include travel related expenses for travel incurred for business related matters but shall not include those expenses identified in paragraph 4(a) and/or specifically addressed otherwise in this Agreement.
- (h) Vacation. DeWaele shall be entitled to four (4) weeks of vacation annually during his employment.
- (i) Retirement Benefit. Federal Railroad retirement benefits shall be provided in accordance with the provisions of the U.S. Railroad Retirement Board requirements.
- (j) Health Insurance. The cost of health insurance premiums of the health care plan selected by G&U shall be equally shared by G&U and DeWaele.
- (k) Education. G&U shall compensate DeWaele for college education directly relating to his duties at G&U up to five thousand dollars (\$5,000) per calendar year, provided that DeWaele provides a full description of the course or seminar with a notice of intent to enroll in the educational course or seminar to G&U and receives prior authorization from G&U for reimbursement of the course or seminar.
- (l) Additional Benefits. During the Term and subject to any contribution generally required of employees of G&U, DeWaele shall be entitled to participate in any and all employee benefit programs and benefit plans from time to time in effect for employees of G&U, but G&U shall not be required to establish any such program or plan. Such participation shall be subject to the following:
- (i) the terms of the applicable plan documents,
 - (ii) generally applicable policies, and

(iii) discretion of G&U or any administrative or other committee provided for in, or contemplated by, such plan. G&U may alter, modify, add, or delete its employee benefit plans at any time as it, in its sole discretion determines to be appropriate without recourse by DeWaele.

5. Resignation, Termination and Termination Benefits. Notwithstanding the provisions of section 3, DeWaele's employment under this Agreement shall terminate under the following circumstances set forth in this section 5:

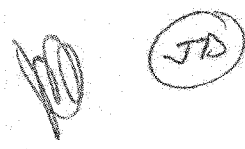
(a) Termination for Cause. DeWaele's employment under this Agreement may be terminated for cause without further liability (including no obligation to pay severance) on the part of the company and shall be effective on the date set for termination in the written notice to employee. The following shall constitute "cause" for such termination:

- (i) the conviction of DeWaele for a crime involving moral turpitude, deceit, dishonesty or fraud that has caused or is reasonably likely to cause harm to G&U or any affiliate of G&U; or
- (ii) DeWaele 's gross negligence or willful misconduct with respect to G&U or any affiliate of G&U which causes harm; or
- (iii) DeWaele's willful and continued failure to substantially perform (other than by reason of disability) his duties and responsibilities assigned or delegated under this Agreement; or
- (iv) any intentional act of dishonesty, deceit, fraud, moral turpitude, misconduct, breach of trust or act intentionally against the financial or business interest of G&U by DeWaele or DeWaele's use or possession of illegal drugs in the workplace, or
- (v) the material breach by DeWaele of any of his obligations under this Agreement, and if such breach is capable of a reasonable and timely cure (in G&U's sole discretion), after DeWaele has been given a notice of such breach in writing and a reasonable opportunity to cure it.

(b) Termination By G&U Without Cause. DeWaele is considered employee at will and may be terminated without cause upon written notice to DeWaele, subject to the obligation to provide severance pay as described in section 4(d) above, but otherwise without any further liability on the part of G&U.

(c) Resignation By DeWaele. DeWaele may resign his employment by written notice to G&U at least ninety (90) days prior to his election to terminate this Agreement and delivered in accordance with paragraph 17. Failure of DeWaele to provide said ninety (90) day written notice shall be considered a breach of this Agreement; further, in such event all bonuses identified in paragraph 4 shall become payable at the sole discretion of G&U.

6. Confidentiality/Nondisclosure. As a condition of employment, DeWaele shall be required to sign the Confidentiality/Nondisclosure Agreement attached hereto as Exhibit B and Incorporated herein and made a part hereof.



7. Solicitation of Employees. DeWaele agrees that he shall not for a period of twelve (12) months following termination of employment with G&U for any reason, whether with or without cause, either directly or indirectly, solicit or encourage any employee or independent contractor or business associate of G&U to end or diminish in any way his or her employment or other relationship with G&U or any of the companies it manages.

8. Covenants Against Competition.

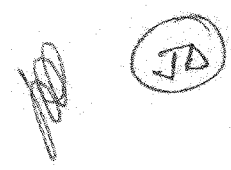
(a) for the purpose of this section:

- (i) "competing product" means any product, process, or service of any person or entity other than G&U or any of the companies it manages in existence or under development, (A) which is identical to, substantially the same as, or an adequate substitute for any product, process, or service of the company, in existence or under development, on which DeWaele works during the time of employment with G&U or about which DeWaele acquires confidential information and (B) which is (or could reasonably be anticipated to be marketed or distributed in such a manner and in such a geographic area as to actually compete with such, product, process or service of G&U and/or any of the companies which it manages.
- (ii) "competing entity" means any person or entity, including DeWaele, engaged in, or about to become engaged in, research on or the acquisition, development, production, distribution, marketing, or providing of a competing product.

(b) in order to protect the confidential information and goodwill of G&U, DeWaele agrees to the following stipulations:

- (i) for a period of twelve (12) months following termination or resignation of employment with the company for any reason, whether with or without cause, DeWaele will not directly or indirectly solicit or diverge, or attempt to solicit or diverge, or accept business relating in any in any manner to competing products or to products, processes or services of G&U or its affiliates from any of the customers or accounts of G&U and/or at G&U with which DeWaele had any contact during employment by G&U.
- (ii) for a period of twelve (12) months following termination of employment with G&U for any reason, whether with or without cause, DeWaele will not render services, directly or indirectly, as it employee, consultant or otherwise to any competing entity in connection with research on or the acquisition, development, production, distribution, marketing or providing any competing product.

(c) DeWaele agrees that the restrictions set forth in this section are fair and reasonable and are reasonably required for the production of the interests of G&U. However, should an arbitrator or court nonetheless determined at a later date that such restrictions are in reasonable in light of the circumstances as they then exist, then DeWaele agrees that this section shall be construed in such a manner as to



impose on DeWaele such restrictions as may then be reasonable and sufficient to assure G&U the intended benefits of this section.

9. Insurance. G&U may, at its election and for its benefit, ensure DeWaele against accidental loss or death, in DeWaele shall submit to a reasonable physical examination and supply such information as may be reasonably required in connection therewith.

10. Consent to Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of the Commonwealth of Massachusetts. Accordingly, with respect to any such court action DeWaele and G&U each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

11. Integration. This Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.

12. Assignment: Successors and Assigns, etc. DeWaele may not make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of G&U. This Agreement shall inure to the benefit of and be binding upon G&U and DeWaele, their respective successors, personal representatives, administrators, heirs, and permitted assigns.

13. Enforceability. If any portion or provision of this Agreement (including, without limitation, any portion or provision of any section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Injunctive Relief and Litigation Costs. It is agreed and understood that G&U shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Agreement. In particular, DeWaele acknowledges that a breach of his obligations under paragraph 6, 7, or 8 of this Agreement will cause irreparable injury to G&U and the entities under its control such that a remedy at law will be inadequate and G&U will be entitled to preliminary and other injunctive relief. In the event that G&U obtains such injunctive relief, DeWaele agrees that G&U will be entitled to recover any attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Agreement, each party shall bear such party's own costs and expenses including without limitation, attorney's fees related to such enforcement.

15. Indemnification. It is agreed and understood that G&U shall defend, save harmless and indemnify DeWaele against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as Senior Vice President of Railroad Operations and/or General Manager, even if said claim has been made following his termination from employment, provided that the DeWaele acted within the scope of his duties of G&U. Said indemnification shall not include claims in which it has been adjudicated in a decision on the merits that DeWaele engaged in fraudulent, grossly negligent, or any criminal acts, including sexual harassment. G&U shall reimburse the DeWaele for any attorneys' fees and costs incurred by DeWaele in connection with such claims or suits involving DeWaele in his professional capacity as limited herein.

16. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

17. Notices. Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at the parties' addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier or three (3) days after the date mailed.

18. Amendment. This Agreement may be amended or modified only by written instrument signed by DeWaele and by a duly authorized representative of G&U, but in no event shall DeWaele be considered the duly authorized representative for purposes of this Agreement.

19. Governing Law. This Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be all original, but it's counterparts shall together constitute one and the same document.

In witness whereof, this Agreement has been executed as a sealed instrument by the parties as of the Effective Date hereinabove identified.

Grafton & Upton Railroad Company:

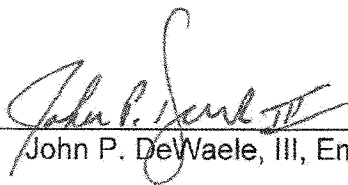
By



Jon Mark Delli Priscoli, President

10/10/18


Date



John P. DeWaele, III, Employee

10-12-18

Date

Exhibit A

Job description – Senior Vice President of Railroad Operations and General Manager of Grafton and Upton Railroad

Date: February 22, 2018

Job Title: Senior Vice President of Railroad Operations and General Manager of Grafton & Upton Railroad

Job Classification: Salaried Position; salary further detailed in employment agreement

Reports to: Michael Milanoski

Job Summary: The employee is responsible for the administrative and field work management of railroad service for G&U, G&U Propane Bulk Transfer Facility and its propane terminal supervisor (LPGTF), and G&U Transloading Operations.

Essential Position Functions:

1. Compliance
 - a. Operational Safety and Compliance of railroad operations
 - b. Provide access to Federal and State authorities as required

2. Financial Operations
 - a. Budgetary oversight of railroad operations

3. Oversight of Employees
 - a. Department Heads
 - b. Roadmaster – Maintenance of Way
 - c. Chief Mechanical Officer – Maintenance of Equipment
 - d. Trainmaster/Lead Conductor – Transportation (T&E)
 - e. Workforce evaluation (annual)

4. Operational Oversight
 - a. Improvements
 - b. Project management
 - c. Procurement of materials, equipment, labor, and services
 - d. Sales and Marketing support / coordination with FCG
 - e. First hand field support in various crafts (MOW,MOE, T&E)
 - f. Transportation (T&E)
 - g. Maintenance of Way (MOW)
 - h. Maintenance of Equipment (MOE)

5. Customer Service Oversight
 - a. Create and implement procedures to provide excellent customer service
 - b. Create and implement procedures to provide 97.5% on-time delivery

6. Marketing and Planning
 - a. Strategic growth, expansion and promotion of the railroad business

Amendments:

This job description is not designed to cover or contain a comprehensive listing of all activities and responsibilities that are required of the president and may be amended from time to time at the discretion of Michael Milanoski with notice to the employee.




Exhibit B
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement ("Agreement") is entered into this 22nd day of February 2018 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 01536 ("G&U") and John DeWaele of 695 Spring Lake Road, Glendale, RI 02826 ("DeWaele") (collectively the "Parties").

DeWaele will perform services for G&U which may require G&U to disclose confidential and proprietary information ("Confidential Information") to DeWaele. To protect G&U and the Confidential Information, DeWaele agrees as follows:

1. DeWaele acknowledges that during the course of his employment, he will come into the possession of confidential information belonging to G&U including but not limited to trade secrets, financial information, methods, processes, and marketing plans ("Confidential Information").
2. DeWaele covenants and agrees to hold the Confidential Information received from G&U in strict confidence and shall exercise a reasonable degree of care to prevent disclosure to others and will not use Confidential Information for his own benefit or the benefit of others during or after his employment with G&U.
3. DeWaele will not disclose or divulge either directly or indirectly the Confidential Information to others beyond that which is required for his job duties, unless first authorized to do so in writing by G&U.
4. DeWaele will not reproduce nor commercially use Confidential Information for any purpose other than the performance of his duties for G&U.
5. DeWaele shall immediately, upon the request or upon termination of his relationship with G&U, deliver to G&U all documents, notes, drawings, equipment, and materials whether electronic or hard copy in his possession and he shall not maintain, possess, or disseminate any copies of Confidential Information.
6. G&U reserves the right to take disciplinary action, including termination of DeWaele for violations of this Agreement and the pursuit of legal remedies to enforce this Agreement and protect Confidential Information at the discretion of G&U, the expense of which shall be paid by DeWaele.
7. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any part of this agreement which is determined to be invalid, illegal or unenforceable shall have no effect on any other portion of this agreement, which shall remain in full force and effect.

