UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

 ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2021

OR

 TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _________ to _________

Commission file number: 001-37673

WORKHORSE GROUP INC.
(Exact name of registrant as specified in its charter)

Nevada	26-1394771
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
100 Commerce Drive Loveland, Ohio 45140	**(513) 360-4704**
(Address of principal executive offices)	(Registrant's telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Exchange Act:

Title of each Class:	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.001 par value per share	WKHS	The NASDAQ Capital Market

Securities Registered Pursuant to Section 12(g) of the Exchange Act: **None.**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer		Accelerated filer	
Non-accelerated filer		Smaller reporting company	
		Emerging growth company	

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C.7262(b)) by the registered public accounting firm that prepared or issued its audit report. Yes ☒ No ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of June 30, 2021, the last business day of the Registrant's most recently completed second fiscal quarter, the market value of our common stock held by non-affiliates was $ 2,006,248,890.

The number of shares of the Registrant's common stock, $0.001 par value per share, outstanding as of January 31, 2022, was 151,342,549.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of Workhorse Group's Definitive Proxy related to the 2022 Annual Meeting of Stockholders to be filed subsequently are incorporated by reference into Part III of this Form 10-K.

TABLE OF CONTENTS

Forward-Looking Statements

The discussions in this Annual Report contain forward-looking statements reflecting our current expectations that involve risks and uncertainties. These statements are made under the "safe harbor" provisions of the U.S. Private Securities Litigation Reform Act of 1995. When used in this Report, the words "anticipate", "expect", "plan", "believe", "seek", "estimate" and similar expressions are intended to identify forward-looking statements. These are statements that relate to future periods and include, but are not limited to, statements about the features, benefits and performance of our products, our ability to introduce new product offerings and increase revenue from existing products, expected expenses including those related to selling and marketing, product development and general and administrative, our beliefs regarding the health and growth of the market for our products, anticipated increase in our customer base, expansion of our products functionalities, expected revenue levels and sources of revenue, expected impact, if any, of legal proceedings, the adequacy of liquidity and capital resource, and expected growth in business. Forward-looking statements are statements that are not historical facts. Such forward-looking statements are subject to risks and uncertainties, which could cause actual results to differ materially from the forward-looking statements contained in this Report. Factors that could cause actual results to differ materially include, but are not limited to: our ability to develop and manufacture our new product portfolio, including the recently announced W750, W56 and W34 platforms; our ability to attract and retain customers for our existing and new products; risks associated with obtaining orders and executing upon such orders; supply chain disruptions, including constraints on steel and semiconductors and resulting increases in costs impacting our company, our customers, our suppliers or the industry; our ability to implement modifications to vehicles to achieve compliance with FMVSS and to meet customer demands with respect to the C-1000s; the results of our ongoing review of the Company's business and go-forward operating and commercial plans; our ability to capitalize on opportunities to deliver products to meet customer requirements; our limited operations and need to expand and enhance elements of our production process to fulfill product orders; the ability to protect our intellectual property; negative impacts stemming from the continuing COVID-19 pandemic; market acceptance for our products; our ability to control our expenses; potential competition, including without limitation shifts in technology; global and local business conditions; the prices being charged by our competitors; our inability to retain key members of our management team; our inability to raise additional capital to fund our operations and business plan; our inability to satisfy covenants in our financing agreements; our inability to maintain our listing of our securities on the Nasdaq Capital Market; our inability to satisfy our customer warranty claims; the outcome of any regulatory proceedings; our liquidity and other risks and uncertainties and other factors discussed from time to time in our filings with the Securities and Exchange Commission ("SEC"), including our annual report on Form 10-K filed with the SEC. Forward-looking statements speak only as of the date hereof. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in our expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based, except as required by law.

All references in this Report that refer to the "Company", "Workhorse Group", "Workhorse", "we," "us" or "our" are to Workhorse Group Inc.

PART I

ITEM 1. BUSINESS

Overview

We are a technology company with a vision to pioneer the transition to zero-emission commercial vehicles. Our primary focus is to provide sustainable and cost-effective solutions to the commercial transportation sector. We design and manufacture all-electric delivery trucks and drone systems, including the technology that optimizes the way these vehicles operate. We are focused on our core competency of bringing our electric delivery vehicle platforms to market.

Automotive

We are an American-based Original Equipment Manufacturer ("OEM"), and our products are marketed under the Workhorse® brand. All Workhorse last-mile delivery trucks are assembled in our Union City, Indiana production facility.

We believe our all-electric commercial vehicles offer fleet operators significant benefits, which include:

- Lower total cost-of-ownership as compared to conventional gas/diesel vehicles;
- Improved profitability through lower maintenance costs and reduced fuel expenses;
- Increased package deliveries per day through use of more efficient delivery methods;
- Decreased vehicle emissions and reduction in carbon footprint; and
- Improved vehicle safety and driver experience.

<u>Electric Delivery Truck Platforms</u>

Product Roadmap

Workhorse has developed a revised strategic product roadmap for our electric vehicle delivery offerings. The foundation of this plan is the development of two new truck chassis platforms, the W56 and W34. The W56, based on long-standing Company know-how in the Class 5 and 6 truck chassis market, is expected to begin production in 2023. The W34 platform will be our second generation, low floor, advanced content offering for the Class 3 and 4 truck chassis market and is expected to begin production in 2024.

In order to accelerate time-to-market for customers seeking delivery of electric vehicles during 2022, we entered into a strategic supply agreement (the "Supply Agreement") with GreenPower Motor Company Inc. ("GreenPower"). Under the agreement, we will have exclusive rights to sell Class 4 step vans based on the GreenPower supplied base vehicle. The finished Class 4 step vans will be available for sale in the United States and Canada, under the Workhorse brand and with Workhorse after sales and support service. The van, known as the W750, will have approximately 750 cubic foot capacity and will feature up to 150 miles of all-electric range, with a payload capacity of five thousand pounds. We expect the first deliveries of the W750 will occur later in 2022.

C-Series Electric Delivery Truck

We announced the development of the C-Series electric delivery truck in 2017, a vehicle aimed at the Class 3 truck market which leverages an ultra-low floor delivery vehicle platform. We utilized our extensive customer experience gained from working with our E-Series customers to design this product. In September 2021, we announced a number of enhancements to the design of the C-1000 to address customer feedback, primarily related to vehicle dynamics that increase the vehicles' payload capacity. As part of these efforts, we suspended deliveries and recalled all of the C-1000 vehicles due to additional testing and modifications required to certify the C-1000 vehicles under FMVSS. In connection with the recall, we agreed to refund our customers for the purchase price of the C-1000 vehicles previously delivered.

The certification and testing process was completed in February 2022. Upon completion of this review, the C-1000 platform was determined to be eligible for certification and reintroduction as a limited production vehicle with constrained cargo capacity. Accordingly, we do not plan to focus our manufacturing efforts on the C-1000 in the future. Instead, we expect to transition our manufacturing focus to the W56 and W34 platforms in the near future.

Further modifications to the vehicle will be made during the required FMVSS rework process, including a redesigned front suspension as well as supplier corrective actions related to certain components. The entire fleet of currently manufactured

C-1000’s will have the required corrective actions applied during 2022. We intend to repair and resell the majority of the returned vehicles to the original customers.

E-Series Electric Delivery Vans

Workhorse E-100 battery-electric and E-GEN range-extended delivery vans are used by our customers on daily routes across the United States. We have built and delivered approximately 360 electric and range-extended medium-duty delivery trucks to our customers with a combined mileage total of more than 8 million miles. Our customers include companies such as Alpha Baking, FedEx Express, Ryder, the United Parcel Service, and W.B. Mason.

Aerospace

HorseFly™

As part of our growing technology portfolio, the Company has been developing small Unmanned Aerial Systems (“UAS”) for several years. We hold, or have filed for, patents on several elements of UAS intellectual property.

Our HorseFly UAS includes a custom-designed, purpose-built, all-electric Unmanned Aerial Vehicle (“UAV”), a proprietary Ground Control Station (“GCS”), and equipment that supports integrating the UAS with our delivery trucks and other applications. The HorseFly UAV is an airborne work truck, that can carry a significant payload for 10 miles. Our rugged components are designed to support the high volumes, long duty days and ease of maintenance demanded by the commercial package delivery industry.

In 2020, Workhorse began the Federal Aviation Administration’s (“FAA”) Type Certification (“TC”) process for our Horsefly UAS. Compliance with FAA regulations governing TC helps set a very high bar for system performance and we believe it is important to have a TC system in our product offerings. Safety, reliability and capability are the primary points of value in a commercial UAS. Presently, the FAA allows some exceptions for commercial operations to use non-certificated drone systems. As the industry matures, we expect the FAA will require certificated aircraft in most commercial operations.

We have developed subsystems and many discrete functions to improve the safety, reliability and performance of our systems. One subsystem is a proprietary winch that can lower and raise significant payloads from safe altitudes. Another is a truck integration system that allows continuous operations from a truck in the field. Our GCS software allows Remote Pilots in Command to control more than one aircraft simultaneously.

Workhorse was granted a patent on our UAS, and though initially designed as a complimentary system delivering packages from our electric trucks, the latest iteration of our UAS supports package delivery point-to-point, enabling deliveries to and from anywhere, allowing it to serve a broader customer base. As part of the divestiture of SureFly™ Multicopter, the Company formed a 50/50 joint venture to which we contributed our HorseFly technology.

In tests and demonstrations, Workhorse has flown thousands of missions in the National Airspace System, demonstrating package deliveries for large multi-national companies in Ohio, Michigan, Florida and California. Our aircraft has proven to be safe, reliable, and capable. In addition, we have successfully demonstrated the drone’s enhanced functionality working with local, state and federal government agencies to validate other, new cases. For example, in January 2022 we received a grant from the US Department of Agriculture in support of enhanced mapping and data analysis of farmland in underserved communities in the State of Mississippi.

Locations and Facilities

Our company headquarters, research and development facilities and warehouse are located in the Greater Cincinnati area in Ohio. We manufacture and test our electric delivery trucks at our manufacturing facility located in Union City, Indiana. We plan to open an engineering and technical design center in Wixom, Michigan during 2022.

Marketing

There are over 350,000 last-mile delivery trucks replaced annually and is the fastest growing vehicle market in an $18.0 billion market space. Our sales team is focused on building our market share in this space by targeting commercial transportation companies and developing a dealer network through our relationships with Mitsubishi, Ryder and Pritchard Companies (“Pritchard)”.

We have established the commercial delivery vehicles as our core business and intend to be the best choice for a vehicle in this segment. Our sales plan is to meet with the top potential customers and obtain purchase orders for new electric vehicles to be manufactured in our production facility.

Strategic Relationships

GreenPower Motor Company Inc.: On February 28, 2022, Workhorse entered into a strategic vehicle purchase and supply agreement with GreenPower Motor Company, Inc. to purchase base vehicles in the Class 4, medium-duty vehicle class. The term of the agreement is two years and will provide Workhorse with base vehicles for completion at our Union City, Indiana manufacturing facility. Workhorse will begin accepting deliveries of the base vehicles in the second half of 2022. Workhorse has exclusive rights to sell step vans using the base vehicle in the United States and Canada.

Mitsubishi HC Capital Inc: Mitsubishi (formerly Hitachi Capital America) continues to be our primary financing partner to market and distribute our electric vehicles through an existing and well-established commercial vehicle dealer network throughout North America. Mitsubishi enables Workhorse to have our vehicles sold and financed from the moment they roll off the production line, into a shared pool of vehicles, where they become visible and available to every Mitsubishi connected dealer. The dealer can configure additional equipment, schedule upfit integration and delivery in a seamless manner. Other strategic relationships come into play here, such as Pritchard, which supports installation of the requested upfits and transportation of those vehicles from Workhorse manufacturing in Union City, IN, to upfit install locations and then to the final delivery site.

Amerit Fleet Solutions (“Amerit”): Workhorse has signed a strategic agreement with Amerit to provide maintenance and repair services for Workhorse vehicles, utilizing their mobile maintenance units and technicians. This provides Workhorse with on ground maintenance and warranty service capabilities in a great majority of locations across the United States.

Ryder System, Inc: The Company has an agreement with Ryder to serve as a distributor. Under the agreement, Ryder also has the ability to be a provider of certain repair services and distributor of certain vehicle parts in the United States, Canada and Mexico.

Moog Inc: The Company and Moog entered into a joint venture agreement for the development of the Company's Horsefly truck based electrically powered unmanned aerial systems (the “Horsefly Assets”) and the related business (the “Horsefly Agreement”). Under the Horsefly Agreement, the Company contributed the Horsefly Assets and Moog contributed certain complementary assets to Certus Unmanned Aerial Systems LLC, (“Certus”) that is 50% owned by both the Company and Moog. Certus will license the Horsefly Assets to the Company and Moog so that each party may use the Horsefly Assets in their respective businesses. Through Certus, teams from Workhorse and Moog are improving HorseFly’s components and sub-systems with the goal of bringing the highest quality, most capable UAS to market. We believe combining the capabilities of the two companies brings significant value to the UAS marketplace, particularly in the area of high-reliability, safety-sensitive, certificated systems that require the highest levels of government approval for operations.

Technology, Research and Development

The majority of our research and development is conducted in-house at our facilities near Cincinnati, Ohio and is centered on drive train, telematics and related electric vehicle (“EV”) centric feature sets. During 2022, we plan to expand our research and development footprint to include the addition of new staff in Wixom, MI. The Wixom facility is intended to focus additional resources for product development and validation activities for existing and future programs. Additionally, we contract with engineering firms to assist with validation and certification requirements as well as specific development and vehicle integration tasks. Our research and development activity over the past year has focused on the development of the W56 and the W34 platforms. Additionally, we focused on enhancements and required improvements for the C-1000 product line, including corrective action needed to support production assembly efficiency, material component availability, cost reduction and customer feedback.

<u>Metron / Metron - Air</u>

We continue to develop our Metron remote data management system that tracks the performance of all the vehicles we deploy. We are currently focused on adding the ability to integrate Metron Telematics with the internal telematics and data management systems of our clients, as well as expanding our ability to present and manipulate data within a proprietary Workhorse interface.

Competition

Traditional OEMs

Most, if not all, traditional OEM's have made announcements about their electrification efforts, which have primarily been highly focused on consumer-based vehicles. In 2021, due in part to a shift in consumer behavior stemming from the COVID-19 pandemic, there has been an increased focus on the commercial space. To date, plans have primarily been focused on lighter and smaller last mile vehicles, such as Ford with their Transit Connect and larger Transit models, and General Motors with their recent unveiling of the Brightdrop company and EV600 product. All of these vehicles have 600 cubic foot or less of cargo capacity. In contrast, Workhorse is focused on the 650 - 1200 cubic foot category. Our market research and direct customer engagements have helped us provide value to some of the largest and most efficient last mile delivery companies in North America, through deployment of our E-Series, which was produced until 2018. Current competition in this segment from traditional chassis manufacturers include a recently released EV strip chassis product from Freightliner Custom Chassis, integrated with components from third party suppliers.

Non-Traditional OEMs

As a result of the COVID-19 pandemic, there has been a rapid global shift towards home delivery, with many companies seeking to provide delivery solutions aimed at a sub-600 cubic foot cargo area. It is our expectation that these non-traditional OEMs will compete head-to-head with the likes of GM, Daimler and Ford. We believe one of the main reasons for this race towards smaller vehicles is to provide a sub-10,000 pound gross vehicle weight (“GVW”) offering, as vehicles above 10,000 pound GVW require a more expensive, commercially licensed and trained driver pool.

Regulatory

Our electric vehicles are designed to comply with required government regulations and industry standards. Government regulations regarding the manufacture, sale and implementation of products and systems similar to our electric vehicles are subject to future change. We cannot predict what impact, if any, such changes may have on our business.

Emission and fuel economy standards

Government regulation related to climate change is in effect at the U.S. federal and state levels. The U.S. Environmental Protection Agency (“EPA”) and the National Highway Traffic Safety Administration (“NHTSA”) issued a final rule for greenhouse gas emissions and fuel economy requirements for trucks and heavy-duty engines on August 9, 2011, which is applicable for model years 2018 through 2020. EPA and NHTSA also issued a final rule on August 16, 2016 increasing the stringency of these standards for model years 2021 through 2027.

The rules provide emission standards for CO_2 and fuel consumption standards for three main categories of vehicles: (i) combination tractors; (ii) heavy-duty pickup trucks and vans; and (iii) vocational vehicles. We believe Workhorse vehicles would be considered “vocational vehicles” and “heavy-duty pickup trucks and vans” under the rules. According to the EPA and NHTSA, vocational vehicles consist of a wide variety of truck and bus types, including delivery, refuse, utility, dump, cement, transit bus, shuttle bus, school bus, emergency vehicles, motor homes and tow trucks, and are characterized by a complex build process, with an incomplete chassis often built with an engine and transmission purchased from other manufacturers, then sold to a body manufacturer.

The EPA and NHTSA rule also establishes multiple flexibility and incentive programs for manufacturers of alternatively fueled vehicles, such as the Workhorse vehicles, including an engine Averaging, Banking and Trading (“ABT”) program, a vehicle ABT program and additional credit programs for early adoption of standards or deployment of advanced or innovative technologies. The ABT programs will allow for emission and/or fuel consumption credits to be averaged, banked or traded within defined groupings of the regulatory subcategories. The additional credit programs will allow manufacturers of engines and vehicles to be eligible to generate credits if they demonstrate improvements more than the standards established in the rule prior to the model year the standards become effective or if they introduce advanced or innovative technology engines or vehicles.

The Clean Air Act requires that we obtain a Certificate of Conformity (“CoC”) issued by the EPA and a California Executive Order issued by the California Air Resource Board (“CARB”) requires we obtain a CoC with respect to emissions and mileage requirements for our vehicles. Workhorse received its CoC from the EPA for both model year (“MY”) 2020 and MY2021 C-Series. The CoC is required for vehicles sold in states covered by the Clean Air Act’s standards and the Executive Order is required for vehicles sold in states that have sought and received a waiver from the EPA to utilize California standards. The

California standards for emissions control for certain regulated pollutants for new vehicles and engines sold in California are set by CARB. States that have adopted the California standards as approved by EPA also recognize the Executive Order for sales of vehicles. Workhorse received Executive Order A-445-0003 for MY2020 vehicles and Executive Order A-445-0004 for MY2021 vehicles.

Vehicle safety and testing

The National Traffic and Motor Vehicle Safety Act of 1966 (the "Safety Act") regulates motor vehicles and motor vehicle equipment in the United States in two primary ways. First, the Safety Act prohibits the sale in the United States of any new vehicle or equipment that does not conform to applicable motor vehicle safety standards established by NHTSA. Meeting or exceeding many safety standards is costly, in part because the standards tend to conflict with the need to reduce vehicle weight in order to meet emissions and fuel economy standards. Second, the Safety Act requires defects related to motor vehicle safety be remedied through safety recall campaigns. A manufacturer is obligated to recall vehicles if it determines the vehicles do not comply with a safety standard. Should we or NHTSA determine either a safety defect or noncompliance exists with respect to any of our vehicles, the cost of such recall campaigns could be substantial.

In the United States, the Federal Aviation Administration ("FAA") substantially regulates our aerospace vehicles. Those regulations govern two important areas: operating rules and aircraft certification rules. The FAA's operating rules govern all operations of all aerial vehicles in the National Airspace System of the United States. The FAA's certification rules help define the safety and reliability requirements of certain aircraft and systems. Not every aircraft and system are required to be FAA certificated, though typically certification is required for commercial operations like package delivery.

Workhorse is applying for FAA Type Certification for its small unmanned aerial system. We believe it is important to achieve FAA certification of our products. Though we believe our design and execution comply with FAA requirements for certification, should we or the FAA determine either a safety defect or noncompliance exist with respect to our aircraft or its systems, it could add substantially to the time and expense of certification. Should the FAA change its rules for either certification or operations, it could render our designs non-competitive in the marketplace.

Available Information

We file or furnish periodic reports and amendments thereto, including our Annual Reports on Form 10-K, our Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, proxy statements and other information with the Securities and Exchange Commission ("SEC"). In addition, the SEC maintains a website (www.sec.gov) that contains reports, proxy and information statements, and other information regarding issuers that file electronically. Our website is located at www.workhorse.com, and our reports, amendments thereto, proxy statements and other information are also made available on our investor relations website, free of charge, at ir.workhorse.com as soon as reasonably practicable after we electronically file or furnish such information with the SEC.

Intellectual Property

Our success depends in part upon our ability to protect our core technology and intellectual property. We protect our intellectual property rights, both in the U.S. and abroad, through a combination of patent, trademark, copyright and trade secret protection, as well as confidentiality agreements with our employees and consultants. We seek to control access to, and distribution of, our proprietary information through non-disclosure agreements with our vendors and business partners. Unpatented research, development, know-how, and engineering skills make a vital contribution to our business, and we pursue patent protection when we believe it is possible and consistent with our overall strategy for safeguarding intellectual property.

We are not aware of any infringing uses or any prior claims of ownership of our trademarks that could materially affect our business. It is our policy to pursue registration of our primary trademarks whenever possible and to vigorously defend our patents, trademarks and other proprietary marks against infringement or other threats to the extent practical under applicable laws.

Environmental, Social, and Governance ("ESG")

Workhorse's mission is based on the foundation of the commercial vehicle transition to zero emissions. To do this, we embrace a world with reduced carbon emissions in both energy generation and consumption. We are designing and manufacturing a key ingredient of the transportation ecosystem evolution to achieve this goal - last mile electric delivery vehicles.

We are investing to make our factory more efficient and sustainably designed and are also driving a continuous safety mindset by focusing on worker engagement. In addition, we are focused on reducing the carbon footprint throughout our supply chain. We are committed to sourcing responsibly produced materials from suppliers who have social, environmental and sustainability best practices in their own operations.

Finally, we believe that sound corporate governance is essential to helping us achieve our goal, including with respect to ESG. We continue to evolve a governance framework that exercises appropriate oversight of responsibilities at all levels throughout the company. During 2022, we will create our first ESG Council, made up of leaders from across our company, and they will begin regular presentations on our related initiatives to our Board of Directors, which guides our ESG impacts, initiatives and priorities.

Human Capital

As of December 31, 2021, our full-time headcount for our employees was 221. None of our U.S. employees are represented by a labor organization or are party to any collective bargaining arrangement. We have never experienced a strike or similar work stoppage, and we consider our relations with our employees to be good.

We understand that our innovation leadership is ultimately rooted in people. Competition for qualified personnel in our space is intense, and our success depends in large part on our ability to recruit, develop and retain a productive and engaged workforce. Accordingly, investing in our employees and their well-being, offering competitive compensation and benefits, promoting diversity and inclusion, adopting progressive human capital management practices and community outreach constitute core elements of our corporate strategy.

Governance. Our Board of Directors and its committees provide important oversight on certain human capital matters. The Compensation Committee maintains responsibility to review, discuss and set strategic direction for various people-related business strategies, including compensation and benefit programs. Our collective recommendations to the Board of Directors and its committees are how we proactively manage our human capital and care for our employees in a manner that aligns with our core values.

Our management team administers all employment matters, such as recruiting and hiring, onboarding and training, compensation and rewards, performance management and professional development. We continuously evaluate and enhance our internal policies, process and practices to increase employee engagement and productivity.

Support Employee Well-being and Engagement. We support the overall well-being of our employees from a physical, emotional, financial, and social perspective. Our well-being program includes a long-standing practice of flexible paid time off, life planning benefits, wellness platforms and employee assistance programs.

Offer Competitive Compensation and Benefits. We strive to ensure that our employees receive competitive and fair compensation and innovative benefits offerings, tying incentive compensation to both business and individual performance, offering competitive maternal/paternal leave policies, providing meaningful retirement and health benefits, and maintaining an employee stock incentive plan.

Promote Sense of Belonging through Diversity and Inclusion Initiatives. We promote an inclusive and diverse workplace, where all individuals are respected and feel they belong regardless of their age, race, national origin, gender, religion, disability, sexual orientation, or gender identity.

Provide Programs for Employee Recognition. We also offer rewards and recognition programs to our employees, including awards to recognize employees who best exemplify our values and spot awards to recognize employee contributions. We believe that these recognition programs help drive strong employee performance. We conduct annual employee performance reviews, where each employee is evaluated by their personal manager and also conducts a self-assessment, a process which empowers our employees. Employee performance is assessed based on a variety of key performance metrics, including the achievement of objectives specific to the employee's department or role.

Create Opportunities for Growth and Development. We focus on creating opportunities for employee growth, development, training, and education, including opportunities to cultivate talent and identify candidates for new roles from within the Company and management and leadership development programs.

Response to the COVID-19 Pandemic. The health and safety of our colleagues and anyone who enters our workplace around the world is of paramount importance to Workhorse. We have remained open throughout COVID-19, but we have allowed employees at certain points during the pandemic to work from home. Additionally, in order to maximize the health and safety of our workforce, we provided periodic communication from senior leaders regarding the impacts of COVID-19 on the workforce and the Company while initiating new safety protocols across all sites.

ITEM 1A. RISK FACTORS

Operational Risks

We may elect to raise additional financing in 2022 and beyond, which may not be available to us on acceptable terms or at all.

We believe our existing capital resources, including proceeds received in connection with the $200.0 million senior secured convertible note issued in October 2020, will be sufficient to support our current and projected funding requirements through 2022. If the opportunity arises, we may elect to raise additional financing in 2022, including through an At-the-Market offering. However, unless and until we are able to generate a sufficient amount of revenue, reduce our costs and/or enter into a strategic relationship, we expect to finance future cash needs through our cash on hand. If we elect to or need to raise additional capital, we cannot be certain that additional financing will be available to us on favorable terms when required, or at all. In such circumstances, if we cannot raise additional capital, our financial condition, results of operations, business and prospects could be materially and adversely affected.

We cannot assure you that we will be successful in executing our business plan, which envisions the development of two new truck chassis platforms for production in 2023 and 2024 and the provision of a new delivery van to customers commencing in late 2022. Our failure to execute our business plan would have a material adverse effect on the Company's business, financial position, results of operations, cash flows and liquidity.

We have developed a revised strategic product roadmap for our electric vehicle delivery offerings. This roadmap contemplates the development of two new truck chassis platforms, the W56 and W34, which are targeted for production in 2023 and 2024, respectively, with limited future sales of our C-Series delivery trucks. Product development involves numerous risks and uncertainties. We cannot assure you that we will be able to develop these new truck platforms on a timely basis or at all or that, if developed, these new truck platforms will meet applicable regulatory requirements (including Federal Motor Vehicle Safety Standards). Also, in order to accelerate time-to-market for customers seeking delivery of electric vehicles during 2022, we announced a strategic supply agreement with GreenPower pursuant to which we expect to offer our customers a Class 4 delivery van beginning in the second half of 2022. Even if we are able to make new truck platforms that meet regulatory requirements and offer the Class 4 delivery van, we may be unable to launch and ramp up production as necessary, we may experience unexpected costs, delays or service burdens, we may be unable to deliver such vehicles on an economical basis and our customers may not find our vehicles are acceptable for their use. Any of the foregoing would have a material adverse effect on our business, financial position, results of operations, cash flows and liquidity.

We may experience delays in launching and ramping up production or we may be unable to control our manufacturing costs.

We have previously experienced and may in the future experience launch and production ramp-up delays. In addition, we may introduce in the future new or unique manufacturing processes and design features for our products including enhancements under development relating to production assembly efficiency, material component availability, cost reduction and customer feedback. There is no guarantee we will be able to successfully and timely introduce and scale such processes or features. We have relatively limited experience to date in manufacturing electric vehicles at high volumes. To be successful, we will need to implement, maintain, and ramp-up efficient and cost-effective manufacturing capabilities, processes and supply chains and achieve the design tolerances, high quality and output rates planned at Union City. We also need to hire, train, and compensate skilled employees for operations. Bottlenecks and other unexpected challenges such as those experienced in the past may arise during our production ramps, and we must address them promptly while continuing to improve manufacturing processes and reducing costs. If we are not successful in achieving these goals, we could face delays in establishing and/or sustaining our vehicle production ramp-ups or be unable to meet our related cost and profitability targets. Any delay or other complication in ramping up the production of our current products or the development, manufacture, launch and production ramp-ups of our future products, features and services, or in doing so cost-effectively and with high quality, may harm our brand, business, prospects, financial condition, and operating results.

Our results of operations have not resulted in profitability and we may not be able to achieve profitability going forward.

We have an accumulated deficit of $510.4 million as of December 31, 2021. Except for the year ended December 31, 2020, we have had net losses every year since our inception. We may continue to incur net losses in 2022. We may incur significant losses in the future for a number of reasons, including the other risks described in "Risk Factors", and we may encounter unforeseen expenses, difficulties, complications, delays and other unknown events. Accordingly, we may not be able to achieve or maintain profitability. Our management is developing plans to alleviate the negative trends and conditions described above and there is no guarantee such plans will be successfully implemented. Our business plan is focused on providing sustainable and cost-effective solutions to the commercial transportation sector but is still unproven. There is no assurance that even if we successfully implement our business plan, we will be able to curtail our losses or ever achieve profitable operations. If we incur additional significant operating losses, our stock price may significantly decline.

We have yet to achieve positive cash flow and, given our projected funding needs, our ability to generate positive cash flow is uncertain.

We have had negative cash flow from operating activities of $132.6 million and $70.3 million for the years ended December 31, 2021 and 2020, respectively. We may continue to have negative cash flow from operating and investing activities for 2022 as we expect to incur research and development, sales and marketing, and general and administrative expenses and make capital expenditures in our efforts to increase sales and ramp up operations at our Union City facility. Our business also will at times require significant amounts of working capital to support our growth of additional platforms. An inability to generate positive cash flow for the near term may adversely affect our ability to raise needed capital for our business on reasonable terms, diminish supplier or customer willingness to enter into transactions with us, and have other adverse effects that may decrease our long-term viability. There can be no assurance the Company will achieve positive cash flow in the near future or at all.

We currently have a limited number of customers and prospective customers, we do not have long-term agreements with existing customers, and we expect that a significant portion of our future sales will be from a limited number of customers. The loss of any of these customers could materially harm our business.

A significant portion of our projected future revenue is expected to be generated from a limited number of fleet customers. Additionally, much of our business model is focused on building relationships with a few large fleet customers. Currently, we have no contracts with customers that include long-term commitments or minimum volumes to ensure future sales of vehicles. As such, a customer may take actions that negatively affect us for reasons we cannot anticipate or control, such as a customer's financial condition, changes in the customer's business strategy or operations, or the perceived performance or cost-effectiveness of our vehicles. In addition, as described above, we may not be able to meet customer requirements with the new truck chassis platforms we are developing and plan to offer to them. The loss of or a reduction in sales or anticipated sales to our most significant customers would have a material adverse effect on our business, prospects, financial condition and operating results.

Regulatory requirements may have a negative impact upon our business.

Our vehicles are subject to substantial regulation under federal, state, and local laws. In addition, these laws are subject to change. To the extent the laws change, or if we introduce new vehicles in the future (including, without limitation, the new truck chassis platforms we are developing), some or all of our vehicles may not comply with applicable federal, state, or local laws. Further, certain federal, state, and local laws and industrial standards currently regulate electrical and electronics equipment. Although standards for electric vehicles are not yet generally available or accepted as industry standards, our products may become subject to federal, state, and local regulation in the future. Compliance with these regulations could be burdensome, time consuming, and expensive.

For example, on September 22, 2021, we announced the Company decided to suspend deliveries of C-1000 vehicles and recall the 41 vehicles we had already delivered to customers. Our new leadership team determined that additional testing and modifications to existing vehicles are required to bring the C-1000 vehicles into full compliance with FMVSS. We further announced we filed a report with the National Highway Traffic Safety Administration ("NHTSA") regarding the need for additional testing and vehicle modifications to bring our C-1000 vehicles into full compliance with FMVSS. We indicated our previous statements related to the C-1000's compliance with NHTSA standards cannot be relied upon and also notified the Securities and Exchange Commission. The certification testing was completed in February 2022. In addition, further modifications to the vehicle will be made during the required FMVSS rework process, including a redesigned front suspension as well as supplier corrective action in certain components. Upon completion of this testing, the C-1000 platform was determined to be a low-volume, limited cargo capacity vehicle. We expect to transition manufacturing to a new platform in the near future.

Our products are subject to environmental and safety compliance with various federal and state regulations, including regulations promulgated by the Environmental Protection Agency, NHTSA, FAA and various state boards, and compliance certification is required for each new model year. NHTSA is active in requesting information from vehicle manufactures regarding potential product defects and safety measures. The cost of these compliance activities and the risks, delays, and expenses incurred in connection with such compliance could be substantial.

We may incur costs, expenses and penalties related to regulatory matters, governmental investigations, legal proceedings and other claims, which could have a material adverse effect on the Company's business, financial position, results of operations, cash flows or liquidity.

We are subject to extensive government regulations. Federal, state and local laws and regulations may change from time to time and our compliance with new or amended laws and regulations in the future may materially increase our costs and could adversely affect our results of operations and competitive position. In addition, violations of the laws and regulations to which we are subject could result in civil and criminal fines, penalties and sanctions against us, our officers or our employees, as well as prohibitions on the conduct of our business, and could also materially affect our reputation, business and results of operations.

As noted above, in September 2021 we filed a report with NHTSA regarding the need for additional testing and vehicle modifications to bring our C-1000 vehicles into full compliance with FMVSS. We are cooperating with NHTSA with respect to the recall of the outstanding vehicles; however, we cannot assure you NHTSA or other government authorities will not attempt to impose potentially significant fines and penalties in response to the recall.

At this point, we cannot estimate the ultimate impact on our company relating to this matter. In light of the uncertainties and many variables involved in NHTSA matters, we cannot assure you that the ultimate resolution of this matter will not have a material adverse effect on our business, financial position, results of operations, cash flows or liquidity.

Also as noted above, in September 2021, we disclosed our previous statements related to the C-1000's compliance with NHTSA standards cannot be relied upon and we had so notified the Securities and Exchange Commission ("SEC"). On October 19 and November 1, 2021, we received letters from the SEC requesting we voluntarily provide information relating to (a) the events and trading in our securities leading up to the announcement of the award of a contract by the U.S. Postal Service for the manufacture of a postal service vehicle fleet and (b) recognition of revenue, if any, related to purchases of vehicles by certain of our customers. On November 5, 2021, the Department of Justice ("DOJ") orally informed us it has a related open investigation covering the Company. We have not received any subpoena or other request for documents from the DOJ with respect to this investigation. We are cooperating with the SEC and DOJ investigations. At this point, we cannot predict the eventual scope, duration, or outcome of these matters. We cannot assure you the SEC, DOJ or another governmental agency will not pursue enforcement against us related to the circumstances surrounding such notification and, if there is such an enforcement action, in light of the uncertainties and many variables involved in such matters, we cannot assure you the ultimate resolution will not have a material adverse effect on our business, financial position, results of operations, cash flows or liquidity.

As described in Note 18, *Commitments and Contingencies*, to the consolidated financial statements included elsewhere in this Current Report on Form 10-K, we are party to litigation alleging violation of the securities laws. The Company believes these claims are without merit and intends to vigorously defend itself. However, we cannot assure you the ultimate resolution of these claims will not have a material adverse effect on our business, financial position, results of operations, cash flows or liquidity.

Any of the foregoing factors could cause the price of the Company's equity securities to decline, thereby exposing the Company to new securities class action and/or shareholder derivative litigation. New securities class action and/or shareholder derivative suits against us and/or our officers and directors (in addition to those currently pending and reported herein) could result in substantial additional costs to the Company and divert our management's time and attention, which would otherwise be used to benefit our business.

The COVID-19 pandemic may disrupt our business and operations, which could materially adversely impact our business, financial condition, liquidity and results of operations.

Pandemics, epidemics, or disease outbreaks in the U.S. or globally may disrupt our business, which could materially affect our business, financial condition, liquidity, and results of operations as well as future expectations. The COVID-19 pandemic and associated variants, including changes in consumer and business behavior, pandemic fears, market downturns, and restrictions on business and individual activities, has created significant volatility in the global economy and led to reduced economic activity. However, the full extent to which the COVID-19 pandemic and associated variants impact our business, prospects, financial condition, results of operations, and cash flows will depend on future developments, which are highly uncertain and cannot be predicted with confidence. In particular, if the COVID-19 pandemic continues to spread or re-emerges, resulting in a prolonged period of travel, commercial, social and other similar restrictions, we could experience among other things labor disruptions, an inability to manufacture, an inability to sell to our customers and an impaired ability to access credit and the capital markets. Further, we rely upon third-party manufacturers to provide certain parts incorporated into our vehicles. As a result of the COVID-19 pandemic and the measures designed to contain the spread of the virus, our third-party manufacturers may not have the materials, capacity, or capability to manufacture such parts according to our schedule and specifications. If our third-party manufacturers' operations are curtailed, we may need to seek alternate manufacturing sources, which may be more expensive. Alternate sources may not be available or may result in delays in shipments to us from our supply chain and subsequently to our customers, each of which would affect our results of operations. While the ongoing disruptions and restrictions on the ability to travel, quarantines, and temporary closures of the facilities of our third-party manufacturers and suppliers, as well as general limitations on movement in the region are expected to be periodic and temporary, the duration and severity of production and supply chain disruptions, and the related financial impacts, cannot be estimated at this time. Should the production and distribution closures continue for an extended period of time, the impact on our supply chain in the United States, China and globally, this could have a material adverse effect on our results of operations and cash flows.

Our limited operating history makes it difficult for us to evaluate our future business prospects and make decisions based on those estimates of our future performance

As we begin to implement our manufacturing capabilities, it is difficult, if not impossible, to forecast our future results based upon our historical data. Because of the uncertainties related to our lack of historical operations in a highly regulated and rapidly evolving industry, we may be hindered in our ability to anticipate and adapt to increases or decreases in revenues or expenses. If we make poor budgetary decisions as a result of limited historical data, we could be less profitable or incur losses.

We do not receive progress payments on orders of our vehicles, and if a purchaser fails to pay upon delivery, we may not be able to recoup the costs we incurred in producing such vehicles.

Our arrangements with existing customers do not provide for progress payments as we begin to fulfill orders. Customers are only required to pay us upon delivery of vehicles. If a customer fails to take delivery of an ordered vehicle or fails to pay for such vehicle, we may not receive cash to offset the production expenses of such vehicle, which could adversely affect our cash flows.

Our business, prospects, financial condition and operating results will be adversely affected if we cannot reduce and adequately control the costs and expenses associated with operating our business, including our material and production costs.

We incur significant costs and expenses related to procuring the materials, components and services required to develop and produce our electric vehicles. We continually work on cost-down initiatives to reduce our cost structure so we may effectively compete. If we do not reduce our costs and expenses, our net losses will continue.

The demand for commercial electric vehicles depends, in part, on the continuation of current trends resulting from dependence on fossil fuels. Extended periods of low diesel or other petroleum-based fuel prices could adversely affect demand for our vehicles, which would adversely affect our business, prospects, financial condition, and operating results.

We believe much of the present and projected demand for commercial electric vehicles results from concerns about volatility in the cost of petroleum-based fuel, the dependency of the United States on oil from unstable or hostile countries, government regulations and economic incentives promoting fuel efficiency and alternative forms of energy, as well as the belief that climate change results in part from the burning of fossil fuels. If the cost of petroleum-based fuel decreased significantly, the outlook for the long-term supply of oil to the United States improved, the government eliminated or modified its regulations or economic incentives related to fuel efficiency and alternative forms of energy, or if there is a change in the perception that the burning of fossil fuels negatively impacts the environment, the demand for commercial electric vehicles could be reduced, and our business and revenue may be harmed.

Diesel and other petroleum-based fuel prices have been extremely volatile, and we believe this volatility will persist. Lower diesel or other petroleum-based fuel prices over extended periods of time may lower the perception in government and the private sector that cheaper, more readily available energy alternatives should be developed and produced. If diesel or other petroleum-based fuel prices remain at deflated levels for extended periods of time, the demand for commercial electric vehicles may decrease, which would have an adverse effect on our business, prospects, financial condition, and operating results.

Our future growth is dependent upon the willingness of operators of commercial vehicle fleets to adopt electric vehicles and on our ability to produce, sell and service vehicles that meet their needs. This often depends upon the cost for an operator adopting electric vehicle technology as compared to the cost of traditional internal combustion technology.

Our growth is dependent upon the adoption of electric vehicles by operators of commercial vehicle fleets and on our ability to produce, sell and service vehicles that meet their needs. The entry of commercial electric vehicles into the medium-duty commercial vehicle market is a relatively new development, particularly in the United States, and is characterized by rapidly changing technologies and evolving government regulation, industry standards and customer views of the merits of using electric vehicles in their businesses. This process has been slow as without including the impact of government or other subsidies and incentives, the purchase prices for our commercial electric vehicles currently is higher than the purchase prices for diesel-fueled vehicles. Our growth has also been negatively impacted by the relatively low price of oil over the last few years.

If the market for commercial electric vehicles does not develop as we expect or develops more slowly than we expect, our business, prospects, financial condition and operating results will be adversely affected.

As part of our sales efforts, we must educate fleet managers as to the economical savings we believe they will achieve over the life of the vehicle. As such, we believe operators of commercial vehicle fleets should consider a number of factors when deciding whether to purchase our commercial electric vehicles (or commercial electric vehicles generally) or vehicles powered by internal combustion engines, particularly diesel-fueled or natural gas-fueled vehicles. We believe these factors include:

- the difference in the initial purchase prices of commercial electric vehicles and vehicles with comparable gross vehicle weight powered by internal combustion engines, both including and excluding the impact of government and other subsidies and incentives designed to promote the purchase of electric vehicles;
- the total cost of ownership of the vehicle over its expected life, which includes the initial purchase price and ongoing operating and maintenance costs;
- the availability and terms of financing options for purchases of vehicles and, for commercial electric vehicles, financing options for battery systems;
- the availability of tax and other governmental incentives to purchase and operate electric vehicles and future regulations requiring increased use of nonpolluting vehicles;
- government regulations and economic incentives promoting fuel efficiency and alternate forms of energy;
- fuel prices, including volatility in the cost of diesel;
- the cost and availability of other alternatives to diesel fueled vehicles, such as vehicles powered by natural gas;
- corporate sustainability initiatives;
- commercial electric vehicle quality, performance and safety (particularly with respect to lithium-ion battery packs);
- the quality and availability of service for the vehicle, including the availability of replacement parts;
- the range over which commercial electric vehicles may be driven on a single battery charge;
- access to charging stations and related infrastructure costs, and standardization of electric vehicle charging systems;
- electric grid capacity and reliability; and
- macroeconomic factors.

If, in weighing these factors, operators of commercial vehicle fleets determine there is not a compelling business justification for purchasing commercial electric vehicles, particularly those we produce and sell, then the market for commercial electric vehicles may not develop as we expect or may develop more slowly than we expect, which would adversely affect our business, prospects, financial condition and operating results.

We currently do not have and do not expect to have a significant number of long-term supply contracts with guaranteed pricing which exposes and will expose us to fluctuations in component, materials and equipment prices. Substantial increases in these prices would increase our operating costs and could adversely affect our business, financial position, results of operations, cash flows or liquidity.

Because we currently do not have and do not expect to have long-term supply contracts with guaranteed pricing, we are and will be subject to fluctuations in the prices of the raw materials, parts and components and equipment we use in the production of our vehicles. Substantial increases in the prices for such raw materials, components and equipment would increase our operating costs and could reduce our margins if we cannot recoup the increased costs through increased vehicle prices. Any attempts to increase the announced or expected prices of our vehicles in response to increased costs could be viewed negatively by our customers and could adversely affect our business, financial position, results of operations, cash flows or liquidity.

If we are unable to scale our operations at our Union City facility in an expedited manner from our limited low volume production to high volume production, our business, financial position, results of operations, cash flows and liquidity will be adversely affected.

We are assembling our orders at our Union City facility which has been acceptable for our historical orders. To satisfy increased demand, we will need to quickly scale operations in our Union City facility as well as scale our supply chain including access to batteries. Such a substantial and rapid increase in operations may strain our management capabilities. Our business, financial position, results of operations, cash flows and liquidity could be adversely affected if we experience disruptions in our supply chain, if we cannot obtain materials of sufficient quality at reasonable prices or if we are unable to scale our Union City facility.

We depend upon key personnel and need additional personnel. The loss of key personnel or the inability to attract additional personnel may adversely affect our business and results of operations.

Our success depends on the continuing services of our executive leadership team and top management. The loss of any of these individuals could have a material and adverse effect on our business operations. Additionally, the success of our operations will largely depend upon our ability to successfully attract and maintain other competent and qualified key management personnel. As with any company with limited resources, there can be no guarantee we will be able to attract such individuals or the presence of such individuals will necessarily translate into profitability for our company. Our inability to attract and retain key personnel may materially and adversely affect our business operations. Any failure by our management to effectively anticipate, implement, and manage the changes required to sustain our growth would have a material adverse effect on our business and results of operations.

We face intense competition. Some of our competitors have substantially greater financial or other resources, longer operating histories and greater name recognition than we do and could use their greater resources and/or name recognition to gain market share at our expense or could make it very difficult for us to establish market share.

