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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): April 17, 2019 (April 16, 2019)

WORKHORSE GROUP INC.

(Exact name of registrant as specified in its charter)

Nevada
(State or Other Jurisdiction
of Incorporation)

000-53704
(Commission
File Number)

26-1394771
(IRS Employer
Identification No.)

100 Commerce Drive, Loveland, Ohio
(Address of Principal Executive Offices)

45140
(Zip Code)

Registrant's telephone number, including area code: (513) 297-3640

N/A
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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. ☐

Item 1.01 Entry into a Material Definitive Agreement.

Item 3.02 Unregistered Sales of Equity Securities.

On April 16, 2019, Workhorse Group Inc. (the “Company”) entered into an Amendment No. 1 to Common Stock Purchase Warrants with Marathon Asset Management LP, on behalf of certain entities it manages, as warrant holders (collectively, the “Holders”) (collectively, the “Marathon Warrant Amendments”), amending certain terms of the existing warrants issued by the Company in favor of each Holder. Pursuant to the Marathon Warrant Amendments, unless the Company has obtained the approval of its shareholders as required by the Nasdaq Capital Market, the number of shares to be issued under warrants held by the Holders shall not exceed 19.99% of the issued and outstanding common stock of the Company as of December 31, 2018. The Marathon Warrant Amendments also provide that the failure to obtain shareholder approval of an increase in the number of authorized shares of common stock of the Company, sufficient to enable the Company to issue common stock upon exercise of the warrants held by each Holder, will constitute an event of default under the existing credit agreement among the Company, as borrower, the Holders, as lenders, and Wilmington Trust, National Association, as the agent..

On April 17, 2019, the Company and Arosa Opportunistic Fund LP (“Arosa”) entered into Amendment No. 1 to Common Stock Purchase Warrant (the “Arosa Warrant Amendment”), amending certain terms of the existing warrants issued by the Company in favor of Arosa. Pursuant to the Arosa Warrant Amendment, until the Company obtains shareholder approval of an increase in the number of authorized shares of common stock of the Company, the Company will not be required to reserve shares of common stock for issuance under the warrants held by Arosa. If the Company does not increase the number of authorized shares of common stock by June 30, 2019, the amendment will be null and void.

The foregoing summary description of the Marathon Warrant Amendments and the Arosa Warrant Amendment does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the form of the Marathon Warrant Amendment and the Arosa Warrant Amendment, copies of which are filed as Exhibits 4.1 and 4.2 hereto and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

4.1 [Form of Amendment No. 1 to Common Stock Purchase Warrant \(Marathon\)](#)

4.2 [Amendment No. 1 to Common Stock Purchase Warrant \(Arosa\)](#)

SIGNATURES

Pursuant to the requirements of the Securities 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.

/s/ Paul Gaitan

Paul Gaitan

Chief Financial Officer

Date: April 18, 2019

AMENDMENT NO. 1 TO COMMON STOCK PURCHASE WARRANTS

This **AMENDMENT NO. 1 TO COMMON STOCK PURCHASE WARRANT** (this "Amendment") is made and entered into as of April 16, 2019 by and between Workhorse Group Inc., a Nevada corporation (the "Company") and _____, and its permitted transferees, successors and permitted assigns (the "Holder").

WHEREAS, the Company has heretofore issued to the Holder that certain (x) Common Stock Purchase Warrant, issued on December 31, 2018, with a Certificate No. _____ and (y) Common Stock Purchase Warrant, issued on March 27, 2019, with a Certificate No. _____ (collectively, the "Warrants");

WHEREAS, pursuant to Section 19 of each Warrant, each Warrant may be amended with the prior written consent of the Holder and the Company; and

WHEREAS, the Holder and the Company desire to amend certain provisions of the Warrants.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions**. Capitalized terms used herein without definition shall have the meanings assigned to such terms in the Warrants.

2. **Amendment to Section 9(b)**. Section 9(b) of each Warrant is hereby amended and restated as follows:

"(b) Reservation of Shares. Upon the Company obtaining shareholder approval to increase its authorized number of shares of Common Stock and receipt of evidence from the Secretary of State of the State of Nevada that the Company has filed a certificate of amendment with the Secretary of State of the State of Nevada evidencing such increase in the number of authorized shares of Common Stock, the Company shall at all times reserve and keep available out of the aggregate of its authorized but unissued shares, free of preemptive rights, such number of its duly authorized shares of Common Stock as shall be sufficient to enable the Company to issue Common Stock upon exercise of this Warrant. The Company shall (i) use its best efforts to obtain shareholder approval to an increase in the authorized number of shares of its Common Stock to 250,000,000 shares by a date no later than May 2, 2019 and (ii) provided such approval is obtained, promptly file with the Secretary of State of the State of Nevada a certificate of amendment to the Company's articles of incorporation to such effect no later than one Business Day after such approval. The Company hereby acknowledges and agrees that any failure to obtain such shareholder approval and to file of a certificate of amendment to its articles of incorporation, in each case as contemplated by the previous sentence, shall constitute an Event of Default under the Credit Agreement."