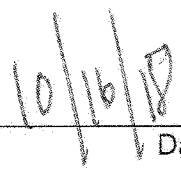


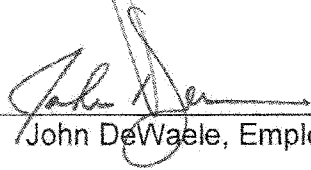
8. This Agreement shall be binding on all of the parties, their heirs, successors and assigns.
9. This Agreement constitutes the entire agreement between the parties and may only be modified in writing by the parties.

DeWaele represents that he has read this Agreement, agrees to abide by the terms and conditions stated herein.

Grafton & Upton Railroad Company:

By 
Jon Delli-Priscoli, President


Date


John DeWaele, Employee

10-12-18
Date

EXHIBIT E

Employment Agreement Restated

This Employment Agreement ("Agreement") is entered into this 3rd day of January 2020 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 02330 ("GU") and John P. DeWaele, III of 8 Crestwood Drive, Blackstone, MA 01504 ("DeWaele") (collectively the "Parties").

GU and DeWaele agree as follows:

1. **Employment.** GU hereby employs DeWaele as General Manager of Grafton & Upton Railroad, and DeWaele accepts employment as Vice President of Railroad Operations and General Manager, upon the terms and conditions hereinafter set forth. DeWaele warrants that he is free to enter into and fully perform this Agreement and is not subject to any employment confidentiality, noncompetition, or other contract to the extent that the other contract may restrict his ability to perform his duties and or comply with his obligations and covenants to GU described in this Agreement.

2. **Duties.** During the term of this Agreement, DeWaele's services shall be completely exclusive to GU and DeWaele shall devote substantially all of his time, attention, and energies to the performance of services as Vice President of Railroad Operations and General Manager of G&U, the business of GU and other such duties as GU assigns him from time to time including without limitation, the duties and authorizations set forth in Exhibit A. DeWaele agrees to perform his services well and faithful to the best of his ability and carry out the policies and directives of GU and DeWaele agrees to take no action knowingly prejudicial to the interests of GU during his employment hereunder.

3. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until such time as DeWaele shall deliver written notice as required in paragraphs 5 (c) and 17 of his election to terminate this Agreement or alternatively in the event of DeWaele's termination of employment by GU.

4. **Compensation and Benefits.** In consideration for this Agreement, GU agrees to provide DeWaele with compensation, bonuses and severance pay described below. DeWaele understands that his base pay and bonuses shall be determined by GU and may be adjusted from time to time with mutual agreement, based on a variety of factors including by way of example and without limitation, DeWaele's performance, GU's financial position and/or GU's business strategy.

(a) **Base Salary.** As of the date of this Agreement, DeWaele shall fulfill his position as a full-time salaried employee for which GU shall pay DeWaele a base salary of \$133,763.00 per year, which salary shall include any and all financial expense consideration for gas and/or mileage, and cell phone.

Annually on January 1st, after the execution of this Agreement, the annual salary subject to the following shall increase by two and a half percent (2.5%) and shall

remain at this rate until or unless the parties agree in writing to an increase in annual salary or an alternate salary structure. This annual increase is contingent upon DeWaele's oversight of GU's business units' performance to adhere to annual budget developed in conjunction with business unit's manager and approved by President and CFO annually. Said budget shall include at a minimum potential revenue, staffing, goods and services that may be amended by President and CFO due to unforeseen circumstances.

(b) Annual Safety and Customer Bonus Incentives. DeWaele shall be paid annual safety and customer bonuses of \$2,500 for each itemized incentive ((i) through (iv) below) per calendar year to be paid no later than January 31st following the end of the applicable calendar year:

(i) Absence of any on-the-job injuries reported to GU or for which legal action seeking recovery has been sought by employees or contractors.

(ii) No Federal Railroad Administration ("FRA") reportable train derailments.

(iii) Absence of safety violations related to FRA, or any other safety violations on GU property or related to G&U.

(iv) On time delivery of 97.5% or better.

(v) In the event that DeWaele's employment is terminated by either GU or DeWaele, then DeWaele shall be paid all Bonuses to which he is entitled as identified in (b) above pro-rated, [for example, if he left his position on July 1st, he shall be paid for six (6) months from January through June of that year's Bonuses].

(c) Bonuses. DeWaele shall be paid bonuses as follows:

(i) Annual Bonus. DeWaele shall be paid an annual bonus equal to one and a half percent (1.5%) of the Net Annual Income of G&U. For the purposes of this paragraph, "Net Annual Income" shall be defined as all corporate income remaining after all corporate expenses are paid, including but not limited to: taxes, all operating expenses, and salaries.

(d) Severance Pay. In the event that DeWaele's employment is terminated by GU, other than for cause, or is terminated by GU in connection with a change in corporate control (as defined below in subsection (e)), then DeWaele shall be paid all Bonuses to which he is entitled as identified in (b) above prorated as of the date of termination. All severance payments shall be provided as identified herein subject to all lawful and applicable withholdings and deductions. DeWaele's severance shall be granted as follows, one month of severance for every year employed by the GU up to a maximum of 12 months.

(e) Change of Control. In the event that during the term of DeWaele's employment as defined herein, there is a change of control of GU as described in paragraph (f) below DeWaele shall be paid one percent (1%) of the net proceeds of the sale; said payment due and payable at the time of the conveyance.

(f) Change in Control. For the purposes of this Agreement, a change in control shall be deemed to be:

(i) a sale of all, or substantially all, of the assets of the company,

- (ii) a merger, consolidation or similar transaction of GU with or into any other person, after which the shareholders of GU (immediately prior to the transaction) failed to own at least: fifty percent (50%) or more of the voting power of the surviving entity, or
 - (iii) a sale (whether through one sale or multiple sales to a single person or group of related persons during any period of time after the date hereto) by the shareholders of GU immediately prior to the transaction of an aggregate of at least fifty percent (50%) or more of the equity interests (by voting power) of GU owned by such equity holders in the aggregate (immediately prior to the transaction).
- (g) Expenses. DeWaele shall be entitled to reimbursement for expenses reasonably incurred in connection with the performance of his duties hereunder in accordance with such policies and procedures as GU may establish from time to time. Such reimbursement shall include travel related expenses for travel incurred for business related matters but shall not include those expenses identified in paragraph 4(a) and specifically addressed otherwise in this Agreement.
- (h) Vacation. DeWaele shall be entitled to four (4) weeks of vacation annually during his employment.
- (i) Retirement Benefit. Federal Railroad retirement benefits shall be provided in accordance with the provisions of the U.S. Railroad Retirement Board requirements.
- (j) Health Insurance. The cost of health insurance premiums of the health care plan selected by GU shall be equally shared by GU and DeWaele.
- (k) Education. GU shall compensate DeWaele for college education directly relating to his duties at GU up to five thousand dollars (\$5,000) per calendar year, provided that DeWaele provides a full description of the course or seminar with a notice of intent to enroll in the educational course or seminar to GU and receives prior authorization from GU for reimbursement of the course or seminar.
- (l) Additional Benefits. During the Term and subject to any contribution generally required of employees of GU, DeWaele shall be entitled to participate in any and all employee benefit programs and benefit plans from time to time in effect for employees of GU, but GU shall not be required to establish any such program or plan. Such participation shall be subject to the following:
- (i) the terms of the applicable plan documents,
 - (ii) generally applicable policies, and
 - (iii) discretion of GU or any administrative or other committee provide for in, or contemplated by, such plan. GU may alter, modify, add, or delete its employee benefit plans at any time as it, in its sole discretion determines to be appropriate without recourse by DeWaele.

5. Resignation, Termination and Termination Benefits. Notwithstanding the provisions of section 3, DeWaele's employment under this Agreement shall terminate under the following circumstances set forth in this section 5:

- (a) Termination for Cause. DeWaele's employment under this Agreement may be terminated for cause without further liability (including no obligation to pay severance) on the part of the company and shall be effective on the date set for termination in the written notice to employee. The following shall constitute "cause" for such termination:
- (i) the conviction of DeWaele for a crime involving moral turpitude, deceit, dishonesty or fraud that has caused or is reasonably likely to cause harm to GU or any affiliate of GU; or
 - (ii) DeWaele's gross negligence or willful misconduct with respect to GU or any affiliate of GU which causes harm; or
 - (iii) DeWaele's willful and continued failure to substantially perform (other than by reason of disability) his duties and responsibilities assigned or delegated under this Agreement; or
 - (iv) any intentional act of dishonesty, deceit, fraud, moral turpitude, misconduct, breach of trust or act intentionally against the financial or business interest of GU by DeWaele or DeWaele's use or possession of illegal drugs in the workplace, or
 - (v) the material breach by DeWaele of any of his obligations under this Agreement, and if such breach is capable of a reasonable and timely cure (in GU's sole discretion), after DeWaele has been given a notice of such breach in writing and a reasonable opportunity to cure it.
- (b) Termination By GU Without Cause. DeWaele is considered employee at will and may be terminated without cause upon written notice to DeWaele, subject to the obligation to provide severance pay as described in section 4 (d) above, but otherwise without any further liability on the part of GU.
- (c) Resignation By DeWaele. DeWaele may resign his employment by written notice to GU at least ninety (90) days prior to his election to terminate this Agreement and delivered in accordance with paragraph 17. Failure of DeWaele to provide said ninety (90) day written notice shall be considered a breach of this Agreement; further, in such event all bonuses identified in paragraph 4 shall become payable at the sole discretion of GU.

6. Confidentiality/Nondisclosure. As a condition of employment, DeWaele shall be required to sign the Confidentiality/Nondisclosure Agreement attached hereto as Exhibit B and Incorporated herein and made a part hereof.

7. Solicitation of Employees. DeWaele agrees that he shall not for a period of twelve (12) months following termination of employment with GU for any reason, whether with or without cause, either directly or indirectly, solicit or encourage any employee or

independent contractor or business associate of GU to end or diminish in any way his or her employment or other relationship with GU or any of the companies it manages.

8. Covenants Against Competition.

(a) for the purpose of this section:

- (i) "competing product" means any product, process, or service of any person or entity other than GU or any of the companies it manages in existence or under development, (A) which is identical to, substantially the same as, or an adequate substitute for any product, process, or service of the company, in existence or under development, on which DeWaele works during the time of employment with GU or about which DeWaele acquires confidential information and (B) which is (or could reasonably be anticipated to be marketed or distributed in such a manner and in such a geographic area as to actually compete with such, product, process or service of GU and/or any of the companies which it manages.
- (ii) "competing entity" means any person or entity, including DeWaele, engaged in, or about to become engaged in, research on or the acquisition, development, production, distribution, marketing, or providing of a competing product.

(b) in order to protect the confidential information and goodwill of GU, DeWaele agrees to the following stipulations:

- (i) for a period of twelve (12) months following termination or resignation of employment with the company for any reason, whether with or without cause, DeWaele will not directly or indirectly solicit or diverged, or attempt to solicit or diverged, or accept business relating in any in any manner to competing products or to products, processes or services of GU or the Companies from any of the customers or accounts of GU and/or at GU with which DeWaele had any contact during employment by GU.
 - (ii) for a period of twelve (12) months following termination or resignation of employment with the company for any reason, whether with or without cause, DeWaele will not render services, directly or indirectly, as it employee, consultant or otherwise to any competing entity in connection with research on or the acquisition, development, production, distribution, marketing or providing any competing product.
- (c) DeWaele agrees that the restrictions set forth in this section are fair and reasonable and are reasonably required for the production of the interests of GU. However, should an arbitrator or court nonetheless determined at a later date that such restrictions are in reasonable in light of the circumstances as they then exist, then DeWaele agrees that this section shall be construed in such a manner as to impose on DeWaele such restrictions as may then be reasonable and sufficient to assure GU the intended benefits of this section.

9. Insurance. GU may, at its election and for its benefit, ensure DeWaele against accidental loss or death, in DeWaele shall submit to a reasonable physical examination and supply such information as may be reasonably required in connection therewith.