Companies currently competing in the fleet logistics market offering alternative fuel medium-duty trucks include General Motors, Ford Motor Company and Freightliner. There are also a number of new, well capitalized entrants into the market place. Ford and Freightliner are currently selling alternative fuel fleet vehicles including hybrids and General Motors' subsidiary Brightdrop has recently brought a medium duty electric delivery van to market. General Motors, Ford and Freightliner have substantially more financial resources, established market positions, long-standing relationships with customers and dealers, and have more significant name recognition, technical, marketing, sales, financial and other resources than we do. Although we believe that HorseFly, our unmanned aerial system (“UAS”), is unique in the marketplace in that it currently does not have any competitors when it comes to a UAS that works in combination with a truck, there are better-financed competitors in this emerging industry, including Google and Amazon. Our model is focused on coupling our delivery drone with delivery trucks supplementing the existing model and providing shorter-term flight patterns. Google and Amazon have significantly more financial resources, established market positions, long-standing relationships with customers, more significant name recognition and a larger scope of resources including technical, marketing and sales than we do.

The resources available to our competitors to develop new products and introduce them into the marketplace exceed the resources currently available to us. As a result, our competitors may be able to compete more aggressively and sustain that competition over a longer period than we can. This intense competitive environment may require us to make changes in our products, pricing, licensing, services, distribution, or marketing to develop a market position. Each of these competitors has the potential to capture significant market share in our target markets, which could have an adverse effect on our position in our industry and on our business and operating results.

Our electric vehicles compete for market share with vehicles powered by other vehicle technologies that may prove to be more attractive than ours.

Our target market currently is serviced by manufacturers with existing customers and suppliers using proven and widely accepted fossil fuel technologies. Additionally, our competitors are working on developing technologies that may be introduced in our target market. If any of these alternative technology vehicles can provide lower fuel costs, greater efficiencies, greater reliability or otherwise benefit from other factors resulting in an overall lower total cost of ownership, this may negatively affect the commercial success of our vehicles or make our vehicles uncompetitive or obsolete.

Changes in the market for electric vehicles could cause our products to become obsolete or lose popularity.

The modern electric vehicle industry is in its infancy and has experienced substantial change in the last few years. To date, although there has been a recent surge in the electric vehicle industry, demand for electric vehicles has been slower than forecasted by industry experts. As a result, growth in the electric vehicle industry depends on many factors outside our control, including, but not limited to:

- continued development of product technology, especially batteries;
- perceptions about electric vehicle quality, safety, design, performance and cost;
- perceptions about the total cost of ownership of electric vehicles, including the initial purchase price and operating and maintenance costs;
- the environmental consciousness of customers;
- the ability of electric vehicles to successfully compete with vehicles powered by internal combustion engines;
- the availability of other alternative fuel vehicles, including plug-in hybrid electric vehicles; and
- availability of tax and other governmental incentives to purchase and operate electric vehicles or future regulation requiring increased use of nonpolluting vehicles.

We cannot assume growth in the electric vehicle industry will continue. Our business will suffer if the electric vehicle industry does not grow or grows more slowly than it has in recent years or if we are unable to maintain the pace of industry demands.

The unavailability, reduction, elimination or adverse application of government subsidies, incentives and regulations could have an adverse effect on our business, prospects, financial condition and operating results.

We believe the availability of government subsidies and incentives, including those available in California and other areas, is an important factor considered by our customers when purchasing our vehicles, and our growth depends in part on the availability and amounts of these subsidies and incentives. Any reduction, elimination or discriminatory application of government subsidies and incentives because of budgetary challenges, policy changes, the reduced need for such subsidies and incentives due to the perceived success of electric vehicles or other reasons may result in the diminished price competitiveness of the alternative fuel vehicle industry.

We may be unable to keep up with changes in electric vehicle technology and, as a result, may suffer a decline in our business and competitive position.

Our products and the new products we are developing under our strategic roadmap are designed for use with, and are dependent upon, existing electric vehicle technology. As technologies change, we plan to upgrade or adapt our products to continue to provide products with the latest technology. However, our products may become obsolete or our research and development efforts may not be sufficient to adapt to changes in or to create the necessary technology. Thus, our potential inability to adapt and develop the necessary technology may harm our business and competitive position.

The failure of certain key suppliers to provide us with the necessary components of our products according to our schedule and at price, quality levels and volumes acceptable to us could have a severe and negative impact upon our business.

We rely and will rely on various suppliers to provide critical components and materials used in our vehicles, including our battery packs. However, we have a limited number of definitive supply agreements. Changes in business conditions, pandemics, wars, including the Russian invasion of Ukraine and world sanctions on Russia, Belarus, and related parties, governmental changes, and other factors beyond our control or which we do not presently anticipate could negatively affect our ability to receive components. If component suppliers become unwilling or unable to provide components, there are a limited number of alternative suppliers who could provide them and the price for them could be substantially higher. A failure by our major suppliers to provide these components could severely restrict our ability to manufacture our products and prevent us from fulfilling customer orders in a timely fashion.

Continued disruption of supply, shortage of materials or increases in costs, in particular for battery packs or microchips, could harm our business.

Our ability to manufacture our vehicles depends on the continued supply of battery packs, including the competent battery cells, used in our products. We have in the past experienced a battery pack supply chain constraint as a result of our existing supplier's inability to keep up with volume requirements. We continue to work with our current supplier to overcome these supply constraints and have also begun collaborating with an additional supplier, subject to appropriate testing, to further expand our battery pack options.

Furthermore, due to the COVID-19 pandemic and increased demand for consumer products, a global shortage of microchips has been reported since early 2021, and the impact to us is yet unknown. As a result, our ability to source semiconductor chips may be adversely affected. Impacts of the shortage may result in increased chip delivery lead times, delays in the production of our vehicles, and increased costs to source available semiconductor chips.

Product liability or other claims could have a material adverse effect on our business.

The risk of product liability claims, product recalls, and associated adverse publicity is inherent in the manufacturing, marketing, and sale of electrical vehicles. Although we have product liability insurance for certain of our consumer and commercial products, that insurance may be inadequate to cover all potential product claims. Any product recall or lawsuit seeking significant monetary damages either in excess of our coverage, or outside of our coverage, may have a material adverse effect on our business and financial condition. We may not be able to secure additional product liability insurance coverage on acceptable terms or at reasonable costs when needed. A successful product liability claim against us could require us to pay a substantial monetary award. Moreover, a product recall, such as the one initiated by the Company in 2021, could generate substantial negative publicity about our products and business and inhibit or prevent commercialization of other future product candidates. We cannot provide assurance such claims and/or recalls will not be made in the future.

Our success may be dependent on protecting our intellectual property rights.

We rely on trade secret protections to protect our proprietary technology as well as several registered patents and patent applications. Our patents and patent applications relate to the vehicle chassis assembly, vehicle header and drive module, manifold for electric motor drive assembly, onboard generator drive system for electric vehicles and the delivery drone. Our success will, in part, depend on our ability to obtain additional trademarks and patents. We are working on registering additional patents and trademarks with the United States Patent and Trademark Office. Although we have entered into confidentiality agreements with our employees and consultants, we cannot be certain others will not gain access to these trade secrets. Others may independently develop substantially equivalent proprietary information and technologies or otherwise gain access to our trade secrets. Therefore we may be subject to disputes with our employees over ownership of any new technologies or enhancements such employees help to develop.

Our business may be adversely affected by union activities.

Although none of our employees are currently represented by a labor union, it is common throughout the automotive industry for many employees to belong to a union, which can result in higher employee costs and increased risk of work stoppages. Our employees may join or seek recognition to form a labor union, or we may be required to become a union signatory. Our production facility in Union City, Indiana was purchased from Navistar. Prior employees of Navistar were union members and our future work force at this facility may be inclined to vote in favor of forming a labor union. Furthermore, we are directly or indirectly dependent upon companies with unionized work forces, such as parts suppliers and trucking and freight companies, and work stoppages or strikes organized by such unions could have a material adverse impact on our business, financial condition or operating results. If a work stoppage occurs, it could delay the manufacture and sale of our trucks and have a material adverse effect on our business, prospects, operating results or financial condition. The mere fact our labor force could be unionized may harm our reputation in the eyes of some investors. Consequently, the unionization of our labor force could negatively impact our company.

We may be exposed to liability for infringing upon the intellectual property rights of other companies.

Our success will, in part, depend on our ability to operate without infringing on the proprietary rights of others. Although we have conducted searches and are not aware of any patents and trademarks which our products or their use might infringe, we cannot be certain that infringement has not or will not occur. We could incur substantial costs, in addition to the great amount of time lost and negative publicity, in defending any patent or trademark infringement suits or in asserting any patent or trademark rights, in a suit with another party. In the event that a claim relating to intellectual property is asserted against us, we may need to seek licenses to such intellectual property which could result in significant costs, including substantial licensing fees or royalties.

Our electric vehicles make use of lithium-ion battery cells, which, if not appropriately managed and controlled, have occasionally been observed to catch fire or vent smoke and flames. If such events occur in our electric vehicles, we could face liability associated with our warranty, for damage or injury, adverse publicity and a potential safety recall, any of which would adversely affect our business, prospects, financial condition and operating results.

The battery packs in our electric vehicles use lithium-ion cells, which have been used for years in laptop computers and cell phones. On occasion, if not appropriately managed or subject to environmental stresses, lithium-ion cells can rapidly release the energy they contain by venting smoke and flames in a manner that can ignite nearby materials. Highly publicized incidents of laptop computers and cell phones bursting into flames have focused consumer attention on the safety of these cells. These events also have raised questions about the suitability of these lithium-ion cells for automotive applications. There can be no assurance that a field failure of our battery packs will not occur, which would damage the vehicle or lead to personal injury or death and may subject us to lawsuits. Furthermore, there is some risk of electrocution if individuals who attempt to repair battery packs on our vehicles do not follow applicable maintenance and repair protocols. Any such damage or injury would likely lead to adverse publicity and potentially a safety recall. Any such adverse publicity related to the suitability of lithium-ion cells for automotive applications, the social and environmental impacts of mineral mining or procurement associated with the constituents of lithium-ion cells, or any future incident involving lithium-ion cells, such as a vehicle or other fire could adversely affect our reputation, business, prospects, financial condition and operating results.

We are subject to significant corporate regulation as a public company and failure to comply with all applicable regulations could subject us to liability or negatively affect our stock price.

As a publicly traded company, we are subject to a significant body of regulation, including the Sarbanes-Oxley Act of 2002. While we have developed and instituted a corporate compliance program based on what we believe are the current best practices in corporate governance and continue to update this program in response to newly implemented or changing regulatory requirements, we cannot provide assurance that we are or will be in compliance with all potentially applicable corporate regulations. If we fail to comply with any of these regulations, we could be subject to a range of regulatory actions, fines or other sanctions or litigation. If we disclose any material weakness in our internal control over financial reporting, our stock price could decline.

Cyber-attacks could adversely affect the Company.

The Company faces a risk of cyber-attack. Cyber-attacks may include hacking, viruses, malware, denial of service attacks, ransomware or other data security breaches. The Company's business requires the continued operation of information systems and network infrastructure. In the event of a cyber-attack that the Company was unable to defend against or mitigate, the Company could have its operations and the operations of its customers and others disrupted. The Company could also have their financial and other information systems and network infrastructure impaired, property damaged and customer and employee information stolen; experience substantial loss of revenues, response costs and other financial loss; and be subject to increased regulation, litigation, penalties and damage to their reputation. While we maintain cyber insurance providing coverages, such insurance may not cover all costs associated with the consequences of personal and confidential proprietary information being compromised. As a result, in the event of a material cyber security breach, our results of operations could be materially, adversely affected.

Risks Related to Owning Our Common Stock

Our stock price and trading volume may be volatile, which could result in substantial losses for our stockholders.

The equity trading markets may experience periods of volatility, which could result in highly variable and unpredictable pricing of equity securities. The market price of our common stock could change in ways that may or may not be related to our business, our industry or our operating performance and financial condition. In addition, the trading volume in our common stock may fluctuate and cause significant price variations to occur. We have experienced significant volatility in the price of our stock. In addition, the stock markets in general can experience considerable price and volume fluctuations. Moreover, fluctuations in our stock price could have the effect of increasing our interest expense, through a change in fair value of our convertible notes, which may have a material and adverse effect on our financial results.

We have not paid cash dividends in the past and have no immediate plans to pay cash dividends.

We plan to reinvest all of our earnings, to the extent we have earnings, in order to develop our products, deliver on our orders and cover operating costs and to otherwise become and remain competitive. We do not plan to pay any cash dividends with respect to our securities in the foreseeable future. We cannot assure common stockholders that we would, at any time, generate sufficient surplus cash that would be available for distribution to the holders of our common stock as a dividend. Therefore, common stockholders should not expect to receive cash dividends on our common stock.

Stockholders may experience future dilution as a result of future equity offerings.

In order to raise additional capital, we may in the future offer additional shares of our common stock or other securities convertible into or exchangeable for our common stock at prices that may not be the same as the price per share in our prior offerings. We may sell shares or other securities in any future offering at a price per share that is lower than the price per share paid by historical investors, which would result in those newly issued shares being dilutive. In addition, investors purchasing shares or other securities could have rights superior to existing stockholders, which could impair the value of existing stockholders. The price per share at which we sell additional shares of our common stock, or securities convertible or exchangeable into common stock, in future transactions may be higher or lower than the price per share paid by our historical investors.

Our charter documents and Nevada law may inhibit a takeover that stockholders consider favorable.

Provisions of our certificate of incorporation and bylaws and applicable provisions of Nevada law may delay or discourage transactions involving an actual or potential change in control or change in our management, including transactions in which stockholders might otherwise receive a premium for their shares, or transactions that our stockholders might otherwise deem to be in their best interests. The provisions in our certificate of incorporation and bylaws:

- limit who may call stockholder meetings;
- do not provide for cumulative voting rights; and
- provide that all vacancies may be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum.

There are limitations on director/officer liability.

As permitted by Nevada law, our certificate of incorporation limits the liability of our directors for monetary damages for breach of a director's fiduciary duty except for liability in certain instances. As a result of our charter provision and Nevada law, stockholders may have limited rights to recover against directors for breach of fiduciary duty. In addition, our certificate of incorporation provides that we shall indemnify our directors and officers to the fullest extent permitted by law.

Risks Related to Our Convertible Note

In the event we do not redeem our debt in shares of common stock, servicing our debt requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our obligations under the remaining 4.0% Senior Secured Convertible Note (the "Note").

Our ability to make scheduled payments of principal or to pay interest on or to refinance the Note depends on our future performance, which is subject to economic, financial, competitive and other factors, some of which are beyond our control. As of December 31, 2021, our outstanding indebtedness is approximately $24.7 million (including $27.5 million principal amount under the Note), and the terms of the Note requires us to repay or redeem the full principal amount of the Note at maturity or any other time. Our business may not generate cash flow from operations in the future sufficient to satisfy our obligations under the Note. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as reducing or delaying investments or capital expenditures, selling assets, refinancing or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance the Note will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on the Note.

Some significant restructuring transactions may not constitute a fundamental change as defined in the Note, in which case we would not be obligated to offer to purchase the Note.

Upon the occurrence of a fundamental change, note holders have the right to require us to purchase the Note. However, the fundamental change provisions will not afford protection to the holders of the Note in the event of other transactions that could adversely affect the Note. For example, transactions such as leveraged recapitalizations, refinancings, restructurings, or acquisitions initiated by us may not constitute a fundamental change requiring us to purchase the Note. In the event of any such transaction, the holders would not have the right to require us to purchase the Note, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the holder of the Note.

Conversion of the Note will dilute the ownership interest of existing stockholders and may otherwise depress the price of our common stock.

Conversion of the Note will dilute the ownership interests of existing stockholders to the extent we deliver shares upon conversion of the Note. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the Note may encourage short selling by market participants because the conversion of the Note could be used to satisfy short positions, or anticipated conversion of the Note into shares of our common stock could depress the price of our common stock.

Upon conversion of the Note, note holders may receive less valuable consideration than expected because the value of our common stock may decline after they exercise their conversion right but before we settle our conversion obligation.

Under the Note, a converting holder will be exposed to fluctuations in the value of our common stock during the period from the date such holder surrenders the Note for conversion until the date we settle our conversion obligation. We will deliver the consideration due in respect of conversion on the second business day immediately following the relevant conversion date. Accordingly, if the price of our common stock decreases during this period, the amount and/or value of consideration a note holder will receive will be adversely affected.

The fundamental change repurchase feature of the Note may delay or prevent an otherwise beneficial attempt to take over our Company.

The terms of the Note require us to repurchase the Note in the event of a fundamental change. A takeover of our Company would trigger an option of the holder of the Note to require us to repurchase the Note. This may have the effect of delaying or preventing a takeover of our company that would otherwise be beneficial to investors in the Note.

We are subject to certain covenants set forth in the Notes. Upon an event of default, including a breach of a covenant, we may not be able to make such accelerated payments under the Notes.

The Notes contains customary events of default, including for non-payment, misrepresentation, breach of covenants, defaults under other material indebtedness, material adverse change, bankruptcy, change of control and material judgments.

Upon an event of default, the outstanding principal amount of the loan plus any other amounts owed under the Note will become immediately due and payable and the holder of the Note could foreclose on our assets. A default would also likely significantly diminish the market price of our common stock.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

We operate facilities in Ohio, Indiana and Michigan. Our corporate headquarters and research and development facility is located in Southwest Ohio and our primary manufacturing facility is located in Union City, Indiana.

We believe our facilities are in good operating condition and that our facilities are adequate for all present and near term uses.

ITEM 3. LEGAL PROCEEDINGS

For a description of certain material legal proceedings, please see Note 18,*Commitments and Contingencies*, to the consolidated financial statements included elsewhere in this Current Report on Form 10-K. See also Management's Discussion and Analysis of Financial Condition and Results of Operations - Overview for a discussion of certain regulatory matters.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock is traded on the NASDAQ Capital Market under the symbol "WKHS".

Holders of our Common Stock

As of February 1, 2022, we had approximately 200 shareholders of record. This does not include persons whose stock is in nominee or "street name" accounts through banks, brokers and other financial institutions.

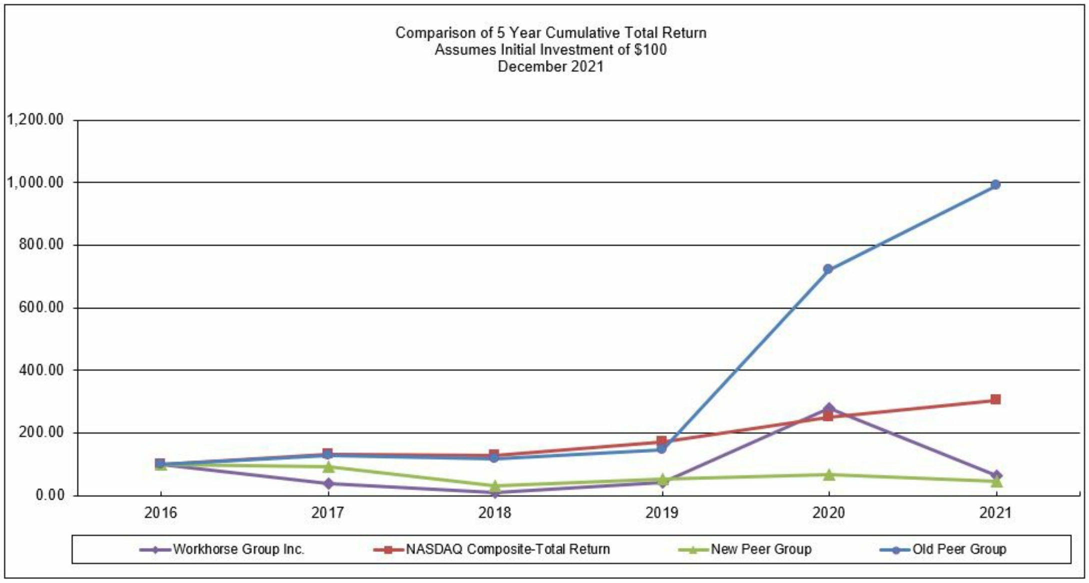
Dividend Policy

We have never declared or paid cash dividends on our common stock. We currently intend to retain future earnings, if any, to finance the expansion of our business. As a result, we do not anticipate paying any cash dividends in the foreseeable future. Any future determination to declare cash dividends will be made at the discretion of our Board of Directors, subject to applicable laws, and will depend on our financial condition, results of operations, capital requirements, general business conditions and other factors that our Board of Directors may deem relevant.

Stock Performance Graph

This performance graph shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or incorporated by reference into any filing of Workhorse Group Inc. under the Securities Act of 1933, as amended (the "Securities Act"), or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

The following graph shows a comparison, from January 1, 2017 through December 31, 2021, of the cumulative total return on our common stock, The NASDAQ Composite Index and a peer group of companies determined by us. Such returns are based on historical results and are not intended to suggest future performance. Data for The NASDAQ Composite Index and the peer group companies assumes an investment of $100 on January 1, 2017 and reinvestment of dividends. We have never declared or paid cash dividends on our common stock nor do we anticipate paying any such cash dividends in the foreseeable future.



We do not believe that there is a single published industry or line of business index that is appropriate for comparing stockholder returns. As a result, we have selected a peer group comprised of companies that compete with us directly or indirectly in the electric vehicle OEM market. Our current peer group, reference in the graph above, consists of Arrival, Canoo Inc., Electric Last Mile Solutions, Inc., Fisker Inc., Lightning eMotors, Inc., The Lion Electric Company, Lordstown Motors Corp., Nikola Corporation, Proterra Inc., REE Automotive Ltd., The Shyft Group, Inc., and XL Fleet Corp. Our previous peer group, referenced in the graph above, consisted of Blink Charging Co., General Motors Co, Hyliion Holdings Corp., Navistar, Inc., Nikola Corporation, NIO Inc., Paccar Inc, Plug Power Inc, The Shyft Group, Inc., and Tesla, Inc.

Recent Sales of Unregistered Securities and Use of Proceeds

During the quarter ended December 31, 2021, there were no sales by the Company of equity securities that have not been registered under the Securities Act of 1933.

Purchases of Equity Securities by the Issuer

During the quarter ended December 31, 2021, no shares of our common stock were repurchased by the Company.

ITEM 6. [RESERVED]

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis should be read in conjunction with the consolidated financial statements and the related notes included elsewhere in this Annual Report on Form 10-K. For discussion related to changes in financial condition and the results of operations for fiscal year 2019-related items, refer to Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for fiscal year 2020, which was filed with the Securities and Exchange Commission on March 1, 2021.

Overview and 2021 Highlights

We are a technology company with a vision to pioneer the transition to zero-emission commercial vehicles. Our primary focus is to provide sustainable and cost-effective solutions to the commercial transportation sector. We design and manufacture all-electric delivery trucks and drone systems, including the technology that optimizes the way these vehicles operate. We are focused on our core competency of bringing our electric delivery vehicle platforms to market.

During 2021, we were focused on bringing our existing C-1000 vehicles into full compliance with Federal Motor Safety Vehicle Standards ("FMVSS"), increasing our vehicle production and capacity, increasing the affordability of our vehicles, and developing and introducing our next generation of products. We continue to focus on product quality, manufacturing capacity and operational planning, and engineering and design to enable increased deliveries and deployments of our products and future revenue growth.

During the period, we began development of a revised strategic product roadmap for our electric vehicle delivery offerings. The foundation of this plan is the development of two new truck chassis platforms, the W56 and W34, which we intend to replace the C-1000 for most applications. The W56, based on long-standing Company know-how in the Class 5 and 6 truck chassis market is expected to begin production in 2023. The W34 platform will be our second generation, low floor, advanced feature set offering for the Class 3 and 4 truck chassis market and is expected to begin production in 2024.

We continue to seek out opportunities to grow the business organically, and by expanding relationships with existing customers and by seeking out new business. We believe we are well positioned to take advantage of long-term opportunities and continue our efforts to bring product innovations to-market. Some of our recent strategic developments include:

- The appointment of our new executive leadership team, which supports go-forward operating and commercial plans and executes on our plan to transition from an advanced technology start-up to an efficient manufacturing company.

- Our relationship with Amerit Fleet Solutions, a provider of customized fleet maintenance and repair programs nationwide, demonstrates our ability to provide maintenance service programs for electric and clean fuel technologies by integrating operational, maintenance and fleet data into an accessible portal, allowing for real-time tracking and expedited response times.

Management Opportunities, Challenges and Risks and 2022 Outlook

Commercial Vehicles

We announced the development of the C-Series electric delivery truck in 2017, a vehicle aimed at the Class 3 truck market and which leverages an ultra-low floor delivery vehicle platform. We utilized our extensive customer experience gained from working with our E-Series customers to design this product.

During the third quarter of 2021, we announced our decision to suspend deliveries of our C-1000 vehicles and recall the 41 vehicles we have already delivered to customers when management determined that additional testing and modifications to existing vehicles are required to bring the C-1000 vehicles into full compliance with Federal Motor Vehicle Safety Standards ("FMVSS"). We further announced the Company filed a report with the National Highway Traffic Safety Administration ("NHTSA") regarding the need for additional testing and vehicle modifications to bring our C-1000 vehicles into full compliance with FMVSS. We indicated our previous statements related to the C-1000's compliance with NHTSA standards cannot be relied upon and so notified the Securities and Exchange Commission. For further discussion on this matter, please see Note 18, *Commitments and Contingencies*, to the consolidated financial statements included elsewhere in this Current Report on Form 10-K.

In connection with the recall, we recorded a $2.4 million refund liability in our consolidated balance sheets for the purchase price of the vehicles to be refunded to customers as of December 31, 2021. As of December 31, 2021, we also recorded a $1.6

million asset for recovery, the value of which was determined by adjusting the former carrying amount of the vehicles being returned for expected costs to recover and complete necessary repairs and modifications.

We also began extensive testing on the C-1000 vehicles during the fourth quarter of 2021, which included brake testing, analytical load testing, durability, and review of the field data on our electric powertrain. The goal of this testing was to determine the viability of the C-Series product line. Upon completion of this testing in the first quarter of 2022, the C-1000 platform was determined to be a low-volume, limited cargo capacity vehicle. We expect to transition manufacturing to the W56 and W34 platforms in the near future, as described below.

In connection with our decision to limit future production of the C-Series vehicles, we recorded reserves for any excess or obsolete inventories exceeding our planned production volume. We also recorded reserves for inventories that had net realizable values less than their carrying value. The total inventory reserve as of December 31, 2021 was $77.0 million, as compared to $2.0 as of December 31, 2020.

Additionally, we recorded an impairment of approximately $6.8 million for certain assets such as tooling and machinery related to the production of the C-Series vehicles that are no longer intended to be used.

We also recorded a reserve for prepaid purchases of approximately $23.9 million related to deposits made on planned future purchases of inventory used in the production of the C-Series vehicles.

Product Roadmap

Workhorse has developed a revised strategic product roadmap for our electric vehicle delivery offerings. The foundation of this plan is the development of two new truck chassis platforms, the W56 and W34. The W56, based on long-standing Company know-how in the Class 5 and 6 truck chassis market, is expected to begin production in 2023. The W34 platform will be our second generation, low floor, advanced content offering for the Class 3 and 4 truck chassis market and is expected to begin production in 2024.

In order to accelerate time-to-market for customers seeking delivery of electric vehicles during 2022, we entered into a strategic supply agreement (the “Supply Agreement”) with GreenPower Motor Company Inc. (“GreenPower”). Under the agreement, we will have exclusive rights to sell Class 4 step vans based on the GreenPower supplied base vehicle. The finished Class 4 step vans will be available for sale in the United States and Canada, under the Workhorse brand and with Workhorse after sales and support service. The van, known as the W750, will have approximately 750 cubic foot capacity and will feature up to 150 miles of all-electric range, with a payload capacity of five thousand pounds. We expect the first deliveries of the W750 will occur later in 2022.

U.S. Post Office Replenishment Program / Next Generation Delivery Vehicle Project

Workhorse was one of the five participants that the United States Postal Service (“USPS”) selected to build prototype vehicles for the USPS Next Generation Delivery Vehicle (“NGDV”) project to replace approximately 165,000 vehicles in its existing fleet. Workhorse delivered six vehicles for prototype testing under the NGDV Acquisition Program and on February 23, 2021, the USPS announced it awarded a contract to Oshkosh Defense, LLC (“Oshkosh”) to manufacture a new generation of U.S.-built postal delivery vehicles and assemble 50,000 to 165,000 vehicles over the next ten years.

On June 16, 2021, the Company filed a bid protest against the United States in the United States Court of Federal Claims in connection with the USPS award of the contract for its Next Generation Delivery Vehicle to Oshkosh. On September 15, 2021, the Company withdrew its bid protest filed in the United States Court of Federal Claims.

Aerospace

HorseFly™

Our HorseFly (“HorseFly”) Unmanned Aerial Vehicle (“UAV”) is the first in a family of custom-built, high-efficiency delivery UAVs being designed to be integrated with our line of electric delivery trucks. The Horsefly is a 4 rotor UAV that can fly fully autonomously and is designed for safety, efficiency, and the rigors of day-to-day delivery service. The HorseFly system is designed such that a driver or driver’s assistant can maintain line-of-sight operation of the UAV delivery process and to conform to the Federal Aviation Administration (“FAA”) guidelines for UAV operation in the U.S.

Our Metron - Air delivery application is a custom HorseFly user control center. We built this technology to allow users a variety of planning, control and monitoring options, including monitoring locations of the truck, package and drone, and real-time onboard video of the HorseFly drone.

We recently announced that we entered into a pilot program with the U.S. Department of Agriculture's Natural Resources Conservation Service ("NRCS") to demonstrate our ability to provide small UAS as a service to support NRCS efforts in Mississippi. As part of the pilot program, we will offer small UAS services, including monitoring via drone, data procurement and analytics. Automating the daily audits with the small UAS will allow the NRCS to expedite information delivery, increase safety for auditors on the ground, be more cost-effective, increase fidelity of the data gathered, and ultimately create a more efficient procedure. The first phase of the program involves the Company collaborating with NRCS agents to gain a field-level understanding of the program's deliverables before implementing it's UAS technology to gather actionable data and insights.

Certus Unmanned Aerial Systems LLC

Upon completion of the sale of our SureFly™ Multicopter in 2019, we entered into a joint venture agreement with Moog Inc. ("Moog") for the development of our HorseFly UAV and the related business. Under the agreement, Workhorse and Moog contributed certain complimentary assets to Certus Unmanned Aerial Systems LLC ("Certus"), which is 50% owned by both the Company and Moog. Through Certus, teams from Workhorse and Moog are improving HorseFly's components and subsystems with the goal of bringing the highest quality UAV to-market.

Impact of COVID-19 Pandemic

There continues to be worldwide impact from the COVID-19 pandemic. During 2021, there has been a trend in many parts of the world of increasing availability and administration of the vaccine against COVID-19, as well as an easing of restrictions on social, business, travel and government activities and functions. However, infection rates and regulations continue to fluctuate and there are ongoing global impacts resulting from the pandemic, including challenges and increases in costs for logistics and supply chains, such as increased port congestion, and intermittent supplier delays. While we have been relatively successful in navigating the impact from the COVID-19 pandemic, we have previously been affected by temporary manufacturing closures. As of December 31, 2021, our locations and primary suppliers continue to operate and we continue to work through supplier constraints caused by the COVID-19 outbreak, as well as the supply chain difficulties. The Company is taking a variety of measures to maintain operations with as minimal an impact as possible to promote the safety and security of our associates, including increased frequency of cleaning and disinfecting of facilities, social distancing, remote working when possible and limitations on visitor access to facilities.

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act") was signed into law. The CARES Act, among other things, includes provisions relating to refundable payroll tax credits, deferment of employer side social security payments, net operating loss carryback periods, alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. As a result, the Company made provision to defer the employer side social security payments for the last three quarters of 2020, to be paid in two equal installments of $0.2 million each in 2021 and 2022.

Additionally, we entered into a Paycheck Protection Program Term Note ("PPP Note") with PNC Bank, N.A. under the Paycheck Protection Program of the CARES Act. The Company received total proceeds of $1.4 million from the PPP Note and used the proceeds primarily to cover payroll costs. The outstanding principal and accrued interest on the PPP Note were forgiven in January 2021.

We cannot predict the duration or direction of current global trends from this pandemic, the sustained impact of which is largely unknown, is rapidly evolving and has varied across geographic regions. Ultimately, we continue to monitor macroeconomic conditions to remain flexible and to optimize and evolve our business as appropriate, and we will have to accurately project demand and infrastructure requirements globally and deploy our production, workforce and other resources accordingly. For more detailed descriptions of the impact and risks to our business, please see certain risk factors described in Part I, Item 1A, Risk Factors in this Annual Report on Form 10-K.

Results of Operations

Our Consolidated Statements of Operations financial information is as follows:

	For the Years Ended December 31,		
	2021	2020	2019
Sales, net of returns and allowances	$ (851,922)	$ 1,392,519	$ 376,562
Cost of sales	132,492,110	13,067,108	5,844,891
Gross loss	(133,344,032)	(11,674,589)	(5,468,329)
Operating expenses			
Selling, general and administrative	40,160,795	20,157,658	10,199,534
Research and development	11,610,027	9,148,931	8,199,074
Total operating expenses	51,770,822	29,306,589	18,398,608
Loss from operations	(185,114,854)	(40,981,178)	(23,866,937)
Interest expense, net	12,644,164	190,520,337	29,145,690
Other loss (income)	225,432,884	(323,111,944)	(15,849,800)
(Loss) income before (benefit) provision for income taxes	(423,191,902)	91,610,429	(37,162,827)
(Benefit) provision for income taxes	(21,847,089)	21,833,930	—
Net (loss) income	$ (401,344,813)	$ 69,776,499	$ (37,162,827)

Revenue

Sales decreased $2.2 million in the year ended December 31, 2021 as compared to the year ended December 31, 2020, primarily due to an increase in sales returns and allowances in connection with the recall of our C-1000 vehicles announced in the third quarter of 2021.

Cost of Sales

Cost of sales includes direct and indirect materials, labor costs, manufacturing overhead, including depreciation costs of tooling and machinery, shipping and logistics costs, and reserves for estimated warranty expenses. Cost of sales also includes charges to write down the carrying amount of tooling and machinery when it exceeds the fair value of the asset or asset group, charges to write down the carrying value of our inventory when it exceeds its estimated net realizable value and to provide for obsolete and on-hand inventory in excess of forecasted demand.

Cost of sales increased $119.4 million in the year ended December 31, 2021 as compared to the year ended December 31, 2020. The increase was primarily due to a $75.0 million increase in the inventory reserve, a $23.9 million increase in the prepaid purchases reserve, and a $6.8 million impairment charge to adjust the carrying amount of tooling and other assets related to the C-Series electric delivery truck. The year over year increases described above were primarily driven by the Company's decision to produce the C-1000 platform at low-volume and transition to a new all-electric delivery truck platform in the near future. This decision was based on results of extensive testing performed on the C-1000 vehicles, which concluded in early 2022.

Additionally, there was an increase of $5.0 million in employee and labor related expenses from increased headcount, a $4.9 million increase in manufacturing overhead attributable to an increase in volume related to our production of the C-Series electric delivery truck, and a $3.4 million increase in consulting costs.

Selling, General and Administrative Expenses

Selling, general and administrative (“SG&A”) expenses generally consist of personnel and facilities costs related to our sales, marketing, executive, finance, human resources, information technology and legal organizations as well as fees for professional and contract services and litigation settlements.

SG&A expenses increased $20.0 million in the year ended December 31, 2021 as compared to the year ended December 31, 2020. The increase was primarily due to an increase of $7.9 million in employee and labor related expenses from increased headcount and the appointments of our new executive leadership team during the year. Additionally, there was an increase of $7.0 million in professional services related to litigation and settlements, marketing programs, investor relations services and general consulting fees, a $3.1 million increase in selling related fees, and a $1.4 million increase in corporate insurance premiums.

Research and Development Expenses

Research and development ("R&D") expenses consist primarily of personnel costs for our teams in engineering and research, manufacturing engineering and manufacturing test organizations, prototyping expense, and contract and professional services.

R&D expenses increased $2.5 million in the year ended December 31, 2021 as compared to the year ended December 31, 2020. The increase was primarily due to an increase in employee and labor related expenses due to an increase in headcount to support our expanding product roadmap such as the new W56 and W34 truck chassis platforms and continuing development of our HorseFly UAV.

Other Loss (Income)

Other loss (income) consists primarily of gains and losses related to changes in fair value and sales of our Investment in Lordstown Motors Corp. ("LMC"), which was sold during the third quarter of 2021.

Other (loss) income changed unfavorably by $548.5 million in the year ended December 31, 2021 as compared to the year ended December 31, 2020. During the year ended December 31, 2021, we recognized a loss of $225.4 million, primarily attributable to unfavorable changes in fair value and sale of our Investment in LMC. During the year ended December 31, 2020, we recognized income of $323.1 million, primarily attributable to favorable changes in fair value of our Investment in LMC.

Interest Expense, Net

Net interest expense consisted of the following:

	For the Years Ended December 31,		
	2021	2020	2019
Change in fair value of convertible notes and loss on exchange for common stock	$ 7,324,035	$ 160,749,118	$ 981,728
Contractual interest expense	6,737,902	4,832,128	4,673,979
(Gain) loss on extinguishment of debt	(1,411,000)	—	6,079,000
Other	(6,772)	355,096	119,566
Change in fair value of warrant liability	—	12,176,690	15,369,253
Amortization of discount and debt issuance costs	—	7,696,671	1,922,164
Loss on extinguishment of mandatorily redeemable Series B preferred stock	—	4,710,634	—
Total interest expense, net	$ 12,644,165	$ 190,520,337	$ 29,145,690

Interest expense decreased $177.9 million in the year ended December 31, 2021 as compared to the year ended December 31, 2020, primarily due to a reduction of $153.4 million related to fair value adjustments and losses on conversion of our convertible notes. Additionally, there was a decrease of $12.2 million related to mark-to-market adjustments and losses on exercises of warrants issued to lenders, a $7.7 million decrease in costs related to the issuance of our convertible notes, and a $4.7 million decrease in losses recognized on the redemption of Series B Preferred Stock.

Provision for Income Tax

For the years ended December 31, 2021 and 2020, the Company has taxable losses primarily due to operations and stock compensation related deductions and thus has no current tax expense recorded. As of December 31, 2021, the Company increased the valuation allowance recorded against its deferred tax assets due to the sale of LMC shares during the year and the uncertainty about our ability to utilize our remaining deferred tax assets in future years. As of December 31, 2020, the Company released the valuation allowance with the exception of certain tax credits and net operating losses that will not be realizable due to IRC Section 382 Ownership Change limitations. As a result, the deferred tax expense recorded in 2020 was reversed and the Company recognized a deferred tax benefit in 2021 to reinstate the valuation allowance.

Liquidity and Capital Resources

From inception, we have financed our operations primarily through sales of equity securities and issuance of debt. We have utilized this capital for research and development and to fund designing, building and delivering vehicles to customers and for working capital purposes.

As of December 31, 2021, we had approximately $201.6 million in cash and cash equivalents, compared to approximately $46.8 million as of December 31, 2020, an increase of $154.8 million. The increase in cash and cash equivalents was primarily attributable to the January 2021 release of $194.4 million of restricted cash held in escrow from the convertible notes net proceeds issued in October 2020, in addition to proceeds of $105.1 million received in connection with the sale of our investment in LMC. The increase in cash and cash equivalents was offset by cash used in operations related to ramp-up of production of our C-Series vehicles, consulting and professional fees, and compensation related expenses.

We believe our existing capital resources will be sufficient to support our current and projected funding requirements for at least the next twelve months, after which time additional funding may be required. However, if the opportunity arises, we may elect to raise additional capital in 2022 through an At-the-Market program or similar instrument.

Cash Requirements

From time to time in the ordinary course of business, we enter into agreements with vendors for the purchase of components and raw materials to be used in the manufacture of our products. However, due to contractual terms, variability in the precise growth curves of our development and production ramps, and opportunities to renegotiate pricing, we generally do not have binding and enforceable purchase orders under such contracts beyond the short term, and the timing and magnitude of purchase orders beyond such period is difficult to accurately project.

We currently expect our capital expenditures to upgrade our facilities in Indiana, Ohio and Michigan to be between $25.0 and $35.0 million in 2022.

As of December 31, 2021, we had outstanding $27.5 million in aggregate principal amount of indebtedness and our total minimum lease payments are $5.9 million. For details regarding our indebtedness and lease obligations, refer to Note 8, *Debt*, and Note 9, *Leases*, to the consolidated financial statements included elsewhere in this Annual Report on Form 10-K.

Sources and Condition of Liquidity

With the exception of contingent and royalty payments that we may receive under our existing collaborations, we do not currently have any committed future funding. To the extent we raise additional capital by issuing equity securities, our stockholders could at that time experience substantial dilution. Any debt financing that we can obtain may involve operating covenants that restrict our business.

Our future funding requirements will depend upon many factors, including, but not limited to:

- our ability to acquire or license other technologies that we may seek to pursue;
- our ability to manage our growth;
- competing technological and market developments;
- the costs and timing of obtaining, enforcing and defending our patent and other intellectual property rights; and
- expenses associated with any unforeseen litigation.

For the years ended December 31, 2021 and 2020, we maintained an investment in a bank money market fund. Cash in excess of immediate requirements is invested with regard to liquidity and capital preservation. Wherever possible, we seek to minimize the potential effects of concentration and degrees of risk. We will continue to monitor the impact of the changes in the conditions of the credit and financial markets to our investment portfolio and assess if future changes in our investment strategy are necessary.

Summary of Cash Flows

	For the Years Ended December 31,		
	2021	2020	2019
Net cash used in operating activities	$ (132,577,103)	$ (70,278,949)	$ (36,871,677)
Net cash provided by (used in) investing activities	99,812,549	(5,728,130)	1,654,502
Net cash (used in) provided by financing activities	(6,817,119)	292,367,730	58,572,841

Cash Flows from Operating Activities

Our cash flows from operating activities are affected by our cash investments to support the business in research and development, manufacturing, selling, general and administration. Our operating cash flows are also affected by our working capital needs to support fluctuations in inventory, personnel expenses, accounts payable and other current assets and liabilities.

During the years ended December 31, 2021 and 2020, cash used in operating activities was $132.6 million and $70.3 million, respectively. The increase in net cash used in operations in 2021 as compared to 2020 was primarily attributable to spend related to our initial production of the C-Series electric delivery truck, including inventory build and employee and labor related costs.

Cash Flows from Investing Activities

During the years ended December 31, 2021 and 2020, cash provided by (used in) investing activities was $99.8 million and $(5.7) million, respectively. The increase in net cash provided from investing activities was primarily attributable to net proceeds of approximately $105.1 million received in connection with the sale of our investment in LMC.

Cash Flows from Financing Activities

During the year ended December 31, 2021, net cash used in financing activities was $6.8 million compared to net cash provided by financing activities of $292.4 million in 2020.

The significant financing activities that occurred in 2021 and 2020 include:

2021

- $4.4 million for the exercise of stock options and warrants, and vesting of restricted shares.

2020

- Issuance of convertible notes with net proceeds of approximately $262.4 million;
- Exercise of stock options and warrants with net proceeds of approximately $53.6 million;
- $1.4 million of net proceeds from the Paycheck Protection Plan Term Note; and
- $25.0 million for the redemption of the mandatorily redeemable Series B Preferred Stock.

The Company may seek to raise additional capital through public or private debt or equity financings in order to fund its operations.

Off-Balance Sheet Arrangements

The Company does not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on the Company’s financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that are material to investors.

Critical Accounting Estimates

We consider an accounting estimate to be critical if: (1) the accounting estimate requires us to make assumptions about matters that were highly uncertain at the time the accounting estimate was made, and (2) changes in the estimate that are reasonably likely to occur from period to period, or use of different estimates that we reasonably could have used in the current period, would have a material impact on our financial condition or results of operations.

There are other items within our financial statements that require estimation but are not deemed critical as defined above.

The consolidated financial statements are prepared in accordance with accounting principles generally accepted in the U.S. (“GAAP”). The preparation of the consolidated financial statements in conformity with GAAP requires us to make estimates and assumptions that affect certain reported amounts and disclosures. We base our estimates on historical experience, as appropriate, and an various other assumptions that we believe to be reasonable under the circumstances. Accordingly, actual results could differ from those estimates. We evaluate our estimates and assumptions on an ongoing basis. To the extent that there are material differences between these estimates and actual results, our future financial statement presentation, financial condition, results of operations and cash flows may be affected.

Due to the COVID-19 pandemic, there has been uncertainty and disruption in the global economy and financial markets. We have assessed the impact of the pandemic and are not aware of any specific events or circumstances that required an update to our estimates and assumptions or materially affected the carrying value of our assets or liabilities as of the date of this Annual Report on Form 10-K. These estimates may change as new events occur and additional information is obtained. Actual results could differ from these estimates under different assumptions and conditions.