3. **Amendment to Section 9.** A new clause (k) to Section 9 of each Warrant is hereby added as follows:

“(k) **Issuance Limitations.** Notwithstanding anything herein to the contrary, if the Company has not obtained approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the shareholders of the Company with respect to the transactions contemplated by this Warrant, including the issuance of all of the Warrant Shares in excess of 19.99% of the issued and outstanding shares of Common Stock on the Commencement Date, then the Company may not issue, upon exercise of this Warrant, a number of shares of Common Stock which, when aggregated with any shares of Common Stock issued on or after the Commencement Date and prior to such Exercise Date in connection with the exercise of any other warrants issued pursuant to the Credit Agreement would exceed 11,648,359 shares of Common Stock (subject to adjustment for forward and reverse stock splits, recapitalizations and the like) (such number of shares, the “**Issuable Maximum**”). The Holder shall be entitled to a portion of the Issuable Maximum equal to the quotient obtained by dividing (x) the aggregate number of Warrant Shares held by the Holder by (y) the aggregate of all Warrant Shares issued on the Commencement Date to all holders of warrants issued in connection with the Credit Agreement.”

4. **Conditions to Effectiveness of Amendment.** This Amendment shall become effective upon receipt by the Holder and the Company of counterpart signatures to this Amendment duly executed and delivered by the other party.

5. **Representations and Warranties.** The Company represents and warrants to the Holder that after giving effect to this Amendment, the representations and warranties of the Company contained in each Warrant shall be true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of the date hereof (or as of a specific earlier date if such representation or warranty expressly relates to an earlier date).

6. **No Implied Amendment or Waiver.** Except as expressly set forth in this Amendment, this Amendment shall not, by implication or otherwise, limit, impair, constitute a waiver of or otherwise affect any rights or remedies of the Holder and the Company, or alter, modify, amend or in any way affect any of the terms, obligations or covenants contained in the Warrants, all of which shall continue in full force and effect. Nothing in this Amendment shall be construed to imply any willingness on the part of the Holder or the Company to agree to or grant any similar or future amendment, consent or waiver of any of the terms and conditions of the Warrants, as amended hereby.

7. **Counterparts.** This Amendment may be executed by the parties hereto in several counterparts, each of which shall be an original and all of which shall constitute together but one and the same agreement. Delivery of an executed counterpart of a signature page of this Amendment by e-mail (e.g., “pdf” or “tiff”) or fax transmission shall be effective as delivery of a manually executed counterpart of this Amendment.

8. **Captions.** The captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Amendment.

9. **Severability.** If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by applicable Law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

10. **Governing Law.** This Amendment and the rights and obligations of the Holder and the Company hereunder shall be governed by, and construed in accordance with, the Law of the State of New York, without regard to principles of conflicts of laws that would result in the application of the Laws of any other jurisdiction; *provided*, that Section 5-1401 of the New York General Obligations Law shall apply.

11. **Entire Agreement.** Each Warrant, as amended hereby, is intended by the parties as a final expression of their agreement and is intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained therein and herein.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

WORKHORSE GROUP INC.
a Nevada corporation

By: _____
Name: Paul Gaitan
Title: Chief Financial Officer

[]

By: Marathon Asset Management LP,
the investment advisor to the entity listed above

By: _____
Name:
Title:

Signature Page to Amendment No. 1 to Common Stock Purchase Warrants

AMENDMENT NO. 1 COMMON STOCK PURCHASE WARRANT

This **AMENDMENT NO. 1 TO THE COMMON STOCK PURCHASE WARRANTS AS FULLY DESCRIBED BELOW** (this “**Amendment**”) is made and entered into as of April 17, 2019 by and between Workhorse Group Inc., a Nevada corporation (the “**Company**”) and Arosa Opportunistic Fund LP, a Cayman exempted limited partnership, and its permitted transferees, successors and permitted assigns (the “**Holder**”).