10. Consent to Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of the Commonwealth of Massachusetts. Accordingly, with respect to any such court action DeWaele and GU each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

11. Integration. This Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.

12. Assignment: Successors and Assigns, etc. DeWaele may not make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of GU. This Agreement shall inure to the benefit of and be binding upon GU and DeWaele, their respective successors, personal representatives, administrators, heirs, and permitted assigns.

13. Enforceability. If any portion or provision of this Agreement (including, without limitation, any portion or provision of any section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Injunctive Relief and Litigation Costs. It is agreed and understood that GU shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Agreement. In particular, DeWaele acknowledges that a breach of his obligations under paragraph 6, 7, or 8 of this Agreement will cause irreparable injury to GU and the entities under its control such that a remedy at law will be inadequate and GU will be entitled to preliminary and other injunctive relief. In the event that GU obtains such injunctive relief, DeWaele agrees that GU will be entitled to recover any attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Agreement, each party shall bear such party's own costs and expenses including without limitation, attorney's fees related to such enforcement.

15. Indemnification. It is agreed and understood that GU shall defend, save harmless and indemnify DeWaele against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as General Manager, even if said claim has

been made following his termination from employment, provided that the DeWaele acted within the scope of his duties of GU. Said indemnification shall not include claims in which it has been adjudicated in a decision on the merits that DeWaele engaged in fraudulent, grossly negligent, or any criminal acts, including sexual harassment. GU shall reimburse the DeWaele for any attorneys' fees and costs incurred by DeWaele in connection with such claims or suits involving DeWaele in his professional capacity as limited herein.

16. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

17. Notices. Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at the parties' addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier or three (3) days after the date mailed.

18. Amendment. This Agreement may be amended or modified only by written instrument signed by DeWaele and by a duly authorized representative of GU, but in no event shall DeWaele be considered the duly authorized representative for purposes of this Agreement.

19. Governing Law. This Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be all original, but it's counterparts shall together constitute one and the same document.

In witness whereof, this Agreement has been executed as a sealed instrument by the parties as of the Effective Date hereinabove identified.

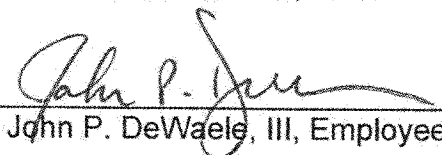
Grafton & Upton Railroad Company:

By 

Michael R. Milanoski, President

1-3-2020

Date



John P. DeWaele, III, Employee

1-3-20

Date

Exhibit A

Job description – Vice President of Railroad Operations and General Manager of
Grafton and Upton Railroad Company

Date: January 3, 2020

Job Title: Vice President of Railroad Operations and General Manager of Grafton &
Upton Railroad

Job Classification: Salaried Position; salary further detailed in employment agreement

Reports to: Michael Milanoski

Job Summary: The employee is responsible for the administrative and field work
management of railroad service for GU, GU Propane Bulk Transfer Facility and its
propane terminal supervisor (LPGTF), and GU Transloading Operations and any
additional railroad / lines or businesses operated by GU.

Essential Position Functions:

1. Safety and Compliance
 - a. Operational Safety and Compliance of railroad operations
 - b. Provide access to Federal and State authorities as required
2. Financial Operations
 - a. Budgetary oversight of railroad operations including all business unit's adherence to budget expenditures and staff allocation.
3. Oversight and mentoring of Employees with goal of creating employees that are encouraged to cross-trained team problem solvers within established safety framework.
 - a. Department Heads and administrative support including business units operated by GU
 - b. Roadmaster – Maintenance of Way (Chief of engineering)
 - c. Chief Mechanical Officer – Maintenance of Equipment
 - d. Trainmaster/Lead Conductor – Transportation and Engine Service (T&E)
 - e. Workforce evaluation (annual review with midyear listening check-in with all GU employees)
4. Operational Oversight
 - a. Improvements to efficient rail operations and railcar velocity
 - b. Project management and effective use of resources and capital funds
 - c. Procurement of materials, equipment, labor, and services
 - d. Sales and Marketing support / coordination with President
 - e. Firsthand field support in various crafts (MOW, MOE, T&E)
 - f. Transportation and Engine Service (T&E) with minimum quarterly train service participation.
 - g. Maintenance of Way (MOW)
 - h. Maintenance of Equipment (MOE)
 - i. Coordination of FCD projects contracted by railroad
5. Customer Service Oversight (priority after safety)
 - a. Create and implement procedures to provide excellent customer service

b. Create and implement procedures to provide 97.5% on-time delivery

6. Marketing and Planning

a. Strategic growth, expansion and promotion of the railroad business

Amendments:

This job description is not designed to cover or contain a comprehensive listing of all activities and responsibilities that are required of the president and may be amended from time to time at the discretion of Michael Milanoski with notice to the employee.

Exhibit B
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement ("Agreement") is entered into this 3rd day of January 2020 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 01536 ("GU") and John DeWaele of 8 Crestwood Drive, Blackstone, MA 01504 ("DeWaele") (collectively the "Parties").

DeWaele will perform services for GU which may require GU to disclose confidential and proprietary information ("Confidential Information") to DeWaele. To protect GU and the Confidential Information, DeWaele agrees as follows:

1. DeWaele acknowledges that during the course of his employment, he will come into the possession of confidential information belonging to GU including but not limited to trade secrets, financial information, methods, processes, and marketing plans ("Confidential Information").
2. DeWaele covenants and agrees to hold the Confidential Information received from GU in strict confidence and shall exercise a reasonable degree of care to prevent disclosure to others and will not use Confidential Information for his own benefit or the benefit of others during or after his employment with GU.
3. DeWaele will not disclose or divulge either directly or indirectly the Confidential Information to others beyond that which is required for his job duties, unless first authorized to do so in writing by GU.
4. DeWaele will not reproduce nor commercially use Confidential Information for any purpose other than the performance of his duties for GU.
5. DeWaele shall immediately, upon the request or upon termination of his relationship with GU, deliver to GU all documents, notes, drawings, equipment, and materials whether electronic or hard copy in his possession and he shall not maintain, possess, or disseminate any copies of Confidential Information.
6. GU reserves the right to take disciplinary action, including termination of DeWaele for violations of this Agreement and the pursuit of legal remedies to enforce this Agreement and protect Confidential Information at the discretion of GU, the expense of which shall be paid by DeWaele.
7. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any part of this agreement which is determined to be invalid, illegal or unenforceable shall have no effect on any other portion of this agreement, which shall remain in full force and effect.

8. This Agreement shall be binding on all of the parties, their heirs, successors and assigns.
9. This Agreement constitutes the entire agreement between the parties and may only be modified in writing by the parties.

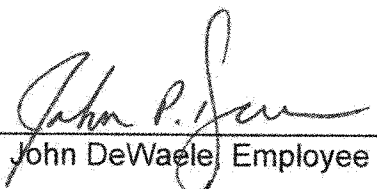
DeWaele represents that he has read this Agreement, agrees to abide by the terms and conditions stated herein.

Grafton & Upton Railroad Company:

By 

Michael R. Milanoski

1-3-2020
Date



John DeWaele Employee

1-3-20
Date

Employment Agreement Restated First Amendment

This First Amendment for the Employment Agreement ("Agreement") that was entered into January 3, 2020 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 02330 ("GU") and John P. DeWaele, III of 8 Crestwood Drive, Blackstone, MA 01504 ("DeWaele") (collectively the "Parties") is hereby amended as follows:

Delete section 4(b) Annual Safety and Customer Bonus Incentives and replace with following:

4(b) Annual Safety and Customer Requirements DeWaele shall be responsible for the following objective as part of his oversight responsibilities:

- (i) Absence of any on-the-job injuries for employees or contractors.
- (ii) Absence of train derailments.
- (iii) Absence of reportable safety violations on GU property or related to G&U.
- (iv) On time delivery of 97.5% or better.

Add the following new Section


4(m) Use of Company Vehicle DeWaele is authorized to use for businesses purposes a property marked company vehicle to carry out the duties of his position. Further, DeWaele is authorized to use the company vehicle for limited personal use subject to IRS regulations and company policy for commuting to and from work.

In witness whereof, this Amendment has been executed as a sealed instrument by the parties as of the Effective Date signed below.

Grafton & Upton Railroad Company:

By 
Michael R. Milanoski, President

12/29/2020
Date


John P. DeWaele, III, Employee

12/29/2020
Date

EXHIBIT F

Jon Delli Priscoli
5 Pine Street
Carver, MA 02330

Effective Date: December 1, 2022

RE: Purchase of Grafton and Upton Railroad Company and all railroad assets

This Restated Letter of Intent (LOI) replaces all previous agreements (verbal or written) including but not limited to original LOI dated November 23, 2022 and Amendment #1 to LOI dated November 28, 2022, and represents the framework and basic terms mutually agreed upon by the Buyer and Seller for the operating business with associated real estate and other assets. After the LOI is executed, the parties will develop a Purchase and Sale Agreement (PSA) and associated transfer documents to the benefit of the Parties involved.

- I. **The Buyer:** Management Buyout team headed by Michael Milanoski, 171 South Main Street, Cohasset MA 02025 and John DeWaele 8 Crestwood Drive, Blackstone MA 01504.
- II. **The Seller:** Jon Delli Priscoli, 5 Pine Street, Carver MA 02330 and in his corporate ownership capacity of all assets and companies listed in the LOI.
- III. **The Business and Real Estate:** Grafton and Upton Railroad Company (GU), and all railroad assets (real estate, equipment, and infrastructure etc.) located within the Town of Grafton, Upton, Hopedale, Milford, and CSX Freight Easement from Milford to Franklin plus Quonset Transportation and Logistics LLC and 50% of Seaview Transportation & Logistics LLC (see Exhibit I). Excluding Seller's 50% ownership of Upton Development Group.
- IV. **Ownership Interest:** The Seller states that he has 100% clear ownership (see Exhibit I) and Seller agrees to sell 100% of the total ownership interest free and clear of all liens with clear title other than Buyer to assume Mutual One Debt of approximately \$5,700,000 and GRT debt.
- V. **Business, Real Estate, and All Railroad Assets Purchase Price:** The aggregate consideration for the assets and business to be purchased will be \$36,000,000 (Thirty Six Million Dollars) plus the existing Mutual One Debt of and GRT the Buyer will assume at closing. Given this is a Management Buyout including transfer of stock and assets, Seller

has discounted purchase price of all assets and business by leaving in the Sellers equity share via sale that has a ratio of 4 to 1, Milanoski (4) to DeWaele (1) for their equity above the net sale price of \$36,000,000 and listed debt with Mutual One and GRT.

- VI. **Payment:** The purchase price shall be paid at Closing as a one-time payment.
- VII. **Due Diligence Review:** Promptly following the execution of this LOI, the Buyer and their agents will examine all finances, accounting, and business records and the contracts and other legal documents etc. as part of the Due Diligence review.
- VIII. **Financing:** The Seller acknowledges that this LOI is contingent upon Buyer obtaining financing and may be extended to allow financing to be secured.
- IX. **Binding Effect:** This LOI shall be binding based on payment of \$1.00 due at signing of LOI, therefore, the parties acknowledge that the remedies at law will be inadequate for any breach of the LOI and consequently agree that this LOI shall be enforceable by specific performance. The remedy of specific performance shall be cumulative of all of the rights of law or in equity of the parties under this LOI.
- X. **Definitive Purchase Sales Agreement (PSA):** All of the terms and conditions of the proposed transaction would be stated in the PSA to be negotiated within 45 days of executing of this Restated LOI.
- XI. **Bank Account:** In order to keep necessary operating accounts in operation, the Seller agrees not remove any funds from the financial accounts associated with this transaction but for day-to-day normal operations of the business and properties.
- XII. **Seller's Conduct:** The Seller agrees that during the purchase process they shall hold a fiduciary duty to the best interest of the Business and this LOI. The Seller shall in no way conduct any action that would disrupt the on-going status of the Business's day-to-day operations. This obligation shall continue till closing date.
- XIII. **Buyer's Conduct:** Given the Buyer is running the subject of this LOI the Buyer also agrees that during the purchase process they shall hold a fiduciary duty to the best interest of the Business and this LOI. The Buyer shall in no way conduct any action that would disrupt the on-going status of the Business's day-to-day operations. This obligation shall continue till closing date.
- XIV. **Closing:** The Closing is the act of closing the transaction where the Seller exchanges the Business and associated assets for the Purchase Price. The Closing shall be agreed upon

between the Buyer and Seller following the PSA, later to be signed, or after the terms are met in this LOI. The Closing will be scheduled 45 days after the execution of the PSA and financing is secured and may be extended by mutual agreement.