Inventory Valuation

Nature of Valuation: Inventories are stated at the lower of cost or net realizable value. We write-down inventory for any excess or obsolete inventories or when we believe the net realizable value of inventories is less than the carrying value.

Assumptions and Approach Used: We review our inventory to determine whether its carrying value exceeds the net amount realizable upon the ultimate sale of the inventory. This requires us to determine the estimated selling price of our inventory based on market conditions. Once inventory is written-down, a new, lower cost basis for that inventory is established and subsequent changes in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

The following are key assumptions we used in establishing inventory reserves:

- *Business projections*: We make assumptions about the demand for our products in the marketplace. These assumptions drive our planning assumptions for volume, mix, and pricing. A change in our planned production volumes can materially impact the estimate of excess and obsolete inventories.

- *Economic projections*: Assumptions regarding general economic conditions are included in and affect our assumptions regarding sales and pricing estimates for our vehicles. Additionally, these assumptions affect our ability to sell inventories on hand in the open market. These assumptions include sales volume, inflation, and prices of raw materials. A change in economic conditions can materially impact the estimate of the net realizable value of inventories.

- *FMVSS certification and vehicle repairs*: Assumptions regarding the cost to recover and complete necessary modifications to address customer feedback and bring our vehicles into full compliance with FMVSS. These assumptions include cost of transportation, labor, raw materials and manufacturing overhead. A change in these assumptions can materially impact the estimate of the net realizable value of inventories.

During 2022, we completed our review of the C-1000 platform and determined it is eligible for certification and reintroduction as a limited production vehicle. In addition, we expect to transition our manufacturing focus to the W56 and W34 platforms in the near future. Accordingly, we determined that there was significant excess and obsolete inventory on-hand that would not be used in the limited production of the C-1000 platform, or for production of future vehicle platforms. Additionally, due to the recall of the C-1000 platform and estimated cost to complete necessary repairs and modifications, we reduced our estimated net realizable value of our inventory to a lower cost basis.

Should our estimates of future inventory usage or selling prices change, additional and potentially material increases to this reserve may be required. A small change in our estimates may result in a material charge to our reported financial results. Refer to *Note 2, Inventory*, to the consolidated financial statements for information regarding inventory valuation.

Warranty Liability

Nature of Estimates Required: We provide base warranties on the products we sell for specific periods of time and/or mileage, which vary depending upon the type of product. Separately, we also periodically perform field service actions related to safety recalls and other product campaigns. Pursuant to these warranties and field service actions, we will repair, replace, or adjust parts on a vehicle that are defective in factory-supplied materials or workmanship. We accrue the estimated cost of both base warranty coverages and field service actions at the time of sale. In addition, from time to time, we issue extended warranties at our expense, the estimated cost of which is accrued at the time of issuance.

Assumptions and Approach Used: Provisions for estimated assurance warranties are recorded at the time of sale and are periodically adjusted to reflect actual experience. The amount of warranty liability accrued reflects management's best estimate of the expected future cost of honoring Company obligations under the warranty plans. Historically, the cost of fulfilling the Company's warranty obligations has principally involved replacement parts, labor and sometimes travel for any field retrofit campaigns. The Company's estimates are based on historical experience, the extent of pre-production testing, the number of units involved and the extent of features/components included in product models. Also, each quarter, the Company reviews actual warranty claims experience to determine if there are systemic defects that would require a field campaign.

Field service actions may occur in periods beyond the base warranty coverage period. We use historical information regarding the nature, frequency, severity, and average cost of claims for each model year to establish our estimates. We assess our obligation for field service actions on a regular basis using actual claims experience and update our estimates as necessary.

Due to the uncertainty and potential volatility of the factors used in establishing our estimates, changes in our assumptions could materially affect our financial condition and results of operations. Refer to Note 1, Summary of Business and Significant Accounting Principles, to the consolidated financial statements for information regarding warranty and field service action costs.

Fair Value of Convertible Notes

Nature of Estimates Required: As permitted under ASC 825, Financial Instruments, ("ASC 825"), the Company has elected the fair value option to account for its convertible notes. The Company records changes in fair value of the convertible notes in Interest Expense in the Consolidated Statement of Operations, and changes in fair value of the convertible notes attributable to credit risk in Other Comprehensive Loss. The primary reason for electing the fair value option is for simplification and cost-benefit considerations of accounting for the convertible notes (the hybrid financial instrument) at fair value in its entirety versus bifurcation of the embedded derivatives.

Assumptions and Approach Used: The fair value is determined using a binomial lattice valuation model, which is widely used for valuing convertible notes. The significant assumptions used in the model are as follows:

- *Probability of a fundamental change:* If a fundamental change event occurs as defined under the 2024 Notes, the holder shall have the right to require the Company to repurchase the notes at an amount equal to the Fundamental Change Base Repurchase Price, which is the greater of (x) 150% of the principal amount to be repurchased, plus accrued and unpaid interest and (y) 115% of the as-converted value of the repurchased amount, plus any accrued and unpaid interest. The probability of a fundamental change was considered de minimis as of December 31, 2021.

- *Volatility:* The volatility used in the binomial lattice valuation model was estimated based on historical prices for the Company's common stock with a look-back period commensurate to the term of the 2024 Notes and the observed equity volatility for similar companies. A significant increase in the volatility of the market price of the Company's common stock, in isolation, would result in a significantly higher fair value; and a significant decrease in volatility would result in a significantly lower fair value.

- *Credit spread:* The credit spread used in the binomial lattice model was estimated based on a synthetic credit rating assessed for the Company in the valuation as of the issuance date. Generally, as the credit spread increases, the fair value decreases, and conversely, as the credit spread decreases, the fair value of the convertible notes increases.

A change in assumptions used to estimate the fair value of the convertible notes could materially affect our financial condition and results of operations. Refer to *Note 8, Debt, and Note 12, Fair Value Measurements*, to the consolidated financial statements for information regarding the 2024 Notes.

Income Taxes

Nature of Estimates Required: We must make estimates and apply judgment in determining the provision for income taxes for financial reporting purposes. We make these estimates and judgments primarily in the following areas: (i) the calculation of tax credits, (ii) the calculation of differences in the timing of recognition of revenue and expense for tax reporting and financial statement purposes, as well as (iii) the calculation of interest and penalties related to uncertain tax positions. Changes in these estimates and judgments may result in a material increase or decrease to our tax provision, which would be recorded in the period in which the change occurs.

Assumptions and Approach Used: We are subject to the income tax laws and regulations of state and local jurisdictions in which we operate. We account for income taxes under the asset and liability method. These tax laws and regulations are complex and involve uncertainties in the application to our facts and circumstances that may be open to interpretation. We recognize benefits for these uncertain tax positions based upon a process that requires judgment regarding the technical application of the laws, regulations, and various related judicial opinions. If, in our judgment, it is more likely than not (defined as a likelihood of more than 50%) that the uncertain tax position will be settled favorably for us, we estimate an amount that ultimately will be realized. This process is inherently subjective since it requires our assessment of the probability of future outcomes. We evaluate these uncertain tax positions on a quarterly basis, including consideration of changes in facts and circumstances, such as new regulations or recent judicial opinions, as well as the status of audit activities by taxing authorities. Changes to our estimate of the amount to be realized are recorded in our provision for income taxes during the period in which the change occurred.

We must also assess the likelihood that we will be able to recover our deferred tax assets against future sources of taxable income and reduce the carrying amount of deferred tax assets by recording a valuation allowance if, based on all available evidence, it is more likely than not that all or a portion of such assets will not be realized. Refer to Note 11, Income Taxes, to the consolidated financial statements for information regarding the income tax provision.

Recent Accounting Pronouncements

See Note 14, *Recent Pronouncements*, to the consolidated financial statements included elsewhere in this Annual Report on Form 10-K.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The primary objective of our investment activities is to preserve principal while at the same time maximizing the income we receive from our investments without significantly increasing risk. Some of the securities in which we invest may have market risk. This means that a change in prevailing interest rates may cause the fair value amount of the investment to fluctuate. For example, if we hold a security that was issued with a fixed interest rate at the then-prevailing rate and the prevailing interest rate later rises, the market value amount of our investment will decline. To minimize this risk, we maintain our portfolio of cash equivalents and short-term investments in a variety of securities, including money market funds and government and non-government debt securities and the maturities of each of these instruments is less than one year. In 2021, we maintained an investment portfolio primarily in money market funds. Due to the primarily short-term nature and low interest rate yields of these investments, we believe we do not have a material exposure to interest rate risk and market risk arising from our investments. Therefore, no quantitative tabular disclosure is provided.

We transact business primarily in the United States. Accordingly, we have not had any significant exposure to foreign currency rate fluctuations.

For further information about our equity investments, please refer to Note 4 of the Notes to Consolidated Financial Statements included in Part II of this Annual Report on Form 10-K.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

TABLE OF CONTENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
Workhorse Group Inc.

Opinion on internal control over financial reporting

We have audited the internal control over financial reporting of Workhorse Group Inc. (a Nevada corporation) and subsidiaries (the "Company") as of December 31, 2021, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated financial statements of the Company as of and for the year ended December 31, 2021, and our report dated March 1, 2022 expressed an unqualified opinion on those financial statements.

Basis for opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report On Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and limitations of internal control over financial reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ GRANT THORNTON LLP

Cincinnati, Ohio
March 1, 2022

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

Board of Directors and Shareholders
Workhorse Group Inc.

Opinion on the financial statements

We have audited the accompanying consolidated balance sheets of Workhorse Group Inc. (a Nevada corporation) and subsidiaries (the "Company") as of December 31, 2021 and 2020, the related consolidated statements of operations, comprehensive (loss) income, stockholders' equity (deficit), and cash flows for each of the three years in the period ended December 31, 2021, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in the 2013 *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"), and our report dated March 1, 2022 expressed an unqualified opinion.

Basis for opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical audit matters

The critical audit matters communicated below are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

Convertible Notes Fair Value Determination

As described further in Note 8 and Note 12 of the consolidated financial statements, the Company issued $200.0 million in convertible notes in October 2020. The outstanding principal balance and fair value of the convertible notes is $27.5 million and $24.7 million as of December 31, 2021, respectively. The Company elected to account for the convertible notes using the fair value option, which allows for valuing the Convertible Note (the hybrid financial instrument) at fair value in its entirety versus bifurcation of the embedded derivatives. The valuation of the Convertible Note at fair value utilizes inputs that are not observable directly. The fair value was determined using a binomial lattice valuation model, which is widely used for valuing convertible notes. The significant assumptions used in the model are the credit spread and volatility of the Company's common stock. We identified the fair value determination for this convertible note transaction as a critical audit matter.

The principal consideration for our determination that the fair value determination for the convertible note transaction as a critical audit matter is that the fair value is sensitive to changes in the key inputs and assumptions, and therefore required judgement in evaluating their reasonableness. Significant assumptions used by management to estimate the fair value of the convertible notes included estimates of the redemption dates, credit spreads and the market price and volatility of the Company's common stock.

Our audit procedures related to the critical audit matter included the following, among others:

- We obtained an understanding, evaluated the design and tested the operating effectiveness of controls over estimating the fair value of the convertible notes.
- We involved our valuation specialists to evaluate the Company's determination of the fair value of the convertible notes, including testing the appropriateness of the methodology and underlying assumptions used, evaluating the sensitivity of management's key estimates, independent sourcing of key inputs and assumptions, and developing independent estimates. The significant assumptions used by management to estimate the fair value of the convertible notes included estimates of the redemption dates, credit spreads and the market price and volatility of the Company's common stock.

Inventory reserves

As described further in Note 1 to the consolidated financial statements, adjustments are made to inventory for any excess or obsolete inventories or when the net realizable value of inventories is less than the carrying value. The Company reviews inventory to determine whether its carrying value exceeds the net amount realizable upon the ultimate sale of the inventory. This requires the Company to determine the estimated selling price of inventory based on market conditions. We identified the inventory reserves as a critical audit matter.

The principal considerations for our determination that inventory reserves represent a critical audit matter are that the assessment of the valuation of inventory is complex and includes an estimate of inventory that can be used in production and estimated selling prices of finished goods. The estimates are subjective and requires the Company to consider significant assumptions such as estimated selling prices of vehicles, production plans and value of inventory on-hand to support those plans, and reserve percentages applied, all of which are subject to significant uncertainty and therefore require significant auditor judgment.

Our audit procedures related to inventory reserves included the following, among others:

- We obtained management's analysis of raw materials and expected use of on-hand products, recalculated inputs into the analysis, and tested for completeness and accuracy. This included, among other inputs, bills of materials and general ledger balances.
- We evaluated the appropriateness of reserve percentages applied to categories of on-hand raw materials and performed recalculations of management's analysis, including testing the completeness and accuracy of those inventory categories being reserved against.
- We made inquiries of management and evaluated the appropriateness of judgments, assumptions and documentation supporting adjustments to the net realizable value of inventory.
- We evaluated the appropriateness of the estimated selling prices of finished goods, less cost to sell, and recalculated management's calculation to write down work in process balances to estimated selling price, less cost to complete and sell.
- We tested the design and operating effectiveness of controls related to inventory reserves.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2018.

Cincinnati, Ohio
March 1, 2022

Workhorse Group Inc.
Consolidated Balance Sheets

	December 31, 2021	December 31, 2020
Assets		
Current assets:		
Cash and cash equivalents	$ 201,647,394	$ 46,817,825
Restricted cash held in escrow	—	194,411,242
Accounts receivable, less allowance for credit losses of $0 at December 31, 2021 and 2020	149,776	1,037,466
Inventory, net	10,067,367	15,467,012
Prepaid expenses and other current assets	4,357,829	32,759,216
Total current assets	216,222,366	290,492,761
Property, plant and equipment, net	7,897,807	11,398,166
Operating lease right-of-use assets	1,538,852	—
Other assets	2,479,865	94,698
Investment in LMC	—	330,556,744
Total Assets	$ 228,138,890	$ 632,542,369
Liabilities		
Current liabilities:		
Accounts payable	$ 7,849,607	$ 4,790,763
Accrued liabilities and other	14,752,827	5,995,302
Warranty liability	4,583,916	5,400,000
Current portion of lease liability	363,714	—
PPP Term Note	—	1,411,000
Total current liabilities	27,550,064	17,597,065
Other long-term liabilities	—	207,040
Lease liability, long-term	1,191,053	—
Deferred tax liability	—	21,833,930
Convertible notes, at fair value	24,705,000	197,700,000
Total Liabilities	53,446,117	237,338,035
Commitments and contingencies		
Stockholders' Equity:		
Series A preferred stock, par value of $0.001 per share, 75,000,000 shares authorized, zero shares issued and outstanding at December 31, 2021 and 2020	—	—
Common stock, par value of $0.001 per share, 250,000,000 shares authorized, 151,915,455 and 121,922,532 shares issued and outstanding at December 31, 2021 and 2020, respectively	151,916	121,923
Additional paid-in capital	686,318,201	504,112,442
Accumulated deficit	(510,374,844)	(109,030,031)
Accumulated other comprehensive loss	(1,402,500)	—
Total stockholders' equity	174,692,773	395,204,334
Total Liabilities and Stockholders' Equity	$ 228,138,890	$ 632,542,369

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.
Consolidated Statements of Operations

	For the Years Ended December 31,		
	2021	2020	2019
Sales, net of returns and allowances	$ (851,922)	$ 1,392,519	$ 376,562
Cost of sales	132,492,110	13,067,108	5,844,891
Gross loss	(133,344,032)	(11,674,589)	(5,468,329)
Operating expenses			
Selling, general and administrative	40,160,795	20,157,658	10,199,534
Research and development	11,610,027	9,148,931	8,199,074
Total operating expenses	51,770,822	29,306,589	18,398,608
Loss from operations	(185,114,854)	(40,981,178)	(23,866,937)
Interest expense, net	12,644,164	190,520,337	29,145,690
Other loss (income)	225,432,884	(323,111,944)	(15,849,800)
(Loss) income before (benefit) provision for income taxes	(423,191,902)	91,610,429	(37,162,827)
(Benefit) provision for income taxes	(21,847,089)	21,833,930	—
Net (loss) income	$ (401,344,813)	$ 69,776,499	$ (37,162,827)
Net (loss) income attributable to common stockholders per share - basic	$ (3.12)	$ 0.75	$ (0.58)
Net (loss) income attributable to common stockholders per share - diluted	$ (3.12)	$ 0.70	$ (0.58)
Weighted average number of common shares outstanding - basic	128,676,131	92,871,936	64,314,756
Weighted average number of common shares outstanding - diluted	128,676,131	99,949,868	64,314,756

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.

Consolidated Statements of Comprehensive (Loss) Income

	For the Years Ended December 31,		
	2021	2020	2019
Net (loss) income	$ (401,344,813)	$ 69,776,499	$ (37,162,827)
Other comprehensive loss			
Change in fair value of convertible notes attributable to credit spread	(1,402,500)	—	—
Comprehensive (loss) income	$ (402,747,313)	$ 69,776,499	$ (37,162,827)

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.

Consolidated Statements of Stockholders' Equity (Deficit)

For the Years Ended December 31, 2021, 2020 and 2019

	Common Stock		Series A Preferred Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity (Deficit)
	Number of Shares	Amount	Number of Shares	Amount				
Balance as of December 31, 2018	58,270,934	$ 58,271	—	$ —	$ 126,076,782	$ (141,557,496)	$ —	$ (15,422,443)
Issuance of common stock	7,183,488	7,184	—	—	5,921,051	—	—	5,928,235
Stock options and warrants exercised, and vesting of restricted shares	630,141	630	—	—	34,676	—	—	35,306
Reclassification of warrants to equity	—	—	—	—	857,072	—	—	857,072
Deemed dividend	116,496	116	—	—	86,091	(86,207)	—	—
Value of warrants issued with Series B Preferred Stock	—	—	—	—	6,709,961	—	—	6,709,961
Value of warrants issued with convertible notes	—	—	—	—	430,000	—	—	430,000
Common stock issued for preferred stock dividends	718,755	719	—	—	1,166,052	—	—	1,166,771
Conversion of convertible notes	185,186	185	—	—	564,632	—	—	564,817
Stock-based compensation	—		—	—	1,979,998	—	—	1,979,998
Net loss for the year ended December 31, 2019	—		—	—	—	(37,162,827)	—	(37,162,827)
Balance as of December 31, 2019	67,105,000	67,105	—	—	143,826,315	(178,806,530)	—	(34,913,110)
Stock options and warrants exercised, and vesting of restricted shares*	33,932,827	33,933	—	—	82,059,699	—	—	82,093,632
Common stock issued for preferred stock dividends	920,901	922	—	—	1,490,938	—	—	1,491,860
Conversion of convertible notes	19,605,013	19,605	—	—	270,775,079	—	—	270,794,684
Common stock issued for interest on convertible notes	358,791	358	—	—	1,939,606	—	—	1,939,964
Stock-based compensation	—	—	—	—	4,020,805	—	—	4,020,805
Net income for the year ended December 31, 2020	—	—	—	—	—	69,776,499	—	69,776,499
Balance as of December 31, 2020	121,922,532	121,923	—	—	504,112,442	(109,030,031)	—	395,204,334
Stock options and warrants exercised, and vesting of restricted shares *	2,281,393	2,281	—	—	(4,431,444)	—	—	(4,429,163)
Conversion of convertible notes	27,711,530	27,712	—	—	181,693,823	—	—	181,721,535
Stock-based compensation	—	—	—	—	4,943,380	—	—	4,943,380
Net loss for the year ended December 31, 2021	—	—	—	—	—	(401,344,813)	—	(401,344,813)
Other comprehensive loss	—	—	—	—	—	—	(1,402,500)	(1,402,500)
Balance as of December 31, 2021	151,915,455	$ 151,916	—	$ —	$ 686,318,201	$ (510,374,844)	$ (1,402,500)	$ 174,692,773

** Net of tax payments related to shares withheld for option exercises and vested stock.*

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.
Consolidated Statements of Cash Flows

	For the Years Ended December 31, 2021	2020	2019
Cash flows from operating activities:			
Net (loss) income	$ (401,344,813)	$ 69,776,499	$ (37,162,827)
Adjustments to reconcile net (loss) income to net cash used in operations:			
Depreciation	1,908,419	809,645	388,401
Amortization of discount and debt issuance costs on convertible notes and long-term debt	—	6,550,212	3,518,356
Amortization of discount and loss on redemption of mandatorily redeemable Series B preferred stock	—	5,857,092	852,869
Change in fair value of convertible notes and loss on conversion to common stock	7,324,035	160,749,118	1,064,817
Change in fair value of warrant liability	—	12,176,690	15,369,253
Change in fair value of investment in LMC	225,429,997	(318,361,944)	—
Dividends for mandatorily redeemable Series B preferred stock paid in common stock	—	1,491,860	1,166,771
Interest on convertible notes paid in common stock	—	1,939,964	—
Stock-based compensation	4,943,380	4,020,805	1,979,998
Reserve of inventory and prepaid purchases	98,918,102	—	694,448
Impairment of property, plant and equipment	6,803,280	—	—
Forgiveness of PPP Term Note	(1,411,000)	—	—
Deferred tax (benefit) expense	(21,833,930)	21,833,930	—
Gain on divestiture	—	—	(3,655,000)
Investment received from license of intellectual property	—	—	(12,194,800)
Other non-cash items	102,858	350,500	19,367
Effects of changes in operating assets and liabilities:			
Accounts receivable	982,388	(961,966)	76,163
Inventory	(69,606,432)	(13,668,866)	41,022
Prepaid expenses and other current assets	4,489,362	(27,947,128)	(4,367,928)
Other assets	(91,909)	—	—
Accounts payable and accrued liabilities	11,832,284	5,499,464	(3,605,682)
Warranty liability	(816,084)	(601,864)	(1,056,905)
Other long-term liabilities	(207,040)	207,040	—
Net cash used in operating activities	(132,577,103)	(70,278,949)	(36,871,677)
Cash flows from investing activities:			
Capital expenditures	(5,314,198)	(5,728,130)	(2,000,498)
Net proceeds received on divestiture	—	—	3,655,000
Proceeds from sale of Investment in LMC	105,126,747	—	—
Net cash provided by (used in) investing activities	99,812,549	(5,728,130)	1,654,502
Cash flows from financing activities:			
Proceeds from notes payable and debt	—	1,411,000	5,854,140
Payments on notes payable and long-term debt	—	—	(17,194,840)
(Redemption of), proceeds from issuance of mandatorily redeemable Series B preferred stock	—	(25,000,000)	25,000,000
Proceeds from issuance of convertible notes	—	262,374,788	38,950,000
Proceeds from issuance of common stock	—	—	5,928,235
Exercise of warrants and options and restricted share award activity	(4,429,163)	53,581,942	35,306
Other	(2,387,956)	—	—
Net cash (used in) provided by financing activities	(6,817,119)	292,367,730	58,572,841
Change in cash, cash equivalents and restricted cash	(39,581,673)	216,360,651	23,355,666
Cash, cash equivalents and restricted cash, beginning of the year	241,229,067	24,868,416	1,512,750
Cash, cash equivalents and restricted cash, end of the year	$ 201,647,394	$ 241,229,067	$ 24,868,416

See accompanying notes to the consolidated financial statements.

During the year ended December 31, 2021, cash paid for interest was approximately $8.2 million, which consisted primarily of contractual interest on our convertible notes.

During the year ended December 31, 2020, cash paid for interest was approximately $12.7 million, which consisted of $7.6 million of direct costs incurred in connection with the issuance of our convertible notes, $4.7 million loss on redemption of our Series B Preferred Stock, and $0.4 million of financing fees.

During the year ended December 31, 2019, cash paid for interest was approximately $7.2 million, which consisted primarily of contractual interest on long-term debt.

The following table provides a reconciliation of Cash and Cash Equivalents, and Restricted Cash Held in Escrow to the amounts reported within the Consolidated Balance Sheets:

	December 31,	
	2021	2020
Cash and cash equivalents	$ 201,647,394	$ 46,817,825
Restricted cash held in escrow	—	194,411,242
Total cash, cash equivalents and restricted cash held in escrow	$ 201,647,394	$ 241,229,067

Supplemental disclosure of non-cash activities:

During the year ended December 31, 2021, the Company issued approximately27.7 million shares of common stock in connection with the conversion of convertible notes, which were valued at approximately $181.7 million. The Company recognized the conversion as an adjustment to Additional Paid-In Capital, with the offset as a reduction to the fair value of the convertible notes.

During the year ended December 31, 2020, the Company issued approximately19.6 million shares of common stock in connection with the conversion of convertible notes, which were valued at approximately $270.8 million. The Company recognized the conversion as an adjustment to Additional Paid-In Capital, with the offset as a reduction to the fair value of the convertible notes.

During the year ended December 31, 2019, the Company issued warrants to purchase common stock in connection with the issuance of our Series B Preferred Stock, which were valued at approximately $6.7 million. The Company recorded Additional Paid-In Capital, with the offset as a discount on the Series B Preferred Stock.

See accompanying notes to the consolidated financial statements.

1. SUMMARY OF BUSINESS AND SIGNIFICANT ACCOUNTING PRINCIPLES

Overview

We are a technology company with a vision to pioneer the transition to zero-emission commercial vehicles. Our primary focus is to provide sustainable and cost-effective solutions to the commercial transportation sector. We design and manufacture all-electric delivery trucks and drone systems, including the technology that optimizes the way these vehicles operate. We are focused on our core competency of bringing our electric delivery vehicle platforms to market.

Principles of Consolidation

The accompanying consolidated financial statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”) and reflect our accounts and operations and those of our wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated upon consolidation.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, costs and expenses and related disclosures in the accompanying notes.

Due to the COVID-19 pandemic, there has been uncertainty and disruption in the global economy and financial markets. We have assessed the impact of the pandemic and are not aware of any specific events or circumstances that required an update to our estimates and assumptions or materially affected the carrying value of our assets or liabilities as of the date of this Annual Report on Form 10-K. These estimates may change as new events occur and additional information is obtained. Actual results could differ from these estimates under different assumptions and conditions.

Reclassifications

Certain prior period balances have been reclassified to conform to the current year presentation in the consolidated financial statements and the accompanying notes. These reclassifications have no effect on previously reported results of operations or stockholders’ equity.

Cash and Cash Equivalents

All highly liquid investments with an original maturity of three months or less at the date of acquisition are considered cash equivalents.

Restricted Cash

As of December 31, 2020, we maintained certain cash balances restricted as to withdrawal or use. Our restricted cash consisted primarily of cash received through financing transactions that had not been released for use by us and cash held as collateral for certain payments. The restricted cash was released for use during the first quarter of 2021 reducing the restricted cash balance to zero as of December 31, 2021.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable primarily include amounts related to sales of our products and services rendered. We provide an allowance against accounts receivable for the amount we expect to be uncollectible. We write-off accounts receivable against the allowance when they are deemed uncollectible.

Inventory Valuation

Inventories are stated at the lower of cost or net realizable value. We write-down inventory for any excess or obsolete inventories or when we believe the net realizable value of inventories is less than the carrying value. We review our inventory to determine whether its carrying value exceeds the net amount realizable upon the ultimate sale of the inventory. This requires us to determine the estimated selling price of our inventory based on market conditions. Once inventory is written-down, a new, lower cost basis for that inventory is established and subsequent changes in facts and circumstances do not result in the restoration or increase in that newly established cost basis.

Should our estimates of future inventory usage or selling prices change, additional and potentially material increases to this reserve may be required. A small change in our estimates may result in a material charge to our reported financial results.

Property, Plant and Equipment, Net

Property, plant and equipment, net, including leasehold improvements, are recognized at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the respective assets, as follows:

Buildings and improvements	15 - 39 years
Land improvements	15 years
Equipment and vehicles	3 - 6 years
Tooling	5 years

Leasehold improvements are depreciated on a straight-line basis over the shorter of their estimated useful lives or the term of the related leases.

Upon the retirement or sale of our property, plant and equipment, the cost and associated accumulated depreciation are removed from the consolidated balance sheet, and the resulting gain or loss is reflected on the consolidated statement of operations. Maintenance and repair expenditures are expensed as incurred while major improvements that increase the functionality, output or expected life of an asset are capitalized and depreciated ratably over the identified useful life.

Impairment of Long-Lived Assets

Long-lived assets, such as property, plant, and equipment are reviewed for potential impairment whenever events or changes in circumstances indicate the carrying amount of an asset or asset group may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset or asset group to estimated undiscounted future cash flows expected to be generated by the asset or asset group. If the carrying amount of an asset or asset group exceeds its estimated undiscounted future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset or asset group exceeds the fair value of the asset or asset group.

Valuation of Investment

We had an investment in Class A Common Stock of Lordstown Motor Corp. (“LMC”) which began trading on the Nasdaq Global Select market under the ticker symbol “RIDE” on October 26, 2020. We sold our investment during the third quarter of 2021.

Warranty

We generally offer warranty coverage for our products. We accrue warranty related costs under standard warranty terms and for certain claims outside the contractual obligation period that we choose to pay as accommodations to our customers.

Provisions for estimated assurance warranties are recorded at the time of sale and are periodically adjusted to reflect actual experience. The amount of warranty liability accrued reflects management’s best estimate of the expected future cost of honoring Company obligations under the warranty plans. Historically, the cost of fulfilling the Company’s warranty obligations has principally involved replacement parts, towing and transportation costs, labor and sometimes travel for any field retrofit campaigns. The Company’s estimates are based on historical experience, the extent of pre-production testing, the number of units involved and the extent of features/components included in product models. The Company reviews actual warranty claims experience to determine if there are systemic defects that would require a field campaign.

Although we believe the estimates and judgments discussed herein are reasonable, actual results could differ and we may be exposed to increases or decreases in our warranty accrual that could be material.

Activity for the Company's warranty accrual is as follows:

	December 31,	
	2021	2020
Balance, beginning of year	$ 5,400,000	$ 6,001,864
Accrual for warranty[1]	1,045,578	2,115,762
Warranty costs incurred	(1,861,662)	(2,717,626)
Balance, end of year	$ 4,583,916	$ 5,400,000

[1] The increase to the warranty accrual in 2021 primary relates to changes in the amount of labor required to maintain our current warranty program as well as increased transportation costs relating to our 2016 and 2017 E-Series trucks. The expense includes estimated costs for labor and transportation and excludes any contributions from vendors.

Fair Value Option

As permitted under ASC 825, *Financial Instruments*, the Company has elected the fair value option to account for its convertible notes. In accordance with ASC 825, the Company records its convertible notes at fair value with changes in fair value recorded in Interest Expense in the Consolidated Statement of Operations. As a result of applying the fair value option, direct costs and fees related to the convertible notes were recognized in earnings as incurred and not deferred.

Income Taxes

We file a consolidated U.S. federal income tax return and separate state and local income tax returns. We account for income taxes under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and tax benefit carryforwards. Deferred tax assets and liabilities at the end of each period are determined using enacted tax rates. A valuation allowance is established or maintained when, based on currently available information, it is more likely than not all or a portion of a deferred tax asset will not be realized.

We recognize the tax benefit from an uncertain tax position claimed or expected to be claimed on a tax return only if it is more likely than not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position. The tax benefits recognized in the Consolidated Financial Statements from such a position are measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement.

Revenue Recognition

Revenue is recognized when obligations under the terms of a contract with our customer are satisfied; generally this occurs when we transfer control of our vehicles, parts, or accessories, or provide services. Revenue is measured as the amount of consideration we expect to receive in exchange for transferring goods or providing services. For the majority of sales, this occurs when products are shipped from our manufacturing facility. At the time of revenue recognition, we reduce the transaction price and record a sales return reserve against revenue for estimated variable considerations related to future product returns. Such estimates are based on an analysis of known pending returns and historical experience. We adjust our estimate of revenue at the earlier of when the value of consideration we expect to receive changes or when the consideration becomes fixed.

Sales and other taxes we collect concurrent with revenue-producing activities are excluded from revenue. Incidental items that are immaterial in the context of the contract are recognized as expense. The expected costs associated with our base warranties and field service actions are recognized as expense when the products are sold. We do not have any material significant payment terms as payment is received at or shortly after the point of sale.

Revenue related to extended service contracts are recognized over the term of the agreement in proportion to the costs we expect to incur in satisfying the contract obligations.

We have elected to recognize the cost for freight and shipping when control over vehicles, parts, or accessories have transferred to the customer as an expense in Cost of Sales.

Cost of Sales

Cost of sales include direct parts, material and labor costs, manufacturing overhead, including depreciation costs of tooling and machinery, shipping and logistics costs, and reserves for estimated warranty expenses. Cost of sales also includes charges to write down the carrying value of our inventory when it exceeds its estimated net realizable value and to provide for obsolete and on-hand inventory in excess of forecasted demand.

Research and development costs

Research and development costs are expensed as incurred.

Marketing, Promotional and Advertising Costs

Marketing, promotional and advertising costs are expensed as incurred and are included as an element of selling, general and administrative expense in the consolidated statement of operations.

Comprehensive Income (Loss)

Comprehensive income (loss) is comprised of net income (loss) and other comprehensive income (loss). Other comprehensive income (loss) consists of adjustments to the fair value of our convertible notes due to changes in credit risk.

Stock-Based Compensation

We recognize compensation expense for costs related to all stock-based arrangements, including stock options, restricted stock awards ("RSA") and performance-based share units ("PBSUs")." The fair value of stock option awards with only service conditions is estimated on the grant or offering date using the Black-Scholes option-pricing model. The fair value of RSAs is measured on the grant date based on the closing fair market value of our common stock. The fair value of PBSUs is estimated using a Monte-Carlo simulation model. Stock-based compensation expense is recognized on a straight-line basis over the requisite service period, net of actual forfeitures in the period.

As we accumulate additional employee stock-based awards over time and as we incorporate market data related to our common stock, we may calculate significantly different volatilities and expected lives, which could materially impact the valuation of our stock-based awards and the stock-based compensation expense that we will recognize in future periods. Stock-based compensation expense is recorded in Selling, General and Administrative Expense in the Consolidated Statements of Operations.

Net Income (Loss) per Share of Common Stock

Basic income (loss) per share of common stock is calculated by dividing net income (loss) by the weighted-average shares outstanding for the period. Potentially dilutive shares, which are based on the weighted-average shares of common stock underlying outstanding stock-based awards and warrants using the treasury stock method, and convertible notes using the if-converted method, are included when calculating the diluted net loss per share of common stock when their effect is dilutive.

The following table presents the reconciliation of net (loss) income and reconciliation of basic and diluted weighted average shares outstanding used in computing diluted net loss per share of common stock:

	Year Ended December 31,		
	2021	2020	2019
Net (loss) income	$ (401,344,813)	$ 69,776,499	$ (37,162,827)
Interest on convertible notes	—	—	—
Deemed dividends	—	—	86,207
Adjusted net (loss) income	$ (401,344,813)	$ 69,776,499	$ (37,249,034)
Basic weighted average shares outstanding	128,676,131	92,871,936	$ 64,314,756
Dilutive effect of options and warrants	—	1,410,605	—
Dilutive effect of convertible notes	—	5,667,327	—
Diluted weighted average shares outstanding	128,676,131	99,949,868	64,314,756

The following table presents the potentially dilutive shares that were excluded from the computation of diluted net (loss) income per share of common stock, because their effect was anti-dilutive:

	Year Ended December 31,		
	2021	2020	2019
Stock-based awards and warrants	3,152,059	1,041,531	36,021,502
Convertible notes	779,258	—	—

Approximately 13.3 million shares of common stock representing the conversion of the High Trail Convertible Note (as defined in Note 8) were excluded from basic and diluted weighted average shares outstanding in the table above for the year ended December 31, 2019. This note was converted to shares of common stock in 2020.

2. INVENTORY

Our inventory consisted of the following:

	December 31,	
	2021	2020
Raw materials	$ 66,238,615	$ 16,759,232
Work in process	20,826,644	422,176
Finished goods	—	277,419
	87,065,259	17,458,827
Less: inventory reserve	(76,997,892)	(1,991,815)
Inventory, net	$ 10,067,367	$ 15,467,012

We reserve inventory for any excess or obsolete inventories or when we believe the net realizable value of inventories is less than the carrying value. The year over year increase to inventory reserves was primarily driven by the Company's decision to produce the C-1000 platform at low-volume and transition to a new all-electric delivery truck platform in the near future. This decision was based on results of extensive testing performed on the C-1000 vehicles, which concluded in early 2022.

3. PREPAID EXPENSES AND OTHER CURRENT ASSETS

Prepaid expenses and other current assets consisted of the following:

	December 31,	
	2021	2020
purchases	$ 24,101,695	31,836,147
repaid purchases reserve	(23,912,025)	—
purchases, net	189,670	31,836,147
insurance	2,205,608	771,037
f return asset	1,620,000	—
	342,551	152,032
expenses and other current assets	$ 4,357,829	32,759,216

The Company's prepaid purchases balance consists of deposits made to our suppliers for non-recurring engineering costs and production parts. As of December 31, 2021 and 2020, the prepaid purchases balances primarily consisted of deposits made in connection with the production of our C-Series vehicles.

During the year ended December 31, 2021, we recorded reserves of $23.9 million in cost of sales, which were primarily driven by the Company's decision to produce the C-1000 platform at low-volume and transition to a new all-electric delivery truck platform in the near future. This decision was based on results of extensive testing performed on the C-1000 vehicles, which concluded in early 2022. The write-downs represent our best estimate of deposits on orders that we do not expect to recover.

4. INVESTMENT IN LORDSTOWN MOTORS CORP. ("LMC")

As of December 31, 2020, the Company owned approximately 16.5 million shares of LMC Class A Common Stock. During the third quarter of 2021, the Company sold its Investment in LMC at an average price of $6.42 per share. Proceeds from the sale, net of transaction expenses and broker commissions, were approximately $105.1 million. The Company recognized a loss of approximately $76.5 million in connection with the sale, which is recorded in other loss on the consolidated statements of operations.

The following table sets forth a reconciliation of our investment in LMC:

	December 31, 2021	December 31, 2020
Balance, beginning of year	$ 330,556,744	$ 12,194,800
Change in fair value	(225,429,997)	317,497,044
Sales of investment	(105,126,747)	
Fair value of anti-dilution shares	—	864,900
Balance, end of year	$ —	$ 330,556,744

LMC Merger

On August 1, 2020, LMC began trading its common stock on the Nasdaq Global Select market under the ticker symbol "RIDE" through its merger with DiamondPeak Holdings Corp. Following the closing of the merger, the Company owned approximately 16.5 million shares of LMC common stock and no longer had anti-dilution rights or similar protections. Additionally, the merger defined the amount of the Royalty Advance as $ 4.8 million, which was received and is recorded in Other Income in the Consolidated Statements of Operations for the year ended December 31, 2020.

LMC Transaction

On November 7, 2019, the Company entered into a transaction with LMC (the "LMC Transaction") in which the Company granted LMC a perpetual and worldwide license to certain intellectual property relating to the Company's W-15 electric pickup truck platform and its related technology in exchange of consideration as described below:

- A ten percent ownership interest in the common stock of LMC in exchange for the Company's obligations under the Intellectual Property License Agreement and anti-dilution rights for two years. The Company no longer has anti-dilution rights following the LMC Merger and the Company's ten percent ownership interest in LMC was sold during the third quarter of 2021, as described above.
- One percent of the aggregate debt and equity commitments funded to LMC upon completion of a capital raise (the "Royalty Advance").
- A one percent royalty on the gross sales price of the first 200,000 vehicles sold by LMC, to the extent that the aggregate amount of such royalty fees exceeds the amount paid as the Royalty Advance.

The consideration included fixed and variable components. The fixed components consisted of the ten percent ownership interest in LMC and amounts received under the Royalty Advance. The variable component consists of the one percent royalty on the gross sales price of the first 200,000 vehicles sold by LMC. Variable consideration will be recognized when each vehicle for which a royalty is sold.

5. REVENUE

During the years ended December 31, 2021, 2020 and 2019, the Company recognized sales, net of returns and allowances, of approximately $(0.9) million, $1.4 million, and $0.4 million, respectively. The majority of sales recognized during the last three years relate to the Company's automotive business, consisting primarily of sales of C-1000 vehicles.

During the third quarter of 2021, the Company announced its decision to suspend deliveries of our C-1000 vehicles and recall previously delivered vehicles when management determined additional testing and modifications are required to bring the

C-1000 vehicles into full compliance with Federal Motor Vehicle Safety Standards. In connection with the recall, the Company agreed to refund our customers for all C-1000 vehicles previously purchased by them.

The Company determines its allowance for estimated returns based on known pending returns and historical trends in product returns. The refund liability as of December 31, 2021 and 2020, was $2.4 million and zero, respectively.

The Company also records an asset for our right to recover products from customers settling a refund liability. The Company measures the asset at the asset's former carrying amount, less any expected costs to recover, and updates the measurement of the asset arising from changes in expectations about products to be returned. The asset for recovery as of December 31, 2021 and 2020 was $1.6 million and zero, respectively.

6. PROPERTY, PLANT AND EQUIPMENT, NET

Property, plant and equipment, net consists of the following:

	December 31,	
	2021	2020
Land and improvements	$ 861,175	$ 794,875
Buildings and improvements	6,396,800	6,005,505
Equipment and vehicles	3,603,655	1,847,696
Tooling	1,467,712	2,079,471
Construction in progress	927,537	4,129,568
	13,256,879	14,857,115
Less: accumulated depreciation	(5,359,072)	(3,458,949)
Property, plant and equipment, net	$ 7,897,807	$ 11,398,166

Construction in progress is primarily comprised of equipment and tooling related to the manufacturing of our products. Completed assets are transferred to their respective asset classes, and depreciation begins when an asset is ready for its intended use.

During the year ended December 31, 2021, we recorded a $6.8 million impairment charge in cost of sales, which reduced the carrying value of certain assets such as tooling and machinery related to the production of the C-Series vehicles that are no longer intended to be used.

Depreciation expense during the years ended December 31, 2021, 2020 and 2019 was $1.9 million, $0.8 million, and $0.4 million respectively.

7. ACCRUED LIABILITIES AND OTHER

Accrued liabilities and other current liabilities consisted of the following:

	December 31,	
	2021	2020
d commissions	$ 4,000,000	—
nsation and related costs	4,030,085	2,537,353
liability	2,410,000	—
d interest	232,222	1,711,111
	4,080,520	1,746,838
d liabilities and other	$ 14,752,827	5,995,302

8. DEBT

A reconciliation of the fair value of the convertible notes is as follows:

	December 31, 2021	December 31, 2020
Balance, beginning of year	$ 197,700,000	$ 39,020,000
Fair value of convertible notes issued	—	268,925,000
Change in fair value of convertible notes[1]	(27,600,000)	125,749,361
Change in fair value of convertible notes attributable to credit risk[2]	10,200,000	(1,100,000)
Fair value of convertible notes exchanged for common stock	$ (155,595,000)	$ (234,894,361)
Fair value of convertible notes, end of year	$ 24,705,000	$ 197,700,000

(1) The Company recognizes changes in fair value of convertible notes for common stock in Interest Expense, Net in the Consolidated Statements of Operations.

(2) The Company recognizes changes in fair value of convertible notes attributable to credit risk in Other Comprehensive Loss. During the years ended December 31, 2021 and 2020, the Company reclassified $8.8 million and $(1.1) million, respectively, of the changes in fair value of convertible notes attributable to credit risk previously recognized in Other Comprehensive Loss to Interest Expense (Income). The net amount of changes to in fair value of convertible notes attributable to credit risk recognized in Other Comprehensive Loss (Income) for the years ended December 31, 2021 and 2020 was approximately $1.4 million and zero, respectively.

4.0% Senior Secured Convertible Notes Due 2024

On October 14, 2020 the Company issued $200.0 million par value convertible notes (the “2024 Notes”) due October 14, 2024. The 2024 Notes are a senior secured obligation of the Company, and rank senior to all unsecured debt of the Company. The 2024 Notes are guaranteed by all the Company’s current and future subsidiaries and are secured by substantially all the assets of the Company and its subsidiaries. Interest is payable quarterly beginning on January 15, 2021 at a rate of 4.0% per annum. The 2024 Notes are convertible at a rate of $35.29 per share, subject to change for anti-dilution adjustments and adjustments for certain corporate events. The 2024 Notes will generally not be redeemable at the Company's option prior to the third anniversary of their issue date and there are no required redemptions.

The 2024 Notes contain certain covenants, including limitations on liens, additional indebtedness, investments, dividends and other restricted payments, and customary events of default. The Company is also required to have a minimum sales backlog of at least $25.0 million as of March 31, 2022, $50.0 million as of June 30, 2022, $75.0 million as of September 30, 2022 and $100.0 million as of December 31, 2022. As of December 31, 2021, the Company is not aware of any default or breach of any covenant under the 2024 Notes. Due to the Company's decision to produce the C-1000 platform at low-volume and transition to a new all-electric delivery truck platform, we will seek to convert our previous purchase orders with certain customers to new orders for the modified C-1000 and W750 platforms in the near term, and the W56 and W34 platforms in the long term, to satisfy the covenant requirements in 2022. As such, we continue to classify the balance of the 2024 Notes as long-term on the Consolidated Balance Sheets as of December 31, 2021.

