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, 2019

OR

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

Commission file number: 000-53704

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)

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, 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 is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of June 30, 2019, 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 $ 167,973,000.

The number of shares of the Registrant's common stock, $0.001 par value per share, outstanding as of February 28, 2020, was 70,671,139.

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Forward-Looking Statements

The discussions in this Annual Report contain forward-looking statements reflecting our current expectations that involve risks and uncertainties. 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 subject to risks and uncertainties that could cause actual results to differ materially from those projected. These risks and uncertainties include, but are not limited to, market acceptance for our products, our ability to attract and retain customers for existing and new products, our ability to control our expenses, our ability to recruit and retain employees, legislation and government regulation, shifts in technology, global and local business conditions, our ability to effectively maintain and update our product and service portfolio, the strength of competitive offerings, the prices being charged by those competitors and the risks discussed elsewhere herein and our ability to raise capital under acceptable terms. These 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.

All references in this Form 10-K that refer to the “Company”, “Workhorse Group”, “Workhorse”, “we,” “us” or “our” are to Workhorse Group Inc. and unless otherwise differentiated, its wholly-owned subsidiaries.

PART I

ITEM 1. BUSINESS

Overview

We are a technology company focused on providing sustainable and cost-effective solutions to the commercial transportation sector. As an American manufacturer, we design and build high performance electric vehicles and aircraft that make movement of people and goods more efficient and less harmful to the environment. As part of our solution, we also develop cloud-based, real-time telematics performance monitoring systems that enable fleet operators to optimize energy and route efficiency. We are currently focused on our core competency of bringing the C-Series electric delivery truck to market and fulfilling our existing backlog of orders.

Automotive

We are an Original Equipment Manufacturer ("OEM") of Class 3-6 commercial-grade, medium-duty trucks, to be marketed under the Workhorse® brand. All Workhorse last mile delivery trucks are assembled in the Union City assembly facility. We will be expanding our product portfolio with the C-Series electric delivery truck in 2020.

We believe our battery-electric and range-extended electric commercial vehicles offer fleet operators significant benefits, which include:

- Low Total Cost-of-Ownership as compared to conventional gas/diesel vehicles;
- Competitive advantage to increase brand loyalty and last mile delivery market share;
- 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.

The Company sells its vehicles to fleet customers directly and through its primary distributor, Ryder System, Inc. ("Ryder"). Ryder also is a maintenance provider for Workhorse, which provides fleet operators with access to Ryder's network of 800 maintenance facilities and nearly 6,000 trained service technicians across North America.

<u>Delivery Trucks for Last Mile Delivery and Commercial Work Use</u>

Workhorse delivery trucks are produced at our Union City, Indiana plant and are in use by our customers on daily routes across the United States. To date, we have built and delivered approximately 360 electric and range extended medium-duty delivery trucks to our customers. To our knowledge, we are the only American commercial electric vehicle OEM to achieve such a milestone. Our delivery customers include companies such as UPS, FedEx Express, Alpha Baking, W.B. Mason and Ryder.

In addition to improved fuel economy, we anticipate that the performance of our vehicles on-route will reduce long-term vehicle maintenance expense by approximately 60% as compared to fossil-fueled trucks. Over a 20-year vehicle life, we estimate that our C-Series delivery trucks will save over $170,000 in fuel and maintenance savings. Due to this positive return-on-investment, we charge a premium price for our vehicles. We expect that fleet operators will be able to achieve a three-year or better total cost of ownership break even (without government incentives), which we believe justifies the higher acquisition cost of our vehicles.

Our goal is to increase sales and continue development of our existing vehicle portfolio, while executing on a cost-down strategy in order to achieve sustained gross margin profitability of the last mile delivery truck platform. It is our intention that this strategy, which includes several delivery and utility truck platforms that target high-volume market segments, will further drive costs down across our supply chain.

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. The USPS has publicly stated that approximately 165,000 vehicles are to be replaced. In September 2017, Workhorse delivered six vehicles for prototype testing under the NGDV Acquisition Program in compliance with the terms set forth in their USPS prototype contract. In 2019, the vehicles completed the required testing protocol as specified by the USPS. The USPS published a Request for Proposals in December 2019 for the Production Program.