- XV. **Closing Cost:** All cost associated with the transfer of the property and business at Closing shall be the responsibility of the Seller.
- XVI. **Brokerage:** Buyer and Seller represent they are not represented by a broker and therefore no fees are due to be paid by either party.
- XVII. **Termination:** The LOI shall terminate if there has not been a PSA executed within 45 days of the Effective Date consistent with the terms of the LOI.
- XVIII. **Access to Information:** After the execution of the LOI, the Buyer, its advisors, and partners shall have full access to the any and all information about the Business. The Buyer shall maintain a fiduciary duty to keep the information that it obtains confidential and agrees to not share with any third party unless part of acquisition team without Seller's written consent.
- XIX. **Return of Material:** Any information that is obtained by the Buyer through the Seller shall be returned if a PSA cannot be completed.
- XX. **Confidentiality:** All negotiation regarding the Business and all rail assets between the Buyer and Seller shall be confidential and not to be disclosed with anyone other than respective parties. No press or other public release will be issued to the general public without concerning the business and LOI without the mutual consent or as required by law, and then only upon prior written notice to the other party.
- XXI. **Good Faith Negotiations:** The Buyer and Seller agree to act honestly and diligently to enter into "good faith" negotiations to execute a PSA, consistent with the terms of this LOI.
- XXII. **Exclusive Opportunity:** In order to induce Buyer to commit the resources, forego other potential opportunities, and incur the legal, accounting and incidental expenses necessary to properly to evaluate the possibility of acquiring the assets and business described above, and to negotiate the terms of, and consummate, the transaction contemplated hereby, Seller agree that for a period of 45 days after the date hereof, Seller, Seller's affiliates and respective officers, directors, employees and agents shall not continue, initiate, solicit, encourage, directly or indirectly, or accept any offer or proposal,


regarding the possible acquisition by any person and party other than Buyer, including, without limitation, by way of a purchase of shares, purchase of assets or merger, of all or any substantial part of your equity securities or assets, and shall not (other than in the ordinary course of business as heretofore conducted) provide any confidential information regarding Seller's assets or business to any person other than Buyer and Buyer's representatives. Following the execution of this LOI, the Seller agree to not negotiate or enter into discussion with any other party.

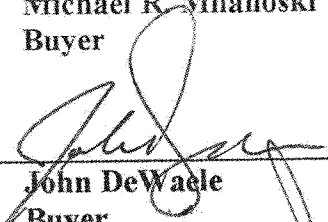
XXIII. **Standstill Agreement:** Following the execution of the LOI, and until Closing the Seller, agrees not to sell or transfer any portion of the Business or railroad assets as defined in the LOI.

XXIV. **Governing Law:** This LOI shall be governed by the laws by the State of Massachusetts.

XXV. **Severability:** In case any provision of wording in this LOI shall be held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

XXVI. **Counterparts and Electronic Means:** This LOI may be executed in several counterparts, each of which will be deemed to be an original and all of which will together constitute one and the same instrument.

By  _____ Date 12/1/22
Michael R. Milanoski
Buyer

By  _____ Date 12/1/22
John DeWaele
Buyer

ACCEPTED AND AGREED BY SELLER

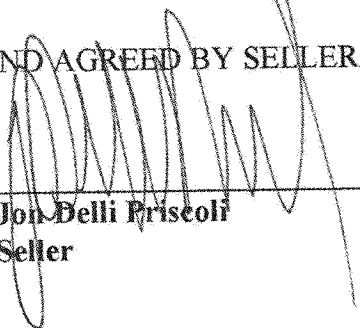
By  _____ Date 12/1/22
Jon Belli Priscoli
Seller

Exhibit I

100% of Grafton and Upton Railroad Company (GU), and all railroad assets (real estate, equipment, and infrastructure etc.) located within the Town of Grafton, Upton, Hopedale, Milford, and CSX Freight Easement from Milford to Franklin, excluding Seller's 50% ownership of Upton Development Group.

Including but not limited to the following entities:

- Seaview Transportation and Logistics and all related assets (Seller's 50% share of Seaview)
- Quonset Transportation and Logistics LLC and all related assets
- One Hundred Forty Realty Trust (Seller's 66.6% share, Milanoski owns remaining 33.3%)
- 1 Fitzgerald Drive LLC (141 Mendon St LLC)
- Equipment from Fast Forward Auto Sales included in this transaction.

Modifications of the company's organization prior to sale shall be done in the seller's and buyer's mutual interest for tax purposes.

Exhibit II

Seller shall provide internal financing of \$5,000,000 at an annual percentage rate of 4.5% from date of closing. Payment will commence after year 2 of this transaction and continue at an annual payment of \$1,000,000 to be paid monthly until payment is made. Buyer shall have the right to prepay. Seller recognizes secondary financing may cloud bank and equity financing and therefore will require Buyers to personally sign to Seller directly in the percentage of their equity share of 80% Milanoski and 20% DeWaele for the \$5,000,000 debt.

- Upon mutual agreement Seller and Buyer may carve out \$5,000,000 of purchase price and assign this financing separately outside LOI.
- Further Seller may upon mutual agreement include his rights for acquiring 1/3 ownership of the Middleborough Railyard owned by Garrity as part of this financing.

The following equipment shall remain with Seller and not part of this transaction.

EX 140	Komatsu PC400 Excavator
EX 141	Komatsu PC 400 Excavator w/ coupler
OT 127	Terex Articulated rock truck w/ tailgate
OT 128	Terex Articulated rock truck w/o tailgate
L 120	John Deere 244J Front end loader and attachments
EX 150	Komatsu PC 150 Excavator
FL 120	zoom boom lull (all terrain lift)
BH 100	New Holland Back Hoe
BL 100	Genie lift
UT 120	Old deck over, 12,000 GVW
988B	Caterpillar Loader (to be swapped with other loader and with forks)
D 160	Caterpillar D6R Bull Dozer

All remaining rolling stock, vehicles, tools, and equipment are included in this transaction to be listed in Exhibit III.

Seller shall have rights to invest in future MSW/C&D operating structures for taking in and transloading MSW/C&D on GU and Seaview lines and will have the rights for participation of up to 33% of Seller's personal assets. For no consideration Seller shall not be obligated to pay for land currently controlled by Seller that is required to construct facility if facility is built on

existing controlled land by GU at the time of this sale and Seller shall own that percentage of that land for the parcel. In all MSW/C&D truck to rail transloading operations Buyer and Seller shall control 50% of new entity unless agreed to by both parties. The option shall expire upon death of Seller and is not transferable. If project under development seller owns that portion of the project.

Seller shall have rights to invest in future Hydrogen locomotive conversion part of GU's locomotive repair facility as a minority shareholder not to exceed 25% of GU's ownership in a potential future company should GU create one. It is noted that in order to partner with Hydrogen Company that Milanoski personally would have to be majority shareholder given his relationship with Hydrogen company and their exclusivity on who they will partner with. The option shall expire upon death of Seller and is not transferable.

Seller shall continue to receive his share of rail car movement agreement from Quonset Transportation and Logistics LLC for the NEWS volume contract at \$100/rail car. This shall expire upon the Sale of NEWS that the Seller is a vested partner of.

Upton Development Group is excluded from this agreement as it relates to closing on the sale of said property. It is noted the Grafton and Upton Railroad Company has lease with Upton Development Group that is not impacted by the transaction.

Seller will notify RJ Corman of this LOI and has requested Buyer explore in good faith with RJ Corman the opportunity to see if they want to partner with Buyer.

Exhibit III

11/30/2022

The following Equipment shall become the property of the Buyers as included in the Executed LOI, formerly of Grafton and Upton, Grafton and Upton Distribution Center, Grafton and Upton Propane Terminal, Grafton and Upton Locomotive Shop, First Colony Development and Fast Forward Auto Sales as follows:

Maintenance of Way

TC301	Crew Truck - Highrail	1997	International	4700	Hydraulic Tools
TC302	Rotary dump		Ford	L8000	Hi Rail
TC303	High Rail Pick Up	2012	Ford	F350	Hi Rail Crew Cab
TC 304	Grapple truck		Ford	L8000	Flat/Grapple/HR
TC 305	High Rail Pick Up	2012	Ford	F350	Utility Body
L 310	Front loader		Volvo	L110	Forks/bucked
SS 395	Kubota Skid Steer	2020	Kubota	SVL 95	Forks/Bucket/Grapple/Brush Cutter
P 103	MOW Van	2005	GMC	SAVCUT 2500	Van w/ UB
P 301	Ford F 250 (Bo)	2011	Ford	F 250	Transfer Tank/ 8' Fisher Plow
P 302	Ram 2500	2020	Ram	2500	9' Fisher Plow
P 325	Ram 2500	2022	Ram	2500	8' Fisher Plow
MW 310	JD BACKHOE	2008	John Deere	310 SJ	Cribbing Bucket/Thumb
MW 315	Speed Swing	1995	John Deere	644	Bucket/Forks/Jib Boom
MW 320	Rubber tire excavator	2014	Volvo	EW210D	High Rail Gear
MW 330	Fairmont Spiker	2005	Fairmont	W96E3-41	
MW 350	Mark II Tamper	1980			Tamper
MW 351	Jackson 6700	2005			Tamper
MW 360	KBR 900 Regulator	2007			Regulator
LT 300	Light Tower	2005	ENTER INFO		
AC 392	Doosan Compressor				
UT 110	Deck over Trailer	2020			Deckover w/ Ramps 14,000 GVW
	Brontosaurus Brush Cutter				Flail Mower for excavator

	Stanley Hydraulic Unit		Stanley	8GPM	Spiker (2), Spike Puller (2), Tamper
	Rototilt - Steelwrist		Steelwrist		2 buckets, forks, cassette grapple
	Buffalo Turbine Blower	2022	Buffalo Turbine		Double blower
	Storage Container (3)				20'
AC 191	Sullivan Air Compressor				Air compressor
UT 190	Northern Power washer				
G 155	Dresser grader				
L 190	Volvo Loader		Volvo	L90c	Loader
L 191	Volvo Loader		Volvo	L90c	Loader
EX 139	PC 300 w/ hammer		Komatsu		Excavator
R 101	Dynapac vibe roller				
D 145	John Deere 450 dozer				
C 102	Walk behind compactor	2020	WACKER	WP1550AW	VIBE PLATE

Including all hand tools, small power tools and tools/accessories associated with the equipment above.

Maintenance of Equipment

Daewoo	Fork Lift
Kershaw	80 Ton Crane
Ford	22,000 GVW Box Truck
GMC	Sierra
Ford	F 550
John Deere	Gator
Hyster 155	Forklift
Shop Tools	
Miller	Trailblazer 302
Chicago Pneumatic	Shop air compressor
Miller	millermatic 225
Tame	Bar Over
Tame	Crab Nut
Tame	Torque
60 Ton Railcar Jack	w/ extensions
60 Ton Railcar Jack	w/ extensions
Storage Containers	3

Including all small tools, power tools, hand tools, and tools and equipment associated with the equipment list above.

Grafton and Upton Distribution Center

FL 500	Hyster 120		Hyster 120 Fortis	H120FT
FL 501	Hyster 120		Hyster 120	H120FT
FL504	Hyster 120 Propane		Hyster 120	H120FT
FL505	YALE		Veracitor 120VX	GDP120VXNTGE132.4
FL506	Hyster 120		Hyster 120 Fortis	H120FT
FL 530	Yale Box car special		Yale	E622049
FL531	YALE		Yale	GLC080VXNDAQ084
FL532	YALE		Yale	GLC050VXNDSE094
SW 591	Gas Sweeper		Tenant	385
CB	Conveyor Belt			
CB 561	Conveyor Belt			
AC 500	Air Compressor	2020	Dewalt	D55168_225
MT 500	Pressure washer	2020		
OT 510	Yard Horse	1998	Ottawa	model 50
OT 520	Spotter Truck	2015	Autocar	
OT 530	Spotter Truck	2010	Ottawa KALMAR	4X2 Or QSB6.7

Including all small tools, power tools, equipment and tools associated with equipment list, fueling equipment, trash compactors, and other items associated with the equipment listed above.