The Company paid fees in connection with the issuance of the 2024 Notes of approximately $6.6 million, resulting in net proceeds to the Company of approximately $193.4 million. As we have elected to account for our convertible notes using the fair value option allowed under GAAP, all direct costs related to the issuance of our convertible notes were recognized in Interest Expense in the Consolidated Statements of Operations for the year ended December 31, 2020.

The Company was required to hold the proceeds in escrow until it completed certain requirements. As of December 31, 2020, the proceeds were recorded in Restricted Cash on the Consolidated Balance Sheet. In January 2021, such requirements were met and the proceeds were released from escrow.

As of December 31, 2021 and 2020, the contractual principal balance of the 2024 Notes was $27.5 million and $200.0 million, respectively and the fair value was $24.7 million and $197.7 million, respectively. Fair value adjustments of $(27.6) million and $(2.3) million related to the 2024 Notes were recorded in Interest Expense, Net in the Consolidated Statements of Operations during the years ended December 31, 2021 and 2020, respectively. Fair value adjustments related to the 2024 Notes attributable to changes in credit risk of $10.2 million and zero, were recorded in Other Comprehensive Loss during the years ended December 31, 2021 and 2020, respectively.

In the fourth quarter of 2021, the Company entered into securities exchange agreements with certain holders of its 2024 Notes, to exchange $172.5 million in principal amount of the notes for approximately 27.7 million shares of common stock. In connection with the exchanges, the Company recognized a total loss on exchange of approximately $34.9 million, which included $8.8 million of the fair value adjustments attributable to changes in credit risk previously recorded in Other Comprehensive Loss. The loss on exchange was recorded in Interest Expense in the Consolidated Statements of Operations.

High Trail Convertible Note II

On July 16, 2020, the Company issued a $70.0 million par value convertible note (the "Note II") due July 1, 2023. Interest was payable quarterly beginning October 1, 2020 at a rate of 4.5% per annum.

The Company paid fees in connection with the issuance of Note II of approximately $1.1 million, reducing the proceeds to the Company to approximately $68.9 million. All direct costs related to the issuance were recognized in Interest Expense in the Consolidated Statements of Operations for the year ended December 31, 2020.

During the year ended December 31, 2020, the fair value of the Note II increased approximately $52.9 million, which is recorded in Interest Expense in the Consolidated Statements of Operations for the year ended December 31, 2020.

On October 14, 2020, the Company exchanged the entire $70.0 million outstanding principal balance of Note II at a premium for approximately 5.2 million shares of common stock. The settlement cost was approximately $121.8 million which was calculated as the number of shares issued in exchange for Note II multiplied by the closing price of the Company's common stock on October 13, 2020, which was $23.63 per share.

High Trail Convertible Note

On December 9, 2019, the Company issued a $41.0 million par value convertible note ("High Trail Convertible Note" or "the Note") due November 2022. The fair value of the Note was $38.5 million upon issuance. Interest was payable quarterly beginning February 1, 2020, at a rate of 4.50% per annum.

The Note was issued with approximately 15.5 million warrants to purchase common stock of the Company at an initial exercise price of $3.05 per share. The Note and the warrants were determined to be freestanding instruments and were accounted for separately. The warrants were classified as equity instruments and the fair value was estimated to be approximately $0.4 million on December 9, 2019. The fair value of the warrants was recorded as an increase to Additional Paid-In Capital.

Fair value adjustments for the year ended December 31, 2020 and 2019 were approximately $74.1 million and $1.0 million, which were recorded in Interest Expense in the Consolidated Statements of Operations.

During the year ended December 31, 2020, the Company converted $40.5 million par value of the Note into approximately 14.4 million shares of common stock, resulting in a loss of approximately $35.9 million. During the year ended December 31, 2019, the Company converted $0.5 million par value of the Note into approximately 0.2 million shares of common stock, resulting in a gain of approximately $0.1 million. Gains and losses related to the conversions were recorded in Interest Expense in the Consolidated Statements of Operations.

PPP Term Note

On April 14, 2020, the Company entered into a Paycheck Protection Program Term Note ("PPP Note") under the Paycheck Protection Program of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The Company received proceeds of $1.4 million from the PPP Note, which was due on April 13, 2022. In accordance with the requirements of the CARES Act, the Company used the proceeds primarily for payroll costs. Interest accrued on the PPP Note at the rate of 1.0% per annum. The Company elected to account for the PPP Term Note as debt and accrued interest over its term.

On January 15, 2021, the outstanding principal and interest accrued on the PPP Note was forgiven and the Company recognized a gain of $1.4 million in Interest Income for the year ended December 31, 2021. Accordingly, the PPP Note was classified as current in the Consolidated Balance Sheet as of December 31, 2020.

9. LEASES

We have entered into various operating and finance lease agreements for offices, manufacturing and warehouse facilities. We determine if an arrangement is a lease, or contains a lease, at inception and record the leases in our financial statements upon lease commencement, which is the date when the underlying asset is made available for our use by the lessor.

We have elected not to disclose in the Consolidated Balance Sheet leases with a lease term of 12 months or less at lease inception that do not contain purchase a option or renewal term provision we are reasonably certain to exercise. All other lease assets and lease liabilities are recognized based on the present value of lease payments over the lease term at commencement date. Because most of our leases do not provide an implicit rate of return, we used our incremental borrowing rate based on the information available at lease commencement date in determining the present value of lease payments.

Our leases may include options to extend the lease term for up to5 years. Some of our leases also include options to terminate the lease prior to the end of the agreed upon lease term. For purposes of calculating lease liabilities, lease terms include options to extend or terminate the lease when it is reasonably certain that we will exercise such options.

Lease expense for operating leases is recognized on a straight-line basis over the lease term as cost of sales or operating expenses depending on the nature of the leased asset.

	Years Ended December 31,		
	2021	2020	2019
Short-term lease expense	$ 599,129	$ 145,585	$ 78,513
Operating lease expense	58,224	—	—
Total lease expense	$ 657,353	$ 145,585	$ 78,513

Other information related to leases is as follows:

	As of December 31,		
	2021	2020	2019
Weighted-average remaining lease term			
Operating leases	4.0 years	N/A	N/A
Weighted-average interest rate			
Operating leases	10.0 %	N/A	N/A

Supplemental cash flow information related to leases where we are the lessee is as follows:

	Years Ended December 31,		
	2021	2020	2019
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash outflows from operating leases	$ 657,353	$ 145,585	$ 78,513
Operating cash outflows from finance leases (interest payments)	—	—	—
Financing cash outflows from finance leases	—	—	—
Leased assets obtained in exchange for finance lease liabilities	—	—	—
Leased assets obtained in exchange for operating lease liabilities	1,577,774	—	—

As of December 31, 2021, the maturities of our operating and finance lease liabilities (excluding short-term leases) are as follows:

	Operating Leases	Finance Leases
2022	$ 635,263	$ 857,516
2023	861,623	879,444
2024	1,052,365	2,752,862
2025	827,802	—
2026	851,634	—
Thereafter	1,648,662	—
Total minimum lease payments	5,877,349	4,489,822
Less: Interest	381,660	—
Less: Leases not yet commenced [1]	3,940,922	4,489,822
Present value of lease obligations	1,554,767	—
Less: Current portion	363,714	—
Long-term portion of lease obligations	$ 1,191,053	$ —

[1] As of December 31, 2021, we have certain leases that were executed, but where we did not have control of the underlying assets, therefore, the lease liabilities and right-of-use assets are not recorded in the balance sheet. The finance lease is for a warehouse facility and includes a purchase option which is exercisable through December 31, 2024.

10. MANDATORILY REDEEMABLE SERIES B PREFERRED STOCK

On June 5, 2019, the Company closed agreements for the sale of1,250,000 units consisting of one share of Series B Preferred Stock (the "Preferred Stock"), with a stated value of $20.00 per share (the "Stated Value") and a common stock purchase warrant to purchase7.41 shares of the common stock (the "Warrants") for an aggregate purchase price of $25.0 million. All warrants issued in connection with the Preferred Stock were exercised during 2020. The Preferred Stock was not convertible and did not have voting rights.

The Preferred Stock was entitled to annual dividends at a rate equal to8.0% per annum on the Stated Value. Accrued dividends were payable quarterly in shares of common stock of the Company based on a fixed share price of $1.62. During the years ended December 31, 2020 and 2019, the Company issued0.9 million and 0.7 million shares of common stock to the holders of the Preferred Stock, respectively, for dividends.

As the Preferred Stock was mandatorily redeemable, it was classified as a liability on the Consolidated Balance Sheets. All dividends payable on the Preferred Stock were classified as Interest Expense in the Consolidated Statements of Operations.

The Preferred Stock and Warrants were considered freestanding financial instruments and were accounted for separately. The Warrants were considered equity instruments and not marked-to-market at each reporting period. On the date of issuance, the value of the Warrants was $6.7 million, which was determined using the Black-Scholes valuation model. The fair value of the Warrants was recorded as an increase to Additional Paid-In Capital and a discount of the Preferred Stock. The discount was amortized to Interest Expense using the effective interest method. Amortization of the discount was $1.1 million and $0.9 million for the years ended December 31, 2020 and December 31, 2019, respectively.

On September 28, 2020, the Company cash redeemed its Series B Preferred Stock and any accrued, but unpaid dividends in full. The Company recognized a loss on redemption of approximately $4.7 million related to the remaining unamortized discount, which was recorded in Interest Expense.

11. INCOME TAXES

For the years ended December 31, 2021, 2020 and 2019, with the exception of the impact from non-deductible inventory and prepaid purchases reserves, the Company has taxable losses primarily due to operations and stock compensation related deductions and thus has no current federal tax expense recorded. The taxable income generated by non-deductible inventory and prepaid purchases reserves in the current year is fully offset by available net operating losses. As of December 31, 2021, the Company increased the valuation allowance recorded against its deferred tax assets due to the sale of LMC shares during the year and the uncertainty about our ability to utilize our remaining deferred tax assets in future years. As of December 31, 2020, the Company released the valuation allowance with the exception of certain tax credits and net operating losses that will not be realizable due to IRC Section 382 Ownership Change limitations as discussed below. As a result, the deferred tax expense recorded in 2020 was reversed and the Company recognized a deferred tax benefit in 2021 to reinstate the valuation allowance.

The components of the (benefit) provision for income taxes are as follows:

	Years Ended December 31,		
	2021	2020	2019
Current:			
Federal	$ —	$ —	$ —
State and Local	(13,159)	—	—
Total Current	(13,159)	—	—
Deferred:			
Federal	(21,864,569)	21,864,569	—
State and Local	30,639	(30,639)	—
Total Deferred	(21,833,930)	21,833,930	—
Total (benefit) provision for income taxes	$ (21,847,089)	$ 21,833,930	$ —

The reconciliation of taxes at the federal statutory rate to our provision for income taxes was as follows:

	Years Ended December 31,		
	2021	2020	2019
Federal tax benefit at statutory rates	21.0 %	21.0 %	21.0 %
State and local tax at statutory rates	0.1 %	(0.1)%	(0.6)%
Fair value adjustments on warrant liability	— %	37.1 %	(9.3)%
Fair value adjustments on convertible notes	(0.4)%	2.8 %	— %
Tax gain on sale of investment	(0.6)%	— %	— %
Stock-based compensation deductions	0.2 %	(6.6)%	— %
Research and development credits	1.2 %	— %	— %
Other permanent differences and credits	(0.2)%	— %	(0.8)%
Change in valuation allowance	(16.1)%	(30.4)%	(10.3)%
Total tax benefit	5.2 %	23.8 %	— %

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. When realization of the deferred tax asset is more likely than not to occur, the benefit related to the deductible temporary differences attributable to operations is recognized as a reduction of income tax expense. At each reporting date, management considers new evidence, both positive and negative, that could affect its view of the future realization of deferred tax assets.

As of December 31, 2020, management determined there was sufficient positive evidence to conclude it was more likely than not deferred tax assets of approximately $27.8 million were realizable. Management's determination was based on the Company's achievement of three years of cumulative pretax income in the U.S. federal tax jurisdiction, which was primarily driven by the change in fair value of our investment in LMC. During the third quarter of 2021, we sold our investment in LMC and our ability to realize our net deferred tax asset was no longer more likely than not to occur. Therefore, we adjusted our valuation allowance to reduce the deferred tax asset to zero as of December 31, 2021.

Significant components of the Company's deferred tax assets and liabilities are as follows:

	December 31	
	2021	2020
Deferred Tax (Liabilities) Assets:		
Accrued expenses and reserves	$ 590,340	$ 428,710
Warranty reserve	976,956	1,150,830
Inventory and prepaid purchase reserves	21,506,626	424,489
Non-qualified stock options	(160,921)	358,808
Property, plant and equipment	54,556	(319,632)
Fair value adjustment of investment in LMC	—	(66,674,379)
Issuance fees on convertible notes	687,772	1,031,658
Federal tax credits	4,873,099	—
Net operating losses	45,143,740	47,344,755
Total Deferred Tax (Liabilities) Assets	73,672,168	(16,254,761)
Valuation Allowance	(73,672,168)	(5,579,169)
Total Deferred Tax Assets (Liabilities), net of valuation allowance	$ —	$ (21,833,930)

As of December 31, 2021, the Company has approximately $81.7 million of federal net operating loss ("NOL") carry-forwards which expire through 2037. Additionally, at December 31, 2021, the Company had approximately $128.9 million of federal NOLs that carry-forward indefinitely, and approximately $0.9 million of state and local NOL carry-forwards, which expire through 2037. The NOL carry-forwards may be limited in certain circumstances, such as changes in ownership.

Under the provisions of the Internal Revenue Code, the net operating loss and tax credit carry-forwards are subject to review and possible adjustment by the Internal Revenue Service and state tax authorities. Certain tax attributes are subject to an annual limitation as a result of certain cumulative changes in ownership interest of significant shareholders which could constitute a change of ownership as defined under Internal Revenue Code Section 382. The Company completed a full analysis of historical ownership changes and determined that a portion of the NOLs to-date have a limitation on future deductibility. Approximately $ 8.4 million of NOLs incurred prior to 2014 will be unable to offset future taxable income and have been reserved via a valuation allowance to reduce the deferred tax asset to the expected realizable amount.

The following table presents a reconciliation of unrecognized tax benefits:

	2021	2020
Unrecognized tax benefits - January 1	$ 1,163,282	$ 1,163,282
Gross increases - tax positions in prior period	—	—
Gross decreases - tax positions in prior period	(357,890)	—
Gross increases - tax positions in current period	—	—
Settlement	—	—
Lapse of statute of limitations	—	—
Unrecognized tax benefits - December 31	$ 805,392	$ 1,163,282

The Company recognizes interest and penalties related to uncertain tax positions in income tax expense. As of December 31, 2021, and 2020, due to the Company's continued losses, no amounts of interest and penalties have been recognized in the Company's Consolidated Statements of Operations. If the unrecognized tax benefits were reversed, a deferred tax asset and corresponding valuation allowance would be recorded, and thus the reversal would have no impact on the effective rate.

The Company files income tax returns in the U.S. federal jurisdiction, various state jurisdictions and local jurisdictions. Generally, the Company's 2018 through 2020 tax years remain open and subject to examination by federal, state and local taxing authorities. However, federal, state, and local net operating losses from 2009 through 2020 are subject to review by taxing authorities in the year utilized.

12. FAIR VALUE MEASUREMENTS

Accounting guidance on fair value measurements for certain financial assets and liabilities requires that assets and liabilities carried at fair value be classified and disclosed in one of the following three categories:

Level 1 — Quoted market prices in active markets for identical assets or liabilities.

Level 2 — Observable market-based inputs or unobservable inputs that are corroborated by market data.

Level 3 — Unobservable inputs reflecting the reporting entity's own assumptions or external inputs from inactive markets.

A financial asset or liability's classification within the hierarchy is determined based on the lowest level of input that is significant to the fair value measurement. Assets and liabilities measured at fair value and fair value measurement level were as follows:

	December 31, 2021				December 31, 2020			
	Fair Value	Level 1	Level 2	Level 3	Fair Value	Level 1	Level 2	Level 3
Assets								
Investment in LMC	$ —	$ —	$ —	$ —	$ 330,556,744	$ 330,556,744	$ —	$ —
Total assets at fair value	$ —	$ —	$ —	$ —	$ 330,556,744	$ 330,556,744	$ —	$ —
Liabilities								
Convertible notes	$ 24,705,000	$ —	$ —	$ 24,705,000	$ 197,700,000	$ —	$ —	$ 197,700,000
Total liabilities at fair value	$ 24,705,000	$ —	$ —	$ 24,705,000	$ 197,700,000	$ —	$ —	$ 197,700,000

Investment in LMC

The Company's Investment in LMC was measured at fair value using Level 1 inputs using a quoted price in an active market. We recognized changes in fair value of the investment as Other Income (Loss) in the Consolidated Statements of Operations.

Convertible Notes

The Company's convertible notes are measured at fair value using Level 3 inputs upon issuance and at each reporting date. Considerable judgment is required in interpreting market data to develop the estimates of fair value. Accordingly, the Company's estimates are not necessarily indicative of the amounts that the Company, or holders of the instruments, could realize in a current market exchange. Significant assumptions used in the fair value model include estimates of the redemption dates, credit spreads and the market price and volatility of the Company's common stock. The use of different assumptions and/or estimation methodologies could have a material effect on the estimated fair values.

13. STOCK-BASED COMPENSATION

The Company maintains, as approved by the board of directors, the 2019 Stock Incentive Plan (the "Plan") providing for the issuance of stock-based awards to employees, officers, directors or consultants of the Company. Non-qualified stock options may only be granted with an exercise price equal to the market value of the Company's common stock on the grant date. Awards under the plans may be either vested or unvested options, or unvested restricted stock. The Plan has authorized 8.0 million shares for issuance of stock-based awards. As of December 31, 2021 there were approximately 4.8 million shares available for issuance of future stock awards which includes shares available under the 2019 and 2017 incentive plans.

Stock-based compensation expense

The following table summarizes stock-based compensation expense:

	Years Ended December 31,		
	2021	2020	2019
Stock options	$ 526,125	$ 792,055	$ 1,542,644
Restricted stock	4,227,252	3,228,750	437,354
Performance-based share units	190,003	—	—
Total stock-based compensation expense	$ 4,943,380	$ 4,020,805	$ 1,979,998

Stock options

A summary of stock option activity for the year ended December 31, 2021 is as follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Grant Date Fair Value per Option	Weighted Average Remaining Contractual Life (Years)
Options outstanding at December 31, 2020	2,351,240	$ 2.0		5.5
Granted	296,429	10.3	$ 10.1	
Exercised	(1,897,708)	2.0		
Forfeited	(198,125)	1.0		
Expired	(56,000)	6.1		
Options outstanding at December 31, 2021	495,836	$ 6.8		6.5
Options exercisable at December 31, 2021	175,532	$ 1.7		1.2

As of December 31, 2021, unrecognized compensation expense was $2.6 million for unvested options, which is expected to be recognized over the next2.7 years.

The fair value for the stock option issued in 2021 was estimated on the grant date using a Black-Scholes valuation model that uses the assumptions of expected volatility, expected term, and the expected risk-free rate of return. The expected volatility was estimated by management as 135% based on our historical results adjusted for any expected future changes. The Company uses the simplified method in determining the expected term of the stock option grant awarded in 2021. The simplified method was used because the Company does not believe its historical data provides a reasonable basis for the expected term of the 2021 grant, due primarily to the limited number of grants of stock options awarded to date. The risk-free rate of return was based on market yields in effect on the date of each grant for United States Treasury debt securities with a maturity equal to the expected term of the award.

Restricted stock awards

Restricted stock awards generally vest in equal installment periods ofsix months to three years. Restricted stock awards are valued based on the closing price of the Company's common stock on the date prior of grant, and compensation cost is recorded on a straight-line basis over the share vesting period net of actual forfeitures in the period.

A summary of restricted stock activity for the year ended December 31, 2021 is as follows:

	Number of Unvested Shares	Weighted Average Grant Date Fair Value per Share
Unvested restricted stock at December 31, 2020	1,377,889	2.7
Granted	1,740,261	10.2
Vested	(896,139)	3.8
Forfeited	(604,819)	5.1
Unvested restricted stock at December 31, 2021	1,617,192	$ 9.3

As of December 31, 2021, unrecognized compensation expense was $13.3 million for unvested restricted stock, which is expected to be recognized over the next2.7 years.

Performance-based restricted stock awards

On November 5, 2021, the Company issued 306,197 PBSUs that vest based on the Company's total shareholder return as compared to a group of peer companies over athree-year period. The number of units that will ultimately vest can range from0% to 200% of the initial PBSUs grant. The PBSUs will vest on December 31, 2024 and will be settled through issuance of shares of the Company's common stock. The grant date fair value of $11.79 per PBSU was estimated using a Monte-Carlo simulation model using a volatility assumption of 117% and risk free interest rate of0.69%. As of December 31, 2021, unrecognized compensation expense was $3.4 million, which is expected to be recognized over the next 2.8 years.

14. RECENT PRONOUNCEMENTS

Accounting Standards Recently Adopted

In December 2019, the Financial Accounting Standards Board ("FASB") issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes. The ASU removes certain exceptions for recognizing deferred taxes for investments, performing an intra-period allocation, and calculating income taxes in interim periods. The ASU also adds guidance to simplify accounting for income taxes, such as recognizing deferred taxes for goodwill and allocating taxes to members of a consolidated group. The Company adopted the ASU as of January 1, 2021. The adoption of this guidance did not have a material impact on the Company's financial condition and results of operations.

Accounting Standards Not Yet Adopted

In August 2020, the FASB issued ASU 2020-06, Accounting for Convertible Instruments and Contracts in an Entity's Own Equity. The ASU simplifies the accounting for certain convertible instruments, amends the guidance on derivative scope exceptions for contracts in an entity's own equity and requires the use of the if-converted method for calculating diluted earnings per share. The ASU removes separation models for convertible debt with a cash conversion feature. Such convertible instruments will be accounted for as a single liability measured at amortized cost. The ASU is effective for interim and annual periods beginning after December 15, 2021, with early adoption permitted after December 15, 2020, which can either be on a modified retrospective or full retrospective basis. Adoption of the ASU is not expected to have a material impact on the Company's financial condition and results of operations.

15. STOCKHOLDERS' EQUITY

Preferred Stock

The Company has authorized 75.0 million shares of Series A Preferred Stock, par value $0.001 per share. The Company's certificate of incorporation provides that shares of preferred stock may be issued from time to time in one or more series. The Company's Board of Directors is authorized to fix the voting rights, if any, designations, powers, preferences, qualification, limitations and restrictions thereof, applicable to the shares of preferred stock. As of December 31, 2021 and December 31, 2020, there were no shares of Series A Preferred Stock issued and outstanding.

Common Stock

The Company has one class of common stock, par value $0.001 per share. Each share of the Company's common stock is entitled to one vote on all matters submitted to stockholders.

Common Stock Held in Escrow

On October 31, 2019, the Company and ST Engineering Hackney, Inc. ("Hackney") entered into an Asset Purchase Agreement to purchase certain assets and assume certain liabilities of Hackney. The purchase price for the acquired assets was $7.0 million and the Company deposited $1.0 million of cash and approximately 2.3 million shares of its common stock originally valued at $6.6 million into an escrow account as collateral. The $1.0 million of cash was paid to Hackney in January 2020, and the remaining $6.0 million was payable in cash within 45 days if certain conditions were met. The 2.3 million shares of common stock remained in escrow as of December 31, 2021. However, as we believe the conditions were not met, we do not expect to make further payments to Hackney in connection with the Asset Purchase Agreement and we expect the shares to be released from escrow in 2022.

Warrants

In connection with the issuance of debt, common stock and preferred stock, the Company has issued warrants to purchase shares of the Company's common stock. As of December 31, 2021, the Company has approximately 1.0 million warrants outstanding.

16. RELATED PARTIES

We obtain our general liability, property and casualty, and directors and officers liability insurance through AssuredPartners NL, LLC ("Assured"). Gerald Budde, a Director of the Company, is currently a Vice President Corporate Finance of AssuredPartners, Inc., the parent company of AssuredPartners Capital, Inc. and its subsidiary, Assured. The placement of insurance was completed by an Assured agent and Mr. Budde did not participate in any decisions about insurance, nor was he paid any portion of the brokerage fee. Assured earned brokerage fees of approximately $234,000, $121,000 and $86,000 for the years ended December 31, 2021, 2020 and 2019, respectively.

17. DIVESTITURE OF SUREFLY

On November 27, 2019, the Company completed the sale of SureFly™ for $4.0 million. The gain on divestiture was $3.7 million, net of selling costs of $0.3 million. SureFly was the Company's hybrid electrically powered vertical takeoff and landing aircraft project. The Company had no revenues associated with SureFly in 2019 and operating expenses associated with the development of Surefly were $1.4 million.

18. COMMITMENTS AND CONTINGENCIES

The Company is party to various negotiations and legal proceedings arising in the normal course of business. The Company provides reserves for these matters when a loss is probable and reasonably estimable. The Company does not disclose a range of potential loss because the likelihood of such a loss is remote. In the opinion of management, the ultimate disposition of these matters will not have a material adverse effect on the Company's financial position, results of operations, cash flows or liquidity.

Federal Motor Vehicle Safety Standards Certification and Other Regulatory Matters

On September 22, 2021, we announced the Company decided to suspend deliveries of C-1000 vehicles and recall the vehicles we have already delivered to customers. The new leadership team determined additional testing and modifications to existing vehicles are required to bring the C-1000 vehicles into full compliance with Federal Motor Vehicle Safety Standards. The Company further announced we filed a report with the National Highway Traffic Safety Administration ("NHTSA") regarding the need for additional testing and vehicle modifications to bring our C-1000 vehicles into full compliance with FMVSS. We indicated our previous statements related to the C-1000's compliance with NHTSA standards cannot be relied upon and so notified the Securities and Exchange Commission. We also disclosed we identified a number of enhancements to our production process and the design of the C-1000 vehicles to address customer feedback, primarily related to payload capacity.

The certification testing was completed in February 2022. Upon completion of this review, the C-1000 platform was determined to be eligible for certification and reintroduction as a limited production vehicle with constrained cargo capacity. In addition, further modifications to the vehicles will be made during the required FMVSS rework process, including a redesigned front suspension as well as supplier corrective action in certain components. The entire fleet of currently manufactured C-1000s will have the required corrected actions applied during 2022, with the majority of the recalled vehicles returned to the customers.

Due to the uncertainties and many variables involved in NHTSA matters, we cannot estimate the ultimate resolution of this matter and whether it will have a material adverse effect on the Company's financial position, results of operations, cash flows or liquidity. We are cooperating with NHTSA with respect to the recall of the outstanding vehicles, however, we cannot assure that NHTSA or other government authorities will not attempt to impose potentially significant fines and penalties in response to the recall.

On October 19 and November 1, 2021, the Company received letters from the SEC requesting that it voluntarily provide information relating to (a) the events and trading in its securities leading up to the announcement of the award of a contract by the U.S. Postal Service for the manufacture of a postal service vehicle fleet and (b) recognition of revenue, if any, related to purchases of vehicles by certain of the Company's customers. On November 5, 2021, the Department of Justice ("DOJ") orally informed the Company it has a related open investigation covering the Company. The Company has not received any subpoena or other request for documents from the DOJ with respect to this investigation. The Company is cooperating with the SEC and DOJ investigations. At this point, the Company cannot predict the eventual scope, duration, or outcome of these matters.

During the second quarter of 2021, the Company became aware of a regulatory compliance issue related to our E-Series vehicles that will require retrofitting of such vehicles. Management continues to work on remediation of this issue and does not expect it to have a material impact on the Company's financial condition and operations. Due to the uncertainties and many variables involved in regulatory matters, we cannot estimate the ultimate resolution of this issue and actual results may differ.

Legal Proceedings

Securities Litigation

On March 8, 2021, Sam Farrar, individually and on behalf of other similarly situated purchasers of the Company's securities, filed a putative class action complaint against the Company, Duane Hughes and Steve Schrader in the United States District Court for the Central District of California (Case 2:21-cv-02072) claiming violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. On March 11, 2021, John Kinney, individually and on behalf of other similarly situated purchasers of the Company's securities, filed a substantively identical putative class action complaint against the Company, Duane Hughes and Steve Schrader in the United States District Court for the Central District of California (Case 2:21-cv-02207) also claiming violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder. On May 18, 2021, the Court consolidated the two cases and appointed Timothy M. Weis as lead plaintiff pursuant to the Private Securities Litigation Reform Act of 1995. On July 16, 2021, lead plaintiff filed an Amended Complaint. The Amended Complaint is now brought against the Company, Duane Hughes, Steve Schrader, Robert Willison and Gregory Ackerson, on behalf of purchasers of the Company's securities from March 10, 2020 through May 10, 2021. It alleges the defendants violated the federal securities laws by intentionally or recklessly making material misrepresentations and/or omissions regarding the Company's participation in the bidding process to manufacture the new fleet of United States Postal Service ("USPS") next generation delivery vehicles, the prospect of the USPS awarding the contract to Workhorse given alleged deficiencies in Workhorse's proposal, the Company's manufacturing abilities generally and the Company's nonbinding "backlog" in its vehicles. Lead plaintiff seeks certification of a class and monetary damages in an indeterminate amount. The Company filed a motion to dismiss the Amended Complaint on September 3, 2021. On December 2, 2021, the Court denied in substantial part the Company's motion to dismiss, and, on January 18, 2022, the Company answered the remaining allegations in the Amended Complaint. On January 20, 2022, the Court issued a Scheduling Order setting the following dates: (1) June 12, 2023 as the deadline to file Motion for Class Certification; (2) December 9, 2023 as the deadline to complete all discovery; (3) January 8, 2024 as the deadline to have all other motions heard, including for summary judgment; (4) March 11, 2024 for a pre-trial conference; and (5) March 19, 2024 for the jury trial. The parties are now engaged in discovery. The Company believes the Securities Class Action is without merit and intends to vigorously pursue all legal avenues to fully defend itself.

Shareholder Derivative Litigation

On April 16, 2021, Romario St. Clair, derivatively on behalf of the Company, filed a stockholder derivative complaint in the Eighth Judicial District Court of the State of Nevada in and for Clark County (Case No. A-21-833050-B) for breach of fiduciary duty and unjust enrichment against Duane Hughes, Steve Schrader, Stephen Fleming, Robert Willison, Anthony Furey, H. Benjamin Samuels, Raymond J. Chess, Harry DeMott, Gerald B. Budde, Pamela S. Mader, Michael L. Clark and Jacqueline A. Dedo. In this action, the plaintiff alleges the defendants breached their fiduciary duties by allowing or causing the Company to violate the federal securities laws as alleged in the Amended Complaint discussed above and by selling Company stock and receiving other compensation while allegedly in possession of material non-public information about the prospect of the USPS awarding the contract to an electric vehicle manufacturer given electrifying the USPS's entire fleet allegedly would be impractical and expensive. The plaintiff seeks damages and disgorgement in an indeterminate amount. Several nearly identical derivative complaints have been filed: (1) on May 19, 2021, Caruso v. Hughes et al. (Case No. 2:21-cv-04202) was filed in the Central District of California; (2) on May 24, 2021, Kistenmacher v. Hughes et al. (Case No. 2:21-cv-04294) was filed in the Central District of California; (3) on May 27, 2021, Brown v. Hughes et al. (Case No. 2:21-cv-04412) was filed in the Central District of California; (4) on June 24, 2021 Everson v. Hughes et al. (Case No. A-21-836888-B) was filed in the Eighth Judicial District Court of the State of Nevada in and for Clark County; and (5) on September 21, 2021, Cohen v. Hughes et al. (Case No. 1:21-cv-00601) was filed in the United States District Court for the Southern District of Ohio. On June 21, 2021, the Court ordered the three cases filed in the Central District of California be consolidated and thereafter stayed the case pending the outcome in the Securities Class Action discussed above. On November 5, 2021, the Court granted the parties' stipulation transferring the *Cohen* case to the Central District of California, where it (which now bears Case No. 2:21-08734) was assigned to Judge Dolly M. Gee. On January 7, 2022, the Court ordered the two cases filed in Eight Judicial District Court of the State of Nevada in and for Clark County be consolidated under the *St. Clair* case and set the following schedule: (1) plaintiffs' consolidated complaint is to be filed on January 21, 2022; (2) defendants' response is to be filed March 7, 2022; (3) plaintiffs' opposition to any motion filed by defendants is to be filed on April 21, 2022; and (4) defendants' reply is to be filed on May 23, 2023. On January 13, 2022, the *Cohen* case was transferred internally to Judge Cormac J. Carney, who is also presiding over the Securities Class Action and the consolidated Central District of California case. On February 15, 2022, the Court in the *Cohen* case and the consolidated Central District of California case set the following schedule: (1) defendants are to respond to the complaint by March 7, 2022; (2) plaintiffs are to file any opposition or amended complaints in lieu of an opposition on April 21, 2022; (3) defendants are to reply to any oppositions on May 10, 2022. However, the parties have since stipulated to extend the briefing schedule in both cases as follows: (1) defendants are to respond to the respective complaints by March 18, 2022; (2) plaintiffs are to file any oppositions or amended complaints in lieu of an opposition on May 2, 2022; and (3) defendants are to reply to any oppositions on May 21, 2022. The Court has not yet issued a ruling on those stipulations. On January 24, 2021, the plaintiffs in the *St. Clair* case filed a consolidated complaint, which contains similar allegations to the prior complaints in that action.

Although these claims purport to seek recovery on behalf of the Company, the Company will incur certain expenses due to indemnification and advancement obligations with respect to the defendants. The Company understands that defendants believe this action is without merit and intends to support them as they pursue all legal avenues to defend themselves fully.

19. SUBSEQUENT EVENTS

The Company has evaluated subsequent events for potential recognition and disclosures through the date the accompanying consolidated financial statements were filed.

Supply Agreement

On February 28, 2022, Workhorse Group and GreenPower Motor Company Inc. entered into a multi-year supply agreement to facilitate the manufacturing and delivery of medium-duty Class 4 step vans into the North American market. Under the agreement, Workhorse has set an initial delivery schedule with deposits for 1,500 EV Star cab and chassis from GreenPower starting in July 2022 through to March 31, 2024. Working capital requirements over the life of the agreement will be approximately $20.0 million. Workhorse will complete the manufacturing process and deliver finished step vans to customers in the United States and Canada.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 under the Securities Exchange Act 1934, as amended (the “Exchange Ac”). In designing and evaluating the disclosure controls and procedures, our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that our management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2021, our disclosure controls and procedures were designed at a reasonable assurance level and were effective to provide reasonable assurance the information we are required to disclose in reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specific in the SEC rules and forms, and such information is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures.

Management’s Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process designed by, or under the supervision of, our Chief Executive Officer and Chief Financial Officer to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that (1) pertain to the maintenance of records in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets; (2) provide reasonable assurance transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and our receipts and expenditures are being made only in accordance with authorizations of our management and directors and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets could have a material effect on the financial statements.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Our management concluded our internal control over financial reporting was effective as of December 31, 2021.

Our independent registered public accounting firm, Grant Thornton LLP, has audited our internal control over financial reporting as of December 31, 2021, as stated in their report which is included herein.

Limitations on the Effectiveness of Controls

Because of inherent limitations, internal control over financial reporting may not prevent or detect misstatements and projections of any evaluation of effectiveness to future periods are subject to the risk controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2021, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information required by this Item 10 of Form 10-K will be included in our 2022 Proxy Statement to be filed with the Securities and Exchange Commission in connection with the solicitation of proxies for our 2022 Annual Meeting of Stockholders and is incorporated herein by reference. The 2022 Proxy Statement will be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this report relates.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this Item 11 of Form 10-K will be included in our 2022 Proxy Statement and is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this Item 12 of Form 10-K will be included in our 2022 Proxy Statement and is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

The information required by this Item 13 of Form 10-K will be included in our 2022 Proxy Statement and is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The information required by this Item 14 of Form 10-K will be included in our 2022 Proxy Statement and is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

1. Financial statements (see Index to Consolidated Financial Statements in Part II, Item 8 of this report)

2. All financial statement schedules have been omitted since the required information was not applicable or was not present in amounts sufficient to require submission of the schedules, or because the information required is included in the consolidated financial statements or the accompanying notes.

3. The exhibits listed in the following Index to Exhibits are filed or incorporated by reference as part of this report.

Exhibit No.	Description	Form Incorporated From	Report Date
3.1	Certificate of Designation for Series A Preferred Stock	8-K	1/4/2010
3.2	Certificate of Change	8-K	5/25/2010
3.3	Certificate of Correction	8-K	5/25/2010
3.4	Articles of Merger	8-K	5/25/2010
3.5	Certificate of Correction (Articles of Merger)	8-K	5/25/2010
3.6	Certificate of Amendment to the Certificate of Incorporation	8-K	9/10/2010
3.7	Certificate of Incorporation	SB-2	2/4/2008
3.8	Articles of Merger between AMP Holding Inc. and Workhorse Group Inc.	8-K	4/16/2015
3.9	Certificate of Change filed December 9, 2015	8-K	12/10/2015
3.10	Certificate of Amendment to the Certificate of Incorporation dated August 8, 2017	10-Q	8/9/2017
3.11	Certificate of Amendment to the Certificate of Incorporation dated May 3, 2019	10-Q	5/7/2019
3.12	Certificate of Designation of Series B Preferred Stock	8-K	6/6/2019
3.13	Bylaws of Workhorse Group Inc.	†	
4.12	Description of Securities Registered under Section 12 of the Securities Exchange Act of 1934	10-K	3/1/2021
10.1	Asset Purchase Agreement by and between Workhorse Custom Chassis, LLC, as Seller, and AMP Trucks Inc., as Buyer dated as of March 4, 2013	8-K	3/4/2013
10.2	Amendment No. 1 to the Asset Purchase Agreement by and between Workhorse Custom Chassis, LLC, as Seller, and AMP Trucks Inc., as Buyer dated as of March 13, 2013	8-K	3/13/2013
10.3	Director Agreement by and between Workhorse Group Inc. and Raymond Chess dated October 24, 2013	8-K	10/30/2013
10.4	Director Agreement by and between Workhorse Group Inc. and Gerald Budde dated December 17, 2015	8-K	12/21/2015
10.5	Director Agreement by and between Workhorse Group Inc. and Benjamin Samuels dated December 17, 2015	8-K	12/21/2015
10.6	Director Agreement by and between Workhorse Group Inc. and Harry DeMott dated September 15, 2016	8-K	9/9/2016
10.7	Services Partner Agreement between Workhorse Group Inc. and Ryder Truck Rental, Inc. dated April 27, 2017	8-K	5/3/2017
10.8	Form of Indemnification Agreement	10-K	3/1/2021
10.9	Form of Employee Invention Assignment, Confidentiality, Non-Compete and Non-Solicit Agreement	8-K	5/19/2017
10.10	Director Agreement by and between Workhorse Group Inc. and Michael L. Clark dated September 28, 2018	8-K	10/1/2018
10.11	Sales Agreement between Workhorse Group Inc. and Duke Energy One, Inc. dated November 28, 2018	8-K	12/3/2018
10.12	Services Agreement between Stephen S. Burns and Workhorse Group Inc. dated February 4, 2019	8-K	2/5/2019

10.13	Director Agreement between Duane Hughes and Workhorse Group Inc. dated February 4, 2019	8-K	2/5/2019
10.14	Asset Purchase Agreement dated as of October 1, 2019 by and among Workhorse Group Inc., Surefly Inc. and Moog Inc	8-K	10/1/2019
10.15	Amendment No. 1 to the Asset Purchase Agreement dated as of October 4, 2019 by and among Workhorse Group Inc., Surefly Inc. and Moog Inc.	8-K	10/1/2019
10.16	Amendment No. 1 to the Asset Purchase Agreement dated as of October 31, 2019 by and among Workhorse Group Inc., Surefly Inc. and Moog Inc.	8-K	10/1/2019
+ 10.17	Amended and Restated Employment Agreement between Workhorse Group Inc. and Duane Hughes dated November 6, 2019	8-K	11/6/2019
+ 10.18	Amended and Restated Employment Agreement between Workhorse Group Inc. and Robert Willison dated November 6, 2019	8-K	11/6/2019
+ 10.19	Employment Agreement between Workhorse Group Inc. and Anthony Furey dated November 6, 2019	8-K	11/6/2019
+ 10.20	Employment Agreement between Workhorse Group Inc. and Stephen Fleming dated November 6, 2019	8-K	11/6/2019
+ 10.21	Employment Agreement between Workhorse Group Inc. and Gregory Ackerson dated November 6, 2019	8-K	11/6/2019
+ 10.22	Employment Agreement between Workhorse Group Inc. and Steve Schrader dated December 19, 2019	8-K	11/6/2019
+ 10.23	Employment Agreement between Workhorse Group Inc. and John Graber dated April 20, 2021	8-K	4/21/2021
+ 10.24	Employment Agreement between Workhorse Group Inc. and Ryan Gaul dated April 22, 2021	8-K	4/26/2021
+ 10.25	Employment Separation Agreement and Release of Claims by and between Workhorse Group Inc. and Duane Hughes	†	
+ 10.26	Independent Contractor Agreement between Workhorse Group Inc. and Duane Hughes	†	
+ 10.27	Employment Agreement between Workhorse Group Inc. and Richard Dauch dated July 26, 2021	8-K	7/26/2021
+ 10.28	Employment Agreement between Workhorse Group Inc. and James D. Harrington, dated August 16, 2021	†	
+ 10.29	Employment Agreement between Workhorse Group Inc. and Joshua Anderson, dated September 21, 2021	†	
+ 10.30	Employment Separation Agreement and Release of Claims by and between Workhorse Group Inc. and Steve Schrader	10-Q	11/9/2021
+ 10.31	Employment Separation Agreement and Release of Claims by and between Workhorse Group Inc. and Robert Willison	8-K	10/18/2021
+ 10.32	Employment Agreement between Robert Ginnan and Workhorse Group Inc. dated January 4, 2022	8-K	1/4/2022
10.33	Operating Agreement of Certus Unmanned Aerial Systems LLC effective as of November 27, 2019	8-K	11/27/2019
10.34	Intellectual Property License Agreement between Workhorse Group Inc. and Lordstown Motors Corp. dated November 7, 2019	10-K	3/13/2020
10.35	Asset Purchase Agreement by Asset Purchase Agreement by and between ST Engineering Hackney, Inc. and Workhorse Group Inc. dated as of October 31, 2019 between ST Engineering Hackney, Inc. and Workhorse Group Inc. dated as of October 31, 2019	10-K	3/13/2020
10.36	Agreement between Workhorse Group Inc. and Lordstown Motors Corp dated August 1, 2020	8-K	8/4/2020
10.37	Form of Purchase Agreement - October 2020	8-K	10/13/2020
10.38	Form of Exchange Agreement - October 2020	8-K	10/13/2020
10.39	Form of Indenture	8-K	10/16/2020
10.40	Form of Global 4.00% Senior Secured Convertible Note	8-K	10/16/2020
10.41	Form of Security Agreement	8-K	10/16/2020
10.42	Form of Registration Rights Agreement	8-K	10/16/2020

10.43	Form of Securities Exchange Agreement	8-K	10/6/2021
10.44	Form of Securities Exchange Agreement	8-K	11/2/2021
+ 10.45	2019 Incentive Stock Plan	10-K	3/13/2020
+ 10.46	Form of Non-Statutory Option Award Agreement between Workhorse Group Inc. and Richard Dauch	10-Q	11/9/2021
+ 10.47	Form of Restricted Stock Award Agreement	†	
+ 10.48	Form of Performance Share Unit Award Agreement	†	
21.1	List of Subsidiaries	†	
23.1	Consent of Grant Thornton LLP	†	
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	†	
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	†	
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	†	
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	†	
101.INS	Inline XBRL INSTANCE DOCUMENT		
101.SCH	Inline XBRL Taxonomy Extension Schema Document		
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document		
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document		
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document		
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document		
104	Inline XBRL Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)		

† Exhibits that are filed with this report.

+ Indicates a management contract or compensatory arrangement.

ITEM 16. FORM 10-K SUMMARY

None.

Signatures

Pursuant to the requirements of Section 13 or 15(d) of the Securities and Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

		WORKHORSE GROUP INC.	
Dated:	March 1, 2022	By:	/s/ Richard Dauch
		Name:	Richard Dauch
		Title:	Chief Executive Officer, President and Director (Principal Executive Officer)

In accordance with the Exchange Act, this report has been signed below by the following persons on March 1, 2022, on behalf of the registrant and in the capacities indicated.

Signature	Title
/s/ Richard Dauch Richard Dauch	Chief Executive Officer, President and Director (Principal Executive Officer)
/s/ Robert M. Ginnan Robert M. Ginnan	Chief Financial Officer (Principal Financial Officer)
/s/ Gregory T. Ackerson Gregory T. Ackerson	Chief Accounting Officer (Principal Accounting Officer)
/s/ Raymond Chess Raymond Chess	Director
/s/ Gerald B. Budde Gerald B. Budde	Director
/s/ H. Benjamin Samuels H. Benjamin Samuels	Director
/s/ Harry DeMott Harry DeMott	Director
/s/ Michael L. Clark Michael L. Clark	Director
/s/ Pamela Mader Pamela Mader	Director
/s/ Jacqueline Dedo Jacqueline Dedo	Director
/s/ William G. Quigley III William G. Quigley III	Director

BYLAWS OF WORKHORSE GROUP INC.