WHEREAS, the Company has heretofore issued to the Holder those certain Common Stock Purchase Warrants as described below:

- (i) a common stock purchase warrant to acquire 894,821 shares of common stock at an exercise price of \$1.25 per share;
- (ii) an amended and restated warrant to acquire 5,000,358 shares of common stock at an exercise price of \$1.25 per share,
- (iii) an amended and restated warrant to acquire 108,768 shares of common stock at an exercise price of \$1.25 per share; and
- (iv) an amended and restated warrant to acquire 1,143,200 shares of common stock at an exercise price of \$1.21 per share (collectively, the “**Warrants**”)

WHEREAS, pursuant to Section 9 of the Warrants, the Warrants may be amended with the prior written consent of the Holder and the Company.

WHEREAS, the Holder and the Company desire to amend certain provisions of the Warrants.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Definitions**. Capitalized terms used herein without definition shall have the meanings assigned to such terms in the Warrants.

2. **Amendment to Section 1(f)**. Section 1(f) of the Warrants are hereby amended and restated as follows:

Required Reserve Amount. Until such time as the Company obtains shareholder approval to increase its authorized number of shares of common stock and files a certificate of amendment with the Secretary of State of the State of Nevada (the “**Authorized Capital Change**”), which in no event will be no later than June 30, 2019, the Company will not be required to reserve for issuance under this Warrant shares of common stock. In the event the Authorized Capital Change does not occur on or before June 30, 2019, this Amendment shall be null and void. Following the Authorized Capital Change, so long as this Warrant remains outstanding, the Company shall at all times keep reserved for issuance under this Warrant a number of shares of Common Stock at least equal to 100% of the maximum number of shares of Common Stock as shall be necessary to satisfy the Company’s obligation to issue shares of Common Stock under the Warrants then outstanding (without regard to any limitations on exercise) (the “**Required Reserve Amount**”); provided that, following the Authorized Capital Change, at no time shall the number of shares of Common Stock reserved pursuant to this Section 1(f) be reduced other than in connection with any exercise of Warrants or such other event covered by Section 2(c) below. The Required Reserve Amount (including, without limitation, each increase in the number of shares so reserved) shall be allocated pro rata among the holders of the Warrants based on the number of shares of Common Stock issuable upon exercise of Warrants held by each holder thereof on the Issuance Date (without regard to any limitations on exercise) (the “**Authorized Share Allocation**”). In the event that a holder shall sell or otherwise transfer any of such holder’s Warrants, each transferee shall be allocated a pro rata portion of such holder’s Authorized Share Allocation. Any shares of Common Stock reserved and allocated to any Person which ceases to hold any Warrants shall be allocated to the remaining holders of Warrants, pro rata based on the number of shares of Common Stock issuable upon exercise of the Warrants then held by such holders thereof (without regard to any limitations on exercise).

3. **Conditions to Effectiveness of Amendment**. This Amendment shall become effective upon receipt by Holder and the Company of counterpart signatures to this Amendment duly executed and delivered by the other party.

4. **No Implied Amendment or Waiver**. Except as expressly set forth in this Amendment, this Amendment shall not, by implication or otherwise, limit, impair, constitute a waiver of or otherwise affect any rights or remedies of the Holder and the Company, or alter, modify, amend or in any way affect any of the terms, obligations or covenants contained in the Warrant, all of which shall continue in full force and effect. Nothing in this Amendment shall be construed to imply any willingness on the part of the Holder or the Company to agree to or grant any similar or future amendment, consent or waiver of any of the terms and conditions of the Warrant, as amended hereby.

5. **Counterparts**. This Amendment may be executed by the parties hereto in several counterparts, each of which shall be an original and all of which shall constitute together but one and the same agreement. Delivery of an executed counterpart of a signature page of this Amendment by e-mail (e.g., “pdf” or “tiff”) or fax transmission shall be effective as delivery of a manually executed counterpart of this Amendment.

6. **Captions**. The captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Amendment.

7. **Severability**. If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by applicable Law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

8. **Governing Law**. This Amendments and the rights and obligations of the Holder and the Company hereunder shall be governed by, and construed in accordance with, the Law of the State of New York, without regard to principles of conflicts of laws that would result in the application of the Laws of any other jurisdiction; provided, that Section 5-1401 of the New York General Obligations Law shall apply.

9. **Entire Agreement**. The Warrant, as amended hereby, is intended by the parties as a final expression of their agreement and is intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained therein and herein.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

WORKHORSE GROUP INC.

a Nevada corporation

By: /s/ Paul Gaitan
Name: Paul Gaitan
Title: CFO

AROSA OPPORTUNISTIC FUND LP

By: Arosa Capital Management Opportunistic Fund GP II LLC

By: /s/ Till Bechtolsheimer
Name: Till Bechtolsheimer
Title: Managing Member