Grafton and Upton Railroad Rolling Stock

EMD	MP-15 AC	1977
EMD	MP-15 AC	1977
EMD	MP-15 AC	1977
EMD	GP9	1959
EMD	F7-A	1953
Caboose	Unknown	
89' Flatcar	Unknown	
Passenger Coach	Unknown	

All associated locomotive parts and equipment

EXHIBIT G

Position/Rate Change

Employee Name John DeWack Date 12 / 28 / 22

Employee Number _____ Hire Date 2 / 22 / 2018

EMPLOYEE INFORMATION	CURRENT <small>Must be completed to process changes.</small>	CHANGES	EFFECTIVE DATE
Department Name	<u>Administration/Execution</u>		
Reports to (Name)	<u>President</u>		
Cost Center			
Position	<u>GM, VP of Rail Road Operations</u>		
Grade			
Status			
• Full-Time	<input checked="" type="checkbox"/>		
• Part-Time	<input type="checkbox"/>		
• Seasonal	<input type="checkbox"/>		
• Scheduled Days and Hours			
Wage			
• Hourly <u>Annually</u>	<u>\$140,000⁰⁰</u>	<u>\$175,000⁰⁰</u>	<u>1/1/23</u>
• Weekly			
• Biweekly			

REASON FOR CHANGE (Check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Annual Review-Rating | <input type="checkbox"/> Location Transfer |
| <input type="checkbox"/> Promotion (use for jobs that are an increase in grade level) | <input type="checkbox"/> Department Change |
| <input type="checkbox"/> Position Transfer (use for jobs that are a lateral or decrease in grade level) | <input type="checkbox"/> Other |

COMMENTS John continues to exceed expectations and grow through organically leading to most successful year w/ GV. John has turned down offer over \$200,000 w/ equity and given owner his changed promised succession plan, in order support John level of effort his salary

Employee Signature [Signature] Date 12 / 28 / 22 ¹⁵ raised to \$175,000

APPROVALS

1st Level Supervisor [Signature] Date 12 / 28 / 22 ^{or of 1/4R}

2nd Level Supervisor _____ Date _____

Human Resource Department _____ Date _____

EXHIBIT H

Michael Milanoski

From: Michael Milanoski
Sent: Wednesday, December 28, 2022 3:10 PM
To: John Cotter
Subject: FW: here are employment agreements
Attachments: B_Johnson_5-19-17.pdf; EXECUTED John Cotter employment Agreement 9-4-21.pdf; JDeWaeleEmploymentAgreement2020_1-3-2020.pdf; Executed FCG-GU-Milanoski Agreement 4-17-2020.pdf; Executed FCG-GU-Milanoski Commission 4-17-20.pdf

John,

Here are the executive contracts for you to calculate all bonuses that have not been paid to the attached executives of Jon's companies as they are required to be paid annually. My understanding is these will be calculated shortly and then be paid to each individual in the first quarter of 2023, but funds will be encumbered accordingly on the financials ASAP.

- Brenda Johnson 4b1 is section for Edaville businesses (note: if Brenda does not receive anything due performance of Edaville, let me know as I may transfer a portion of mine to her)
- John Cotter 4c1 is section for all FCG businesses
- John DeWaele is section 4c1 for GU businesses (note there is an amendment #1 at end does not impact this section).
- Michael Milanoski is also section 4b1 for all Jon's business entities not including personal residence (this is also odd given the transfer of FCD's ownership in Southborough). I've also attached my commission contract. *John the following was from Joe Antonellis – your thoughts? - Michael's receipt of 10% has to do with the earnings of the G&U (ebita is the language used). A sale of the stock by Jon will not affect the G&U's balance sheet and therefore I do not believe Michael is entitled to any compensation from the sale of Jon's stock other than the 2% (net proceeds would be the amount Jon receives after paying off the G&U debt)*

Also, given my annual review of John DeWaele and his accomplishments plus he as been offered positions over \$200,000 with profit-share we will need to raise his base salary to \$175,000 starting first pay period in January given the additional level of professionalism he provides. Kindly forward me anything I need to do to sign off on that increase.

Thanks

Michael.

Michael R. Milanoski, President
Grafton and Upton Railroad Company
42 Westboro Road, North Grafton, MA 01536
<http://graftonuptonrr.com/>
508-965-3493

EXHIBIT I

Michael Milanoski

From: John Cotter <jcotter@firstcolonydev.com>
Sent: Thursday, January 12, 2023 8:06 AM
To: Michael Milanoski
Subject: Revised Contract Accruals
Attachments: Consol Bonus-mm.xlsx; Accrual BJ EDA-Bonus.xlsx; Accrual JC Bonus.xlsx; Accrual JD- Bonus.xlsx

Hi Michael,

Attached please find the revised estimate for the current agreements on file.

Thank You,

John J. Cotter
Chief Financial Officer
First Colony Group. LLC
e-mail: jcotter@firstcolonydev.com
Telephone: 508-866-8190 Ext. 431

CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

EXHIBIT J

GRAFTON & UPTON RAILROAD COMPANY

CERTIFICATE OF VOTE

I, Jon Delli Priscoli, certify that I am the duly appointed Secretary of Grafton & Upton Railroad Company and that a meeting of the Board of Directors and Shareholders of said Grafton & Upton Railroad Company on January 20, 2023, at which all of the Directors and 100% of the Shareholders were present and acting throughout, the following Votes were approved and are now in full force and effect:

VOTED:

Jon Delli Priscoli is hereby appointed as Chief Executive Officer of the Grafton & Upton Railroad Company.

Eric Moffatt is hereby appointed as Executive Vice President of the Grafton & Upton Railroad Company.

From and after this date, any and all contracts, agreements, writings, bills of sale, deeds or other instruments which purport to bind or otherwise have any impact or effect on the Grafton & Upton Railroad Company shall be effective only if approved in writing by the Chief Executive Officer.

Michael Milanoski is hereby immediately suspended with full pay and health insurance benefits.

Michael Milanoski is hereby directed to forthwith deliver to the Chief Executive Officer, (or his designee) his Grafton and Upton Railroad Company issued lap top computer (or any other computer, or electronic device issued by the Grafton & Upton Railroad Company); his keys to any and all company buildings or company vehicles, all credit cards on which the Grafton and Upton Railroad Company is the responsible party for payment of charges; all files, notes, ledgers, or other assembly of documents related to the day to day business of the Grafton & Upton Railroad Company, and a schedule of any , meetings or hearings related to the Grafton & Upton Railroad Company which the said Michael Milanoski has scheduled or if not being the person who scheduled the meeting a list of all meetings for which he has received notice.

I hereby certify that the foregoing votes are in full force and effect and have not been amended, modified, or revoked.

WITNESS MY HAND AND SEAL this 20th day of January 2023.



Jon Dell Prisco, Secretary

EXHIBIT K

MEMBERS VOTE AND CONSENT
FIRST COLONY DEVELOPMENT RAIL HOLDINGS, LLC

The undersigned being the sole member of the First Colony Development Rail Holdings, LLC ("LLC") does hereby certify that at a meeting held on January 20, 2023, the following votes were taken:

1. Michael Milanoski is hereby removed as a Manager of the LLC.
2. Brenda Johnson is hereby appointed as a Manager of the LLC, with full and complete authority to make all filings with the Massachusetts Secretary of State, to act as a signatory on all bank accounts, and to execute, acknowledge, deliver, and record any recordable instrument purporting to affect an interest in real property.
3. Michael Milanoski is hereby removed as the person serving as Resident Agent for the LLC
4. Jon Delli Priscoli, having an address at 7 Eda Avenue, Carver, MA is hereby appointed as the Resident Agent for the LLC

EXECUTED as a sealed instrument this 20th day of January 2023.

FIRST COLONY DEVELOPMENT RAIL HOLDINGS, LLC

By:



Jon Delli Priscoli, its sole Member

EXHIBIT L



Certified Mail/Return Receipt Requested and Email

January 25, 2023

Joe Antonellis, Esq.
Mayer, Antonellis, Jachowicz & Haranas, LLP
439 Worcester Road, PO Box 966
Framingham MA 01701
jma@majhllp.com

Timothy Wickstrom, Esq.
Wickstrom Morse, LLP
60 Church Street
Whitinsville, MA 01588
timothy@wickstrommorse.com

Re: John P. DeWaele, III – Unpaid Wages and Breach of Employment Agreement

Attorney Antonellis and Attorney Wickstrom:

Please be advised that we represent the above referenced individual, John P. DeWaele, III (hereinafter “Mr. DeWaele”). Mr. DeWaele has been employed with Grafton & Upton Railroad Company (hereafter “Grafton & Upton”) since February 22, 2018, in various roles, and Mr. DeWaele has served as the Vice President of Railroad Operations and General Manager since January 3, 2020.

On or about February 28, 2018, Mr. DeWaele entered into an “Employment Agreement” with Grafton & Upton. This agreement provided that Mr. DeWaele would receive “an annual bonus equal to one and a half percent (1.5%) of the Net Annual Income of [Grafton & Upton].” On or about January 3, 2020, Mr. DeWaele entered into an “Employment Agreement Restated” with Grafton & Upton, which included the same language as the aforementioned employment agreement with respect to this bonus payment structure.

In December 2022, Mr. DeWaele and others reached an agreement with Jon Delli Priscoli (hereafter “Mr. Delli Priscoli”) to purchase Mr. Delli Priscoli’s interest in various entities, including but not limited to Grafton & Upton. Mr. Delli Priscoli almost immediately reneged on his obligations under the terms of the agreement. Mr. Delli Priscoli took further action in retaliation for Mr. DeWaele’s attempt to enforce the terms of the agreement by revoking a raise previously granted to Mr. DeWaele by Grafton & Upton on December 28, 2022 and effective as of January 1, 2023 without any justification whatsoever. Mr. Delli Priscoli rescinded the previously granted raise on or about January 20, 2023. Mr. DeWaele was never properly paid in accordance with the approved pay raise.



Up to the date of this communication, Grafton & Upton and Mr. Delli Priscoli, the sole owner of the company, have never paid Mr. DeWaele any bonus owed under the terms of the controlling employment agreements. According to calculations completed on January 12, 2023 in an email by John Cotter (hereafter "Mr. Cotter"), the Chief Financial Officer of First Colony, Mr. DeWaele is owed approximately **Thirty Five Thousand (\$35,000) Dollars** in unpaid bonuses from 2018 to the present. Grafton & Upton and Mr. Delli Priscoli also failed to pay Mr. DeWaele in accordance with the approved pay raise effective as of January 1, 2023.

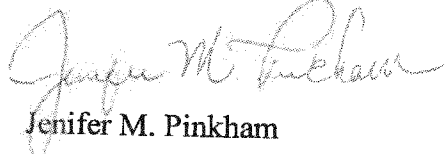
Prior to the adverse employment actions detailed herein, Mr. DeWaele's immediate superior discussed the issue of outstanding and unpaid bonuses with Mr. Cotter. Mr. Cotter was directed to calculate any unpaid bonuses owed by Grafton & Upton. Mr. Delli Priscoli revoked Mr. DeWaele's previously approved raise shortly after Mr. DeWaele's immediate superior inquired about outstanding and unpaid bonuses in retaliation for inquiring about the unpaid wages.

The actions taken by Grafton & Upton and Mr. Delli Priscoli against Mr. DeWaele constitute illegal actions that violate anti-retaliation laws and other state and federal laws, including the Massachusetts Wage Act. Due to the egregious actions taken by Mr. Delli Priscoli, Mr. DeWaele has an extremely strong claim against Grafton & Upton and Mr. Delli Priscoli for unpaid wages and retaliation under the Massachusetts Wage Act. As you know, under the Massachusetts Wage Act, Mr. DeWaele would be entitled to triple damages.