Adopted by the Board of Directors November 13, 2007

ARTICLE I: OFFICES

The principal office for the transaction of business of the Corporation may be at any such location as the Board of Directors may from time to time determine or the business of the Corporation may require. The Corporation may have other offices at such places as the Board of Directors may from time to time determine.

ARTICLE II: SHAREHOLDERS' MEETINGS

2.1 ANNUAL MEETINGS
The annual meeting of the shareholders shall be held at such time, date and place within or without the State of Nevada as may be designated by the Board of Directors and in the notice of such meeting. The business to be transacted at such meeting shall be the election of directors and such other business as may properly be brought before the meeting.

2.2 SPECIAL MEETINGS
Special meetings of the shareholders for any purpose may be called at any time by a majority of the members of the Board of Directors. Such meetings shall be held at the principal office of the Corporation or at such other place within or without the State of Nevada as may be designated in the notice of meeting.

2.3 NOTICE OF MEETINGS

2.3.1 Notices of meetings, annual or special, to shareholders entitled to vote shall be given in writing and signed by the President or a Vice-President or the Secretary or the Assistant Secretary, or by any other natural person designated by the Board of Directors.

2.3.2 Such notices shall be sent to the shareholder's address appearing on the books of the Corporation, or supplied by him to the Corporation for the purpose of notice, not less than ten (10) nor more than sixty (60) days before such meeting. Such notice shall be deemed delivered, and the time of the notice shall begin to run, upon being deposited in the mail.

2.3.3 Notice of any meeting of shareholders shall specify the place, the date and the time of the meeting and in case of a special meeting shall state the purpose(s) for which the meeting is called.

2.3.4 When a meeting is adjourned to another time, date or place, notice of the adjourned meeting need not be given if announced at the meeting at which the adjournment is given.

2.3.5 Any shareholder may waive notice of any meeting by a writing signed by him, or his duly authorized attorney, either before or after the meeting.

2.3.6 No notice is required for matters handled by the written consent of the shareholders pursuant to NRS 78.320.

2.3.7 No notice to a shareholder is required if notices of two consecutive annual meetings and interim notices have been returned undeliverable pursuant to NRS 78.370(6).

2.4 QUORUM
The holders of a majority of the shares entitled to vote thereat, present in person or by proxy, shall constitute a quorum for the transaction of business.

2.5 VOTING RIGHTS
Except as may be otherwise provided in the Corporation's Articles of Incorporation, Bylaws or by the Laws of the State of Nevada, each shareholder shall be entitled to one (1) vote for each share of voting stock registered in his name on the books of the Corporation, and the affirmative vote of a majority of voting shares represented at a meeting and entitled to vote thereat shall be necessary for the adoption of a motion or for the determination of all questions and business which shall come before the meeting.

2.6 PROXIES
At any shareholder meeting, shareholders may designate proxies in writing or by electronic record pursuant to NRS 78.355.

2.7 SHAREHOLDER PROPOSALS
Shareholders holding an aggregate of not less than ten percent (10%) of the voting power of the Company may propose agenda items to be included at the annual meeting of the Company's shareholders. Such shareholder
proposals must be submitted in writing to the Secretary of the Company at least ninety (90) days in advance of the next annual meeting of shareholders of the Company.

ARTICLE III: DIRECTORS

3.1 POWERS
Subject to the limitation of the Articles of Incorporation, of the Bylaws and of the Laws of the State of Nevada as to action to be authorized or approved by the shareholders, all corporate powers shall be exercised by or under authority of, and the business and affairs of this Corporation shall be controlled by, a Board of at least one (1) Director.

3.2 ELECTION AND TENURE OF OFFICE
The number of directors which shall constitute the whole board shall consist of not less than one (1) and not more than nine (9) directors as may be fixed from time to time by action of the Board of Directors. The Board of Directors may by resolution determine that the Board be classified into classes of directors. If so classified, directors shall be assigned to each class in accordance with a resolution adopted by the Board of Directors and elected for terms as set by the Board subject to the provisions of NRS 78.330(2).

Directors shall be elected at the annual meeting of shareholders during the year in which their terms expire and, except as provided in Section 3.3 of this Article, each director elected shall hold office until his successor is elected and qualified. Directors need not be shareholders. A Director need not be a resident of the State of Nevada.

3.3 REMOVAL AND RESIGNATION

3.3.1 Any Director may be removed by a shareholder vote representing not less than two-thirds of the voting power as provided by NRS 78.335.

3.3.2 Any Director may resign at any time by giving written notice to the Board of Directors or to the President, or to the Secretary of the Corporation. Any such resignation shall take effect at the date of the receipt of such notice or any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

3.4 VACANCIES
Vacancies in the Board of Directors may be filled by a majority of the remaining Directors, and such action by less than a quorum or by a sole remaining Director shall be adequate, and each Director so elected shall hold office until his successor is elected at an annual meeting of shareholders or at a special meeting called for that purpose. The shareholders may at any time elect a Director to fill any vacancy not filled by the directors.

3.5 PLACE OF MEETINGS AND MEETINGS BY TELEPHONE
Meetings of the Board of Directors may be held at any place within or without the State of Nevada that has been designated by the Board of Directors. In the absence of such designation, meetings shall be held at the principal office of the Corporation. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, and all such Directors shall be deemed to be present in person at the meeting, so long as all Directors participating in the meeting can hear one another.

3.6 ANNUAL ORGANIZATIONAL MEETINGS
The annual organizational meetings of the Board of Directors shall be held immediately following the adjournment of the annual meetings of the shareholders. No notice of such meetings need be given.

3.7 OTHER REGULAR MEETINGS
There shall be no requirement for the Board of Directors to hold regular meetings, other than the annual organizational meeting.

3.8 SPECIAL MEETINGS - NOTICES

3.8.1 Special meetings of the Board of Directors for any purpose shall be called at any time by the President or if the President is absent or unable or refuses to act, by any Vice President or by any two Directors.

3.8.2 Written notice of the time and place of special meetings of the Board of Directors shall be delivered personally to each Director or sent to each Director by mail or other form of written communication at least forty- eight (48) hours before the meeting. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place are fixed at the meeting adjourned.

3.9 CONSENT TO DIRECTORS' MEETINGS AND ACTION WITHOUT MEETING

3.9.1 Any meeting is valid wherever held by the written consent of all persons entitled to vote thereat, given either before or after the meeting.

3.9.2 The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice if all the Directors are present, or if a quorum is present and either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes thereof.

3.9.3 Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

3.9.4 All such waivers, consents, or approvals shall be filed with the corporate records or made part of the minutes of the meeting.

3.10 QUORUM AND VOTING RIGHTS
So long as the Board of Directors is composed of one or two Directors, one of the authorized number of Directors constitutes a quorum for the transaction of business. If there are three or more Directors, a majority thereof shall constitute a quorum. Except as may be otherwise provided in the Corporation's Articles of Incorporation, Bylaws or by the Laws of the State of Nevada, the affirmative vote of a majority of Directors represented at a meeting and entitled to vote thereat shall be necessary for the adoption of a motion or resolution or for the determination of all questions and business which shall come before the meeting.

3.11 COMPENSATION
Directors may receive such reasonable compensation for their services as Directors and such reimbursement for expenses incurred in attending meetings as may be fixed from time to time by resolution of the Board of Directors. No such payment shall preclude a Director from serving in any other capacity and receiving compensation therefor.

3.12 COMMITTEES
The Board of Directors may appoint and prescribe the duties of an executive committee and such other committees, as it may from time to time deem appropriate. Such committees shall hold office at the pleasure of the Board.

ARTICLE IV: OFFICERS

4.1 OFFICERS
The Board of Directors shall appoint a President, a Secretary and a Treasurer. The Board of Directors, in their discretion, may also appoint a Chair of the Board, a Chief Executive Officer, a Chief Financial Officer, one or more Vice Presidents and such other officers and assistant officers as they shall from time to time deem proper. Any two or more offices may be held by the same person. The Board may choose not to fill any of the other officer positions for any period.

4.2 APPOINTMENT AND TERM OF OFFICE
The officers of the corporation shall be appointed by the Board of Directors at the organizational meeting of the Directors. If the appointment of officers shall not be held at such meeting, such appointment shall be held as soon thereafter as conveniently may be. Each officer shall hold office until a successor shall have been duly appointed and qualified or until the officer's death or until the officer resigns or is removed in the manner hereinafter provided.

4.3 REMOVAL
Any officer or agent appointed by the Board of Directors may be removed by the Board of Directors at any time with or without cause, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

4.4 VACANCIES
A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board of Directors.

4.5 CHAIR OF THE BOARD
The Chair of the Board, if there be such an office, shall, if present, preside at all meetings of the Board of Directors and meetings of the shareholders, and exercise and perform such other powers and duties as may be from time to time assigned to the Chair by the Board of Directors. In the event that there is no Chair of the Board designated or present, the Secretary of the Board of Directors shall preside over the meeting, or if there is no Secretary of the

Board of Directors designated or present at the meeting, the Directors present at any meeting of the Board of Directors shall designate a Director of their choosing to serve as temporary chair to preside over the meeting.

4.6 CHIEF EXECUTIVE OFFICER

Subject to the control of the Board of Directors and such supervisory powers, if any, as may be given by the Board of Directors to another person or persons, the powers and duties of the Chief Executive Officer shall be:

a. To act as the general manager and, subject to the control of the Board of Directors, to have general supervision, direction and control of the business and affairs of the Corporation;
b. To see that all orders and resolutions of the Board of Directors are carried into effect; and
c. To affix the signature of the Corporation to all deeds, conveyances, mortgages, guarantees, leases, obligations, bonds, certificates and other papers and instruments in writing which have been authorized by the Board of Directors or which, in the judgment of the Chief Executive Officer, should be executed on behalf of the Corporation; to sign certificates for the Corporation's shares; and, subject to the direction of the Board of Directors, to have general charge of the property of the Corporation and to supervise and control all officers, agents and employees of the Corporation.

4.7 CHIEF FINANCIAL OFFICER OR TREASURER

Subject to the control of the Board of Directors and such supervisory powers, if any, as may be given by the Board of Directors to another person or persons, the powers and duties of the Chief Financial Officer or Treasurer shall be:

a. To keep accurate financial records for the Corporation;
b. To deposit all money, drafts and checks in the name of and to the credit of the Corporation in the banks and depositories designated by the Board of Directors;
c. To endorse for deposit all notes, checks, drafts received by the Corporation as ordered by the Board of Directors, making proper vouchers therefor;
d. To disburse corporate funds and issue checks and drafts in the name of the Corporation, as ordered by the Board of Directors;
e. To render to the Chief Executive Officer and the Board of Directors, whenever requested, an account of all transactions by the Chief Financial Officer and the financial condition of the Corporation; and
f. To perform all other duties prescribed by the Board of Directors or the Chief Executive Officer.

4.8 PRESIDENT

Unless otherwise determined by the Board of Directors, the President shall be the Chief Executive Officer of the Corporation. If an officer other than the President is designated as the Chief Executive Officer, the President shall perform such duties as may from time to time be assigned by the Board of Directors. The President shall have the duty to call meetings of the shareholders or Board of Directors, as set forth in Section 3.8.1, above, to be held at such times and, subject to the limitations prescribed by law or by these Bylaws, at such places as the President shall deem proper.

4.9 VICE PRESIDENTS

In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice President (or in the event there shall be more than one Vice President, the Vice Presidents in the order designated at the time of their appointment, or in the absence of any designation then in the order of their appointment) shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President; and shall perform such other duties as from time to time may be assigned to the Vice President by the President or by the Board of Directors. In the event there are no Vice Presidents, the Board of Directors may designate a member of the Board of Directors or another officer of the Corporation to serve in such capacity until a new President is appointed.

4.10 SECRETARY
The Secretary shall: (a) prepare and maintain the minutes and records of the shareholders' and Board of Directors' meetings, keep them in one or more books provided for that purpose and certify such proceedings as necessary;
(b) authenticate such records of the Corporation as shall from time to time be required; (c) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (d) be custodian of the corporate records and of the corporate seal, if any, and see that the seal of the Corporation, if any, is affixed to all documents the execution of which on behalf of the Corporation under its seal is duly authorized; (e) keep a register of the post office address of each shareholder; (f) if requested, sign with the President certificates for shares of the Corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; (g) have general charge of the stock transfer books of the Corporation; and (h) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Chief Executive Officer or the Board of Directors.

4.11 DELEGATION OF AUTHORITY
The Board of Directors may from time to time delegate the powers of any officer to any other officer or agent, notwithstanding any provision hereof, except as may be prohibited by law.

4.12 COMPENSATION
Officers shall be awarded such reasonable compensation for their services and provisions made for their expenses incurred in attending to and promoting the business of the Corporation as may be fixed from time to time by resolution of the Board of Directors.

ARTICLE V:
RECORDS AND REPORTS - INSPECTION

5.1 INSPECTION OF BOOKS AND RECORDS
All books and records provided for by Nevada Revised Statutes shall be open to inspection of the directors and shareholders to the extent provided by such statutes.

5.2 CERTIFICATION AND INSPECTION OF BYLAWS
The original or a copy of these Bylaws, as amended or otherwise altered to date, certified by the Secretary, shall be open to inspection by the shareholders of the Corporation in the manner provided by law.

5.3 CHECKS, DRAFTS, ETC.
All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Corporation shall be signed or endorsed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board of Directors.

5.4 ANNUAL REPORT
No annual report to shareholders shall be required; but the Board of Directors may cause to be sent to the shareholders annual or other reports in such form as may be deemed appropriate by the Board of Directors.

ARTICLE VI: AMENDMENTS TO BYLAWS

New Bylaws may be adopted or these Bylaws may be repealed or amended by a vote or the written assent of a majority of the Directors of the Corporation.

ARTICLE VII: CORPORATE SEAL

This Corporation shall have the power to adopt and use a common seal or stamp, and to alter the same, at the pleasure of the Board of Directors. The use or nonuse of a seal or stamp, whether or not adopted, shall not be necessary to, nor shall it in any way effect, the legality, validity or enforceability of any corporate action or document.

ARTICLE VIII: CERTIFICATES OF STOCK

8.1 FORM
Certificates for shares shall be of such form and device as the Board of Directors may designate and shall state the name of the record holder of the shares represented thereby, its number; date of issuance; the number of shares for which it is issued; a statement of the rights, privileges, preferences and restrictions, if any; and statement of liens or restrictions upon transfer or voting, if any; and, if the shares be assessable, or, if assessments are collectible by personal action, a plain statement of such facts.

8.2 EXECUTION
Every certificate for shares must be signed by the President or the Secretary or must be authenticated by facsimile of the signature of the President or Secretary. Before it becomes effective, every certificate for shares authenticated by a facsimile of a signature must be countersigned by the Corporation's transfer agent or registrar of transfers.

8.3 TRANSFER
Upon surrender to the Secretary or transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by a proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction upon its books.

8.4 LOST OR DESTROYED CERTIFICATES
Any person claiming a certificate of stock to be lost or destroyed shall make an affidavit or affirmation of that fact in such manner as the Board of Directors may require and shall, if the Directors so require, give the Corporation a bond of indemnity, in form and with one or more sureties satisfactory to the Board, whereupon a replacement certificate may be issued.

8.5 TRANSFER AGENTS AND REGISTRARS
The Board of Directors may appoint one or more transfer agents or transfer clerks, and one or more registrars at such times and places as the requirements of the Corporation may necessitate and the Board of Directors may designate.

8.6 CLOSING STOCK TRANSFER BOOKS
The Board of Directors may close the transfer books in their discretion for a period not exceeding the sixty (60) days preceding any meeting, annual or special, of the shareholders, or the date appointed for the payment of a dividend.

ARTICLE IX: INDEMNIFICATION

(a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, except an action by or in the right of the Corporation, by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney's fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with the action, suit or proceeding, in each case to the fullest extent permissible under NRS 78.7502 and NRS 78.751, as amended from time to time, or the indemnification provisions of any successor statutes, if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, or that, with respect to any criminal action or proceeding, such person had reasonable cause to believe that such conduct was unlawful.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including amounts paid in settlement and
attorneys' fees actually and reasonably incurred by such person in connection with the defense or settlement of the action or suit if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, provided that no indemnification shall be made with respect to any claim, issue or matter as to which such a person has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Corporation or for amounts paid in settlement to the Corporation, unless and only to the extent that the court in which the action or suit was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

(c) To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, the Corporation shall indemnify such person against expenses, including attorney's fees, actually and reasonably incurred by such person in connection with the defense.

(d) Any discretionary indemnification under subsections (a) or (b) unless ordered by a court or advanced pursuant to subsection (b) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. Such determination shall be made (1) by the shareholders; (2) by the Board of Directors by majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding; (3) If a majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding so orders, by independent legal counsel in a written opinion; or (4) If a quorum consisting of directors who were not parties to the action, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion.

(e) Expenses of officers and directors incurred in defending a civil or criminal action, suit or proceeding described in subsections (a) and (b) shall be paid by the Corporation as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that he is not entitled to be indemnified by the Corporation. The provisions of this subsection do not affect any rights to advancement of expenses to which corporate personnel other than directors or officers may be entitled under any contract or otherwise by law.

(f) The indemnification pursuant to subsections (a) and (b) and advancement of expenses authorized in or ordered by a court pursuant to this section (i) do not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the Articles of Incorporation or any bylaw, agreement, vote of shareholders or disinterested directors or otherwise, for either an action in such person's official

capacity or an action in another capacity while holding office, except that indemnification, unless ordered by a court for the advancement of expenses made pursuant to subsection (b) may not be made to or on behalf of any director or
officer if a final adjudication establishes that such person's acts or omissions involved intentional misconduct, fraud or a knowing violation of the law and was material to the cause of action; and (ii) continue for a person who has ceased to be a director, officer, employee or agent and inures to the benefit of the heirs, executors and administrators of such a person.

(g) The Corporation may purchase and maintain insurance or make other financial arrangements on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise for any liability asserted against such person and liability and expenses incurred by such person in his or her capacity as a director, officer, employee or agent, or arising out of his status as such, whether or not the Corporation has the authority to indemnify such person against such liability and expenses.

(h) The other financial arrangements made by the Corporation pursuant to subsection (g) may include the following: (i) The creation of a trust fund; (ii) The establishment of a program of self-insurance; (iii) The securing of its obligation of indemnification by granting a security interest or other lien on any assets of the Corporation; (iv) The establishment of a letter of credit, guaranty or surety.

(i) No financial arrangement made pursuant to subsections (g) or (h) may provide protection for a person adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable for intentional misconduct, fraud or a knowing violation of law, except with respect to the advancement of expenses or indemnification ordered by a court.

(j) Any insurance or other financial arrangement made on behalf of a person pursuant to subsection (g) or (h) may be provided by the Corporation or any other person approved by the Board of Directors, even if all or part of the other person's stock or other securities is owned by the Corporation.

(k) In the absence of fraud: (i) The decision of the Board of Directors as to the propriety of the terms and conditions of any insurance or other financial arrangement made pursuant to subsection (g) or (h) and the choice of the person to provide the insurance or other financial arrangement is conclusive; and (ii) The insurance or other financial arrangement: (1) Is not void or voidable; and (2) does not subject any director approving it to personal liability for such action even if a director approving the insurance or other financial arrangement is a beneficiary of the insurance or other financial arrangement.

(l) Any repeal or modification of this Article IX shall not impair or otherwise affect any rights, or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

(m) This Article IX shall be liberally construed in favor of indemnification and the payment of expenses incurred in connection with a proceeding in advance of its final disposition and there shall be a rebuttable presumption that a claimant under this Article IX is entitled to such indemnification and the Corporation shall bear the burden of proving by a preponderance of the evidence that such claimant is not so entitled to indemnification.

(n) Any finding that a person asserting a claim for indemnification pursuant to this Article IX is not entitled to such indemnification, and any information which may support such finding, shall be held in confidence to the extent permitted by law and shall not be disclosed to any third party.

(o) If any provision of this Article IX shall be deemed invalid or unenforceable, the Corporation shall remain obligated to indemnification and advance expenses subject to all those provisions of this Article IX which are not invalid or unenforceable.

EMPLOYMENT SEPARATION AGREEMENT AND RELEASE OF CLAIMS

This Employment Separation Agreement and Release of Claims ("**Agreement**") is made by and between WORKHORSE GROUP, INC., a Nevada corporation (the "**Company**") and DUANE HUGHES (the "**Employee**") (collectively, the "**Parties**") as of the Effective Date (defined herein).

WHEREAS, the Parties wish to settle all matters related to the Employee's employment with, and separation of employment from, the Company, and all other claims, controversies, charges, or disputes which may exist or may arise between the Parties because of the Employee's employment with and/or separation of employment from the Company.

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. No Admission of Liability. It is understood that by entering into this Agreement, neither the Employee nor the Company is admitting any wrongful conduct or violation of law, and that both the Employee and the Company have entered into this Agreement solely in the interest of providing a smooth transition of leadership and resolving all claims and issues which may exist or may arise relating to the Employee's employment and/or separation of employment from the Company.

2. Termination of Employment. The Employee's last date of employment with the Company shall be August 1, 2021 (the "**Separation Date**"). Employee agrees that the Employee shall cease performing all job duties for the Company as of the Separation Date, provided, however, that this Agreement does not preclude Employee from performing services for the Company after the Separation Date where such services are provided pursuant to a then-existing independent contractor agreement, employment agreement, or other business relationship, including without limitation, the Independent Contractor Agreement (as defined below). Employee agrees that, upon payment of the Employee's final paycheck (which shall include payment at Employee's regular rate of base salary for the balance of 92.25 hours of accrued but unused paid time off as of the Separation Date), other than as explicitly provided in and as an effect of this Agreement, the Employee is not entitled to any further payments, compensation, consideration, or benefits of any kind from the Company with regard to Employee's employment with, or work for, the Company through the Separation Date, provided, however, that this Agreement does not preclude payment for services rendered by Employee as an independent contractor or other business relationship with Company arising after Employee's Separation Date. The Employee also agrees that the Employee has been paid what the Employee was owed for any vacation time, sick time, paid time off, or paid leave of absence, if eligible, that the Employee has been given all time off to which the Employee was entitled under any policy of the Company or law, and that the Employee has received (or will receive under this Agreement) all compensation owed through the Separation Date. As of the Separation Date, except as provided herein, the Employee is no longer eligible for benefits through the Company with the exceptions of (i) certain benefits which may by their terms, remain in force through the end of the month in which the Separation Date falls or be eligible for continuation or conversion after employment ends.

3. Termination of Employment Agreement; Non-Compete Agreement. By mutual agreement of the Parties, as of the Separation Date, the Amended and Restated Employment Agreement entered into on or about November 6, 2019 by and between Company and Employee (the "**Employment Agreement**") is terminated. The Parties agree that the termination of the Employment Agreement neither constitutes (a) Termination Upon Change of Control (as

described in Section 3 of the Employment Agreement), (b) Involuntary Termination (as described in Section 4 of the Employment Agreement), (c) termination by the Company for Cause (as used in the Employment Agreement), (d) termination by the Company as a result of the Death or Permanent Disability of the Employee (as used in the Employment Agreement), nor (e) termination by the Employee for Good Reason (as used in the Employment Agreement). The Parties acknowledge that the Employee is entering into a non-compete agreement with the Company as of the date of this Agreement (the "**Non-Compete Agreement**") in connection with the Independent Contractor Agreement (as defined below).

4. Equity Awards. By mutual agreement of the Parties, as of the Separation Date, the Restricted Stock Agreement between the Company and the Employee dated as February 25, 2021 is being amended on the terms and conditions set forth in an Amendment to Restricted Stock Agreement entered into between the Company and the Employee as of the date of this Agreement (the "**Amended Equity Awards**"). In addition, the Company and the Employee will enter into an amendment to certain Stock Option Agreements between the Company and the Employee to extend until January 31, 2022, the period in which the Employee may exercise such Stock Option Agreements as to shares that are vested as of the Separation Date.

5. Consideration. In consideration of the Employee's promises, covenants, and release of claims contained herein, the Employee acknowledges that, subject to and as a result of Employee's execution of this Agreement (without revocation by the Employee pursuant to Section 19) (each and collectively, "**Consideration**"):

a) The Company shall pay to Employee the following amounts, less applicable deductions, for which an IRS Form W-2 will be furnished and on which the tax withholding related to such payments will be reflected (each and collectively, "**Severance Pay**"):

i. An amount equal to one (1) year of Employee's base salary ($540,000) payable as follows: (x) a lump sum payment equal to one-fourth of such amount shall be payable within thirty (30) days following the Separation Date, (y) three lump sum payments equal to the one-fourth of such amount shall be payable on the first payroll date to occur following the three-month, six-month and nine-month anniversaries of the Separation Date (and in each case no interest shall accrue on such later-paid amounts); and

ii. An amount equal to one hundred percent (100%) of the target bonus in effect for the Executive for calendar year 2021, such payment to be prorated to reflect the number of full months the Executive remained in the employ of the Company (specifically, the gross bonus pay described herein is equal to $315,000), payable on or about March 15, 2022, the approximate date that 2021 bonuses would otherwise be paid to Company executives remaining employed until such date; and

iii. $20,000, less applicable deductions, which amount is intended to represent the Employee's cost of COBRA continuation coverage, although the Employee shall have no obligation to elect COBRA continuation coverage or to use any of such amount toward such cost. This amount will be paid in a lump sum within thirty (30) days following the Separation Date.

iv. It is intended by the parties that the first two such payments in i. above, and the payment in iii. above be treated as exempt from Internal Revenue Code ("Code") Section 409A as short term deferrals, and the latter two payments in i. above and the payment in ii. above, be paid after a 6 month delay at definite payment dates for purposes of such Code Section. Each payment shall be treated as separate payments (rather than a installments) as permitted under such Code Section. Notwithstanding the forgoing, the Employee acknowledges that the Company makes no representations about compliance with Code Section 409A and that Employee is and remains solely liable for his own tax consequences thereunder.

b) Employee will be provided the opportunity to enter into an independent contractor arrangement with the Company, which arrangement will provide to the Employee certain compensation and equity benefits in exchange for Employee's services beyond the Separation Date as an independent contractor of the Company, subject to the terms defined in a separate mutually-agreeable independent contractor agreement ("**Independent Contractor Agreement**"), which Independent Contractor Agreement will be reduced to a signed writing by and between the Parties ("**Independent Contractor Engagement**"), and shall be eligible to receive certain equity in the Company pursuant to the Amended Equity Awards .

The Employee acknowledges that the Consideration provided herein including, but not limited to the Severance Pay, and the Independent Contractor Engagement and the Amended Equity Awards (subject in all respects to the terms of the Independent Contractor Agreement and the Amended Equity Awards) constitute consideration in exchange for the Employee's execution of this Agreement and that such are benefits that the Employee would not have been entitled to had the Employee not executed this Agreement. The Employee acknowledges that the Company has not provided any advice or opinion to the Employee regarding potential tax liability for the consideration provided hereunder.

6. General Waiver and Release. In exchange for the consideration identified in this Agreement, which the Employee acknowledges is in addition to anything of value to which the Employee is already entitled, the Employee hereby waives, releases, settles, and forever discharges the Company, its affiliates, and each of their respective past and present board members, executives, directors, trustees, officers, employees, agents, insurers, predecessors, successors, attorneys, and any other party associated with the Company ("**Releasees**"), to the fullest extent permitted by applicable law, from any and all claims, causes of action, rights, demands, debts, liens, liabilities, or damages of whatever nature, including negligence, whether known or unknown, suspected or unsuspected, that the Employee ever had or may now have, which have been or could be raised by the Employee against any Releasee through the date hereof. The Employee's waiver and release includes, but is not limited to, all claims, liens, demands, or liabilities arising out of or in any way connected with the Employee's employment with the Company or the termination of that employment pursuant to any federal, state, or local laws regulating employment including, but not limited to, claims of race, national origin, ancestry, handicap, disability, religion, marital status, pregnancy, sexual orientation, gender identity, veteran status, sexual harassment, sex, and age discrimination, retaliation, and all claims under the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Employee Retirement Income Security Act, the Rehabilitation Act of 1973, The Reconstruction Era Civil Rights Act, as amended, the Americans with Disabilities Act of 1990 ("**ADA**") and the ADA Amendments Act of 2008, the Family and Medical Leave Act, the Age Discrimination in Employment Act ("**ADEA**"), including without limitation the Older Workers' Benefit Protection Act ("**OWBPA**"), the Equal Pay Act, the Fair Labor Standards Act, the Immigration Control and Reform Act, the Fair Credit Reporting Act, as well as any other common law, federal, state, or local laws, statutes, or ordinances that can be released. Nothing in this Agreement shall be construed to prevent the Employee from participating in any charge of discrimination filed with the Equal Employment Opportunity Commission ("**EEOC**") or similar state agency; provided, however, that by signing this Agreement, the Employee waives the right to recover any monetary damages or attorney fees from the Releasees in any claim or lawsuit brought by or through the

EEOC or similar state agency. Furthermore, nothing in this Agreement prohibits the Employee from reporting alleged violations of federal law or regulation to any government agency or entity, including the Securities and Exchange Commission, or making other disclosures that are protected under whistleblower provisions of applicable law. If the Employee brings an action or other claim against any of the Releasees in violation of this release, or otherwise materially breaches this Agreement, the Company or such other of the Releasees shall have the right to set off any and all damages to which it or any of the Releasees may be entitled against payments or other benefits due to the Employee under this Agreement and to recover from the Employee their attorneys' fees and costs incurred in defending against such action or other claim. The Employee agrees that the Employee is the only person who is able to assert any right or claim arising out of the Employee's employment with and separation from the Company. The Employee hereby promises that the Employee has not assigned, pledged, or otherwise sold any such rights or claims, nor has the Employee relied on any promises other than those expressly contained in this Agreement. The release of claims under this paragraph shall not apply to any claims that Employee may have or will have with respect to his vested benefits, ownership of stock, restricted stock, or stock options in the Company.

7. Specific Waiver and Release under the Age Discrimination in Employment Act and the Older Workers' Benefit Protection Act. The Employee further expressly and specifically waives any and all rights or claims under the ADEA and the OWBPA (collectively, the "**Act**"). Employee acknowledges and agrees that this waiver of any right or claim under the Act (the "**Waiver**") is knowing and voluntary, and the Employee further specifically agrees and represents as follows:

a) that this Agreement in its entirety, as well as, specifically, this Waiver, is written in a manner that the Employee understands;

b) that this Waiver specifically relates to rights or claims under the Act;

c) that the Employee does not waive any rights or claims under the Act that may arise after the Effective Date of this Agreement;

d) that the Employee waives rights or claims under the Act in exchange for consideration in addition to anything of value to which the Employee is already entitled; and

e) that the Employee is hereby advised in writing to consult with an attorney prior to executing this Agreement, and that the Employee has been, or has had the opportunity to be, represented by counsel of his choosing at all times relevant herein.

8. No Known Violations. The Employee agrees that he has or will, prior to signing and delivering this Agreement and in the twenty-one (21) day period after the Separation Date, disclose to the Company any and all matters, information, or concerns of any type whatsoever of which the Employee, in good faith, is currently aware regarding the Company's actions, policies, practices, and/or procedures that the Employee believes constitute a violation of any law, rule, or regulation to the best of his knowledge. All such disclosures shall be delivered to the Company's General Counsel. Additionally, the Employee represents that he has not been prevented, prohibited, or in any manner restricted by the Company from making a full disclosure of any and all of his concerns regarding such matters to the Company. The Company hereby represents that no member of the Board of Directors of the Company has actual knowledge as of the Separation Date of any acts or omissions by Employee that would constitute a violation or breach of any law, rule, or regulation in connection with Employee's employment with the Company or of any contract between Employee and the Company.

9. Cooperation. The Parties agree that certain matters in which the Employee was and will be involved during his employment and prior to the Separation Date may necessitate the Executive's cooperation or assistance in the future. Accordingly, following the later of the Separation Date or the expiration of the Independent Contractor Engagement, to the extent reasonably requested by the Board of Directors of the Company, the Employee shall cooperate with the Company in connection with any claims arising out of the Employee's employment with the Company and his performance of services under the Independent Contractor Engagement including preparing for and providing truthful testimony; provided that, the Company shall make reasonable efforts to minimize disruption of the Employee's other activities. The Company shall reimburse the Employee for reasonable expenses incurred in connection with such cooperation and assistance and, to the extent that the Employee is required to spend more than 1 week on such matters, the Company shall compensate the Employee at an hourly rate of $270; provided, however, that the Employee shall not be entitled to such hourly compensation with respect to his time spent in connection with the defense of current shareholder litigation against the Company. The Company shall issue Employee a Form 1099 for any such payments, as required by law. Any reimbursements or in-kind benefits due hereunder shall be provided such that the amount paid in one calendar year cannot affect the expenses eligible for reimbursement in another calendar year, shall be paid to Employee no later than the last day of the calendar year after the calendar year in which incurred and any right to reimbursement shall be subject to liquidation or exchange for another benefit.

10. Restrictive Covenants. Employee acknowledges and agrees that Employee remains subject to certain restrictive covenants including, but not limited to, those provided by the Non-Compete Agreement, and included in the Independent Contractor Agreement ("**Restrictive Covenants**"), which Restrictive Covenants are for the benefit of the Company and which Restrictive Covenants survive the termination of Employee's employment as provided. Employee is hereby advised that the Defend Trade Secrets Act of 2016 provides immunity from civil and criminal liability under state and federal trade secret laws for any employee who discloses a trade secret in a lawsuit or other proceeding filed under seal or who discloses a trade secret in confidence to a government official or an attorney for the sole purpose of reporting or investigating a suspected violation of law.

11. Indemnification and D&O Insurance. The Company shall indemnify Employee against all claims related to actions arising prior to the Separation Date to the fullest extent permitted by Nevada law, and the Company shall continue to provide coverage under a Directors and Officers' insurance policy for not less than 48 months following the Separation Date, substantially in the same terms of the Directors' and Officers' insurance policy in effect immediately before the Separation Date. If Directors' and Officers' insurance is cancelled, the Company shall purchase tail coverage of Directors' and Officers' insurance to continue coverage for Employee for the entire 48-month period. For the avoidance of doubt, the Company's obligation to indemnify and provide Directors' and Officers' insurance shall include, but not be limited to, coverage for any pending lawsuits where Employee has been or will be named personally.

12. Binding Effect. This Agreement shall bind the Employee and the Employee's heirs, executors, administrators, personal representatives, attorneys, dependents, successors, and assigns. Neither this Agreement, nor any right or interest hereunder shall be assignable by the Employee, the Employee's beneficiaries, or legal representatives without the prior consent of the Company.

13. Final Resolution. The Employee accepts the benefits of this Agreement as full compensation and resolution of any and all claims, as stated herein, including attorney fees, and covenants that the Employee shall not file suit to recover attorney fees or compensation in any form, except as specifically set forth this Agreement.

14. Return of Property. The Employee affirms and warrants that the Employee has returned or will promptly return at such time requested by the Company to the Company all Company property in a satisfactory condition, including but not limited to, all keys, credit or access cards, equipment, documents, copies of documents, draft and final reports, materials, studies, disks, computers, and all Company information stored in any electronic form. This paragraph shall not apply to Company property that Employee retains to perform services under the Independent Contractor Agreement; however, upon the termination of the Independent Contractor Agreement, Employee shall return all Company property, as set forth in the Independent Contractor Agreement.

15. Entire Agreement. This Agreement, together with the Independent Contractor Agreement, the Amended Equity Awards and the Non-Compete Agreement, which are expressly incorporated herein, sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings, oral or written, between the Parties. The terms of this Agreement may not be modified other than in a writing signed by both Parties.

16. Choice of Law and Forum. This Agreement shall in all respects be interpreted, enforced and governed under the laws of the State of Ohio (except with respect to the indemnity commitment in paragraph 11 above) without regard to conflict of laws principles that would require the application of any other law. Any dispute between Employee and the Company and/or any of the Releasees will be brought solely (i) in the federal district court located in Cincinnati, Ohio or (ii) if its subject matter jurisdiction requirements are not met, in the state courts located in or for Hamilton County, Ohio.

17. Severability. Should any provision of this Agreement, or the application thereof, be held invalid or unenforceable by a court of competent jurisdiction, the invalid or unenforceable provision, to the extent possible, will be revised to adhere to the intentions of the Parties as valid or enforceable under the law, and the remainder of this Agreement shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law or equity unless the invalid or unenforceable provisions result in a failure of consideration.

18. Captions. Captions and headings of this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph.

19. Consideration and Revocation Periods. The Employee acknowledges that the Employee is hereby advised of the right to consider this Agreement for twenty-one (21) days prior to accepting it. Exclusively as this Agreement pertains to Employee's release of claims under the ADEA and OWBPA, the Employee acknowledges that the Employee may revoke the acceptance of this Agreement within seven (7) days after the date of the Employee's acceptance. Any revocation must be in writing, signed by the Employee, and: (a) postmarked within the seven (7) day revocation period; (b) scanned and emailed within the seven (7) day revocation period; or (c) noted "hand delivered" and physically delivered prior to the expiration of the seven (7) day revocation period. Any revocation must be directed to the attention of the Board of Directors of the Company. If the Employee revokes this Agreement as provided herein, the Company may, during the seven (7) day period following the Company's receipt of Employee's revocation, elect to accept only the revocation of the revocable portion and enforce the remainder. Otherwise, this Agreement shall be fully revoked. If the Employee does not revoke this Agreement, it shall be effective on the eighth (8th) day following the Employee's execution hereof (the "**Effective Date**"), provided the Company has signed the Agreement, as well by that date.

20. Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when

taken together, shall constitute one and the same final Agreement. Signatures to this Agreement may be delivered by means of electronic transmission, and all such signatures so delivered shall be deemed to be original signatures for all purposes hereunder.

By signing this Agreement, the Employee agrees that this Agreement is written in a manner calculated to be understood by the Employee, that the Employee has carefully reviewed all of the terms and conditions of this Agreement, and that the Employee has had a reasonable period of time to consider this Agreement. By signing this Agreement, the Employee understands that the Employee has released all claims against the Company and its affiliates, including, without limitation, any and all claims for damages and payment of attorneys' fees, except as specifically set forth in this Agreement. The Employee acknowledges that the consideration the Employee has received in connection with this Agreement is a benefit that the Employee is not otherwise entitled to. The Employee enters into this Agreement knowingly, voluntarily, without any coercion or undue influence of any kind, and after a full and fair opportunity to consult with counsel, if desired. Similarly, the Company enters into this Agreement knowingly, voluntarily, without any coercion or undue influence of any kind, and after a full and fair opportunity to consult with its counsel.

IN WITNESS WHEREOF, the Parties have executed this EMPLOYMENT SEPARATION AGREEMENT AND RELEASE OF CLAIMS as of the date of Employee's signature below.

EMPLOYEE:	**COMPANY:**
Duane Hughes	**Workhorse Group, Inc.**
By: /s/ Duane Hughes Name: Duane Hughes	By: /s/ Raymond Chess Name: Raymond Chess Title: Chairman of the Board of Directors

Acceptance Date: August 1, 2021

INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement ("**Agreement**") is made by and between WORKHORSE GROUP, INC., a Nevada corporation (the "**Company**") and DUANE HUGHES (the "**Contractor**") (collectively, the "**Parties**") as of the Effective Date (defined herein).

WHEREAS, the Company wishes to engage the Contractor as an independent contractor, and the Contractor wishes to provide services to the Company as an independent contractor.

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Term. The term of this Agreement shall begin on August 2, 2021 and shall end on September 30, 2021, unless prior terminated pursuant to Section 9 herein ("**Term**"). Upon the conclusion of the Term, this Agreement shall automatically terminate unless the Parties mutually agree to extend the Term and such agreement is reduced to a signed writing by and between the Parties.

2. Services. The Company hereby engages Contractor, and Contractor hereby accepts such engagement, as an independent contractor to provide certain services to the Company on the terms and conditions set forth in this Agreement including, but not limited to, cooperating in connection with any claims arising out of the Contractor's past employment with the Company and his performance of services under this Agreement. Contractor shall perform services for the Company as are within the Contractor's area of knowledge, skill, and expertise as directed, from time to time, by the Board and Officers of the Company ("**Services**"). Contractor shall personally perform the Services and shall not subcontract or assign the obligation or right to perform Services to any other individual or entity without prior written consent of the Company. The Contractor, and not the Company, shall control the manner or means by which Contractor performs the Services, including but not limited to the time and place Contractor performs the Services, provided, however, that the Company reserves the right to establish deadlines and minimum standards for the performance of each and every assignment. The Company and Contractor anticipate that the time devoted to services hereunder will be less than 20% of the time that Contractor devoted to services as an employee during the 36-month period prior to the end of Contractor's employment with the Company. The Company shall provide Contractor with access to its premises, materials, information, and systems to the extent necessary for the performance of the Services. Unless otherwise provided by the Company, Contractor shall furnish, at Contractor's own expense, the materials, equipment, and other resources necessary to perform the Services. Contractor shall comply with all rules and procedures communicated to Contractor by the Company.

3. Compensation for Services. As full compensation for the Services and the rights granted to the Company in this Agreement, the Company shall:

a) Monthly Fee. Pay Contractor a fixed fee of fifteen thousand dollars ($15,000) each calendar month of the Term ("**Monthly Fee**"), payable on or before the 15th day of the month immediately following the month for which the Monthly Fee is attributed. Contractor acknowledges that Contractor will receive an IRS Form 1099-NEC from the Company, and that Contractor shall be solely responsible for all federal, state, and local taxes.

b) Equity Awards. By mutual agreement of the Parties, as of the Effective Date, the Restricted Stock Agreement between the Company and the Contractor dated as February 25, 2021 is being amended on the terms and conditions set forth in an Amendment to Restricted Stock Agreement entered into between the Company and the Contractor as of the date of this Agreement (the "**Amended Equity Awards**"). In addition, the Company and the Contractor will enter into an amendment to certain Stock Option Agreements between the Company and the Contractor to extend until January 31, 2022 the period in which the Contractor may exercise such Stock Option Agreements as to shares that are vested as of the Effective Date.

4. Independent Contractor Relationship. Contractor is an independent contractor of the Company, and this Agreement shall not be construed to create any association, partnership, joint venture, employment, or agency relationship between Contractor and the Company for any purpose. Contractor has no authority (and shall not hold himself out as having authority) to bind the Company and Contractor shall not make any agreements or representations on the Company's behalf without the Company's prior written consent. Contractor will not be eligible to participate in any vacation, group medical or life insurance, disability, profit sharing or retirement benefits, or any other fringe benefits or benefit plans offered by the Company to its employees (other than plans which, by their terms, allow continuation or conversion of benefits to former employees generally, in which case Contractor's rights shall be in accordance with those terms), and the Company will not be responsible for withholding or paying any income, payroll, Social Security, or other federal, state, or local taxes on the Monthly Fee hereunder, making any insurance contributions, including for unemployment or disability, or obtaining workers' compensation insurance on Contractor's behalf.

5. Intellectual Property Assignment. The Company is and will be the sole and exclusive owner of all right, title, and interest throughout the world in and to all the results and proceeds of the Services performed under this Agreement (collectively, the "**Deliverables**") and all other writings, technology, inventions, discoveries, processes, techniques, methods, ideas, concepts, research, proposals, and materials, and all other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, modified, conceived, or reduced to practice in the course of performing the Services or other work performed in connection with the Services or this Agreement (collectively, and including the Deliverables, "**Work Product**") including all patents, copyrights, trademarks (together with the goodwill symbolized thereby), trade secrets, know-how, and other confidential or proprietary information, and other intellectual property rights (collectively "**Intellectual Property Rights**") therein. Contractor agrees that the Work Product is hereby deemed "work made for hire" as defined in 17 U.S.C. § 101 for the Company and all copyrights therein automatically and immediately vest in the Company. If, for any reason, any Work Product does not constitute "work made for hire," Contractor hereby irrevocably assigns to the Company, for no additional consideration, Contractor's entire right, title, and interest throughout the world in and to such Work Product, including all Intellectual Property Rights therein, including the right to sue for past, present, and future infringement, misappropriation, or dilution thereof. To the extent any copyrights are assigned under this Section 5, Contractor hereby irrevocably waives in favor of the Company, to the extent permitted by applicable law, any and all claims Contractor may now or hereafter have in any jurisdiction to all rights of paternity or attribution, integrity, disclosure, and withdrawal and any other rights that may be known as "moral rights" in relation to all Work Product to which the assigned copyrights apply. Upon the request of the Company, during and after the Term, Contractor shall promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, and provide such further cooperation, as may be necessary to assist the Company to apply for, prosecute, register, maintain, perfect, record, or enforce its rights in any Work Product and all Intellectual Property Rights therein. In the event the Company is unable, after reasonable effort, to obtain Contractor's signature on any such documents, Contractor hereby irrevocably designates and appoints the Company as Contractor's agent and attorney-in-fact, to act for and on Contractor's behalf solely to execute and file any such application or other document and do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights, or other intellectual property protection related to the Work Product with the same legal force and effect as if Contractor had executed them. Contractor agrees that this power of attorney is coupled with an interest. As between the

Contractor and the Company, the Company is, and will remain, the sole and exclusive owner of all right, title, and interest in and to any documents, specifications, data, know-how, methodologies, software, and other materials provided to the Contractor by the Company ("**Company Materials**"), including all Intellectual Property Rights therein. Contractor has no right or license to reproduce or use any Company Materials except solely during the Term to the extent necessary to perform Contractor's obligations under this Agreement. All other rights in and to the Company Materials are expressly reserved by the Company. The Contractor has no right or license to use the Company's trademarks, service marks, trade names, logos, symbols, or brand names. Contractor shall require each of Contractor's and employees and subcontractors, if any, to execute written agreements containing obligations of confidentiality and non-use and assignment of inventions and other work product consistent with the provisions of this Section 5 prior to such employee or subcontractor providing any Services under this Agreement.