C-Series Electric Delivery Truck

In 2017, Workhorse announced the development of its C-Series electric delivery truck, which leverages the existing ultra-low floor, long-life commercial delivery vehicle platform, as well as our extensive customer experience gained from working with our E-GEN and E-100 customers. The C-Series incorporates lightweight materials, all-wheel drive, best in class turning radius, 360° cameras, collision avoidance systems and an optional roof mounted HorseFly™ delivery drone. These trucks weigh 7,000 pounds, compared to current 11,000 pound gasoline and diesel delivery trucks.

The Workhorse C-Series electric delivery truck platform will be available in 450, 650 and 1,000 cubic feet configurations. We intend to initially launch the 650 cubic foot and 1,000 cubic foot configurations with the goal of competing with conventional market leaders, including the Mercedes Sprinter, Ford Transit and Dodge ProMaster gasoline/diesel vans for both last mile delivery and other service-oriented applications such as telecommunications. We expect these vehicles to achieve a fuel economy of approximately 53 miles per gallon equivalent (“MPGe”) and offer fleet operators the most favorable total cost-of-ownership of any comparable conventional truck utilizing an internal combustion engine that is available today.

Package Delivery Aircraft

HorseFly

Our HorseFly Unmanned Aerial System ("UAS") is a custom-designed, purpose-built system that safely and efficiently delivers packages. Workhorse was granted a patent on our UAS with the description “Package Delivery by Means of an Automated Multi-Copter UAS/UAV Dispatched From A Conventional Delivery Vehicle.” Though initially designed to deliver packages from our electric trucks, the latest iteration of our system supports package delivery to and from almost anywhere.

In tests and demonstrations over the past two years, Workhorse has flown over 100 missions in the National Airspace System, demonstrating package delivery for large multi-national companies, including UPS.

In a 2017 press release, UPS estimated that a reduction of just one mile per driver per day could save UPS up to $50 million on an annualized basis. Rural delivery routes are the most expensive routes for companies like UPS to serve because of the time it takes to cover long, thin routes, and because of the increased maintenance costs that come with driving extra miles. During our tests and demonstrations, the HorseFly aircraft dispatches from the delivery vehicle to deliver a rural package while the driver continues on his route to make another. The HorseFly then returns to the truck at its new location and is ready for another delivery. This is an example of the significant cost savings available to delivery fleets, and we believe we are the first to offer a complete system to the market.

We have flown demonstrations in Ohio, Michigan, Florida and California, and are continuously improving our systems. The knowledge we’ve gained in these real-world tests shows us we can safely and reliably save the last mile delivery market a significant amount of money with our HorseFly system.

Certus

To accelerate our development of the HorseFly system, in November 2019, Workhorse and Moog Inc ("Moog") formed Certus Unmanned Arial Systems LLC ("Certus"). Moog is a worldwide designer, manufacturer, and integrator of precision control components and systems. Moog’s high-performance systems control military and commercial aircraft, satellites and space vehicles, launch vehicles, missiles, automated industrial machinery, marine and medical equipment.

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.

USOG

Workhorse successfully delivered two of its HorseFly systems for commercial use, selling the systems to the Unmanned Systems Operations Group ("USOG"). USOG is a logistics solutions company specializing in unmanned systems and secure transportation and delivery of drone flight missions by land, air or sea. Based in San Diego, California, USOG is using our HorseFly system and aircraft in commercial operations under Federal Aviation Administration ("FAA") regulations Part 107.

Technology

In-House Software Development is Essential

Our powertrains encompass the complete motor assemblies, computers, and software required for vehicle electrification. We use off-the-shelf proven components and combine them with our proprietary software.

Innovation is the Future

Additionally, we have developed a cloud-based, remote management system to manage and track the performance of all of the vehicles that we deploy in order to provide a 21st Century solution for fleet managers.

The telematics system and associated hardware installed in the Workhorse vehicles is designed to monitor the controller area network traffic for specific signals. These signals are uploaded along with GPS data to a Workhorse server facility where the data signals are tracked at ten second intervals while driving and during the electricity generating process and at sixty seconds during a plug-in charge. The real-time data is stored in a database as it arrives and delivers updates to clients connected through the web interface. We are moving to a ".Net" platform for more robust back-end tools and web support.

As a parameter-based system, we can set route-specific parameters to better manage the battery-provided power with the additional power generated through the regenerative braking process. In an upcoming release, we will add the ability to integrate Metron Telematics with the client's internal telematics system and automatically update the parameters each day with information about the route. This enhancement will result in a "SMART-GEN" vehicle that will maximize efficiency by automating the process to determine the ideal times and locations to use the C-Series to add electricity to the batteries.