If forced to litigate this matter, we will seek the aforementioned unpaid bonus payments, punitive damages, including but not limited to triple damages under the Massachusetts Wage Act, attorney's fees and any other damages allowed under state or federal law.

Please respond within five (5) days or we will be forced to initiate legal action to collect wages owed.

Very truly yours,
PHIFER PINKHAM, LLC



Jenifer M. Pinkham

cc: J. Keith Phifer, Esq.
Corey W. Silva, Esq.
John P. DeWaele, III

EXHIBIT M



Certified Mail/Return Receipt Requested and Email

January 25, 2023

Joe Antonellis, Esq.
Mayer, Antonellis, Jachowicz & Haranas, LLP
439 Worcester Road, PO Box 966
Framingham MA 01701
jma@majhllp.com

Timothy Wickstrom, Esq.
Wickstrom Morse, LLP
60 Church Street
Whitinsville, MA 01588
timothy@wickstrommorse.com

Re: Michael Milanoski – Unpaid Wages and Breach of Employment Agreement

Attorney Antonellis and Attorney Wickstrom:

Please be advised that we represent the above referenced individual, Michael Milanoski (hereinafter “Mr. Milanoski”). Mr. Milanoski has been employed with First Colony Group, LLC (hereafter “First Colony”) in various capacities, up to and including President, since May 19, 2017, and Grafton & Upton Railroad Company (hereafter “Grafton & Upton”), as President since May 19, 2017.

On or about May 19, 2017, Mr. Milanoski entered into an “Employment Agreement” with First Colony. This agreement provided that Mr. Milanoski would receive “an annual bonus equal to three percent (3%) for all businesses owned in whole or in part by an entity that is managed by FCG, [which includes Grafton & Upton] based on ‘Net Annual Income[.]’” On or about April 17, 2020, Mr. Milanoski entered into an “Amended Employment Agreement” with Grafton & Upton and First Colony. The amended agreement provided that Mr. Milanoski would receive an annual profit share equal to ten (10%) of the net annual income “derived from all businesses owned in whole or in part by [Grafton & Upton or First Colony] or any entity that [sic] managed by either [First Colony] or [Grafton & Upton].”

In December 2022, Mr. Milanoski and others reached an agreement with Jon Delli Priscoli (hereafter “Mr. Delli Priscoli”) to purchase Mr. Delli Priscoli’s interest in various entities, including but not limited to Grafton & Upton. Mr. Delli Priscoli almost immediately reneged on his obligations under the terms of the agreement. Mr. Delli Priscoli took further action in retaliation for Mr. Milanoski’s attempt to enforce the terms of the agreement, and other actions as



detailed herein, by suspending Mr. Milanoski from his employment with Grafton & Upton and removing Mr. Milanoski as Manager and Registered Agent of First Colony on January 20, 2023.

Up to the date of this communication, First Colony, Grafton & Upton and Mr. Delli Priscoli, the sole owner of both entities, have never paid Mr. Milanoski any bonus or profit share payments owed under the terms of the controlling employment agreements. According to calculations completed on January 12, 2023 in an email by John Cotter (hereafter "Mr. Cotter"), the Chief Financial Officer of First Colony, Mr. Milanoski is owed approximately **Eight Hundred and Twelve Thousand (\$812,000) Dollars** in unpaid bonuses or profit share payments from 2017 to the present.

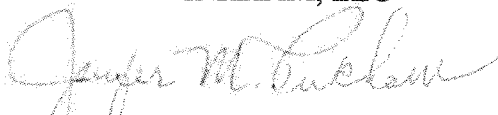
Prior to the adverse employment actions detailed herein, Mr. Milanoski discussed his unpaid bonuses and profit share payments with Mr. Cotter. Mr. Milanoski instructed Mr. Cotter to calculate any unpaid bonuses or profit share payments owed by First Colony or Grafton & Upton. Mr. Delli Priscoli suspended Mr. Milanoski from his employment with Grafton & Upton and removed Mr. Milanoski as Manager and Registered Agent of First Colony shortly after Mr. Milanoski inquired about unpaid bonuses and profit share payments in retaliation for inquiring about the unpaid wages.

The actions taken by Grafton & Upton, First Colony and Mr. Delli Priscoli against Mr. Milanoski constitute illegal actions that violate anti-retaliation laws and other state and federal laws, including the Massachusetts Wage Act. Due to the egregious actions taken by Mr. Delli Priscoli, Mr. Milanoski has an extremely strong claim against Grafton & Upton, First Colony and Mr. Delli Priscoli for unpaid wages and retaliation under the Massachusetts Wage Act. As you know, under the Massachusetts Wage Act, Mr. Milanoski would be entitled to triple damages.

If forced to litigate this matter, we will seek the aforementioned unpaid bonus and profit share payments, punitive damages, including but not limited to triple damages under the Massachusetts Wage Act, attorney's fees and any other damages allowed under state or federal law.

Please respond within five (5) days or we will be forced to initiate legal action to collect wages owed.

Very truly yours,
PHIFER PINKHAM, LLC



Jenifer M. Pinkham

cc: J. Keith Phifer, Esq.
Corey W. Silva, Esq.
Michael Milanoski

EXHIBIT N



Grafton & Upton Railroad Company

42 Westboro Road
North Grafton, MA 01536
(508) 481-6095 * Fax (508) 460-0578

February 8, 2023

BY OVERNIGHT DELIVER

Michael Milanoski
171 South Main Street
Cohasset, MA 02025

RE: Termination of Employment for Cause
Grafton and Upton Railroad Company and First Colony Group, LLC

Dear Michael,

Please be informed that, effective February 10, 2023, your employment by Grafton & Upton Railroad Company and First Colony Group, LLC is terminated for cause pursuant to Section 5(a)(iv) of the Amended Employment Agreement you signed on September 10, 2020. The decision is based on your gross workplace misconduct, which includes but is not limited to dishonesty; undermining company business opportunities; intentionally acting against the companies' financial interests for your personal gain; false representations regarding proceeds from a Railroad or other sale; and surreptitiously conducting Railroad business during the period you were suspended from employment despite the fact that you knew you were barred from doing so. This and other of your behavior constitutes a wholesale breach of trust by you. Enclosed please find your final paycheck for work through February 10 in the amount \$2,817.22.

You are instructed to immediately cease and desist from any act on behalf of or otherwise related to the operation of the Grafton & Upton Railroad Company, First Colony Group, LLC, or any related entity. You are further instructed to immediately deliver to me at the Railroad's offices all of its property and that of any related entity is in your possession. This includes but is not limited to confidential information of all types, as described in Exhibit B to your September 10, 2020 agreement; copies of all correspondence associated with any Railroad, LLC or related entity's business operations using your private gmail account or any other means of communication; and all other Railroad or LLC property.

Your attention is directed to the terms of your September 10, 2020 agreement, which bars you from competing with either the Railroad or LLC and imposes specific duties as to confidential employer information. If you fail to comply fully with any of these terms or any instruction above, legal action will be commenced against you.

Sincerely,

Jon Delli Priscoli

EXHIBIT O



Grafton & Upton Railroad Company

42 Westboro Road
North Grafton, MA 01536
(508) 481-6095 * Fax (508) 460-0578

February 16, 2023

To All Employees

I wanted to reach out to everyone and let you know that Michael Milanoski is no longer with the company, and I am the new President of the Grafton and Upton Railroad (GURR). With that being said, John DeWaele still remains the General Manager of the railroad. Eric Moffit is the acting Vice President and is there to support John DeWaele. As the owner and President of GURR, I am committed to the long-term growth and continued improvement of our operation.

Profit Share Announcement:

As many of you know we have added a 401K plan to our benefit package in December 2022. As part of my commitment to the employees who qualified under the plan, your investment account will receive a profit share payment equal to 3% of your gross payroll for 2022.

I appreciate everyone's hard work and dedication and look forward to working with you as GURR grows and expands rail services to all our customers.

Sincerely,

Jon Delli Priscoli

EXHIBIT P



Certified Mail/Return Receipt Requested and Email

March 13, 2023

Joe Antonellis, Esq.
Mayer, Antonellis, Jachowicz & Haranas, LLP
439 Worcester Road, PO Box 966
Framingham MA 01701
jma@majhllp.com

Timothy Wickstrom, Esq.
Wickstrom Morse, LLP
60 Church Street
Whitinsville, MA 01588
timothy@wickstrommorse.com

Re: John P. DeWaele, III – Resignation

Attorney Antonellis and Attorney Wickstrom:

As you know, we represent the above referenced individual, John P. DeWaele, III (hereinafter “Mr. DeWaele”). Mr. DeWaele has been employed with Grafton & Upton Railroad Company (hereafter “Grafton & Upton”) since February 22, 2018.

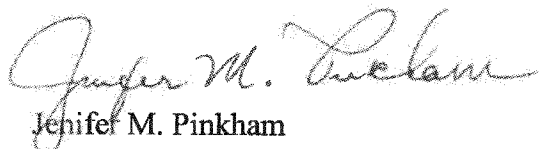
On January 25, 2023, we circulated a letter noting Grafton & Upton’s failure to pay bonuses owed to Mr. DeWaele from 2018 to the present (Letter re: John P. DeWaele, III – Unpaid Wages and Breach of Employment Agreement (dated Jan. 25, 2023), attached hereto as Exhibit A). This Letter also noted Jon Delli Priscoli’s unilateral and illegal revocation of a raise previously granted to Mr. DeWaele. Making matters worse, prior to this unjust revocation, Mr. DeWaele was never paid in accordance with the approved raise. You never responded to this communication and Mr. DeWaele never received the unpaid bonuses or payments in accordance with the pay raise.

It is clear the actions taken by Grafton & Upton and Mr. Delli Priscoli against Mr. DeWaele violate anti-retaliation laws and other state and federal laws, including the Massachusetts Wage Act. It is also clear the actions taken by Grafton & Upton and Mr. Delli Priscoli have materially breached the terms of Mr. DeWaele’s employment agreement (Employment Agreement Restated (dated Jan. 3, 2020), attached hereto as Exhibit B).



Please consider this letter Mr. DeWaele's resignation from Grafton & Upton effective two (2) weeks from the above date. Mr. DeWaele's resignation is necessitated by your client's failure to comply with the law. Mr. DeWaele has suffered retaliatory behavior and adverse employment actions, and as a result, he is forced to resign. Demand is again made for immediate payment of all previously unpaid bonuses before the effective date of Mr. DeWaele's resignation. As of the effective date of resignation, Mr. DeWaele must be paid for all accrued vacation time. If forced to litigate this matter, we will seek the aforementioned unpaid bonuses, punitive damages, including but not limited to, triple damages under the Massachusetts Wage Act, attorneys' fees and any other damages allowed under state or federal law.

Very truly yours,
PHIFER PINKHAM, LLC



Handwritten signature of Jennifer M. Pinkham in cursive script.

Jennifer M. Pinkham

cc: J. Keith Phifer, Esq.
Corey W. Silva, Esq.
John P. DeWaele, III

EXHIBIT A



Certified Mail/Return Receipt Requested and Email

January 25, 2023

Joe Antonellis, Esq.
Mayer, Antonellis, Jachowicz & Haranas, LLP
439 Worcester Road, PO Box 966
Framingham MA 01701
jma@majhllp.com

Timothy Wickstrom, Esq.
Wickstrom Morse, LLP
60 Church Street
Whitinsville, MA 01588
timothy@wickstrommorse.com

Re: John P. DeWaele, III – Unpaid Wages and Breach of Employment Agreement

Attorney Antonellis and Attorney Wickstrom:

Please be advised that we represent the above referenced individual, John P. DeWaele, III (hereinafter “Mr. DeWaele”). Mr. DeWaele has been employed with Grafton & Upton Railroad Company (hereafter “Grafton & Upton”) since February 22, 2018, in various roles, and Mr. DeWaele has served as the Vice President of Railroad Operations and General Manager since January 3, 2020.

On or about February 28, 2018, Mr. DeWaele entered into an “Employment Agreement” with Grafton & Upton. This agreement provided that Mr. DeWaele would receive “an annual bonus equal to one and a half percent (1.5%) of the Net Annual Income of [Grafton & Upton].” On or about January 3, 2020, Mr. DeWaele entered into an “Employment Agreement Restated” with Grafton & Upton, which included the same language as the aforementioned employment agreement with respect to this bonus payment structure.