6. Non-Compete Agreement. The Parties agree that this Agreement is subject to and contingent upon Contractor's simultaneous execution of the Non-Compete Agreement attached hereto as Exhibit A ("**Non-Compete Agreement**").

7. Employment Separation Agreement and Release of Claims. The Parties agree that this Agreement is subject to and contingent upon and results from Contractor's and the Company's simultaneous execution and non-revocation of the Employment Separation Agreement and Release of Claims by and between the Parties ("**Employment Separation Agreement and Release of Claims**").

8. Contractor Representations and Warranties. Contractor represents and warrants to the Company that:

a) Contractor has the right to enter into this Agreement, to grant the rights granted herein, and to perform fully all of Contractor's obligations in this Agreement;

b) Contractor's entering into this Agreement with the Company and Contractor's performance of the Services do not and will not conflict with or result in any breach or default under any other agreement to which Contractor is subject;

c) Contractor shall perform the Services in compliance with all applicable federal, state, and local laws and regulations, including by maintaining all licenses, permits, and registrations required to perform the Services (if any are required);

d) The Company will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind; and

e) All Work Product is and shall be Contractor's original work (except for material in the public domain or provided by the Company) and does not and will not violate or infringe upon the intellectual property right or any other right whatsoever of any person, firm, corporation, or other entity.

9. Termination.

a) Termination with Notice. After August 25, 2021, the Contractor or the Company may terminate this Agreement without cause upon 14 calendar days' written notice to the other Party to this Agreement. In the event of termination pursuant to this clause, the Company shall pay Contractor on a pro-rata basis any Monthly Fees then due and payable for any period prior to and including the date of such termination.

b) Termination for Cause. After August 25, 2021, the Contractor or the Company may terminate this Agreement, effective immediately upon written notice to the other Party to this Agreement, if the other Party materially breaches this Agreement or any other agreement by and between the Parties as then in effect.

c) Return of Property. The Contractor will promptly return at such time requested by the Company to the Company all Company property in a satisfactory condition, including but not limited to, all keys, credit or access cards, equipment, documents, copies of documents, draft and final reports, materials, studies, disks, computers, and all Company information stored in any electronic form. In addition, the Contractor will return any materials or projects (whether complete or incomplete) that he is working on as an independent contractor of the Company.

10. Release. As a condition to receiving the amounts and benefits in Section 3 hereof, the Contractor shall sign and deliver to the Company a release of claims (the "**Release**") in substantially the form attached hereto as Exhibit B, within twenty-one (21) days after the expiration of the Term and not revoke the same within seven (7) days after the delivery of the Release to the Company. The Company shall provide this Release to the Contractor both by overnight mail and email (duane.hughes@twc.com) at the time the Company would like Contractor to sign it. If the Contractor does not sign and delivery the Release or if the Contractor revokes it, the Contractor shall not be entitled to receive the final Monthly Fee under Section 3(a), but this Agreement (including the waivers and releases contained herein and the other agreements incorporated herein) shall otherwise remain in full force and effect.

11. No Known Violations. The Contractor agrees that he will, within twenty-one (21) days after the expiration of the Term, disclose to the Company any and all matters, information, or concerns of any type whatsoever of which the Contractor, in good faith, is currently aware regarding the Company's actions, policies, practices, and/or procedures that the Contractor believes constitute a violation of any law, rule, or regulation to the best of his knowledge. All such disclosures shall be delivered to the Company's General Counsel. Additionally, the Contractor represents that he has not been prevented, prohibited, or in any manner restricted by the Company from making a full disclosure of any and all of his concerns regarding such matters to the Company.

12. Survival. The terms and conditions of Sections 4, 5, 6, 7, 9(c), and 10 herein shall survive the expiration or termination of this Agreement.

13. Other Business Activities. Contractor may be engaged or employed in any other business, trade, profession, or other activity which does not place Contractor in a conflict of interest with the Company; provided, that, during the Term and for the period thereafter during which Contractor is subject to a restrictive covenant, the Contractor shall not be engaged in any business activities that violates his restrictive covenants.

14. Binding Effect. This Agreement shall bind the Company, the Company's successors and assigns, the Contractor and the Contractor's heirs, executors, administrators, personal representatives, attorneys, dependents, successors, and assigns. Neither this Agreement, nor any right or interest or obligation hereunder shall be assignable by the Contractor, the Contractor's beneficiaries, or legal representatives without the prior consent of the Company.

15. Entire Agreement. This Agreement, together with the Employment Separation Agreement and Release of Claims, the Amended Equity Awards, and the Non-Compete Agreement, which are expressly incorporated herein, sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings, oral or written, between

the Parties. The terms of this Agreement may not be modified other than in a writing signed by both Parties.

16. Choice of Law & Forum. This Agreement shall in all respects be interpreted, enforced and governed under the laws of the State of Ohio without regard to conflict of laws principles that would require the application of any other law. Any dispute between Contractor and the Company and/or any of the Releasees will be brought solely (i) in the federal district court located in Cincinnati, Ohio or (ii) if its subject matter jurisdiction requirements are not met, in the state courts located in or for Hamilton County, Ohio.

17. Severability. Should any provision of this Agreement, or the application thereof, be held invalid or unenforceable by a court of competent jurisdiction, the invalid or unenforceable provision, to the extent possible, will be revised to adhere to the intentions of the Parties as valid or enforceable under the law, and the remainder of this Agreement shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law or equity unless the invalid or unenforceable provisions result in a failure of consideration.

18. Captions. Captions and headings of this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph.

19. Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute one and the same final Agreement. Signatures to this Agreement may be delivered by means of electronic transmission, and all such signatures so delivered shall be deemed to be original signatures for all purposes hereunder.

IN WITNESS WHEREOF, the Parties have executed this INDEPENDENT CONTRACTOR AGREEMENT as of the date of Contractor's signature below.

INDEPENDENT CONTRACTOR:

Duane Hughes

By: /s/ Duane Hughes
Name: Duane Hughes

Date: August 1, 2021

COMPANY:

Workhorse Group, Inc.

By: /s/ Raymond Chess
Name: Raymond Chess
Title: Chairman of the Board of Directors

Date: August 1, 2021

EXHIBIT A

Non-Compete Agreement

This Non-Compete Agreement ("Non-Compete Agreement") is entered into by and between Workhorse Group Inc., a Nevada corporation (the "Company'), and Duane Hughes (the "Contractor"), (the Company and the Contractor are collectively referred to as the "Parties"), as of the date of Contractor's signature below (the "Effective Date").

In consideration of the Contractor's engagement by the Company as an independent contractor, for the execution of the Independent Contractor Agreement, and amendment of restricted stock awards in connection therewith, all of which the Contractor acknowledges to be good and valuable consideration for the Contractor's obligations hereunder, the Company and the Contractor hereby agree as follows:

1. Confidential Information. The Contractor understands and acknowledges that prior to and during the course of engagement with the Company, the Contractor has had or will have access to and has learned or will learn about Confidential Information, as defined below, which Confidential Information Contractor agrees he shall not use or disclose without prior written authorization of the Company.

   a. Confidential Information Defined. For purposes of this Non-Compete Agreement, "Confidential Information" includes, but is not limited to, all information not generally known to the public, in spoken, printed, electronic, or any other form or medium, relating directly or indirectly to: Work Product, Company Materials, and the Intellectual Property Rights therein (as defined in the Independent Contractor Agreement executed by the Contractor in favor of the Company), computer programming and software, Company products and services, systems, functionality, designs, hardware, parts, concepts, specifications, features, techniques, plans, marketing, sales, performance, cost, pricing, supplier and customer information, data, tables, schedules, contracts and other information concerning the Company or its businesses, any existing or prospective customer, supplier, investor, or other associated third party, or of any other person or entity that has entrusted information to the Company in confidence.

      The Contractor understands that the above list is not exhaustive, and that Confidential Information also includes other information that is marked or otherwise identified or treated as confidential or proprietary, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used.

      The Contractor understands and agrees that Confidential Information includes information developed by the Contractor in the course of the Contractor's employment by or independent contractor relationship with the Company as if the Company furnished the same Confidential Information to the Contractor in the first instance. Confidential Information shall not include information that is generally available to and known by the public at the time of disclosure to the Contractor, provided that the disclosure is through no direct or indirect fault of the Contractor or person(s) acting on the Contractor's behalf.

b. Company Use and Creation of Confidential Information. The Contractor understands and acknowledges that the Company has invested, and continues to invest, substantial time, money, and specialized knowledge into developing its resources, creating a customer base, generating customer and potential customer lists, training its Contractors, and improving its offerings. The Contractor understands and acknowledges that as a result of these efforts, Company has created, and continues to use and create, Confidential Information. This Confidential Information provides Company with a competitive advantage over others in the marketplace.

c. Disclosure and Use Restrictions. Nothing herein voids, alters, or modifies the Contractor's obligations under the Independent Contractor Agreement by the Contractor in favor of the Company.

d. Notice of Immunity Under the Defend Trade Secrets Act of 2016 ("DTSA"). Notwithstanding any other provision of this Agreement:

   i. The Contractor will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that:

      1. is made: (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (2) solely for the purpose of reporting or investigating a suspected violation of law; or

      2. is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

   ii. If the Contractor files a lawsuit for retaliation by the Company for reporting a suspected violation of law, the Contractor may disclose the Company's trade secrets to the Contractor's attorney and use the trade secret information in the court proceeding if the Contractor:

      1. files any document containing the trade secret under seal; and

      2. does not disclose the trade secret, except pursuant to court order.

e. Other Permitted Disclosures. Nothing in this Agreement shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. The Contractor shall promptly provide written notice of any such order to an authorized officer of the Company.

Nothing in this Agreement prohibits or restricts the Contractor (or Contractor's attorney) from initiating communications directly with, responding to an inquiry from, or providing testimony before the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other self-regulatory organization, or any other federal or state regulatory authority regarding this Agreement or its underlying facts or circumstances.

2. Restrictive Covenants.

   a. Acknowledgment. The Contractor understands that the nature of Contractor's engagement gives the Contractor access to and knowledge of Confidential Information and places the Contractor in a position of trust and confidence with the Company. The Contractor understands and acknowledges that the intellectual services the Contractor provides to the Company are unique, special, or extraordinary.

      The Contractor further understands and acknowledges that the Company's ability to reserve these for the exclusive knowledge and use of the Company is of great competitive importance and commercial value to the Company, and that improper use or disclosure by the Contractor is likely to result in unfair or unlawful competitive activity.

   b. Non-Competition. Because of Company's legitimate business interest as described in this Agreement and the good and valuable consideration offered to the Contractor, the sufficiency of which is acknowledged, during the term of Contractor's Term (as defined by the Independent Contractor Agreement) and for the 7 months, to run consecutively, beginning on the last day of the Contractor's Term (as defined by the Independent Contractor Agreement) with the Company, (the "Restricted Period"), the Contractor agrees and covenants not to engage in Prohibited Activity worldwide ("Restricted Territory").

      For purposes of this non-compete clause, "Prohibited Activity" is activity in which the Contractor contributes the Contractor's knowledge, directly or indirectly, in whole or in part, as an Contractor, Company, owner, operator, manager, advisor, consultant, contractor, agent, partner, director, stockholder, officer, volunteer, intern, or any other similar capacity to an entity engaged in the same or similar business as the Company, including those engaged the business described in the Company's 10-K for the year ended December 31, 2020 as conducted by the Company or any of its affiliates at any time within the Restricted Territory. Prohibited Activity also includes activity that may require or inevitably require disclosure of trade secrets, proprietary information, or Confidential Information.

Nothing herein shall prohibit Contractor from purchasing or owning less than five percent (5%) of the publicly traded securities of any corporation, provided that such ownership represents a passive investment and that the Contractor is not a controlling person of, or a member of a group that controls, such corporation.

This Section does not, in any way, restrict or impede the Contractor from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation, or order.

c. Non-Solicitation of Employees. The Contractor agrees and covenants not to directly or indirectly solicit, hire, recruit, or attempt to solicit, hire, or recruit, any employee of the Company ("Covered Employee"), or induce the termination of employment of any Covered Employee, beginning on the last day of the Contractor's Term (as defined by the Independent Contractor Agreement) with the Company, regardless of the reason during the Restricted Period.

This non-solicitation provision explicitly covers all forms of oral, written, or electronic communication, including, but not limited to, communications by email, regular mail, express mail, telephone, fax, instant message, and social media, including, but not limited to, Facebook, LinkedIn, Instagram, Twitter, and any other social media platform, whether or not in existence at the time of entering into this Agreement.

However, the Contractor's posting to Facebook, LinkedIn, Instagram, Twitter, and any other social media platform about Contractor's status, employment, or new ventures or employers shall not be considered to be in violation of this Section.

d. Non-Solicitation of Customers. The Contractor understands and acknowledges that because of the Contractor's experience with and relationship to the Company, the Contractor has had and will continue to have access to and has learned and will continue to learn about much or all of the Company's customer information, including, but not limited to, Confidential Information. "Customer Information" includes, but is not limited to, names, phone numbers, addresses, email addresses, order history, order preferences, chain of command, pricing information, and other information identifying facts and circumstances specific to the customer and relevant to sales.

The Contractor understands and acknowledges that: (i) the Company's relationships with its customers is of great competitive value; (ii) the Company has invested and continues to invest substantial resources in developing and preserving its customer relationships and goodwill; and (iii) the loss of any such customer relationship or goodwill will cause significant and irreparable harm to the Company.

The Contractor agrees and covenants, during the Restricted Period, beginning on the last day of the Contractor's Term (as defined by the Independent Contractor Agreement) with the Company, not to directly or indirectly solicit, contact, or attempt to solicit or contact, using any other form of oral, written, or electronic communication, including, but not limited to, email, regular mail, express mail, telephone, fax, instant message, or social media, including but not limited to Facebook, LinkedIn, Instagram, or Twitter, or any other social media platform, whether or not in existence at the time of entering into this agreement, or meet with the Company's current, former, or prospective customers for purposes of offering or accepting goods or services similar to or competitive with those offered by the Company.

3. Non-Disparagement. The Contractor agrees and covenants that the Contractor will not at any time make, publish, or communicate to any person or entity in any public forum any defamatory or disparaging remarks, comments, or statements concerning the Company or its businesses, or any of its employees and officers. Neither the CEO nor Chairman of the Company shall at any time make any public statement concerning the Contractor that such individual making the statement knows to be false and that is materially injurious to the Contractor.

   This Section does not, in any way, restrict or impede the Contractor or the Company from exercising protected rights to the extent that such rights cannot be waived by agreement, or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency.

4. Acknowledgment. The Contractor acknowledges and agrees that: (i) the Contractor's services to be rendered to the Company are of a special and unique character; (ii) that the Contractor will obtain knowledge and skill relevant to the Company's industry, methods of doing business, and marketing strategies by virtue of the Contractor's employment; and (iii) that the restrictive covenants and other terms and conditions of this Agreement are reasonable and reasonably necessary to protect the legitimate business interests of the Company.

   The Contractor further acknowledges that: (i) the amount of the Contractor's compensation reflects, in part, the Contractor's obligations and the Company's rights under this Agreement; (ii) that the Contractor has no expectation of any additional compensation, royalties, or other payment of any kind not otherwise referenced herein in connection herewith; and (iii) that the Contractor will not be subject to undue hardship by reason of the Contractor's full compliance with the terms and conditions of this Agreement or the Company's enforcement thereof.

5. Remedies. In the event of a breach or threatened breach by the Contractor of any of the provisions of this Agreement, the Contractor hereby consents and agrees that the Company shall be entitled to, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages, or other available forms of relief.

6. Successors and Assigns.

   a. Assignment by the Company. To the extent permitted by state law, the Company may assign this Agreement to any subsidiary or corporate affiliate, or to any successor or assign (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or substantially all of the business or assets of the Company. This Agreement shall inure to the benefit of the Company and permitted successors and assigns.

   b. No Assignment by the Contractor. The Contractor may not assign this Agreement or any part hereof. Any purported assignment by the Contractor shall be null and void from the initial date of purported assignment.

7. Warranty. Contractor represents and warrants that the Contractor is not a party to any non-compete restrictive covenant or related contractual limitation that would interfere with or hinder the Contractor's ability to undertake the obligations and expectations of employment with the Company.

8. Choice of Law and Forum Selection. This Agreement are governed by, and construed in accordance with, the laws of the State of Ohio, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the laws of any jurisdiction other than the State of Ohio to apply. Any dispute between Contractor and the Company will be brought solely (i) in the federal district court located in Cincinnati, Ohio or (ii) if its subject matter jurisdiction requirements are not met, in the state courts located in or for Hamilton County, Ohio.

9. Entire Agreement. This Agreement, together with the Employment Separation Agreement and Release of Claims entered into by the Parties as of the date of this Agreement and the Independent Contractor Agreement entered into by the Parties as of the date of this Agreement, which are expressly incorporated herein, sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings, oral or written, between the Parties.

10. Modification and Waiver. No provision of this Agreement may be amended or modified unless the amendment or modification is agreed to in writing and signed by the Contractor and by the Chief Executive Officer of the Company. No waiver by either Party of any breach of any condition or provision of this Agreement to be performed by the other Party shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time, nor shall the failure of or delay by either Party in exercising any right, power, or privilege under this Agreement operate as a waiver to preclude any other or further exercise of any right, power, or privilege.

11. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be enforceable only if modified, or if any portion of this Agreement shall be held as unenforceable and thus stricken, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding on the Parties with any such modification to become a part hereof and treated as though originally set forth in this Agreement.

    The Parties further agree that any such court is expressly authorized to modify any unenforceable provision of this Agreement instead of severing the unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement, or by making any other modifications it deems warranted to carry out the intent and agreement of the Parties as embodied in this Agreement to the maximum extent permitted by law.

    The Parties expressly agree that this Agreement as so modified by the court shall be binding upon and enforceable against each of them. Should one or more of the provisions of this Agreement be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been set forth in this Agreement.

12. Captions. Captions and headings of the sections and paragraphs of this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart's signature page of this Agreement, by facsimile, electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, has the same effect as delivery of an executed original of this Agreement.

14. Tolling. If the Contractor violates any of the terms of the restrictive covenant obligations in this Agreement, the Restricted Period for all such restrictions shall automatically be extended by the period the Contractor was in violation of them.

15. Attorneys' Fees. If litigation arises out of or concerning this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

16. Notice. If and when Contractor's Term (as defined by the Independent Contractor Agreement) with Company terminates, Contractor agrees to provide to any subsequent Company a copy of this Agreement. In addition, Contractor authorizes Company to provide a copy of this Agreement to third parties, including, but not limited to, Contractor's subsequent, anticipated, or possible future Company.

In Witness Whereof, each of the parties has executed this Agreement, in the case of the Company, by its duly authorized officer, as of the day and year first above written.

Contractor

Duane Hughes
Address:

Date:

Workhorse Group Inc.

By:
Name:

Title:

Date:

EXHIBIT B

RELEASE OF CLAIMS

1. Pursuant to the Independent Contractor Agreement dated [_______], 2021 (the "**IC Agreement**") by and between WORKHOURSE GROUP, INC. (the "**Company**") and DUANE HUGHES (the "**Contractor**"), the Contractor hereby waives, releases, settles, and forever discharges the Company, its affiliates, and each of their respective past and present board members, executives, directors, trustees, officers, employees, agents, insurers, predecessors, successors, attorneys, and any other party associated with the Company ("**Releasees**"), to the fullest extent permitted by applicable law, from any and all claims, causes of action, rights, demands, debts, liens, liabilities, or damages of whatever nature, including negligence, whether known or unknown, suspected or unsuspected, that the Contractor ever had or may now have, which have been or could be raised by the Contractor against any Releasee through the date hereof. The Contractor's waiver and release includes, but is not limited to, all claims, liens, demands, or liabilities arising out of or in any way connected with the Contractor's employment with the Company, the termination of that employment, the performance of services under the IC Agreement, or the termination of those services or the IC Agreement pursuant to any federal, state, or local laws regulating employment or performance of services including, but not limited to, claims of race, national origin, ancestry, handicap, disability, religion, marital status, pregnancy, sexual orientation, gender identity, veteran status, sexual harassment, sex, and age discrimination, retaliation, and all claims under the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Employee Retirement Income Security Act, the Rehabilitation Act of 1973, The Reconstruction Era Civil Rights Act, as amended, the Americans with Disabilities Act of 1990 ("**ADA**") and the ADA Amendments Act of 2008, the Family and Medical Leave Act, the Age Discrimination in Employment Act ("**ADEA**"), including without limitation the Older Workers' Benefit Protection Act ("**OWBPA**"), the Equal Pay Act, the Fair Labor Standards Act, the Immigration Control and Reform Act, the Fair Credit Reporting Act, as well as any other common law, federal, state, or local laws, statutes, or ordinances that can be released. Nothing in this Release of Claims shall be construed to prevent the Contractor from participating in any charge of discrimination filed with the Equal Employment Opportunity Commission ("**EEOC**") or similar state agency; provided, however, that by signing this Release of Claims, the Contractor waives the right to recover any monetary damages or attorney fees from the Releasees in any claim or lawsuit brought by or through the EEOC or similar state agency. If the Contractor brings an action or other claim against any of the Releasees in violation of this Release of Claims, or otherwise materially breaches the IC Agreement, the Company or such other of the Releasees shall have the right to set off any and all damages to which it or any of the Releasees may be entitled against payments or other benefits due to the Contractor under the IC Agreement or the Employee Separation Agreement and Release of Claims and to recover from the Contractor their attorneys' fees and costs incurred in defending against such action or other claim. The Contractor agrees that the Contractor is the only person who is able to assert any right or claim arising out of the Contractor's previous employment with the Company, the performance of services for the Company, the separation from the employment of the Company, and the termination of services for the Company. The Contractor hereby promises that the Contractor has not assigned, pledged, or otherwise sold any such rights or claims, nor has the Contractor relied on any promises other than those expressly contained in the IC Agreement. The release of claims under this paragraph shall not apply to any claims that Contractor may have or will have with respect to his vested benefits, ownership of stock, restricted stock, or stock options in the Company.

The Contractor further expressly and specifically waives any and all rights or claims under the ADEA and the OWBPA (collectively, the "**Act**"). Contractor acknowledges and agrees that this waiver of any right or claim under the Act (the "**Waiver**") is knowing and voluntary, and the Contractor further specifically agrees and represents as follows:

a) that the IC Agreement in its entirety, as well as, specifically, this Release of Claims, are written in a manner that the Contractor understands;

b) that this Release of Claims specifically relates to rights or claims under the Act;

c) that the Contractor does not waive any rights or claims under the Act that may arise after the date of this Release of Claims;

d) that the Contractor waives rights or claims under the Act in exchange for consideration in addition to anything of value to which the Contractor is already entitled;

e) that the Contractor is hereby advised in writing to consult with an attorney prior to executing this Release of Claims, and that the Contractor has been, or has had the opportunity to be, represented by counsel of his choosing at all times relevant herein;

f) that the Contractor has twenty-one (21) days to consider this Release of Claims (although he may choose to sign it earlier);

g) that the Contractor has seven (7) days after signing this Release of Claims to revoke it; and

h) that this Release of Claims will not be effective until the date on which the revocation period has expired, which will be the eighth day after the Contractor signs this Release of Claims, assuming the Contractor has delivered it to the Company's General Counsel by such date.

If this Release of Claims is acceptable, the Contractor must sign below ***on or after the expiration of the Term*** and deliver the original to the Company's General Counsel by no later than 5:00 P.M. on October 21, 2021.

CONTRACTOR

By:____________________________
Duane Hughes

Date:_____________________, 2021

COMPANY:

Workhorse Group, Inc.

By: ________________________

Name: ________________________

Title: ________________________

Execution Version

EMPLOYMENT AGREEMENT

This Employment Agreement (this "**Agreement**") is made and entered into as of August 16, 2021 by and between WORKHORSE GROUP INC., a Nevada corporation (the **"Company")**, and James Harrington (the **"Executive")**.

RECITALS:

WHEREAS, the Company seeks to engage Executive as the Chief Administrative Officer, General Counsel, and Secretary of the Company;

WHEREAS, the Executive and the Company each desire that the Executive provide services to the Company, and each desire to enter into this Agreement with respect to the Executive's employment, effective as of the date set forth above (the "**Effective Date**"), to provide compensation, severance, and other terms, on the terms and conditions set forth herein; and

WHEREAS, the Executive's execution of this Agreement and separate Non-Compete Agreement (the **"Non-Compete Agreement")** are material inducements for the Company to employ the Executive, and the Company's execution of this Agreement and the grant of equity awards are material inducements for the Executive to enter into this Agreement and the Non-Compete Agreement.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **<u>POSITION, DUTIES, AND LOCATION.</u>**

1.1 <u>Position.</u> During the Employment Term, the Executive shall serve as the Chief Administrative Officer, General Counsel, and Secretary of the Company, reporting to the Chief Executive Officer of the Company (the "**CEO**"). The Executive's job responsibilities will include managing and overseeing all legal and human resources matters of the Company in order to establish a successful business and manage growth. In addition, the Executive will have all authorities, duties and responsibilities as are customarily exercised by an individual serving in the Executive's positions in a corporation of the size and nature of the Company, as well as those that are reasonably assigned by the Board of Directors of the Company (the "**Board**") and the CEO.

1.2 <u>Duties.</u> During the Employment Term, the Executive shall devote substantially all of his business time and attention to the performance of the Executive's duties hereunder and will not engage in any other business, profession, or occupation for compensation or otherwise which would conflict or interfere with the performance of such services either directly or indirectly without the prior written consent of the CEO or the Board. Notwithstanding the foregoing, the Executive will be permitted, with the prior written consent of the CEO or the Board (which consent will not be unreasonably withheld or delayed) to act or serve as a director, trustee, or committee member of a reasonable number of business, civic, or charitable organizations as long as such activities are disclosed in writing to the Company in accordance with the Company's Conflict of Interest Policy and such activities do not interfere with the performance of the Executive's duties and responsibilities to the Company as provided hereunder.

1.3 <u>Place of Performance.</u> The principal place of Executive's employment shall be the Company's principal executive office currently located in Loveland, Ohio, or a future principal executive office approved by the Board during the Employment Term; provided, however, that the Executive is expected to commute to the Company's principal executive office from his current home for the first 6 months following the Effective Date. In addition, the Executive will be required to travel on Company business during the Employment Term.

2. **TERM AND TERMINATION.**

2.1 Term. The Executive's employment hereunder shall be effective as of the Effective Date and shall continue until the first anniversary thereof, unless terminated earlier as provided below; provided, however, that on such first anniversary of the Effective Date and each annual anniversary thereafter (such date and each annual anniversary thereof, a "**Renewal Date**") this Agreement shall be deemed to be automatically extended, upon the same terms and conditions, for successive periods of one year, unless either party provides written notice of its intention not to extend the term of this Agreement at least 90 days' prior to the applicable Renewal Date. The period during which the Executive is employed by the Company hereunder is hereinafter referred to as the "**Employment Term**."

2.2 Termination. The Employment Term and the Executive's employment hereunder may be terminated by either the Company or the Executive at any time and for any reason; provided, however, that unless otherwise provided herein, either party shall be required to give the other party at least 30 days' advance written notice of any termination of the Executive's employment except in the case of termination by the Company for Cause. Upon termination of the Executive's employment during the Employment Term, the Executive shall be entitled to the compensation and benefits described in Sections 4, 5, and 6 below and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates.

3. **COMPENSATION.**

3.1 Base Salary. The Executive's base salary will be $375,000 per year (the " **Base Salary**"). The Base Salary shall not be reduced during the initial one-year term of this Agreement; provided, however, that the Base Salary may be reduced by the Board or as may be delegated to the Compensation Committee of the Board (references herein to the Compensation Committee shall include reference to the Board if no such Committee exists at any time) if necessary in connection with a one-time reduction as part of a Company-wide or executive team-wide cost-cutting measure or Company-wide or executive team-wide cutback as a result of overall Company performance, in which case the Base Salary shall not be reduced by more than 10% without the Executive's prior approval (not to be unreasonably withheld). The Base Salary shall be paid in accordance with the Company's customary payroll practices and applicable wage payment laws.

3.2 Bonuses. Each calendar year ending within the Employment Term (commencing with the calendar year ending December 31, 2021), Executive will be eligible to receive a cash bonus ("**Cash Bonus**") as determined by the Compensation Committee based upon the level of achievement of performance goals established by the Compensation Committee and provided to the Executive in writing within ninety (90) days after the beginning of the calendar year. The Executive's target Cash Bonus would be 50% of the then current Base Salary with the potential to receive up to 100% of the then current Base Salary if the maximum level of the performance goals is achieved. With respect to each calendar year ending within the Employment Term, the Compensation Committee will determine the amount of the Cash Bonus to be awarded within ninety (90) days after the end of the calendar year to which the Cash Bonus relates. The Compensation Committee has the sole and absolute discretion whether to award a Cash Bonus each calendar year, provided, however, that for the calendar year ending December 31, 2021, the Executive's Cash Bonus will be no less than $100,000. If the Compensation Committee awards a Cash Bonus, it will direct the Company to pay the awarded Cash Bonus at the next payroll to occur following such determination. To be eligible to receive a Cash Bonus for a particular calendar year, the Executive must be employed by the Company on the payroll date that the Cash Bonus is paid, except that in the case of the Executive's death or Permanent Disability prior to such payroll date, the Executive only must be employed by the Company as of the last day of the particular calendar year.

3.3 Equity Awards.

(a) Signing Bonus. As further consideration for entering into this Agreement and the Non-Compete Agreement, within 30 days following the Effective Date the Executive will be granted a one-time award under the Company's 2019 Stock Incentive Plan of 100,000 restricted shares reflected in a separate restricted stock award agreement. The restricted shares will have 3-year vesting periods, with shares vesting ratably every 6 months.

(b) Long Term Incentive Plan. In addition to the equity awards described in Section 3.3(a), the Executive may be granted a calendar year 2021 award under the Company's 2019 Stock Incentive Plan for a number of restricted shares as determined by the Compensation Committee with 50% of the shares subject to time-based vesting, with a 3-year vesting period and shares vesting ratably every 6 months, and the other 50% of the shares subject to performance-based vesting, based on performance metrics to be determined by the Compensation Committee. With respect to each subsequent calendar year ending during the Employment Term, the Executive will be eligible to receive additional equity incentive grants, subject to the Executive's continued employment and satisfactory job performance, under any long-term incentive plan approved by the Board, with a target value of 150% of the then-current Base Salary (based on the grant date value of any such award). Each such annual award will be made within 6 months following the end of the calendar year and shall be subject to vesting and other terms and conditions as determined by the Compensation Committee.

(c) Equity Plan Terms. Terms and conditions of all equity incentive grants, including those describe above, will be in accordance with the terms of the Company's equity-based incentive plan in effect at the time of each such grant.

3.4 Vacation and Benefits. The Executive is entitled to four (4) weeks of vacation, which will accrue on a pro-rata basis during the employment year, in addition to all public holidays when the office is closed. The Executive will be eligible to participate in all employee benefit plans established by the Company for its employees from time to time, subject to general eligibility and participation provisions set forth in such plans. In accordance with Company policies from time to time and subject to proper documentation, the Company will reimburse the Executive for all reasonable and proper travel and business expenses incurred by the Executive in the performance of his duties. The Executive will be covered by the Company's directors' and officers' insurance policy, or an equivalent thereto (the "**D & O Insurance Policy**"), at the Company's cost.

3.5 Company's Right to Recoup. Any incentive compensation (whether in the form of cash bonus, equity, or otherwise) payable under this Agreement or otherwise are subject to recoupment in the event of a financial restatement of the Company's financial statements due to nonconformance with accounting principles generally accepted in the United States or under applicable law or a material misstatement of any other metric material to the Company's performance, such as safety statistics, which, if initially reported properly, would have resulted in a lower amount of incentive compensation, regardless of form. The Company will make any determination for clawback or recoupment consistent with this Section 3.5 and the applicable clawback policy of the Company in good faith. The action permitted to be taken by the Company under this Section 3.5 shall be in addition to, and not in lieu of, any and all other rights of the Company under applicable law and shall apply notwithstanding anything to the contrary contained herein.

3.6 Housing, Transportation and Relocation Expenses.

(a) Housing and Transportation. The Company shall pay or the Executive shall be reimbursed for the Executive's reasonable and documented transportation and temporary housing expenses associated with the Executive's travel to the Company's principal executive office during the six-month period immediately following the Effective Date, up to a maximum of $7,500 per month.

(b) Relocation. The Company shall pay, or reimburse the Executive for, all reasonable and documented relocation expenses incurred by the Executive within one year following the Effective Date and relating to the Executive's relocation to the Company's principal executive office currently located in Loveland, Ohio or a future principal executive office approved by the Board during the Employment Term.

4. **EFFECT OF TERMINATION GENERALLY**. If the Executive's employment with the Company terminates for any reason other than Termination Upon Change of Control or Involuntary

Termination, then the Executive shall be entitled to the benefits described in this Section 4 and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates.

4.1 Accrued Salary, Vacation and Other Obligations and Benefits. All salary, accrued vacation, and any other amount earned, accrued or owing to Executive but not yet paid through the Termination Date shall be paid to Executive as soon as is administratively practicable following such Termination Date in accordance with the Company's customary payroll procedures. The Executive shall also be entitled to benefits, if any, in accordance with applicable plans, programs and arrangements of the Company and its affiliates.

4.2 Accrued Bonus Payment. The Executive (or the Executive's estate in the event of the Executive's death) shall receive a lump sum payment of any Cash Bonus to the extent that all the conditions for payment of such bonus have been satisfied and any such bonus was granted and is unpaid on the Termination Date. Such payment shall be made as soon as is administratively practicable following such Termination Date in accordance with the Company's customary payroll procedures.

4.3 Expense Reimbursement. As soon as administratively practicable following submission to the Company of proper expense reports by the Executive, the Company shall reimburse the Executive for all reasonable expenses incurred by the Executive, consistent with the Company's expense reimbursement policies, in connection with the business of the Company prior to the Termination Date.

4.4 Equity Awards. The period during which the Executive may exercise any rights ("**Exercise Period**") under any outstanding stock options (or any other equity award, including, without limitation, stock appreciation rights and restricted stock units) granted to the Executive under any equity incentive plan or agreement adopted by the Board (the **"Company Plans")** shall continue as set forth in the provisions of the agreements or instruments granting such awards; provide, however, such Exercise Period shall terminate immediately in the event the Executive is terminated for Cause notwithstanding any provision to the contrary contained in such agreements, instruments, or Company Plans. Further, upon termination of employment, the vesting of all outstanding stock options, restricted stock, and other equity awards shall cease (subject to any acceleration of vesting as provided in Sections 5 and 6 below).

5. **TERMINATION UPON CHANGE OF CONTROL**. Subject to Section 7, if the Executive's employment with the Company terminates by reason of a Termination Upon Change of Control, then the Executive shall be entitled to the benefits described in Sections 4.1 and 4.3 above and in this Section 5 and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates:

5.1 Severance Payment. In the event of the Executive's Termination Upon Change of Control, the Executive shall be entitled to receive an amount equal to two (2) times the aggregate of (a) the Executive's Base Salary and (b) the target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs, which shall be paid in a lump sum payable within thirty (30) days following the Termination Date. In addition to the foregoing severance payment, in the event of the Executive's Termination Upon Change of Control, the Executive shall be entitled to receive, within thirty (30) days following the Termination Date, a lump sum payment equal to the aggregate of the following: (x) if the Executive's Termination Upon Change of Control occurs before March 15, an amount equal to the Cash Bonus earned, but unpaid, with respect to the previous calendar year based on the Compensation Committee's good faith determination of the level of attainment of the performance metrics for such previous calendar year; and (y) if the Executive's Termination Upon Change of Control occurs after June 30, an amount equal to the target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs prorated to reflect the number of days the Executive was employed with the Company during such calendar year.

5.2 Equity Compensation Acceleration. Upon the Executive's Termination Upon Change of Control, (a) the vesting and exercisability of all then outstanding stock options, restricted stock, and other equity awards that are subject to time-based vesting and granted to the Executive under any Company

Plans shall be accelerated as to 100% of the shares subject to any such equity awards granted to the Executive, and (b) any outstanding equity awards that vest based on the attainment of performance goals shall vest for the then-current calendar year on a prorated basis based on the then level of attainment of the performance metrics determined in good faith by the Compensation Committee.

5.3 Indemnification. In the event of the Executive's Termination Upon Change of Control, (a) the Company shall continue to indemnify the Executive against all claims related to actions arising prior to the termination of the Executive's employment to the fullest extent permitted by law, and (b) Executive's coverage by the D & O Insurance Policy in effect immediately before the Change in Control shall be continued by the Company or its Successor under a D & O Insurance Policy with substantially the same terms for not less than 24 months following the Executive's Termination Upon Change in Control.

5.4 No Mitigation; No Offset. In the event of the Executive's Termination Upon Change of Control, the Executive shall be under no obligation to seek other employment or otherwise mitigate the obligations of the Company under this Agreement, and there shall be no offset against amounts due the Executive under this Agreement on account of any remuneration or other benefit earned or received by the Executive after such termination.

6. **INVOLUNTARY TERMINATION.** If the Executive's employment with the Company terminates by reason of an Involuntary Termination, then the Executive shall be entitled to the benefits described in Sections 4.1 and 4.3 above and in this Section 6 and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates.

6.1 Severance Payment. In the event of the Executive's Involuntary Termination, the Executive shall be entitled to receive an amount equal to the aggregate of the Executive's Base Salary and target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs, which shall be paid in a lump sum payable within thirty (30) days following the Termination Date. In addition to the foregoing severance payment, in the event of the Executive's Involuntary Termination, the Executive shall be entitled to receive, within thirty (30) days following the Termination Date, a lump sum payment equal to the aggregate of the following: (x) if the Executive's Involuntary Termination occurs before March 15, an amount equal to the Cash Bonus earned, but unpaid, with respect to the previous calendar year based on the Compensation Committee's good faith determination of the level of attainment of the performance metrics for such previous calendar year; and (y) if the Executive's Involuntary Termination occurs after June 30, an amount equal to the target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs prorated to reflect the number of days the Executive was employed with the Company during such calendar year.

6.2 Equity Compensation Acceleration. In the event of the Executive's Involuntary Termination, (a) the vesting and exercisability of all then outstanding stock options, restricted stock, and other equity awards that are subject to time-based vesting and granted to the Executive under any Company Plans shall be accelerated on a prorated basis based upon the period from the date of grant of the applicable award until the Executive's Termination Date compared to the total vesting period of the applicable award, and (b) any outstanding equity awards that vest based on the attainment of performance goals shall vest on a prorated basis based upon (i) the period from the first day of the performance period of the applicable award until the Executive's Termination Date compared to the total performance period of the applicable award, and (ii) the actual level of attainment of the performance metrics through the Termination Date determined in good faith by the Compensation Committee.

6.3 Indemnification. In the event of the Executive's Involuntary Termination, (a) the Company shall continue to indemnify the Executive against all claims related to actions arising prior to the Termination Date to the fullest extent permitted by law, and (b) Executive's coverage by the Company's D & O Insurance Policy in effect immediately before the Termination Date shall be continued by the Company under a D & O Insurance Policy with substantially the same terms for not less than 24 months following the Executive's Involuntary Termination.

6.4 No Mitigation; No Offset. In the event of the Executive's Involuntary Termination, the Executive shall be under no obligation to seek other employment or otherwise mitigate the obligations of the Company under this Agreement, and there shall be no offset against amounts due the Executive under this Agreement on account of any remuneration or other benefit earned or received by the Executive after such termination.

7. **FEDERAL EXCISE TAX UNDER SECTION 4999.**

7.1 Excise Tax. Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if (a) any amounts payable or benefits provided or to be provided to the Executive under this Agreement or otherwise in connection with his employment with the Company **("Covered Payments")** constitute parachute payments within the meaning of Code Section 280G, and (b) the Executive would, but for this Section 7, be subject to the excise tax imposed under Code Section 4999 (or any successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the **"Excise Tax"),** then prior to making the Covered Payments, a calculation shall be made comparing (i) the Net Benefit (as defined below) to the Executive of the Covered Payments after payment of the Excise Tax to (ii) the Net Benefit to the Executive if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under clause (i) above is less than the amount under clause (ii) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the **"Reduced Amount").** The term **"Net Benefit"** means the present value of the Covered Payments net of all federal, state, local, foreign income, employment and excise taxes.

7.2 Manner of Reduction. Any such reduction shall be made in accordance with Code Section 409A and the following: (i) the Covered Payments which do not constitute nonqualified deferred compensation subject to the requirements of Code Section 409A shall be reduced first; and (ii) all other Covered Payments shall then be reduced as follows: (A) cash payments shall be reduced before non-cash payments; and (B) payments to be made on a later payment date shall be reduced before payments to be made on an earlier payment date.

7.3 Calculation by Independent Public Accountants. Unless the Company and the Executive otherwise agree in writing, any calculation of the amount of any parachute payments payable or provided to the Executive shall be made in writing in good faith by the Company's independent public accountants immediately before the Change of Control (the **"Accountants"),** which shall provide detailed supporting calculations to the Company and the Executive as requested by the Company or the Executive. The Accountants' conclusions shall be final and binding on the Company and the Executive. For purposes of making such calculations, the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Sections 280G and 4999 of the Code. The Company and the Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make the calculations and conclusions required by this Section 7. The Company shall bear all fees and expenses the Accountants may charge in connection with these services.

7.4 Corrective Payments. It is possible that after the calculations, conclusion and selections made pursuant to this Section 7 the Executive will receive Covered Payments that are in the aggregate more than the amount provided under this Section 7 **("Overpayment")** or less than the amount provided under this Section 7 **("Underpayment").**

(a) In the event that (i) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either the Company or the Executive which the Accountants believe has a high probability of success, that an Overpayment has been made, or (ii) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Executive shall pay any such Overpayment to the Company, together with interest at the applicable federal rate (as defined in Code Section 7872(f)(2)(A)) from the date of the Executive's receipt of the Overpayment until the date of repayment.

(b) In the event that (i) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred, or (ii) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by the Company to or for the benefit of the Executive, together with interest at the applicable federal rate (as defined in Code Section 7872(f)(2)(A) of the Code) from the date the amount would have otherwise been paid to the Executive until the payment date.

8. **DEFINITIONS.**

8.1 Capitalized Terms Defined. Capitalized terms used in this Agreement shall have the meanings set forth in this Section 8, unless the context clearly requires a different meaning.

8.2 **"Cause"** means:

(a) the Executive substantially failed to perform his duties or to follow the lawful written directions of the CEO or the Board (other than any such failure resulting from incapacity due to physical or mental illness);

(b) the Executive engaged in willful misconduct or incompetence that is materially detrimental to the Company or any of its affiliates;

(c) the Executive failed to comply with the Employee Invention Assignment & Confidentiality Agreement, the Company's insider trading policy, the Executive's Non-Compete Agreement or any other policies of the Company where non-compliance would be materially detrimental to the Company or any of its affiliates; or

(d) the Executive's conviction of or plea of guilty or *nolo contendere* to a felony or crime involving moral turpitude (excluding drunk driving unless combined with other aggravating circumstances or offenses), or the Executive's commission of any embezzlement, misappropriation, or fraud, whether or not related to the Executive's employment with the Company or any of its affiliates.

With respect to Causes described in Subsections (a), (b) and (c) above, no termination by reason of such Cause shall occur unless the Executive (i) has been provided with notice of the Company's intention to terminate the Executive for such Cause and the Company's reason(s), and (ii) has failed to cure or correct such failure, misconduct, incompetency or non-compliance within thirty (30) days of receiving such notice, provided that such notice and cure period requirements shall not apply in the event that such failure, misconduct, incompetency or non-compliance is of a nature that it is unable to be cured or corrected.

8.3 **"Change of Control"** means:

(a) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the **"Exchange Act"))** becomes the "beneficial owner" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty (50%) percent or more of (i) the outstanding shares of common stock of the Company, or (ii) the combined voting power of the Company's outstanding securities;

(b) the Company is party to a merger or consolidation, or series of related transactions, which results in the voting securities of the Company outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity), directly or indirectly, more than fifty (50%) percent of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or

(c) the sale or disposition of all or substantially all of the Company's assets, or consummation of any transaction, or series of related transactions, having similar effect (other than to a subsidiary of the Company).

8.4 **"Code"** means the Internal Revenue Code of 1986, as amended.

8.5 **"Company"** means Workhorse Group Inc. and, following a Change of Control, any Successor.

8.6 **"Involuntary Termination"** means:

(a) any termination of the employment of the Executive by the Company without Cause or on account of the Company's failure to renew this Agreement in accordance with Section 2.1; or

(b) any resignation by the Executive for Good Reason where such resignation occurs within thirty (30) days following the Company's failure to remedy the condition(s) constituting Good Reason.

Notwithstanding the foregoing, the term "Involuntary Termination" shall not include any termination of the employment of the Executive: (1) by the Company for Cause; (2) by the Company as a result of the Permanent Disability of the Executive; (3) as a result of the death of the Executive; (4) that is a "Termination Upon Change of Control"; or (5) as a result of the voluntary termination of employment by the Executive for any reason other than Good Reason.

8.7 **"Good Reason"** means the occurrence of any of the following conditions, without the Executive's consent:

(a) A reduction in the Executive's Base Salary or target Cash Bonus opportunity as a percentage of Base Salary; provided, however, that this Subsection (a) shall not apply in the event of a one-time reduction in the Executive's Base Salary or target Cash Bonus opportunity as part of a Company-wide or executive team-wide cost-cutting measure or Company-wide or executive team-wide cutback as a result of overall Company performance in accordance with Section 3.1.

(b) The failure of the Company (i) to continue to provide the Executive an opportunity to participate in any benefit or compensation plans provided to employees who hold positions with the Company comparable to the Executive's position, (ii) to provide the Executive all other fringe benefits (or the equivalent) in effect for the benefit of any employee group which includes any employee who hold a position with the Company comparable to the Executive's position, where in the event of a Change of Control, such comparison shall be made relative to the period immediately prior to the public announcement of such Change of Control, or (iii) to continue to provide director's and officers' insurance, in each case if such failure causes a material reduction in the Executive's overall compensation and benefits package.

(c) A material breach of this Agreement by the Company including, in the event of a Change of Control, the failure of any Successor to assume and agree to perform the obligations under this Agreement in the same manner and to the same extent that the Company would be required to perform such obligations if no succession had taken place, except where such assumption occurs by operation of law.

(d) A material, adverse change in the Executive's authority, duties, or responsibilities (other than temporarily while the Executive is physically or mentally incapacitated or as required by applicable law), taking into account the Company's size, status as a public company, and capitalization as of the Effective Date of this Agreement, other than a change to a position that is a Substantive Functional Equivalent.

(e) A change in the Executive's principal place of employment that is greater than 75 miles from the Executive's principal place of employment as set forth in Section 1.3 or, if his principal place of employment shall have been changed with his express or implied consent, a change to a principal place of employment other than such consented place, other than a change directed by the Executive.

Within ninety (90) days of the occurrence of any of the foregoing conditions, the Executive must notify the Company of the specific condition(s) that form the basis for Executive's belief that Executive is entitled to terminate employment for Good Reason. The Company shall have an opportunity to remedy the foregoing condition(s) within thirty (30) days of its receipt of such notice.

8.8 **"Permanent Disability"** means that:

(a) the Executive has been incapacitated by bodily injury, illness or disease so as to be prevented thereby from engaging in the performance of the Executive's duties;

(b) such total incapacity shall have continued for a period of six consecutive months; and

(c) such incapacity will, in the opinion of a qualified physician selected by the Company, be permanent and continuous during the remainder of the Executive's life.

8.9 **"Substantive Functional Equivalent"** means that the Executive's position must:

(a) be in a substantive area of the Executive's competence (e.g., financial or executive management) and not materially different from the position occupied immediately prior;

(b) allow the Executive to serve in a role and perform duties functionally equivalent to those performed immediately prior to the change; and

(c) not otherwise constitute a material, adverse change in authority, title, status, responsibilities or duties from those of the Executive immediately prior to the change, causing the Executive to be of materially lesser rank or responsibility, including requiring the Executive to report to a person other than the CEO or the Board.

8.10 **"Successor"** means any successor in interest to, or assignee of, all or substantially all of the business and assets of the Company.

8.11 **"Termination Date"** means the date of the termination of the Executive's employment with the Company.

8.12 **"Termination Upon Change of Control"** means:

(a) any termination of the employment of the Executive by the Company without Cause, including expiration of the Employment Term in accordance with Section 2.1 as a result of the Company's election not to renew the Employment Term, which termination of employment occurs during the period commencing on date of a Change of Control and ending on the date that is eighteen (18) months following the Change of Control; or

(b) any resignation by Executive for Good Reason where (i) such Good Reason occurs during the period commencing on the date of a Change of Control and ending on the date that is eighteen (18) months following the Change of Control, and (ii) such resignation occurs at or after such Change of Control and in any event within six (6) months following the occurrence of such Good Reason.

Notwithstanding the foregoing, if the Executive's employment with the Company is terminated without Cause or for Good Reason during the six-month period prior to the Change of Control, then for purposes of this Agreement the Executive will be deemed to have experienced a Termination Upon Change of Control.

For the avoidance of doubt, the term "Termination Upon Change of Control" shall not include any termination of the employment of the Executive: (1) by the Company for Cause; (2) by the Company as a result of the Permanent Disability of the Executive; (3) as a result of the death of the Executive; or (4) as a result of the voluntary termination of employment by the Executive for any reason other than Good Reason.

9. **EXCLUSIVE REMEDY.**

9.1 No Other Benefits Payable. The Executive shall be entitled to no other termination, severance or change of control compensation, benefits, or other payments from the Company as a result of any termination with respect to which the payments and benefits described in this Agreement have been provided to the Executive, except as expressly set forth in this Agreement.

9.2 Release of Claims. The payments and other benefits provided in Sections 5 and 6 of this Agreement upon termination of the Executive's employment are conditioned upon the delivery by the Executive to the Company of a signed and effective general release of claims in a form provided by the Company and such release becoming effective within thirty (30) days following the Termination Date; provided, however, that the Executive shall not be required to release any rights the Executive may have to be indemnified by the Company or as otherwise provided under this Agreement.

9.3 Non-duplication of Benefits. The payments and benefits provided under this Agreement are intended to replace payments and benefits under any other written agreement with the Company and/or another plan or policy of the Company in their entirety and, accordingly, as between this Agreement and those other agreements, plans or policies, there shall be no duplication of payments or benefits. If the Executive has any other binding written agreement with the Company which provides that, upon a Change of Control, Termination Upon a Change of Control or Involuntary Termination, the Executive shall receive termination, severance or similar payments or benefits, then no benefits shall be received by Executive under this Agreement unless, prior to making the payment or providing the benefits under this Agreement, the Executive waives Executive's rights to all such other payments and benefits, in which case this Agreement shall supersede any such written agreement with respect to such other benefits.

10. **COOPERATION.** The parties agree that certain matters in which the Executive will be involved during the Employment Term may necessitate the Executive's cooperation or assistance in the future. Accordingly, following the termination of the Executive's employment for any reason, to the extent reasonably requested by the Board or the CEO, the Executive shall cooperate with the Company in connection with any claims arising out of the Executive's employment with the Company including preparing for and providing truthful testimony; provided that, the Company shall make reasonable efforts to minimize disruption of the Executive's other activities. The Company shall reimburse the Executive for reasonable expenses incurred in connection with such cooperation and assistance and, to the extent that the Executive is required to spend substantial time on such matters, the Company shall compensate the Executive at an hourly rate based on the Executive's Base Salary on the Termination Date.

11. **NON-COMPETE; PROPRIETARY AND CONFIDENTIAL INFORMATION.** During the Employment Term and following any termination of employment, Executive agrees to continue to abide by the terms and conditions of the Non-Compete Agreement and each other non-competition agreement (during the term of such agreement) and the separate Employee Invention Assignment & Confidentiality Agreement between the Executive and the Company.

12. **ARBITRATION.**

12.1 Disputes Subject to Arbitration. Any claim, dispute or controversy arising out of this Agreement, any other agreement between the Executive and the Company or any of its affiliates, or the Executive's employment with the Company or the termination thereof (other than claims relating to misuse or misappropriation of the intellectual property of the Company or its affiliates), the interpretation, validity or enforceability of this Agreement or the alleged breach thereof shall be submitted to binding arbitration by a sole arbitrator under the National Rules for the Resolution of Employment Disputes of the American Arbitration Association and this Section 12; provided, however, that (a) the arbitrator shall have no authority to make any ruling or judgment that would confer any rights with respect to the trade secrets, confidential and proprietary information or other intellectual property of the Company upon the Executive or any third party; and (b) this arbitration provision shall not preclude the Company from seeking legal and equitable relief from any court having jurisdiction with respect to any disputes or claims relating to or arising out of the misuse or misappropriation of the Company's intellectual property or violation by the Executive of any non-competition agreement or other restrictive covenant in favor of the Company. Judgment may be entered on the award of the arbitrator in any court having jurisdiction.

12.2 Costs of Arbitration. Each party shall be responsible for its own costs and expenses, including, without limitation, attorneys' fees. The Arbitrator may determine to make an award of fees and/or costs to either party. Except as otherwise so awarded, the parties will share equally the fees of the American Arbitration Association and the arbitrator.

12.3 Site of Arbitration. The site of the arbitration proceeding shall be in Cincinnati, Ohio.

13. **NOTICES.** For purposes of this Agreement, notices and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when delivered or five (5) business days after being mailed, return receipt requested, as follows: (a) if to the Company, attention: Chief Executive Officer, at the Company's offices at 100 Commerce Blvd., Loveland, OH 45140 and, (b) if to the Executive, at the Executive's principal residence as it appears in the Company's records. Either party may provide the other with notices of change of address, which shall be effective upon receipt.

14. **MISCELLANEOUS PROVISIONS.**

14.1 Heirs and Representatives of the Executive; Successors and Assigns of the Company. This Agreement is personal to the Executive and shall not be assigned by the Executive, except that in the event of the Executive's death or Permanent Disability the post-termination benefits of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the Executive's personal and legal representatives, executors, administrators, successors, heirs, distributees, devises and legatees. The Company may assign this Agreement to any successor or assign (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or substantially all of the business or assets of the Company. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors and assigns of the Company.

14.2 Amendment and Waiver. No provision of this Agreement shall be modified, amended, waived or discharged unless the modification, amendment, waiver or discharge is agreed to in writing, specifying such modification, amendment, waiver or discharge, and signed by the Executive and by an authorized officer of the Company (other than the Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time. To be effective, any waiver must be set forth in a writing signed by the waiving party and must specifically refer to the condition(s) or provision(s) of this Agreement being waived.

14.3 Withholding Taxes. All payments made or benefits provided under this Agreement shall be subject to deduction of all federal, state, local and other taxes required to be withheld by applicable law.

14.4 Severability. The invalidity or enforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

14.5 Governing Law. The validity, interpretation, construction, performance and enforcement of this Agreement shall be governed by the laws of the State of Ohio, without regard to where the Executive has his residence or principal office or where he performs his duties hereunder, and without reference to principles of conflict of laws.

14.6 Exemption from, or Compliance with, Code Section 409A. The payments to be made and the benefits to be provided under this Agreement are intended to be either exempt from, or compliant with, the requirements of Code Section 409A, and this Agreement shall be construed and administered in accordance with such intent and in accordance with this Section 14.6. Notwithstanding any other provision of this Agreement, payments provided under this Agreement may only be made upon an event and in a manner that complies with the requirements of Code Section 409A or an applicable exemption thereto. Any payments under this Agreement that may be exempt from Code Section 409A either as separation pay due to the Executive's involuntary separation from service or as a short-term deferral shall be treated as exempt from Code Section 409A under this Agreement to the maximum extent possible. Each installment payment provided hereunder that is subject to the requirements of Code Section 409A shall be treated as a separate payment for purposes of Code Section 409A. Any payments to be made under this Agreement in connection with Executive's termination of employment shall only be made if such termination of employment constitutes a "separation from service" under Code Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement are exempt from, or comply with, Code Section 409A, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by the Executive on account of noncompliance with Code Section 409A.

To the extent any payments or benefits to which the Executive becomes entitled under this Agreement, or under any agreement or plan referenced herein, in connection with Employee's termination of employment with the Company constitute nonqualified deferred compensation subject to the requirements of Code Section 409A, and the Executive is determined, at the time of such termination of employment, to be a "specified employee" under Code Section 409A, then such payments shall not be made or benefits commenced until the earliest of (i) the first payroll date to occur following the six (6)-month anniversary of such termination of employment; or (ii) the first payroll date to occur following the date of the Executive's death following such termination of employment. Upon the expiration of the applicable suspension period, the aggregate amount of any payments and benefits which would have otherwise been made or provided during that period (whether in a single sum or in installments) in the absence of this paragraph shall be paid to the Executive (or Executive's estate in the case of his death) in one lump sum without interest, and thereafter any remaining payments or benefits shall be paid or provided without suspension in accordance with their original schedule.

To the extent required by Code Section 409A, each reimbursement or in-kind benefit provided under this Agreement shall be provided in accordance with the following: (i) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year; (ii) any reimbursement of an eligible expense shall be paid to the Executive on or before the last day of the calendar year following the calendar year in which the expense was incurred; and (iii) any right to reimbursements or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit.

14.7 Entire Agreement. This Agreement, together with the Non-Compete and any other non-competition agreements between the Executive and the Company, the Employee Invention Assignment & Confidentiality Agreement between the Executive and the Company, and the restricted stock award agreements and stock option award agreements with respect to the equity awards, contains the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior agreements, including understandings, term sheets, discussions, negotiations and undertakings, whether written or oral, between them relating to the subject matter of this Agreement. In the event of any inconsistency between any provision of this Agreement and any provision of any plan, employee handbook, personnel manual, program, policy, arrangement or agreement of the Company or any of its affiliates, the provisions of this Agreement shall control.

14.8 Surviving Terms. Except as otherwise set forth in this Agreement, to the extent necessary to carry out the intentions of the parties hereunder the respective rights and obligations of the parties hereunder shall survive any termination of the Executive's employment.

[SIGNATURE PAGE TO EMPLOYMENT AGREEMENT FOLLOWS]

In Witness Whereof, each of the parties has executed this Agreement, in the case of the Company, by its duly authorized officer, as of the day and year first above written.

EXECUTIVE

/s/ James Harrington
James Harrington

Address: N2988 Lake Forest Circle
Lake Geneva, Wisconsin 53147

WORKHORSE GROUP INC.

By: /s/ Richard Dauch
Name: Richard Dauch
Title: Chief Executive Officer

EMPLOYMENT AGREEMENT

This Employment Agreement (this " **Agreement**") is made and entered into as of September 21, 2021 by and between WORKHORSE GROUP INC., a Nevada corporation (the **"Company")**, and Joshua Anderson (the **"Executive")**.

RECITALS:

WHEREAS, the Company seeks to engage Executive as the Chief Technology Officer of the Company;

WHEREAS, the Executive and the Company each desire that the Executive provide services to the Company, and each desire to enter into this Agreement with respect to the Executive's employment, effective as September 15, 2021 (the "**Effective Date**"), to provide compensation, severance, and other terms, on the terms and conditions set forth herein; and

WHEREAS, the Executive's execution of this Agreement and separate Non-Compete Agreement (the **"Non-Compete Agreement")** are material inducements for the Company to employ the Executive, and the Company's execution of this Agreement and the grant of equity awards are material inducements for the Executive to enter into this Agreement and the Non-Compete Agreement.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **<u>POSITION, DUTIES, AND LOCATION.</u>**

1.1 Position. During the Employment Term, the Executive shall serve as the Chief Technology Officer of the Company, reporting to the Chief Executive Officer of the Company (the "**CEO**"). The Executive's job responsibilities will include managing and overseeing the development of the Company's technology in order to establish a successful business and manage growth. In addition, the Executive will have all authorities, duties and responsibilities as are customarily exercised by an individual serving in the Executive's positions in a corporation of the size and nature of the Company, as well as those that are reasonably assigned by the Board of Directors of the Company (the "**Board**") and the CEO.

1.2 Duties. During the Employment Term, the Executive shall devote substantially all of his business time and attention to the performance of the Executive's duties hereunder and will not engage in any other business, profession, or occupation for compensation or otherwise which would conflict or interfere with the performance of such services either directly or indirectly without the prior written consent of the CEO or the Board. Notwithstanding the foregoing, the Executive will be permitted, with the prior written consent of the CEO or the Board (which consent will not be unreasonably withheld or delayed) to act or serve as a director, trustee, or committee member of a reasonable number of business, civic, or charitable organizations as long as such activities are disclosed in writing to the Company in accordance with the Company's Conflict of Interest Policy and such activities do not interfere with the performance of the Executive's duties and responsibilities to the Company as provided hereunder.

1.3 Place of Performance. The principal place of Executive's employment shall be the Company's principal executive office currently located in Loveland, Ohio, or a future principal executive office approved by the Board during the Employment Term; provided, however, that the Executive is expected to commute to the Company's principal executive office from his current home for the first 6 months following the Effective Date. In addition, the Executive will be required to travel on Company business during the Employment Term.

2. **TERM AND TERMINATION.**

2.1 Term. The Executive's employment hereunder shall be effective as of the Effective Date and shall continue until the first anniversary thereof, unless terminated earlier as provided below; provided, however, that on such first anniversary of the Effective Date and each annual anniversary thereafter (such date and each annual anniversary thereof, a "**Renewal Date**") this Agreement shall be deemed to be automatically extended, upon the same terms and conditions, for successive periods of one year, unless either party provides written notice of its intention not to extend the term of this Agreement at least 90 days' prior to the applicable Renewal Date. The period during which the Executive is employed by the Company hereunder is hereinafter referred to as the "**Employment Term**."

2.2 Termination. The Employment Term and the Executive's employment hereunder may be terminated by either the Company or the Executive at any time and for any reason; provided, however, that unless otherwise provided herein, either party shall be required to give the other party at least 30 days' advance written notice of any termination of the Executive's employment except in the case of termination by the Company for Cause. Upon termination of the Executive's employment during the Employment Term, the Executive shall be entitled to the compensation and benefits described in Sections 4, 5, and 6 below and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates.

3. **COMPENSATION.**

3.1 Base Salary. The Executive's base salary will be $300,000 per year (the " **Base Salary**"). The Base Salary shall not be reduced during the initial one-year term of this Agreement; provided, however, that the Base Salary may be reduced by the Board or as may be delegated to the Compensation Committee of the Board (references herein to the Compensation Committee shall include reference to the Board if no such Committee exists at any time) if necessary in connection with a one-time reduction as part of a Company-wide or executive team-wide cost-cutting measure or Company-wide or executive team-wide cutback as a result of overall Company performance, in which case the Base Salary shall not be reduced by more than 10% without the Executive's prior approval (not to be unreasonably withheld). The Base Salary shall be paid in accordance with the Company's customary payroll practices and applicable wage payment laws.

3.2 Bonuses. Each calendar year ending within the Employment Term (commencing with the calendar year ending December 31, 2021), Executive will be eligible to receive a cash bonus ("**Cash Bonus**") as determined by the Compensation Committee based upon the level of achievement of performance goals established by the Compensation Committee and provided to the Executive in writing within ninety (90) days after the beginning of the calendar year. The Executive's target Cash Bonus would be 50% of the then current Base Salary with the potential to receive up to 75% of the then current Base Salary if the maximum level of the performance goals is achieved. With respect to each calendar year ending within the Employment Term, the Compensation Committee will determine the amount of the Cash Bonus to be awarded within ninety (90) days after the end of the calendar year to which the Cash Bonus relates. The Compensation Committee has the sole and absolute discretion whether to award a Cash Bonus each calendar year, provided, however, that for the calendar year ending December 31, 2021, the Executive's Cash Bonus will be no less than $50,000. If the Compensation Committee awards a Cash Bonus, it will direct the Company to pay the awarded Cash Bonus at the next payroll to occur following such determination. To be eligible to receive a Cash Bonus for a particular calendar year, the Executive must be employed by the Company on the payroll date that the Cash Bonus is paid, except that in the case of the Executive's death or Permanent Disability prior to such payroll date, the Executive only must be employed by the Company as of the last day of the particular calendar year.

3.3 Equity Awards.

(a) Signing Bonus. As further consideration for entering into this Agreement and the Non-Compete Agreement, within 30 days following the Effective Date the Executive will be granted a one-time award under the Company's 2019 Stock Incentive Plan of 100,000 restricted shares reflected in a separate restricted stock award agreement. The restricted shares will have 3-year vesting periods, with shares vesting ratably every 6 months.

(b) Long Term Incentive Plan. In addition to the equity awards described in Section 3.3(a), the Executive may be granted a calendar year 2021 award under the Company's 2019 Stock Incentive Plan for a number of restricted shares as determined by the Compensation Committee with 50% of the shares subject to time-based vesting, with a 3-year vesting period and shares vesting ratably every 6 months, and the other 50% of the shares subject to performance-based vesting, based on performance metrics to be determined by the Compensation Committee. With respect to each subsequent calendar year ending during the Employment Term, the Executive will be eligible to receive additional equity incentive grants, subject to the Executive's continued employment and satisfactory job performance, under any long-term incentive plan approved by the Board, with a target value of 100% of the then-current Base Salary (based on the grant date value of any such award). Each such annual award will be made within 6 months following the end of the calendar year and shall be subject to vesting and other terms and conditions as determined by the Compensation Committee.

(c) Equity Plan Terms. Terms and conditions of all equity incentive grants, including those describe above, will be in accordance with the terms of the Company's equity-based incentive plan in effect at the time of each such grant.

3.4 Vacation and Benefits. The Executive is entitled to four (4) weeks of vacation, which will accrue on a pro-rata basis during the employment year, in addition to all public holidays when the office is closed. The Executive will be eligible to participate in all employee benefit plans established by the Company for its employees from time to time, subject to general eligibility and participation provisions set forth in such plans. In accordance with Company policies from time to time and subject to proper documentation, the Company will reimburse the Executive for all reasonable and proper travel and business expenses incurred by the Executive in the performance of his duties. The Executive will be covered by the Company's directors' and officers' insurance policy, or an equivalent thereto (the "**D & O Insurance Policy**"), at the Company's cost.

3.5 Company's Right to Recoup. Any incentive compensation (whether in the form of cash bonus, equity, or otherwise) payable under this Agreement or otherwise are subject to recoupment in the event of a financial restatement of the Company's financial statements due to nonconformance with accounting principles generally accepted in the United States or under applicable law or a material misstatement of any other metric material to the Company's performance, such as safety statistics, which, if initially reported properly, would have resulted in a lower amount of incentive compensation, regardless of form. The Company will make any determination for clawback or recoupment consistent with this Section 3.5 and the applicable clawback policy of the Company in good faith. The action permitted to be taken by the Company under this Section 3.5 shall be in addition to, and not in lieu of, any and all other rights of the Company under applicable law and shall apply notwithstanding anything to the contrary contained herein.

3.6 Housing, Transportation and Relocation Expenses.

(a) Housing and Transportation. The Company shall pay or the Executive shall be reimbursed for the Executive's reasonable and documented transportation and temporary housing expenses associated with the Executive's travel to the Company's principal executive office during the six-month period immediately following the Effective Date, up to a maximum of $5,000 per month.

(b) Relocation. The Company shall pay, or reimburse the Executive for, all reasonable and documented relocation expenses incurred by the Executive within one year following the Effective Date and relating to the Executive's relocation to the Company's principal executive office currently located in Loveland, Ohio or a future principal executive office approved by the Board during the Employment Term.

4. **EFFECT OF TERMINATION GENERALLY**. If the Executive's employment with the Company terminates for any reason other than Termination Upon Change of Control or Involuntary

Termination, then the Executive shall be entitled to the benefits described in this Section 4 and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates.

4.1 Accrued Salary, Vacation and Other Obligations and Benefits. All salary, accrued vacation, and any other amount earned, accrued or owing to Executive but not yet paid through the Termination Date shall be paid to Executive as soon as is administratively practicable following such Termination Date in accordance with the Company's customary payroll procedures. The Executive shall also be entitled to benefits, if any, in accordance with applicable plans, programs and arrangements of the Company and its affiliates.

4.2 Accrued Bonus Payment. The Executive (or the Executive's estate in the event of the Executive's death) shall receive a lump sum payment of any Cash Bonus to the extent that all the conditions for payment of such bonus have been satisfied and any such bonus was granted and is unpaid on the Termination Date. Such payment shall be made as soon as is administratively practicable following such Termination Date in accordance with the Company's customary payroll procedures.

4.3 Expense Reimbursement. As soon as administratively practicable following submission to the Company of proper expense reports by the Executive, the Company shall reimburse the Executive for all reasonable expenses incurred by the Executive, consistent with the Company's expense reimbursement policies, in connection with the business of the Company prior to the Termination Date.

4.4 Equity Awards. The period during which the Executive may exercise any rights (" **Exercise Period**") under any outstanding stock options (or any other equity award, including, without limitation, stock appreciation rights and restricted stock units) granted to the Executive under any equity incentive plan or agreement adopted by the Board (the **"Company Plans")** shall continue as set forth in the provisions of the agreements or instruments granting such awards; provide, however, such Exercise Period shall terminate immediately in the event the Executive is terminated for Cause notwithstanding any provision to the contrary contained in such agreements, instruments, or Company Plans. Further, upon termination of employment, the vesting of all outstanding stock options, restricted stock, and other equity awards shall cease (subject to any acceleration of vesting as provided in Sections 5 and 6 below).

5. **TERMINATION UPON CHANGE OF CONTROL**. Subject to Section 7, if the Executive's employment with the Company terminates by reason of a Termination Upon Change of Control, then the Executive shall be entitled to the benefits described in Sections 4.1 and 4.3 above and in this Section 5 and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates:

5.1 Severance Payment. In the event of the Executive's Termination Upon Change of Control, the Executive shall be entitled to receive an amount equal to one (1) times the aggregate of (a) the Executive's Base Salary and (b) the target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs, which shall be paid in a lump sum payable within thirty (30) days following the Termination Date. In addition to the foregoing severance payment, in the event of the Executive's Termination Upon Change of Control, the Executive shall be entitled to receive, within thirty (30) days following the Termination Date, a lump sum payment equal to the aggregate of the following: (x) if the Executive's Termination Upon Change of Control occurs before March 15, an amount equal to the Cash Bonus earned, but unpaid, with respect to the previous calendar year based on the Compensation Committee's good faith determination of the level of attainment of the performance metrics for such previous calendar year; and (y) if the Executive's Termination Upon Change of Control occurs after June 30, an amount equal to the target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs prorated to reflect the number of days the Executive was employed with the Company during such calendar year.

5.2 Equity Compensation Acceleration. Upon the Executive's Termination Upon Change of Control, (a) the vesting and exercisability of all then outstanding stock options, restricted stock, and other equity awards that are subject to time-based vesting and granted to the Executive under any Company

Plans shall be accelerated as to 100% of the shares subject to any such equity awards granted to the Executive, and (b) any outstanding equity awards that vest based on the attainment of performance goals shall vest for the then-current calendar year on a prorated basis based on the then level of attainment of the performance metrics determined in good faith by the Compensation Committee.

5.3 Indemnification. In the event of the Executive's Termination Upon Change of Control, (a) the Company shall continue to indemnify the Executive against all claims related to actions arising prior to the termination of the Executive's employment to the fullest extent permitted by law, and (b) Executive's coverage by the D & O Insurance Policy in effect immediately before the Change in Control shall be continued by the Company or its Successor under a D & O Insurance Policy with substantially the same terms for not less than 24 months following the Executive's Termination Upon Change in Control.

5.4 No Mitigation; No Offset. In the event of the Executive's Termination Upon Change of Control, the Executive shall be under no obligation to seek other employment or otherwise mitigate the obligations of the Company under this Agreement, and there shall be no offset against amounts due the Executive under this Agreement on account of any remuneration or other benefit earned or received by the Executive after such termination.

6. **INVOLUNTARY TERMINATION.** If the Executive's employment with the Company terminates by reason of an Involuntary Termination, then the Executive shall be entitled to the benefits described in Sections 4.1 and 4.3 above and in this Section 6 and shall have no further rights to any compensation or any other benefits from the Company or any of its affiliates.

6.1 Severance Payment. In the event of the Executive's Involuntary Termination, the Executive shall be entitled to receive an amount equal to the aggregate of the Executive's Base Salary and target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs, which shall be paid in a lump sum payable within thirty (30) days following the Termination Date. In addition to the foregoing severance payment, in the event of the Executive's Involuntary Termination, the Executive shall be entitled to receive, within thirty (30) days following the Termination Date, a lump sum payment equal to the aggregate of the following: (x) if the Executive's Involuntary Termination occurs before March 15, an amount equal to the Cash Bonus earned, but unpaid, with respect to the previous calendar year based on the Compensation Committee's good faith determination of the level of attainment of the performance metrics for such previous calendar year; and (y) if the Executive's Involuntary Termination occurs after June 30, an amount equal to the target Cash Bonus then in effect for the Executive for the calendar year in which such termination occurs prorated to reflect the number of days the Executive was employed with the Company during such calendar year.

6.2 Equity Compensation Acceleration. In the event of the Executive's Involuntary Termination, (a) the vesting and exercisability of all then outstanding stock options, restricted stock, and other equity awards that are subject to time-based vesting and granted to the Executive under any Company Plans shall be accelerated on a prorated basis based upon the period from the date of grant of the applicable award until the Executive's Termination Date compared to the total vesting period of the applicable award, and (b) any outstanding equity awards that vest based on the attainment of performance goals shall vest on a prorated basis based upon (i) the period from the first day of the performance period of the applicable award until the Executive's Termination Date compared to the total performance period of the applicable award, and (ii) the actual level of attainment of the performance metrics through the Termination Date determined in good faith by the Compensation Committee.

6.3 Indemnification. In the event of the Executive's Involuntary Termination, (a) the Company shall continue to indemnify the Executive against all claims related to actions arising prior to the Termination Date to the fullest extent permitted by law, and (b) Executive's coverage by the Company's D & O Insurance Policy in effect immediately before the Termination Date shall be continued by the Company under a D & O Insurance Policy with substantially the same terms for not less than 24 months following the Executive's Involuntary Termination.

6.4 No Mitigation; No Offset. In the event of the Executive's Involuntary Termination, the Executive shall be under no obligation to seek other employment or otherwise mitigate the obligations of the Company under this Agreement, and there shall be no offset against amounts due the Executive under this Agreement on account of any remuneration or other benefit earned or received by the Executive after such termination.

7. **FEDERAL EXCISE TAX UNDER SECTION 4999.**

7.1 Excise Tax. Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if (a) any amounts payable or benefits provided or to be provided to the Executive under this Agreement or otherwise in connection with his employment with the Company **("Covered Payments")** constitute parachute payments within the meaning of Code Section 280G, and (b) the Executive would, but for this Section 7, be subject to the excise tax imposed under Code Section 4999 (or any successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the **"Excise Tax"),** then prior to making the Covered Payments, a calculation shall be made comparing (i) the Net Benefit (as defined below) to the Executive of the Covered Payments after payment of the Excise Tax to (ii) the Net Benefit to the Executive if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under clause (i) above is less than the amount under clause (ii) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the **"Reduced Amount").** The term **"Net Benefit"** means the present value of the Covered Payments net of all federal, state, local, foreign income, employment and excise taxes.

7.2 Manner of Reduction. Any such reduction shall be made in accordance with Code Section 409A and the following: (i) the Covered Payments which do not constitute nonqualified deferred compensation subject to the requirements of Code Section 409A shall be reduced first; and (ii) all other Covered Payments shall then be reduced as follows: (A) cash payments shall be reduced before non-cash payments; and (B) payments to be made on a later payment date shall be reduced before payments to be made on an earlier payment date.

7.3 Calculation by Independent Public Accountants. Unless the Company and the Executive otherwise agree in writing, any calculation of the amount of any parachute payments payable or provided to the Executive shall be made in writing in good faith by the Company's independent public accountants immediately before the Change of Control (the **"Accountants"),** which shall provide detailed supporting calculations to the Company and the Executive as requested by the Company or the Executive. The Accountants' conclusions shall be final and binding on the Company and the Executive. For purposes of making such calculations, the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Sections 280G and 4999 of the Code. The Company and the Executive shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make the calculations and conclusions required by this Section 7. The Company shall bear all fees and expenses the Accountants may charge in connection with these services.

7.4 Corrective Payments. It is possible that after the calculations, conclusion and selections made pursuant to this Section 7 the Executive will receive Covered Payments that are in the aggregate more than the amount provided under this Section 7 **("Overpayment")** or less than the amount provided under this Section 7 **("Underpayment").**

(a) In the event that (i) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either the Company or the Executive which the Accountants believe has a high probability of success, that an Overpayment has been made, or (ii) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Executive shall pay any such Overpayment to the Company, together with interest at the applicable federal rate (as defined in Code Section 7872(f)(2)(A)) from the date of the Executive's receipt of the Overpayment until the date of repayment.

(b) In the event that (i) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred, or (ii) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by the Company to or for the benefit of the Executive, together with interest at the applicable federal rate (as defined in Code Section 7872(f)(2)(A) of the Code) from the date the amount would have otherwise been paid to the Executive until the payment date.

8. **DEFINITIONS.**

8.1 Capitalized Terms Defined. Capitalized terms used in this Agreement shall have the meanings set forth in this Section 8, unless the context clearly requires a different meaning.

8.2 **"Cause"** means:

(a) the Executive substantially failed to perform his duties or to follow the lawful written directions of the CEO or the Board (other than any such failure resulting from incapacity due to physical or mental illness);

(b) the Executive engaged in willful misconduct or incompetence that is materially detrimental to the Company or any of its affiliates;

(c) the Executive failed to comply with the Employee Invention Assignment & Confidentiality Agreement, the Company's insider trading policy, the Executive's Non-Compete Agreement or any other policies of the Company where non-compliance would be materially detrimental to the Company or any of its affiliates; or

(d) the Executive's conviction of or plea of guilty or *nolo contendere* to a felony or crime involving moral turpitude (excluding drunk driving unless combined with other aggravating circumstances or offenses), or the Executive's commission of any embezzlement, misappropriation, or fraud, whether or not related to the Executive's employment with the Company or any of its affiliates.

With respect to Causes described in Subsections (a), (b) and (c) above, no termination by reason of such Cause shall occur unless the Executive (i) has been provided with written notice of the Company's intention to terminate the Executive for such Cause and the Company's reason(s), and (ii) has failed to cure or correct such failure, misconduct, incompetency or non-compliance within thirty (30) days of receiving such notice, provided that such notice and cure period requirements shall not apply in the event that such failure, misconduct, incompetency or non-compliance is of a nature that it is unable to be cured or corrected.

8.3 **"Change of Control"** means:

(a) any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the **"Exchange Act"))** becomes the "beneficial owner" (as defined in Rule 13d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty (50%) percent or more of (i) the outstanding shares of common stock of the Company, or (ii) the combined voting power of the Company's outstanding securities;

(b) the Company is party to a merger or consolidation, or series of related transactions, which results in the voting securities of the Company outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity), directly or indirectly, more than fifty (50%) percent of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or

(c) the sale or disposition of all or substantially all of the Company's assets, or consummation of any transaction, or series of related transactions, having similar effect (other than to a subsidiary of the Company).

8.4 **"Code"** means the Internal Revenue Code of 1986, as amended.

8.5 **"Company"** means Workhorse Group Inc. and, following a Change of Control, any Successor.

8.6 **"Involuntary Termination"** means:

(a) any termination of the employment of the Executive by the Company without Cause or on account of the Company's failure to renew this Agreement in accordance with Section 2.1; or

(b) any resignation by the Executive for Good Reason where such resignation occurs within thirty (30) days following the Company's failure to remedy the condition(s) constituting Good Reason.

Notwithstanding the foregoing, the term "Involuntary Termination" shall not include any termination of the employment of the Executive: (1) by the Company for Cause; (2) by the Company as a result of the Permanent Disability of the Executive; (3) as a result of the death of the Executive; (4) that is a "Termination Upon Change of Control"; or (5) as a result of the voluntary termination of employment by the Executive for any reason other than Good Reason.

8.7 **"Good Reason"** means the occurrence of any of the following conditions, without the Executive's consent:

(a) A reduction in the Executive's Base Salary or target Cash Bonus opportunity as a percentage of Base Salary; provided, however, that this Subsection (a) shall not apply in the event of a one-time reduction in the Executive's Base Salary or target Cash Bonus opportunity as part of a Company-wide or executive team-wide cost-cutting measure or Company-wide or executive team-wide cutback as a result of overall Company performance in accordance with Section 3.1.

(b) The failure of the Company (i) to continue to provide the Executive an opportunity to participate in any benefit or compensation plans provided to employees who hold positions with the Company comparable to the Executive's position, (ii) to provide the Executive all other fringe benefits (or the equivalent) in effect for the benefit of any employee group which includes any employee who hold a position with the Company comparable to the Executive's position, where in the event of a Change of Control, such comparison shall be made relative to the period immediately prior to the public announcement of such Change of Control, or (iii) to continue to provide director's and officers' insurance, in each case if such failure causes a material reduction in the Executive's overall compensation and benefits package.

(c) A material breach of this Agreement by the Company including, in the event of a Change of Control, the failure of any Successor to assume and agree to perform the obligations under this Agreement in the same manner and to the same extent that the Company would be required to perform such obligations if no succession had taken place, except where such assumption occurs by operation of law.

(d) A material, adverse change in the Executive's authority, duties, or responsibilities (other than temporarily while the Executive is physically or mentally incapacitated or as required by applicable law), taking into account the Company's size, status as a public company, and capitalization as of the Effective Date of this Agreement, other than a change to a position that is a Substantive Functional Equivalent.

(e) A change in the Executive's principal place of employment that is greater than 75 miles from the Executive's principal place of employment as set forth in Section 1.3 or, if his principal place of employment shall have been changed with his express or implied consent, a change to a principal place of employment other than such consented place, other than a change directed by the Executive.

Within ninety (90) days of the occurrence of any of the foregoing conditions, the Executive must notify the Company of the specific condition(s) that form the basis for Executive's belief that Executive is entitled to terminate employment for Good Reason. The Company shall have an opportunity to remedy the foregoing condition(s) within thirty (30) days of its receipt of such notice.

8.8 **"Permanent Disability"** means that:

(a) the Executive has been incapacitated by bodily injury, illness or disease so as to be prevented thereby from engaging in the performance of the Executive's duties;

(b) such total incapacity shall have continued for a period of six consecutive months; and

(c) such incapacity will, in the opinion of a qualified physician selected by the Company, be permanent and continuous during the remainder of the Executive's life.

8.9 **"Substantive Functional Equivalent"** means that the Executive's position must:

(a) be in a substantive area of the Executive's competence (e.g., financial or executive management) and not materially different from the position occupied immediately prior;

(b) allow the Executive to serve in a role and perform duties functionally equivalent to those performed immediately prior to the change; and

(c) not otherwise constitute a material, adverse change in authority, title, status, responsibilities or duties from those of the Executive immediately prior to the change, causing the Executive to be of materially lesser rank or responsibility, including requiring the Executive to report to a person other than the CEO or the Board.

8.10 **"Successor"** means any successor in interest to, or assignee of, all or substantially all of the business and assets of the Company.

8.11 **"Termination Date"** means the date of the termination of the Executive's employment with the Company.

8.12 **"Termination Upon Change of Control"** means:

(a) any termination of the employment of the Executive by the Company without Cause, including expiration of the Employment Term in accordance with Section 2.1 as a result of the Company's election not to renew the Employment Term, which termination of employment occurs during the period commencing on date of a Change of Control and ending on the date that is eighteen (18) months following the Change of Control; or

(b) any resignation by Executive for Good Reason where (i) such Good Reason occurs during the period commencing on the date of a Change of Control and ending on the date that is eighteen (18) months following the Change of Control, and (ii) such resignation occurs at or after such Change of Control and in any event within six (6) months following the occurrence of such Good Reason.

Notwithstanding the foregoing, if the Executive's employment with the Company is terminated without Cause or for Good Reason during the six-month period prior to the Change of Control, then for purposes of this Agreement the Executive will be deemed to have experienced a Termination Upon Change of Control.

For the avoidance of doubt, the term "Termination Upon Change of Control" shall not include any termination of the employment of the Executive: (1) by the Company for Cause; (2) by the Company as a result of the Permanent Disability of the Executive; (3) as a result of the death of the Executive; or (4) as a result of the voluntary termination of employment by the Executive for any reason other than Good Reason.

9. **EXCLUSIVE REMEDY.**

9.1 No Other Benefits Payable. The Executive shall be entitled to no other termination, severance or change of control compensation, benefits, or other payments from the Company as a result of any termination with respect to which the payments and benefits described in this Agreement have been provided to the Executive, except as expressly set forth in this Agreement.

9.2 Release of Claims. The payments and other benefits provided in Sections 5 and 6 of this Agreement upon termination of the Executive's employment are conditioned upon the delivery by the Executive to the Company of a signed and effective general release of claims in a form provided by the Company and such release becoming effective within thirty (30) days following the Termination Date; provided, however, that the Executive shall not be required to release any rights the Executive may have to be indemnified by the Company or as otherwise provided under this Agreement.

9.3 Non-duplication of Benefits. The payments and benefits provided under this Agreement are intended to replace payments and benefits under any other written agreement with the Company and/or another plan or policy of the Company in their entirety and, accordingly, as between this Agreement and those other agreements, plans or policies, there shall be no duplication of payments or benefits. If the Executive has any other binding written agreement with the Company which provides that, upon a Change of Control, Termination Upon a Change of Control or Involuntary Termination, the Executive shall receive termination, severance or similar payments or benefits, then no benefits shall be received by Executive under this Agreement unless, prior to making the payment or providing the benefits under this Agreement, the Executive waives Executive's rights to all such other payments and benefits, in which case this Agreement shall supersede any such written agreement with respect to such other benefits.

10. **COOPERATION.** The parties agree that certain matters in which the Executive will be involved during the Employment Term may necessitate the Executive's cooperation or assistance in the future. Accordingly, following the termination of the Executive's employment for any reason, to the extent reasonably requested by the Board or the CEO, the Executive shall cooperate with the Company in connection with any claims arising out of the Executive's employment with the Company including preparing for and providing truthful testimony; provided that, the Company shall make reasonable efforts to minimize disruption of the Executive's other activities. The Company shall reimburse the Executive for reasonable expenses incurred in connection with such cooperation and assistance and, to the extent that the Executive is required to spend substantial time on such matters, the Company shall compensate the Executive at an hourly rate based on the Executive's Base Salary on the Termination Date.

11. **NON-COMPETE; PROPRIETARY AND CONFIDENTIAL INFORMATION.** During the Employment Term and following any termination of employment, Executive agrees to continue to abide by the terms and conditions of the Non-Compete Agreement and each other non-competition agreement (during the term of such agreement) and the separate Employee Invention Assignment & Confidentiality Agreement between the Executive and the Company.

12. **ARBITRATION.**

12.1 Disputes Subject to Arbitration. Any claim, dispute or controversy arising out of this Agreement, any other agreement between the Executive and the Company or any of its affiliates, or the Executive's employment with the Company or the termination thereof (other than claims relating to misuse or misappropriation of the intellectual property of the Company or its affiliates), the interpretation, validity or enforceability of this Agreement or the alleged breach thereof shall be submitted to binding arbitration by a sole arbitrator under the National Rules for the Resolution of Employment Disputes of the American Arbitration Association and this Section 12; provided, however, that (a) the arbitrator shall have no authority to make any ruling or judgment that would confer any rights with respect to the trade secrets, confidential and proprietary information or other intellectual property of the Company upon the Executive or any third party; and (b) this arbitration provision shall not preclude the Company from seeking legal and equitable relief from any court having jurisdiction with respect to any disputes or claims relating to or arising out of the misuse or misappropriation of the Company's intellectual property or violation by the Executive of any non-competition agreement or other restrictive covenant in favor of the Company. Judgment may be entered on the award of the arbitrator in any court having jurisdiction.

12.2 Costs of Arbitration. Each party shall be responsible for its own costs and expenses, including, without limitation, attorneys' fees. The Arbitrator may determine to make an award of fees and/or costs to either party. Except as otherwise so awarded, the parties will share equally the fees of the American Arbitration Association and the arbitrator.

12.3 Site of Arbitration. The site of the arbitration proceeding shall be in Cincinnati, Ohio.

13. **NOTICES.** For purposes of this Agreement, notices and all other communications provided for in the Agreement shall be in writing and shall be deemed to have been duly given when delivered or five (5) business days after being mailed, return receipt requested, as follows: (a) if to the Company, attention: Chief Executive Officer, at the Company's offices at 100 Commerce Blvd., Loveland, OH 45140 and, (b) if to the Executive, at the Executive's principal residence as it appears in the Company's records. Either party may provide the other with notices of change of address, which shall be effective upon receipt.