In December 2022, Mr. DeWaele and others reached an agreement with Jon Delli Priscoli (hereafter “Mr. Delli Priscoli”) to purchase Mr. Delli Priscoli’s interest in various entities, including but not limited to Grafton & Upton. Mr. Delli Priscoli almost immediately reneged on his obligations under the terms of the agreement. Mr. Delli Priscoli took further action in retaliation for Mr. DeWaele’s attempt to enforce the terms of the agreement by revoking a raise previously granted to Mr. DeWaele by Grafton & Upton on December 28, 2022 and effective as of January 1, 2023 without any justification whatsoever. Mr. Delli Priscoli rescinded the previously granted raise on or about January 20, 2023. Mr. DeWaele was never properly paid in accordance with the approved pay raise.



Up to the date of this communication, Grafton & Upton and Mr. Delli Priscoli, the sole owner of the company, have never paid Mr. DeWaele any bonus owed under the terms of the controlling employment agreements. According to calculations completed on January 12, 2023 in an email by John Cotter (hereafter "Mr. Cotter"), the Chief Financial Officer of First Colony, Mr. DeWaele is owed approximately **Thirty Five Thousand (\$35,000) Dollars** in unpaid bonuses from 2018 to the present. Grafton & Upton and Mr. Delli Priscoli also failed to pay Mr. DeWaele in accordance with the approved pay raise effective as of January 1, 2023.

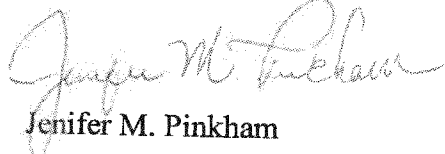
Prior to the adverse employment actions detailed herein, Mr. DeWaele's immediate superior discussed the issue of outstanding and unpaid bonuses with Mr. Cotter. Mr. Cotter was directed to calculate any unpaid bonuses owed by Grafton & Upton. Mr. Delli Priscoli revoked Mr. DeWaele's previously approved raise shortly after Mr. DeWaele's immediate superior inquired about outstanding and unpaid bonuses in retaliation for inquiring about the unpaid wages.

The actions taken by Grafton & Upton and Mr. Delli Priscoli against Mr. DeWaele constitute illegal actions that violate anti-retaliation laws and other state and federal laws, including the Massachusetts Wage Act. Due to the egregious actions taken by Mr. Delli Priscoli, Mr. DeWaele has an extremely strong claim against Grafton & Upton and Mr. Delli Priscoli for unpaid wages and retaliation under the Massachusetts Wage Act. As you know, under the Massachusetts Wage Act, Mr. DeWaele would be entitled to triple damages.

If forced to litigate this matter, we will seek the aforementioned unpaid bonus payments, punitive damages, including but not limited to triple damages under the Massachusetts Wage Act, attorney's fees and any other damages allowed under state or federal law.

Please respond within five (5) days or we will be forced to initiate legal action to collect wages owed.

Very truly yours,
PHIFER PINKHAM, LLC



Jenifer M. Pinkham

cc: J. Keith Phifer, Esq.
Corey W. Silva, Esq.
John P. DeWaele, III

EXHIBIT B

Employment Agreement Restated

This Employment Agreement ("Agreement") is entered into this 3rd day of January 2020 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 02330 ("GU") and John P. DeWaele, III of 8 Crestwood Drive, Blackstone, MA 01504 ("DeWaele") (collectively the "Parties").

GU and DeWaele agree as follows:

1. **Employment.** GU hereby employs DeWaele as General Manager of Grafton & Upton Railroad, and DeWaele accepts employment as Vice President of Railroad Operations and General Manager, upon the terms and conditions hereinafter set forth. DeWaele warrants that he is free to enter into and fully perform this Agreement and is not subject to any employment confidentiality, noncompetition, or other contract to the extent that the other contract may restrict his ability to perform his duties and or comply with his obligations and covenants to GU described in this Agreement.

2. **Duties.** During the term of this Agreement, DeWaele's services shall be completely exclusive to GU and DeWaele shall devote substantially all of his time, attention, and energies to the performance of services as Vice President of Railroad Operations and General Manager of G&U, the business of GU and other such duties as GU assigns him from time to time including without limitation, the duties and authorizations set forth in Exhibit A. DeWaele agrees to perform his services well and faithful to the best of his ability and carry out the policies and directives of GU and DeWaele agrees to take no action knowingly prejudicial to the interests of GU during his employment hereunder.

3. **Term.** This Agreement shall begin as of the execution date of this Agreement and shall remain in full force and effect until such time as DeWaele shall deliver written notice as required in paragraphs 5 (c) and 17 of his election to terminate this Agreement or alternatively in the event of DeWaele's termination of employment by GU.

4. **Compensation and Benefits.** In consideration for this Agreement, GU agrees to provide DeWaele with compensation, bonuses and severance pay described below. DeWaele understands that his base pay and bonuses shall be determined by GU and may be adjusted from time to time with mutual agreement, based on a variety of factors including by way of example and without limitation, DeWaele's performance, GU's financial position and/or GU's business strategy.

(a) **Base Salary.** As of the date of this Agreement, DeWaele shall fulfill his position as a full-time salaried employee for which GU shall pay DeWaele a base salary of \$133,763.00 per year, which salary shall include any and all financial expense consideration for gas and/or mileage, and cell phone.

Annually on January 1st, after the execution of this Agreement, the annual salary subject to the following shall increase by two and a half percent (2.5%) and shall

remain at this rate until or unless the parties agree in writing to an increase in annual salary or an alternate salary structure. This annual increase is contingent upon DeWaele's oversight of GU's business units' performance to adhere to annual budget developed in conjunction with business unit's manager and approved by President and CFO annually. Said budget shall include at a minimum potential revenue, staffing, goods and services that may be amended by President and CFO due to unforeseen circumstances.

(b) Annual Safety and Customer Bonus Incentives. DeWaele shall be paid annual safety and customer bonuses of \$2,500 for each itemized incentive ((i) through (iv) below) per calendar year to be paid no later than January 31st following the end of the applicable calendar year:

(i) Absence of any on-the-job injuries reported to GU or for which legal action seeking recovery has been sought by employees or contractors.

(ii) No Federal Railroad Administration ("FRA") reportable train derailments.

(iii) Absence of safety violations related to FRA, or any other safety violations on GU property or related to G&U.

(iv) On time delivery of 97.5% or better.

(v) In the event that DeWaele's employment is terminated by either GU or DeWaele, then DeWaele shall be paid all Bonuses to which he is entitled as identified in (b) above pro-rated, [for example, if he left his position on July 1^s, he shall be paid for six (6) months from January through June of that year's Bonuses].

(c) Bonuses. DeWaele shall be paid bonuses as follows:

(i) Annual Bonus. DeWaele shall be paid an annual bonus equal to one and a half percent (1.5%) of the Net Annual Income of G&U. For the purposes of this paragraph, "Net Annual Income" shall be defined as all corporate income remaining after all corporate expenses are paid, including but not limited to: taxes, all operating expenses, and salaries.

(d) Severance Pay. In the event that DeWaele's employment is terminated by GU, other than for cause, or is terminated by GU in connection with a change in corporate control (as defined below in subsection (e)), then DeWaele shall be paid all Bonuses to which he is entitled as identified in (b) above prorated as of the date of termination. All severance payments shall be provided as identified herein subject to all lawful and applicable withholdings and deductions. DeWaele's severance shall be granted as follows, one month of severance for every year employed by the GU up to a maximum of 12 months.

(e) Change of Control. In the event that during the term of DeWaele's employment as defined herein, there is a change of control of GU as described in paragraph (f) below DeWaele shall be paid one percent (1%) of the net proceeds of the sale; said payment due and payable at the time of the conveyance.

(f) Change in Control. For the purposes of this Agreement, a change in control shall be deemed to be:

(i) a sale of all, or substantially all, of the assets of the company,

- (ii) a merger, consolidation or similar transaction of GU with or into any other person, after which the shareholders of GU (immediately prior to the transaction) failed to own at least: fifty percent (50%) or more of the voting power of the surviving entity, or
 - (iii) a sale (whether through one sale or multiple sales to a single person or group of related persons during any period of time after the date hereto) by the shareholders of GU immediately prior to the transaction of an aggregate of at least fifty percent (50%) or more of the equity interests (by voting power) of GU owned by such equity holders in the aggregate (immediately prior to the transaction).
- (g) Expenses. DeWaele shall be entitled to reimbursement for expenses reasonably incurred in connection with the performance of his duties hereunder in accordance with such policies and procedures as GU may establish from time to time. Such reimbursement shall include travel related expenses for travel incurred for business related matters but shall not include those expenses identified in paragraph 4(a) and specifically addressed otherwise in this Agreement.
- (h) Vacation. DeWaele shall be entitled to four (4) weeks of vacation annually during his employment.
- (i) Retirement Benefit. Federal Railroad retirement benefits shall be provided in accordance with the provisions of the U.S. Railroad Retirement Board requirements.
- (j) Health Insurance. The cost of health insurance premiums of the health care plan selected by GU shall be equally shared by GU and DeWaele.
- (k) Education. GU shall compensate DeWaele for college education directly relating to his duties at GU up to five thousand dollars (\$5,000) per calendar year, provided that DeWaele provides a full description of the course or seminar with a notice of intent to enroll in the educational course or seminar to GU and receives prior authorization from GU for reimbursement of the course or seminar.
- (l) Additional Benefits. During the Term and subject to any contribution generally required of employees of GU, DeWaele shall be entitled to participate in any and all employee benefit programs and benefit plans from time to time in effect for employees of GU, but GU shall not be required to establish any such program or plan. Such participation shall be subject to the following:
- (i) the terms of the applicable plan documents,
 - (ii) generally applicable policies, and
 - (iii) discretion of GU or any administrative or other committee provide for in, or contemplated by, such plan. GU may alter, modify, add, or delete its employee benefit plans at any time as it, in its sole discretion determines to be appropriate without recourse by DeWaele.

5. Resignation, Termination and Termination Benefits. Notwithstanding the provisions of section 3, DeWaele's employment under this Agreement shall terminate under the following circumstances set forth in this section 5:

- (a) Termination for Cause. DeWaele's employment under this Agreement may be terminated for cause without further liability (including no obligation to pay severance) on the part of the company and shall be effective on the date set for termination in the written notice to employee. The following shall constitute "cause" for such termination:
- (i) the conviction of DeWaele for a crime involving moral turpitude, deceit, dishonesty or fraud that has caused or is reasonably likely to cause harm to GU or any affiliate of GU; or
 - (ii) DeWaele's gross negligence or willful misconduct with respect to GU or any affiliate of GU which causes harm; or
 - (iii) DeWaele's willful and continued failure to substantially perform (other than by reason of disability) his duties and responsibilities assigned or delegated under this Agreement; or
 - (iv) any intentional act of dishonesty, deceit, fraud, moral turpitude, misconduct, breach of trust or act intentionally against the financial or business interest of GU by DeWaele or DeWaele's use or possession of illegal drugs in the workplace, or
 - (v) the material breach by DeWaele of any of his obligations under this Agreement, and if such breach is capable of a reasonable and timely cure (in GU's sole discretion), after DeWaele has been given a notice of such breach in writing and a reasonable opportunity to cure it.
- (b) Termination By GU Without Cause. DeWaele is considered employee at will and may be terminated without cause upon written notice to DeWaele, subject to the obligation to provide severance pay as described in section 4 (d) above, but otherwise without any further liability on the part of GU.
- (c) Resignation By DeWaele. DeWaele may resign his employment by written notice to GU at least ninety (90) days prior to his election to terminate this Agreement and delivered in accordance with paragraph 17. Failure of DeWaele to provide said ninety (90) day written notice shall be considered a breach of this Agreement; further, in such event all bonuses identified in paragraph 4 shall become payable at the sole discretion of GU.

6. Confidentiality/Nondisclosure. As a condition of employment, DeWaele shall be required to sign the Confidentiality/Nondisclosure Agreement attached hereto as Exhibit B and Incorporated herein and made a part hereof.