14. **MISCELLANEOUS PROVISIONS.**

14.1 Heirs and Representatives of the Executive; Successors and Assigns of the Company. This Agreement is personal to the Executive and shall not be assigned by the Executive, except that in the event of the Executive's death or Permanent Disability the post-termination benefits of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the Executive's personal and legal representatives, executors, administrators, successors, heirs, distributees, devises and legatees. The Company may assign this Agreement to any successor or assign (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or substantially all of the business or assets of the Company. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors and assigns of the Company.

14.2 Amendment and Waiver. No provision of this Agreement shall be modified, amended, waived or discharged unless the modification, amendment, waiver or discharge is agreed to in writing, specifying such modification, amendment, waiver or discharge, and signed by the Executive and by an authorized officer of the Company (other than the Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time. To be effective, any waiver must be set forth in a writing signed by the waiving party and must specifically refer to the condition(s) or provision(s) of this Agreement being waived.

14.3 Withholding Taxes. All payments made or benefits provided under this Agreement shall be subject to deduction of all federal, state, local and other taxes required to be withheld by applicable law.

14.4 Severability. The invalidity or enforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision hereof, which shall remain in full force and effect.

14.5 Governing Law. The validity, interpretation, construction, performance and enforcement of this Agreement shall be governed by the laws of the State of Ohio, without regard to where the Executive has his residence or principal office or where he performs his duties hereunder, and without reference to principles of conflict of laws.

14.6 Exemption from, or Compliance with, Code Section 409A. The payments to be made and the benefits to be provided under this Agreement are intended to be either exempt from, or compliant with, the requirements of Code Section 409A, and this Agreement shall be construed and administered in accordance with such intent and in accordance with this Section 14.6. Notwithstanding any other provision of this Agreement, payments provided under this Agreement may only be made upon an event and in a manner that complies with the requirements of Code Section 409A or an applicable exemption thereto. Any payments under this Agreement that may be exempt from Code Section 409A either as separation pay due to the Executive's involuntary separation from service or as a short-term deferral shall be treated as exempt from Code Section 409A under this Agreement to the maximum extent possible. Each installment payment provided hereunder that is subject to the requirements of Code Section 409A shall be treated as a separate payment for purposes of Code Section 409A. Any payments to be made under this Agreement in connection with Executive's termination of employment shall only be made if such termination of employment constitutes a "separation from service" under Code Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement are exempt from, or comply with, Code Section 409A, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by the Executive on account of noncompliance with Code Section 409A.

To the extent any payments or benefits to which the Executive becomes entitled under this Agreement, or under any agreement or plan referenced herein, in connection with Employee's termination of employment with the Company constitute nonqualified deferred compensation subject to the requirements of Code Section 409A, and the Executive is determined, at the time of such termination of employment, to be a "specified employee" under Code Section 409A, then such payments shall not be made or benefits commenced until the earliest of (i) the first payroll date to occur following the six (6)-month anniversary of such termination of employment; or (ii) the first payroll date to occur following the date of the Executive's death following such termination of employment. Upon the expiration of the applicable suspension period, the aggregate amount of any payments and benefits which would have otherwise been made or provided during that period (whether in a single sum or in installments) in the absence of this paragraph shall be paid to the Executive (or Executive's estate in the case of his death) in one lump sum without interest, and thereafter any remaining payments or benefits shall be paid or provided without suspension in accordance with their original schedule.

To the extent required by Code Section 409A, each reimbursement or in-kind benefit provided under this Agreement shall be provided in accordance with the following: (i) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year;

(ii) any reimbursement of an eligible expense shall be paid to the Executive on or before the last day of the calendar year following the calendar year in which the expense was incurred; and (iii) any right to reimbursements or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit.

14.7 Entire Agreement. This Agreement, together with the Non-Compete and any other non-competition agreements between the Executive and the Company, the Employee Invention Assignment & Confidentiality Agreement between the Executive and the Company, and the restricted stock award agreements and stock option award agreements with respect to the equity awards, contains the entire agreement and understanding between the parties as to the subject matter herein and supersedes all prior agreements, including understandings, term sheets, discussions, negotiations and undertakings, whether written or oral, between them relating to the subject matter of this Agreement. In the event of any inconsistency between any provision of this Agreement and any provision of any plan, employee handbook, personnel manual, program, policy, arrangement or agreement of the Company or any of its affiliates, the provisions of this Agreement shall control.

14.8 Surviving Terms. Except as otherwise set forth in this Agreement, to the extent necessary to carry out the intentions of the parties hereunder the respective rights and obligations of the parties hereunder shall survive any termination of the Executive's employment.

[SIGNATURE PAGE TO EMPLOYMENT AGREEMENT FOLLOWS]

In Witness Whereof, each of the parties has executed this Agreement, in the case of the Company, by its duly authorized officer, as of the day and year first above written.

EXECUTIVE

/s/ Joshua Anderson
Joshua Anderson

WORKHORSE GROUP INC.

By: /s/ James D. Harrington
Name: James D. Harrington
Title: CAO, General Counsel and Secretary

Exhibit 10.47

Workhorse Group Inc. 2019 Incentive Stock Plan
RESTRICTED STOCK AWARD AGREEMENT

1. Grant of Restricted Stock Award. In accordance with and subject to the terms and conditions of (a) the Workhorse Group Inc. 2019 Incentive Stock Plan, as it may be amended from time to time (the "**Plan**"), and (b) this Restricted Stock Award Agreement (the "**Agreement**"), Workhorse Group Inc. (the **"Company"**) grants to the Participant identified on Schedule 1 attached hereto (the "**Grantee**") the number of shares of common stock of the Company set forth on Schedule 1 (the "**Shares**"), which Shares shall be subject to the terms, conditions, restrictions and limitations set forth in this Agreement ("**Restricted Stock**"). The Restricted Stock awarded under this Agreement shall be deemed to have been granted on the date set forth on Schedule 1 (the "**Grant Date**"). Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the Plan. Schedule 1 is incorporated into and forms a part of this Agreement.

2. Acceptance by Grantee. The Grantee is required to accept the award of Restricted Stock granted pursuant to this Agreement. If the Grantee does not accept this Agreement and comply with its terms and conditions, including the condition that the Grantee enter into that certain Employee Non-Compete Agreement (the "**Non-Compete Agreement"**) described in Section 9 hereof, as evidenced by the Grantee's execution of Schedule 1 to this Agreement and the Non-Compete Agreement and the delivery of an executed copy of such instruments to the Company by June 30, 2022 (the "**Acceptance Date**"), all Shares of Restricted Stock subject to this Agreement shall be automatically forfeited and the Grantee shall have no further rights under or with respect to such Shares of Restricted Stock.

3. Issuance of Shares: Terms, Conditions, Restrictions and Limitations. The Company shall issue a stock certificate, or otherwise issue Shares (including through a book entry system, if applicable) representing the Shares of Restricted Stock granted pursuant to this Agreement, which Shares shall be registered in the name of the Grantee. Except as hereinafter set forth, if a stock certificate is issued, it shall not be delivered to the Grantee but shall be held by the Company as escrow agent in accordance with Section 8 hereof at the principal office of the Company. Subject to the Plan and this Agreement, the Grantee shall enjoy all rights of ownership of the Restricted Stock, including the right to vote and receive dividends or other distributions with respect to the Shares of Restricted Stock as hereinafter set forth, during the period any such Restricted Stock is subject to forfeiture in accordance with this Agreement (the "**Restricted Period**") with the exception that:

(a) Except as otherwise provided herein and if applicable, the Grantee shall not be entitled to delivery of the stock certificates for the Restricted Stock until the Restricted Period applicable to such Shares shall have expired. In addition, and except as otherwise provided in this Agreement, no stock certificates will be delivered to the Grantee (or, if the shares are issued in uncertificated form, the Grantee shall have no right to the Shares) unless the Grantee, on the lapse of the applicable Restricted Period, remains in continuous employment with the Company as an employee of the Company ("**Continuous Service**") and has remained in Continuous Service with the Company since the Grant Date.

(b) In the event that a Change of Control (as defined below) occurs prior to the end of the Restricted Period and prior to the date on which the Grantee's Continuous Service has terminated, any unvested Shares of Restricted Stock then outstanding shall fully vest on the date of the Change of Control and the date of the Change of Control will be end of the Restricted Period for purposes of this Agreement.

(c) The Company will issue the Restricted Stock subject to a restrictive legend substantially in the form attached hereto as Exhibit A and, as escrow agent, will provide for retention of custody of the Restricted Stock (if certificated) during the Restricted Period, as set forth in this Agreement; provided, however, that even if the Shares of Restricted Stock are issued in uncertificated form, the Shares shall be subject to the restrictions set forth in the legend.

(d) During the applicable Restricted Period, the Grantee shall not transfer, deliver, assign, sell, or dispose of the Restricted Stock in any manner other than by will or by the laws of descent and distribution, nor pledge or otherwise hypothecate the Restricted Stock.

(e) A breach of the terms, conditions, restrictions or limitations contained herein shall cause the Restricted Stock to be forfeited to the Company.

(f) Any cash or stock dividends declared on the Restricted Stock will be paid directly to the Grantee on the dividend payment date (or shortly thereafter to process any required withholding of taxes).

(g) In lieu of the issuance of a share certificate evidencing Shares, the Company may use a “book entry” system in which a computerized or manual entry is made in the books and records of the Company to evidence the issuance of such Shares. Such Company books and records are, absent manifest error, binding on all parties.

(h) For purposes of this Agreement, the term “**Change of Control**” means:

(i) any “person” (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”)) becomes the “beneficial owner” (as defined in Rule I3d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty (50%) percent or more of (A) the outstanding shares of common stock of the Company, or (B) the combined voting power of the Company’s outstanding securities;

(ii) the Company is party to a merger or consolidation, or series of related transactions, which results in the voting securities of the Company outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity), directly or indirectly, more than fifty (50%) percent of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or

(iii) the sale or disposition of all or substantially all of the Company’s assets, or consummation of any transaction, or series of related transactions, having similar effect (other than to a subsidiary of the Company).

(i) In the event that any of the terms contained in this Section 3 conflict with any employment agreement in effect between the Company and the Grantee, then the terms of the employment agreement shall govern.

4. Delivery of Shares. If the Grantee remains in Continuous Service with the Company from the Grant Date to one or more of the vesting dates described in Schedule 1 and has met all the other terms, conditions, restrictions and limitations contained herein and in the Plan, the Company shall deliver to the Grantee pursuant to Section 8 of this Agreement, certificates for the vested Shares without the legend referenced in Section 3(b) hereof or will otherwise enter such vested Shares on the Company’s book entry system as described in Section 3(f) hereof without restrictions.

5. Forfeiture of Restricted Stock. Subject to the provisions of Section 6(e) of the Plan (relating to discretionary actions that may, but are not required, be taken by the Board of Directors of the Company (the "**Board**," which term shall include the Compensation Committee of the Board of Directors or such other authorized committee of the Board of Directors) with respect to the Restricted Stock upon the occurrence of the Grantee's retirement, resignation, death or disability), if the Grantee's Continuous Service terminates at any time for any reason during an applicable Restricted Period, the portion of the Restricted Stock not vested in accordance with Section 4 of this Agreement shall be forfeited on the date of such termination of Continuous Service and the Company shall not have any further obligations to the Grantee under this Agreement. In addition, in the event that the Grantee does not comply with the acceptance procedures set forth in Section 2 hereof by the Acceptance Date, all of the Shares of Restricted Stock shall be forfeited as of Acceptance Date. Upon any such forfeiture, the Company shall become the legal and beneficial owner of the unvested portion of the Shares of Restricted Stock and all rights and interests therein and related thereto, without the payment of any consideration by the Company to the Grantee.

6. Payment of Taxes. The Grantee understands that he will have to pay income and employment taxes on the fair market value of the Restricted Stock when the restrictions lapse unless he elects, no later than thirty (30) days after the Grant Date, under Section 83(b) of the Internal Revenue Code of 1986, as amended, and the corresponding regulations promulgated thereunder (the "**Code**"), to pay income and employment tax on the value of the Shares on the Grant Date in the year the grant is made on the fair market value of the Restricted Stock on the Grant Date. In either case, the Company's obligation to deliver the unrestricted Shares as a result of the vesting of the Restricted Stock shall be subject to the Grantee's satisfaction of all applicable federal, state, and local income and employment tax withholding obligations. If tax withholding attributable to the Restricted Stock is required by the Company, then, at the Board's discretion, the Company may satisfy such tax obligations by reducing the number of Shares otherwise deliverable or by accepting the delivery to the Company of Shares previously owned and unencumbered by the Grantee. The Company shall also have the right to withhold from any salary, bonus or other payments due the Grantee the amount necessary to satisfy any tax withholding obligations related to the Restricted Stock. The Grantee acknowledges that if the Grantee makes the Section 83(b) election and later forfeits all or a portion of the Restricted Stock, certain adverse tax consequences may result in that the Grantee may not be able to fully utilize the capital losses realized as a result of such forfeiture. The Grantee understands that the Grantee should seek tax advice before deciding whether or not to make the Section 83(b) election. If the Grantee makes a Section 83(b) election, the Grantee shall furnish a copy of the election within 10 days after it is filed with the Internal Revenue Service.

7. Nonassignability. Except as otherwise provided herein and in the Plan, the right of the Grantee to the Restricted Stock shall not be assignable or transferable by the Grantee other than to a designated beneficiary upon the Grantee's death pursuant to his will or by the laws of descent and distribution. Any such assignment or transfer shall be null and void and without effect upon any attempted assignment or transfer, except as provided herein or in the Plan, including, without limitation, any purported assignment, whether voluntary or by operation of law, pledge, hypothecation, or other disposition contrary to the provisions hereof, or levy of execution, attachment, trustee process, or similar process, whether legal or equitable, upon the Restricted Stock.

8. Escrow. Stock certificates, if any, issued pursuant to Section 3 of this Agreement shall be held in escrow, together with stock powers duly executed in blank by the Grantee in the form of that which is attached hereto as Exhibit B, with the chief financial officer of the Company to be held in accordance with the provisions hereof. Shares of Restricted Stock shall be: (a) released to the Company upon forfeiture as described in Section 5 of this Agreement, or

(b) released and delivered to the Grantee to the extent such Shares of Restricted Stock become vested pursuant to Section 3 of this Agreement.

9. Additional Conditions of Award.

The Grantee understands and agrees that, as a condition to the Company granting the Restricted Stock under this Agreement, he must execute and deliver the Non-Compete Agreement by the Acceptance Date. The Grantee further understands that the Non-Compete Agreement shall become effective upon the Grantee's execution and delivery thereof and that it shall remain in effect for the period described therein, which period would include a period following the Grantee's termination of employment with the Company irrespective of the whether or not the Grantee becomes vested in the Restricted Stock in accordance with this Agreement.

10. Compliance with Law. The issuance and delivery of Shares shall be subject to compliance by the Company and the Grantee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's Shares may be listed. No Shares shall be issued pursuant to this Agreement unless and until any then applicable requirements of state or federal laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel. The Grantee understands that the Company is under no obligation to register the Shares with the Securities and Exchange Commission, any state securities commission, or any stock exchange to effect such compliance.

11. Adjustments. The Shares of Restricted Stock may be adjusted or terminated in any manner as contemplated by Section 8 of the Plan.

12. No Right to Continued Employment. Nothing contained in the Plan or in this Agreement, nor any action taken by the Board, shall confer upon the Grantee any right with respect to continuation of employment by the Company as an employee or service as an officer or director nor interfere in any way with the right of the Company to terminate the Grantee's employment or other service as an employee, officer or director at any time with or without Cause, including during the Restricted Period.

13. Governing Law; Venue; Dispute. This Agreement has been granted, executed and delivered in the State of Ohio, and the interpretation and enforcement shall be governed by the laws thereof without regard to conflict of laws principles, and subject to the exclusive jurisdiction of the courts therein. Any dispute regarding the interpretation of this Agreement shall be submitted by the Grantee or the Company to the Board for review. The resolution of such dispute by the Board shall be final, binding and conclusive on the Grantee and the Company.

14. Notices. Any notice required to be given pursuant to this Agreement or the Plan shall be in writing and shall be deemed to be delivered upon receipt or, in the case of notices by the Company, five (5) days after deposit in the U.S. mail, postage prepaid, addressed to the Grantee at the address last provided by the Grantee for the Grantee's service provider records. Any notice to the Company shall be addressed to the chief financial officer or to the chief executive officer of the Company. Either party may designate another address in writing (or by such other method approved by the Company) from time to time.

15. Agreement Subject to Plan. This Agreement is made pursuant to the Plan and shall be interpreted to comply therewith. A copy of the Plan is available to the Grantee, at no charge, at the principal office of the Company. The provisions of the Plan, as they may be amended from time to time, are hereby incorporated herein by reference. In the event of a

conflict between any provision contained herein and a provision of the Plan, the applicable provisions of the Plan will govern and prevail.

16. Successors and Assigns. The Company may assign any of its rights under this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on assignment and transfer set forth herein, this Agreement will be binding upon the Grantee and the Grantee's beneficiaries, executors, administrators and the person(s) to whom the Restricted Stock may be transferred by will or the laws of descent or distribution.

17. Severability. The invalidity or unenforceability of any provision of the Plan or this Agreement shall not affect the validity or enforceability of any other provision of the Plan or this Agreement, and each provision of the Plan and this Agreement shall be severable and enforceable to the extent permitted by law.

18. Discretionary Nature of Plan. The Plan is discretionary and may be amended, cancelled or terminated by the Board at any time, in its discretion. The grant of the Restricted Stock pursuant to this Agreement does not create any contractual right or other right to receive any Restricted Stock or other Grants in the future. Future Grants, if any, will be at the sole discretion of the Board. Any amendment, modification, or termination of the Plan shall not constitute a change or impairment of the terms and conditions of the Grantee's employment or other service with the Company.

19. Amendment. The Board has the right to amend, alter, suspend, discontinue or cancel the Plan, prospectively or retroactively; provided, that, no such amendment shall alter or impair the Grantee's material rights and obligations under this Agreement without the Grantee's written consent.

20. No Effect on Other Benefits. The value of the Grantee's Restricted Stock is not part of the Grantee's normal or expected compensation for purposes of calculating any severance, retirement, welfare, insurance or similar employee benefit, unless the express provisions of a written service provider benefit provides otherwise.

21. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Counterpart signature pages to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original signature.

IN WITNESS WHEREOF, the parties hereto have caused this Restricted Stock Award Agreement to be executed as of the date set forth on Schedule 1 to this Agreement.

[*Schedule 1 follows*]

Schedule 1

Restricted Stock Award Agreement

Name of Grantee:

Number of Shares: __________ Shares

Date of Grant:

Vesting Dates: Subject to forfeiture in accordance with Section 5 of the Restricted Stock Award Agreement, the following number of Shares of Restricted Stock shall vest on the following dates:

Number of Shares	Vesting Date

Notwithstanding the foregoing vesting schedule:

The forfeiture provisions of Section 2 of the Agreement shall apply.

By executing this Schedule 1, the Grantee hereby acknowledges receipt of a copy of the Plan and the Agreement of which this Schedule 1 is a part. The Grantee has read and understands the provisions of the Agreement, and accepts the award of Restricted Stock subject to all of the terms, conditions, restrictions and limitations of the Plan and the Agreement.

Exhibit A

Restricted Stock Award Agreement

LEGEND TO BE PLACED ON STOCK CERTIFICATE (IF APPLICABLE)

The Shares represented by this certificate are subject to the terms, conditions, restrictions and limitations of the Workhorse Group Inc. 2019 Incentive Stock Plan (the "Plan") and a Restricted Stock Award Agreement (the "Agreement") between the holder hereof and Workhorse Group Inc. dated as of ______________________, and may not be sold or transferred except in accordance therewith. Copies of the Plan and Agreement are kept on file by the chief financial officer of Workhorse Group Inc.

Exhibit B

Restricted Stock Award Agreement

STOCK POWER

FOR VALUE RECEIVED, the undersigned, ______________________, hereby sells, assigns, transfers, and conveys unto Workhorse Group Inc., a Nevada corporation (the “Company”), or its successors, _______________ shares of common stock of the Company standing in my name on the books of the Company, represented by Certificate No. ___________, which is attached hereto if applicable or otherwise credited in my name on the books and records of the Company, and hereby irrevocably constitutes and appoints each officer of the Company as my attorney-in-fact to transfer said stock on the books of the Company with full power of substitution in the premises.

Dated:________ __________
[NAME]

WITNESS:

____

Workhorse Group Inc. 2019 Incentive Stock Plan
PERFORMANCE SHARE UNIT AWARD AGREEMENT

1. Grant of Performance Share Unit Award. In accordance with, and subject to, the terms and conditions of (a) the Workhorse Group Inc. 2019 Incentive Stock Plan, as it may be amended from time to time (the "**Plan**"), and (b) this Performance Share Unit Award Agreement (the "**Agreement**"), Workhorse Group Inc. (the **"Company"**) grants to the Grantee identified on Schedule 1 attached hereto (the "**Grantee**") an award for a target number of Performance Share Units set forth on Schedule 1 (the "**Target Award**"). The Performance Share Units awarded under this Agreement shall be deemed to have been granted on the date set forth on Schedule 1 (the "**Grant Date**"). The number of Performance Share Units to which the Grantee actually becomes entitled for the Performance Period will be determined by the level of achievement of the Performance Objectives as set forth on Exhibit A. The Performance Share Units shall be credited to a separate notional account maintained for the Grantee on the books and records of the Company. Schedule 1 and Exhibit A are incorporated into and form a part of this Agreement.

2. Definitions. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the Plan. The following capitalized terms shall have the following meanings:

a. "**Adjusted EBITDA**" means, for any calendar year, the Company's earnings before interest expense, income taxes and non-controlling interests, and depreciation and amortization expenses, as determined in accordance with normal business practices, adjusted for any non-recurring items as deemed appropriate by the Committee or the Board.

b. "**Change of Control**" means:

i. any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) becomes the "beneficial owner" (as defined in Rule I3d-3 promulgated under the Exchange Act), directly or indirectly, of securities of the Company representing fifty (50%) percent or more of (A) the outstanding shares of common stock of the Company, or (B) the combined voting power of the Company's outstanding securities;

ii. the Company is party to a merger or consolidation, or series of related transactions, which results in the voting securities of the Company outstanding immediately prior thereto failing to continue to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity), directly or indirectly, more than fifty (50%) percent of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation; or

iii. the sale or disposition of all or substantially all of the Company's assets, or consummation of any transaction, or series of related transactions, having similar effect (other than to a subsidiary of the Company).

c. "**Market Value Price**" means the latest available closing price of a Share or of a share of common stock of a company in the Peer Group, as the case may be, on the National Association of Security Dealers Automated Quotations (NASDAQ), the New York

Stock Exchange, or other recognized market if the stock does not trade on either such exchanges at the relevant time.

d. "**Peer Group**" means the group of companies established by the Board or the Committee and reported to the Board, as set forth on Exhibit B attached hereto.

e. "**Performance Objectives**" means the predetermined goals of the Company established by the Board or the Committee and reported to the Board, as more particularly set forth on Exhibit A attached hereto.

f. "**Performance Period**" means the period commencing on January 1, 2022 and ending on December 31, 2024.

g. "**Performance Share Unit**" means the right to receive one (1) Share or the value thereof in the future based upon the satisfaction of the Performance Objectives during the Performance Period, as determined by the Board or the Committee.

h. "**Share**" means a share of Stock.

i. "**Total Shareholder Return**" or "**TSR**" means with respect to the Company or a company in the Peer Group, as applicable, the cumulative return to shareholders during the Performance Period, measured by the change in Market Value Price plus dividends (or other distributions) reinvested over the Performance Period, determined on January 1, 2022 and the last business day of the Performance Period. Total Shareholder Return shall be calculated (i) using a 30-day trading average of the stock price ending on (A) January 1, 2022, and (B) the last business day of the Performance Period, and (ii) assuming all dividends declared during the Performance Period are reinvested at the closing Market Value Price on the applicable ex-dividend date.

3. Acceptance by Grantee. The Grantee is required to accept the award of Performance Share Units granted pursuant to this agreement. If the Grantee does not accept this Agreement and comply with its terms, including the condition that the Grantee enter into that certain Employee Non-Compete Agreement (the "**Non-Compete Agreement"**) described in Section 11, as evidenced by the Grantee's execution of Schedule 1 to this Agreement and the Non-Compete Agreement, and the delivery of an executed copy of such instruments to the Company by June 30, 2022 (the "**Acceptance Date**"), all Performance Share Units subject to this Agreement shall be automatically forfeited and the Grantee shall have no further rights under or with respect to such Performance Share Units. The Grantee hereby acknowledges receipt of a copy of the Plan and this Agreement. By executing Schedule 1 to this Agreement, the Grantee represents that the Grantee has read and understands the provisions hereof, and accepts the Performance Share Units subject to all of the terms, conditions, restrictions and limitations of the Plan and this Agreement.

4. Performance Objectives. Except as otherwise provided in Section 5:

a. The number of Performance Share Units to which the Grantee actually will be entitled for the Performance Period will be determined at the end of the Performance Period based on the level of achievement of the Performance Objectives in accordance with Exhibit A. All determinations of whether the Performance Objectives have been achieved and the level of any such achievement, the number of Performance Share Units to which the Grantee will be entitled, and all other matters related to this Section 4 shall be made by the Board or the Committee in its sole discretion.

b. Promptly following completion of the Performance Period (and no later than sixty (60) days following the end of the Performance Period), the Board or the Committee will review and certify in writing (i) whether, and to what extent, the Performance Objectives for the Performance Period have been achieved, and (ii) the number of Performance Share Units to which the Grantee will be entitled for the Performance Period, if any, subject to the requirements of Section 5. Such certification shall be final, conclusive, and binding on the Grantee, and on all other persons, to the maximum extent permitted by law.

5. Vesting of Performance Share Units.

a. The Performance Share Units are subject to forfeiture until they vest. Except as otherwise provided herein, provided that the Grantee remains in continuous service as an employee of the Company ("**Continuous Service**") from the Grant Date through the last day of the Performance Period, and further provided that the "Threshold" level of the Performance Objectives set forth in Exhibit A has been achieved, the Performance Share Units will vest as of the last day of the Performance Period (the "**Vesting Date**"). The number of Performance Share Units that vest and become nonforfeitable under this Agreement shall be determined by the Board or the Committee in its discretion based on the level of achievement of the Performance Objectives set forth in Exhibit A and shall be rounded to the nearest whole Performance Share Unit.

b. In the event that a Change of Control occurs prior to the Vesting Date and prior to the date on which the Grantee's Continuous Service has terminated, the Performance Share Units shall vest upon the Change of Control at the target level of achievement of the Performance Objectives set forth in Exhibit A and the date of the Change of Control will be the "**Vesting Date**" for purposes of this Agreement.

c. Unless otherwise determined by the Board or the Committee in the exercise of its discretion under the Plan and except as otherwise expressly provided in this Agreement, if the Grantee's Continuous Service terminates for any reason at any time prior to the Vesting Date, the Grantee's Performance Share Units shall be automatically forfeited upon such termination of Continuous Service and the Company shall have no further obligations to the Grantee under this Agreement. If the Board or the Committee exercises discretion to vest any of the Performance Share Units upon or in connection with the Grantee's termination of Continuous Service, the date of termination (or, if later, the vesting date determined at the time of the exercise of the Board's or the Committee's discretion and based on the terms of the discretionary vesting) will be the "**Vesting Date**" for purposes of this Agreement.

d. In the event that any of the terms contained in this Section 5 conflict with any employment agreement in effect between the Company and the Grantee, then the terms of the employment agreement shall govern if such terms are more favorable to the Grantee.

6. Restrictions. Subject to any exceptions set forth in this Agreement or the Plan, during the Performance Period and until such time as the Performance Share Units are settled in accordance with Section 8, the Performance Share Units or the rights relating thereto may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by the Grantee. Any attempt to assign, alienate, pledge, attach, sell or otherwise transfer or encumber the Performance Share Units or the rights relating thereto shall be wholly ineffective and, if any such attempt is made, the Performance Share Units will be forfeited by the Grantee and all of the Grantee's rights to such units shall immediately terminate without any payment or consideration by the Company.

7. Rights as Shareholder; Dividend Equivalents.

a. The Grantee shall not have any rights of a shareholder with respect to the Shares underlying the Performance Share Units unless and until the Performance Share Units vest and are settled by the issuance of such Shares.

b. Upon and following the settlement of the Performance Share Units in Shares, the Grantee shall be the record owner of the Shares underlying the Performance Share Units unless and until such Shares are sold or otherwise disposed of, and as record owner shall be entitled to all rights of a shareholder of the Company (including voting rights).

c. The Grantee shall not be entitled to any dividend equivalents with respect to the Performance Share Units to reflect any dividends payable on Shares.

8. Settlement of Performance Share Units.

a. Subject to Section 9, promptly following the Vesting Date, and in any event no later than March 15 of the calendar year following the calendar year in which such Vesting Date occurs (the date on which such settlement occurs being referred to herein as the "**Settlement Date**"), the Company shall pay to the Grantee, in cash, an amount equal to the fair market value (determined as of the Settlement Date) of the number of Shares represented by the Performance Share Units that vested as of the applicable Vesting Date.

b. Notwithstanding the provisions of Section 8(a) but subject to Section 9, the Board or the Committee in its sole discretion and for any reason may elect to settle the vested Performance Share Units (in whole or in part) in the form of Shares rather than cash. If and to the extent that the Board or the Committee exercises its discretion pursuant to this Section 8(b), as of the Settlement Date the Company shall (i) issue and deliver to the Grantee a share certificate evidencing the number of Shares equal to the number of vested Performance Share Units that are to be settled in Shares, and (ii) enter the Grantee's name on the books and records of the Company as the shareholder of record with respect to such Shares delivered to the Grantee. In lieu of the issuance of a share certificate evidencing Shares, the Company may use a "book entry" system in which a computerized or manual entry is made in the books and records of the Company to evidence the issuance of such Shares. Such Company books and records are, absent manifest error, binding on all parties.

9. Payment of Taxes. The Grantee understands that he will have to pay income and employment taxes on the fair market value of the vested Performance Share Units at the time of settlement of such Performance Share Units (whether in cash or Shares). The Company's obligation to deliver Shares or cash, as applicable, in settlement of the vested Performance Share Units shall be subject to the Grantee's satisfaction of all applicable federal, state, and local income and employment tax withholding obligations. If tax withholding attributable to the settlement of the vested Performance Share Units is required by the Company, then, at the Board's discretion, the Company may satisfy such tax obligations by reducing the number of Shares otherwise deliverable (if the units are to be settled in Shares) or by accepting the delivery to the Company of Shares previously owned and unencumbered by the Grantee. Any withholding with respect to cash payments will be made by a reduction of the cash payment otherwise to be paid to the Grantee. The Company shall also have the right to withhold from any salary, bonus or other payments due the Grantee the amount necessary to satisfy any tax withholding obligations related to the settlement of the vested Performance Share Units.

10. Nonassignability. Except as otherwise provided herein and in the Plan, the Performance Share Units and the rights relating thereto shall not be assignable or transferable by the Grantee other than to a designated beneficiary upon the Grantee's death pursuant to his will

or by the laws of descent and distribution. Any such assignment or transfer shall be null and void and without effect upon any attempted assignment or transfer, except as provided herein or in the Plan, including, without limitation, any purported assignment, whether voluntary or by operation of law, pledge, hypothecation, or other disposition contrary to the provisions hereof, or levy of execution, attachment, trustee process, or similar process, whether legal or equitable, upon the Performance Share Units.

11. Conditions of Granting Award. The Grantee understands and agrees that, as a condition to the Company granting the Performance Share Units under this Agreement, he must execute and deliver the Non-Compete Agreement by the Acceptance Date. The Grantee further understands that the Non-Compete Agreement shall become effective upon the Grantee's execution and delivery thereof and that it shall remain in effect for the period described therein, which period would include a period following the Grantee's termination of employment with the Company irrespective of the whether or not the Grantee becomes vested in the Performance Share Units in accordance with this Agreement.

12. Compliance with Law. The issuance and delivery of Shares pursuant to this Agreement shall be subject to compliance by the Company and the Grantee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's Shares may be listed. No Shares shall be issued pursuant to this Agreement unless and until any then applicable requirements of state or federal laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel. The Grantee understands that the Company is under no obligation to register the Shares with the Securities and Exchange Commission, any state securities commission, or any stock exchange to effect such compliance.

13. Adjustments. The Performance Share Units may be adjusted or terminated in any manner as contemplated by Section 8 of the Plan.

14. No Right to Continued Employment. Nothing contained in the Plan or in this Agreement, nor any action taken by the Board, shall confer upon the Grantee any right with respect to continuation of employment by the Company as an employee or service as an officer or director nor interfere in any way with the right of the Company to terminate the Grantee's employment or other service as an employee, officer or director at any time with or without Cause, including during the Performance Period.

15. Governing Law; Venue; Dispute. This Agreement has been granted, executed and delivered in the State of Ohio, and the interpretation and enforcement shall be governed by the laws thereof without regard to conflict of laws principles, and subject to the exclusive jurisdiction of the courts therein. Any dispute regarding the interpretation of this Agreement shall be submitted by the Grantee or the Company to the Board for review. The resolution of such dispute by the Board shall be final, binding and conclusive on the Grantee and the Company.

16. Notices. Any notice required to be given pursuant to this Agreement or the Plan shall be in writing and shall be deemed to be delivered upon receipt or, in the case of notices by the Company, five (5) days after deposit in the U.S. mail, postage prepaid, addressed to the Grantee at the address last provided by the Grantee for the Grantee's service provider records. Any notice to the Company shall be addressed to the chief financial officer or to the chief legal officer of the Company. Either party may designate another address in writing (or by such other method approved by the Company) from time to time.

17. Agreement Subject to Plan. This Agreement is made pursuant to the Plan and shall be interpreted to comply therewith. A copy of the Plan is available to the Grantee, at no

charge, at the principal office of the Company. The provisions of the Plan, as they may be amended from time to time, are hereby incorporated herein by reference. In the event of a conflict between any provision contained herein and a provision of the Plan, the applicable provisions of the Plan will govern and prevail.

18. Successors and Assigns. The Company may assign any of its rights under this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on assignment and transfer set forth herein, this Agreement will be binding upon the Grantee and the Grantee's beneficiaries, executors, administrators and the person(s) to whom the Performance Share Units may be transferred by will or the laws of descent or distribution.

19. Severability. The invalidity or unenforceability of any provision of the Plan or this Agreement shall not affect the validity or enforceability of any other provision of the Plan or this Agreement, and each provision of the Plan and this Agreement shall be severable and enforceable to the extent permitted by law.

20. Discretionary Nature of Plan. The Plan is discretionary and may be amended, cancelled or terminated by the Board at any time, in its discretion. The grant of the Performance Share Units pursuant to this Agreement does not create any contractual right or other right to receive any Performance Share Units or other Grants in the future. Future Grants, if any, will be at the sole discretion of the Board or the Committee. Any amendment, modification, or termination of the Plan shall not constitute a change or impairment of the terms and conditions of the Grantee's employment or other service with the Company.

21. Amendment. The Board has the right to amend, alter, suspend, discontinue or cancel the Plan, prospectively or retroactively; provided, that, no such amendment shall alter or impair the Grantee's material rights and obligations under this Agreement without the Grantee's written consent.

22. Section 409A of the Code. It is intended that any payments with respect to Performance Share Units shall either be exempt from or comply with section 409A of the Code. The provisions of this Agreement shall be construed and interpreted in accordance with section 409A of the Code. Notwithstanding any other provision of this Agreement to the contrary, if any payment or benefit hereunder is subject to section 409A of the Code, and if such payment or benefit is to be paid or provided on account of the Grantee's termination of employment (or other separation from service):

a. and if the Grantee is a specified employee (within the meaning of section 409A(a)(2)(B) of the Code) and if any such payment or benefit is required to be made or provided prior to the first day of the seventh month following the Grantee's separation from service or termination of employment, such payment or benefit shall be delayed until the first day of the seventh month following the Grantee's termination of employment or separation from service; and

b. the determination as to whether the Grantee has had a termination of employment (or separation from service) shall be made in accordance with the provisions of section 409A of the Code and the guidance issued thereunder without application of any alternative levels of reductions of bona fide services permitted thereunder.

23. No Effect on Other Benefits. The value of the Grantee's Performance Share Units is not part of the Grantee's normal or expected compensation for purposes of calculating any

severance, retirement, welfare, insurance or similar employee benefit, unless the express provisions of a written service provider benefit provides otherwise.

24. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Counterpart signature pages to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (.pdf), or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original signature.

IN WITNESS WHEREOF, the parties hereto have caused this Performance Share Unit Award Agreement to be executed as of the date set forth on Schedule 1 to this Agreement.

[*Schedule 1 follows*]

Schedule 1

Performance Share Unit Award Agreement

Name of Grantee: ____________________

Target Award: __________ Performance Share Units ("Target Units")

TSR Target Award: 50% of the Target Units

Adjusted EBITDA Target Award: 50% of Target Units

Grant Date: _____________, 2022

The undersigned agrees to the terms and conditions of the Plan and Performance Share Unit Award Agreement of which this Schedule 1 is a part.

GRANTEE:

By: ______
(signature)

Date: ______

Exhibit A

Performance Objectives

A. **TSR Target Award.** The Performance Share Units subject to the TSR Target Award (the "**TSR Performance Share Units**") that shall become vested for the Performance Period shall be determined by reference to the Company's TSR over the Performance Period relative to the TSR of each of the entities in the Peer Group. Except as otherwise provided in the Plan or the Agreement, the number of TSR Performance Share Units that may become vested with respect to the Performance Period shall be determined as follows:

Percentile Rank of Company's TSR Compared to the TSR of the Peer Group Entities	**TSR Performance Share Units Vested as a Percentage of the TSR Target Award**
Less than 25th percentile	0%
25th percentile (Threshold)	50% of TSR Target Award
50th percentile (Target)	100% of TSR Target Award
75th percentile (Maximum)	200% of TSR Target Award

With respect to both the stock of the Company and the stock of each of the companies that comprise the Peer Group, TSR shall be calculated (a) using a 30-day trading average of the stock price ending on January 1, 2022 and on the last day of the Performance Period, and (b) assuming all dividends declared during the Performance Period are reinvested at the closing price on the applicable ex-dividend date.

In the event the level of achievement falls between the Threshold percentile and Target percentile or between the Target percentile and Maximum percentile, the percentage of the Target Award earned will be interpolated on a straight-line basis between such applicable percentiles.

Depending on the Company's TSR over the Performance Period relative to the TSR of the companies that comprise the Peer Group, between 0% and 200% of the Performance Share Units subject to the TSR Target Award may become vested. In the event the level of achievement of the Performance Objective is in excess of the Maximum percentile, the Grantee shall not be entitled to any Performance Share Units in excess of 200% of the TSR Target Award.

B. **Adjusted EBITDA Target Award.** The Performance Share Units subject to the Adjusted EBITDA Target Award ("**Adjusted EBITDA Performance Share Units**") shall become vested based on the sum of the Company's Adjusted EBITDA for each calendar year of the Performance Period ("**Cumulative Adjusted EBITDA**") based on the Adjusted EBITDA Performance Objective established for the Performance Period. For each year during the Performance Period, the Committee or the Board shall establish a Threshold level of Adjusted EBITDA performance, a Target level of Adjusted EBITDA performance and a Maximum level of Adjusted EBITDA performance. The sum of the applicable level of Adjusted EBITDA performance for each year of the Performance Period shall be the applicable EBIDTA Performance Objective for the Performance Period. Specifically, for the Performance Period, the sum of the Threshold EBIDTA level of performance for each of the three years of the Performance Period shall be the "**EBIDTA Threshold Level**," the sum of the Target Adjusted EBITDA level of Performance shall be the "**EBIDTA Target Level**" and the sum of the

Maximum Adjusted EBITDA level of performance shall be the "**EBIDTA Maximum Level**". If the Company's Adjusted EBITDA performance for any calendar year during the Performance Period is above the Maximum level of performance for that year, the Board or Committee may determine, in its discretion, that only the portion of Adjusted EBITDA up to that year's Adjusted EBITDA Maximum Level shall be taken into account for purposes of determining the level of Adjusted EBITDA performance for the Performance Period.

Except as otherwise provided in the Plan or the Agreement, the number of Adjusted EBITDA Performance Share Units that may become vested with respect to the Performance Period shall be determined as follows as of the end of the Performance Period by reference to the Company's Cumulative Adjusted EBITDA for the Performance Period:

Company's Cumulative Adjusted EBITDA for Performance Period	**Adjusted EBITDA Performance Share Units Vested as a Percentage of the Adjusted EBITDA Target Award**
Less than the EBIDTA Threshold Level	0%
At least equal to the EBIDTA Threshold Level but less than the EBIDTA Target Level	50% of Adjusted EBITDA Target Award
At least equal to the EBIDTA Target Level but less than the Adjusted EBITDA Maximum Level	100% of Adjusted EBITDA Target Award
At least equal to the EBIDTA Target Level	200% of Adjusted EBITDA Target Award

In the event that the level of achievement falls between the Threshold percentile and Target percentile or between the Target percentile and Maximum percentile, the percentage of the Target Award earned will be interpolated on a straight-line basis between such applicable percentiles.

In the event that Adjusted EBITDA for any calendar year during the Performance Period is to be determined based on a period other than a full calendar year Adjusted EBITDA for such calendar year shall be calculated on a pro rata basis to reflect the portion of the calendar year elapsed through the date of the calculation.

Exhibit B

Peer Group

The following companies shall comprise the Company's Peer Group for purposes of this Performance Share Unit Award:

1. ELMS (ticker symbol ELMS)
2. Lordstown Motors (RIDE)
3. Shyft Group (SHYF)
4. Arrival (ARVL)
5. Canoo (GOEV)
6. Lion Electric Company (LEV)
7. Lightning Motors (ZEV)
8. REE Automotive (REE)
9. Nikola Automotive (NKLA)
10. Proterra (PRTA)
11. XL Fleet (XL)
12. Fisker (FSR)

The Peer Group of 12 companies listed above shall not be adjusted during the Performance Period except to exclude one or more of the companies listed above that during the Performance Period (i) cease to be publicly traded (other than as a result of a bankruptcy proceeding or other similar reorganization) or (ii) have experienced a major restructuring by reason of a spin-off of more than 50% of any such company's assets.

Exhibit 21.1

Workhorse Group Inc.
List of Subsidiaries

Workhorse Technologies Inc., an Ohio corporation

Workhorse Motor Works Inc., an Indiana corporation

Workhorse Properties Inc., an Ohio corporation

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our reports dated March 1, 2022 with respect to the consolidated financial statements and internal control over financial reporting included in the Annual Report of Workhorse Group Inc. on Form 10-K for the year ended December 31, 2021. We consent to the incorporation by reference of said reports in the Registration Statements of Workhorse Group Inc. on Forms S-3/A (File No. 333-213100 and File No. 333-226923), on Forms S-3 (File No. 333-253679, File No. 333-249707, File No. 333-237920, File No. 333-233199, File No. 333-230553 and File No. 333-229024), and on Forms S-8 (File No. 333-237162, File No. 333-193425 and File No. 333-196631).

/s/ GRANT THORNTON LLP

Cincinnati, Ohio
March 1, 2022

EXHIBIT 31.1

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Richard Dauch, Chief Executive Officer, certify that:

1. I have reviewed this annual report on Form 10-K of Workhorse Group Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant) and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure co

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal fiscal quarter (the registrant's fourth fiscal quarter in the cash of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting;

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal controls over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):

a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: March 1, 2022

/s/ Richard Dauch
Richard Dauch
Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002

I, Robert Ginnan, Chief Financial Officer, certify that:

1. I have reviewed this annual report on Form 10-K of Workhorse Group Inc.;

2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant) and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting;

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal controls over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):

a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls over financial reporting.

Date: March 1, 2022

/s/ Robert Ginnan
Robert Ginnan
Chief Financial Officer
(Principal Financial Officer)

EXHIBIT 32.1

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Workhorse Group Inc. (the "Company") on Form 10-K for the period ending December 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Richard Dauch, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities and Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 1, 2022

/s/ Richard Dauch
Richard Dauch
Chief Executive Officer
(Principal Executive Officer)

This certification shall not be deemed "filed" by the Company for purposes of Section 18 of the Securities Exchange Act of 1934. In addition, this certification shall not be deemed to be incorporated by reference into any filing under the Securities Exchange Act of 1933 or the Securities Exchange Act of 1934.

EXHIBIT 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Workhorse Group Inc. (the "Company") on Form 10-K for the period ending December 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert Ginnan, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities and Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 1, 2022

/s/ Robert Ginnan
Robert Ginnan
Chief Financial Officer
(Principal Financial Officer)

This certification shall not be deemed "filed" by the Company for purposes of Section 18 of the Securities Exchange Act of 1934. In addition, this certification shall not be deemed to be incorporated by reference into any filing under the Securities Exchange Act of 1933 or the Securities Exchange Act of 1934.