7. Solicitation of Employees. DeWaele agrees that he shall not for a period of twelve (12) months following termination of employment with GU for any reason, whether with or without cause, either directly or indirectly, solicit or encourage any employee or

independent contractor or business associate of GU to end or diminish in any way his or her employment or other relationship with GU or any of the companies it manages.

8. Covenants Against Competition.

(a) for the purpose of this section:

- (i) "competing product" means any product, process, or service of any person or entity other than GU or any of the companies it manages in existence or under development, (A) which is identical to, substantially the same as, or an adequate substitute for any product, process, or service of the company, in existence or under development, on which DeWaele works during the time of employment with GU or about which DeWaele acquires confidential information and (B) which is (or could reasonably be anticipated to be marketed or distributed in such a manner and in such a geographic area as to actually compete with such, product, process or service of GU and/or any of the companies which it manages.
- (ii) "competing entity" means any person or entity, including DeWaele, engaged in, or about to become engaged in, research on or the acquisition, development, production, distribution, marketing, or providing of a competing product.

(b) in order to protect the confidential information and goodwill of GU, DeWaele agrees to the following stipulations:

- (i) for a period of twelve (12) months following termination or resignation of employment with the company for any reason, whether with or without cause, DeWaele will not directly or indirectly solicit or diverged, or attempt to solicit or diverged, or accept business relating in any in any manner to competing products or to products, processes or services of GU or the Companies from any of the customers or accounts of GU and/or at GU with which DeWaele had any contact during employment by GU.
 - (ii) for a period of twelve (12) months following termination or resignation of employment with the company for any reason, whether with or without cause, DeWaele will not render services, directly or indirectly, as it employee, consultant or otherwise to any competing entity in connection with research on or the acquisition, development, production, distribution, marketing or providing any competing product.
- (c) DeWaele agrees that the restrictions set forth in this section are fair and reasonable and are reasonably required for the production of the interests of GU. However, should an arbitrator or court nonetheless determined at a later date that such restrictions are in reasonable in light of the circumstances as they then exist, then DeWaele agrees that this section shall be construed in such a manner as to impose on DeWaele such restrictions as may then be reasonable and sufficient to assure GU the intended benefits of this section.

9. Insurance. GU may, at its election and for its benefit, ensure DeWaele against accidental loss or death, in DeWaele shall submit to a reasonable physical examination and supply such information as may be reasonably required in connection therewith.

10. Consent to Jurisdiction. To the extent that any court action is permitted consistent with or to enforce any provision of this Agreement, the parties hereby consent to the jurisdiction of the state and federal courts of the Commonwealth of Massachusetts. Accordingly, with respect to any such court action DeWaele and GU each (a) submits to the personal jurisdiction of such courts; (b) consents to service of process, and (c) waives any other requirement (whether imposed by statute, rule of court, or otherwise) with respect to personal jurisdiction or service of process.

11. Integration. This Agreement (including any schedules or exhibits attached hereto, properly executed) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties.

12. Assignment: Successors and Assigns, etc. DeWaele may not make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of GU. This Agreement shall inure to the benefit of and be binding upon GU and DeWaele, their respective successors, personal representatives, administrators, heirs, and permitted assigns.

13. Enforceability. If any portion or provision of this Agreement (including, without limitation, any portion or provision of any section of this Agreement) shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Injunctive Relief and Litigation Costs. It is agreed and understood that GU shall be entitled to all appropriate relief, including, without limitation, injunctive and other equitable relief to enforce the provisions of this Agreement. In particular, DeWaele acknowledges that a breach of his obligations under paragraph 6, 7, or 8 of this Agreement will cause irreparable injury to GU and the entities under its control such that a remedy at law will be inadequate and GU will be entitled to preliminary and other injunctive relief. In the event that GU obtains such injunctive relief, DeWaele agrees that GU will be entitled to recover any attorney's fees and costs incurred in obtaining such relief. Otherwise, in connection with any action to enforce the terms of this Agreement, each party shall bear such party's own costs and expenses including without limitation, attorney's fees related to such enforcement.

15. Indemnification. It is agreed and understood that GU shall defend, save harmless and indemnify DeWaele against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as General Manager, even if said claim has

been made following his termination from employment, provided that the DeWaele acted within the scope of his duties of GU. Said indemnification shall not include claims in which it has been adjudicated in a decision on the merits that DeWaele engaged in fraudulent, grossly negligent, or any criminal acts, including sexual harassment. GU shall reimburse the DeWaele for any attorneys' fees and costs incurred by DeWaele in connection with such claims or suits involving DeWaele in his professional capacity as limited herein.

16. Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party the failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

17. Notices. Any notices, requests, demands and other communications provided for by this Agreement shall be sufficient if in writing and delivered in person or sent by a nationally recognized overnight courier service or by certified mail, postage prepaid, return receipt requested, at the parties' addresses hereinabove identified as amended from time to time in writing, and shall be effective on the date of delivery in person or by courier or three (3) days after the date mailed.

18. Amendment. This Agreement may be amended or modified only by written instrument signed by DeWaele and by a duly authorized representative of GU, but in no event shall DeWaele be considered the duly authorized representative for purposes of this Agreement.

19. Governing Law. This Agreement shall be construed under and be governed in all respects by the laws of the Commonwealth of Massachusetts.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be taken to be all original, but it's counterparts shall together constitute one and the same document.

In witness whereof, this Agreement has been executed as a sealed instrument by the parties as of the Effective Date hereinabove identified.

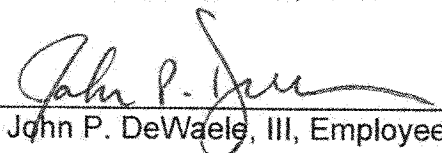
Grafton & Upton Railroad Company:

By 

Michael R. Milanoski, President

1-3-2020

Date



John P. DeWaele, III, Employee

1-3-20

Date

Exhibit A

Job description – Vice President of Railroad Operations and General Manager of
Grafton and Upton Railroad Company

Date: January 3, 2020

Job Title: Vice President of Railroad Operations and General Manager of Grafton &
Upton Railroad

Job Classification: Salaried Position; salary further detailed in employment agreement

Reports to: Michael Milanoski

Job Summary: The employee is responsible for the administrative and field work
management of railroad service for GU, GU Propane Bulk Transfer Facility and its
propane terminal supervisor (LPGTF), and GU Transloading Operations and any
additional railroad / lines or businesses operated by GU.

Essential Position Functions:

1. Safety and Compliance
 - a. Operational Safety and Compliance of railroad operations
 - b. Provide access to Federal and State authorities as required
2. Financial Operations
 - a. Budgetary oversight of railroad operations including all business unit's adherence to budget expenditures and staff allocation.
3. Oversight and mentoring of Employees with goal of creating employees that are encouraged to cross-trained team problem solvers within established safety framework.
 - a. Department Heads and administrative support including business units operated by GU
 - b. Roadmaster – Maintenance of Way (Chief of engineering)
 - c. Chief Mechanical Officer – Maintenance of Equipment
 - d. Trainmaster/Lead Conductor – Transportation and Engine Service (T&E)
 - e. Workforce evaluation (annual review with midyear listening check-in with all GU employees)
4. Operational Oversight
 - a. Improvements to efficient rail operations and railcar velocity
 - b. Project management and effective use of resources and capital funds
 - c. Procurement of materials, equipment, labor, and services
 - d. Sales and Marketing support / coordination with President
 - e. Firsthand field support in various crafts (MOW, MOE, T&E)
 - f. Transportation and Engine Service (T&E) with minimum quarterly train service participation.
 - g. Maintenance of Way (MOW)
 - h. Maintenance of Equipment (MOE)
 - i. Coordination of FCD projects contracted by railroad
5. Customer Service Oversight (priority after safety)
 - a. Create and implement procedures to provide excellent customer service

b. Create and implement procedures to provide 97.5% on-time delivery

6. Marketing and Planning

a. Strategic growth, expansion and promotion of the railroad business

Amendments:

This job description is not designed to cover or contain a comprehensive listing of all activities and responsibilities that are required of the president and may be amended from time to time at the discretion of Michael Milanoski with notice to the employee.

Exhibit B
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

This Confidentiality and Nondisclosure Agreement ("Agreement") is entered into this 3rd day of January 2020 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 01536 ("GU") and John DeWaele of 8 Crestwood Drive, Blackstone, MA 01504 ("DeWaele") (collectively the "Parties").

DeWaele will perform services for GU which may require GU to disclose confidential and proprietary information ("Confidential Information") to DeWaele. To protect GU and the Confidential Information, DeWaele agrees as follows:

1. DeWaele acknowledges that during the course of his employment, he will come into the possession of confidential information belonging to GU including but not limited to trade secrets, financial information, methods, processes, and marketing plans ("Confidential Information").
2. DeWaele covenants and agrees to hold the Confidential Information received from GU in strict confidence and shall exercise a reasonable degree of care to prevent disclosure to others and will not use Confidential Information for his own benefit or the benefit of others during or after his employment with GU.
3. DeWaele will not disclose or divulge either directly or indirectly the Confidential Information to others beyond that which is required for his job duties, unless first authorized to do so in writing by GU.
4. DeWaele will not reproduce nor commercially use Confidential Information for any purpose other than the performance of his duties for GU.
5. DeWaele shall immediately, upon the request or upon termination of his relationship with GU, deliver to GU all documents, notes, drawings, equipment, and materials whether electronic or hard copy in his possession and he shall not maintain, possess, or disseminate any copies of Confidential Information.
6. GU reserves the right to take disciplinary action, including termination of DeWaele for violations of this Agreement and the pursuit of legal remedies to enforce this Agreement and protect Confidential Information at the discretion of GU, the expense of which shall be paid by DeWaele.
7. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any part of this agreement which is determined to be invalid, illegal or unenforceable shall have no effect on any other portion of this agreement, which shall remain in full force and effect.

8. This Agreement shall be binding on all of the parties, their heirs, successors and assigns.
9. This Agreement constitutes the entire agreement between the parties and may only be modified in writing by the parties.

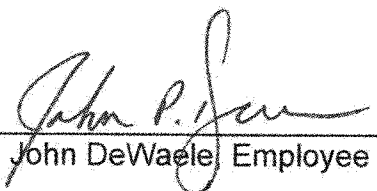
DeWaele represents that he has read this Agreement, agrees to abide by the terms and conditions stated herein.

Grafton & Upton Railroad Company:

By 

Michael R. Milanoski

1-3-2020
Date



John DeWaele Employee

1-3-20
Date

Employment Agreement Restated First Amendment

This First Amendment for the Employment Agreement ("Agreement") that was entered into January 3, 2020 by and between Grafton & Upton Railroad Company with a business address of 42 Westboro Road, North Grafton, Massachusetts 02330 ("GU") and John P. DeWaele, III of 8 Crestwood Drive, Blackstone, MA 01504 ("DeWaele") (collectively the "Parties") is hereby amended as follows:

Delete section 4(b) Annual Safety and Customer Bonus Incentives and replace with following:

4(b) Annual Safety and Customer Requirements DeWaele shall be responsible for the following objective as part of his oversight responsibilities:

- (i) Absence of any on-the-job injuries for employees or contractors.
- (ii) Absence of train derailments.
- (iii) Absence of reportable safety violations on GU property or related to G&U.
- (iv) On time delivery of 97.5% or better.

Add the following new Section

4(m) Use of Company Vehicle DeWaele is authorized to use for businesses purposes a property marked company vehicle to carry out the duties of his position. Further, DeWaele is authorized to use the company vehicle for limited personal use subject to IRS regulations and company policy for commuting to and from work.

In witness whereof, this Amendment has been executed as a sealed instrument by the parties as of the Effective Date signed below.

Grafton & Upton Railroad Company:

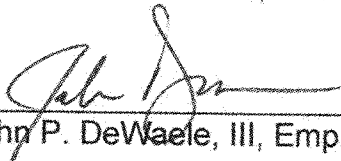
By



Michael R. Milanoski, President

12/29/2020

Date



John P. DeWaele, III, Employee

12/29/2020

Date