Locations and Facilities

Our company headquarters and 45,000 sq. ft. research and development facility is located at 100 Commerce Drive, Loveland, Ohio, a Cincinnati suburb.

Our truck assembly facility is located in Union City, Indiana. This facility consists of three buildings with 250,000 square feet of manufacturing and office space on 47 acres. This plant has capacity to build up to 60,000 trucks per year.

Marketing

There are over 300,000 last mile delivery trucks replaced annually in an $18.0 billion market space. Our sales team is focused on securing purchase orders from commercial transportation companies, in this space. These purchases will give us additional data on demand related to electric and extended range electric vehicles.

Our priority is to establish the commercial delivery truck as our core business. We intend to be the best choice for a vehicle in this segment regardless of the fuel type that the customer chooses. Our sales plan is to meet with the top potential customers and obtain purchase orders for new electric vehicles to be delivered through our production facility.

As the last mile delivery service space expands and non-traditional customers enter, Workhorse is reaching out to those potential new customers to gain product acceptance as their last mile delivery partner. This market is comprised of a higher quantity of smaller delivery vehicles, such as the new Workhorse C650, a 650-cu. ft. platform.

Finally, we believe that our competitive advantage in the marketplace is our ability to provide purpose-built solutions to customers that have unique requirements at relatively low volume. To broaden our sales funnel, we have submitted proposals to companies for purpose-built vehicle applications.

Strategic Relationships

EnerDel, Inc.: EnderDel, Inc. ("EnerDel") is a designer and manufacturer of lithium-ion battery systems, focusing on heavy-duty transportation. EnerDel's advanced cell technology features a low-profile modular pack design that supports Workhorse's lightweight C-Series vehicles, enabling fleet customers to customize the pack size for each vehicle based on its duty cycle. Workhorse's selection of EnerDel as its latest battery supplier of choice complements the Company's existing utility partnership agreement, which seeks to generate second-life uses for its batteries.

Ryder: The Company has an agreement with Ryder to serve as the primary distributor, except with respect to certain exclusive accounts, in the United States, Mexico and Canada. Ryder also serves as a provider of certain repair services and distributor of certain vehicle parts in the United States, Canada and Mexico.

Prefix: Michigan-based Prefix Corporation began in 1979 developing innovative design and engineering solutions for the automotive industry. Workhorse relies on Prefix's complementary capabilities in the areas of complete prototype design, build and finishing to more rapidly advance product development.

Duke Energy Corp.: Workhorse continues working in partnership with Duke Energy Corp ("Duke") in creating an innovative battery leasing program designed to provide customers a cost competitive electric vehicle product alternative. Duke intends to explore further development of eFleet solutions to Workhorse customers which may include single-point management and financing of all the Behind the Meter infrastructure necessary to support depot wide electrification, vehicle/battery leasing and distributed energy resources. Duke and Workhorse believe a seamless/integrated solution will help reduce the overall costs of converting fleets to electric power enabling faster adoption of electric vehicles into commercial fleets.

Research and Development

The majority of our research and development is conducted in-house at our facilities near Cincinnati, Ohio. Additionally, we contract with engineering firms to assist with validation and certification requirements as well as specific vehicle integration tasks.

Competition

The commercial vehicle market, specifically in the last mile delivery segment, is highly competitive and we expect it to become even more so in the future as additional companies launch competing vehicle offerings. However, the commercial alternative fueled vehicle market is less developed and less competitive. There are two primary competitors in the medium-duty vehicle segment in the US market: Ford and Freightliner. Neither has disclosed any plans to offer 100% electric vehicles or electric range extended vehicles in this segment. Ford is a vertically integrated company building a complete vehicle or chassis. They provide a chassis as a strip-chassis (which is similar to the Workhorse Truck chassis that was produced until 2018) or they provide it with a cab. Freightliner provides a chassis as a strip-chassis, which is similar to the Workhorse Truck chassis that was produced until 2018. Further, there have been a few start-ups that have announced their intention to produce electric vehicles in this segment.

Chanje is a California-based, privately held electric vehicle and energy solutions company that specializes in the last mile industry. Chanje introduced its first vehicle in 2017.

Motiv Power Systems is a manufacturer of all-electric powertrain control systems for commercial vehicles, based in Foster City, California. They also produce software for the systems and install them in vehicles that have already been manufactured.

We believe the most dramatic difference between Workhorse and the other competitors in the medium-duty truck market is our ability to offer customers purpose-built solutions that meet the needs of their unique requirements at a competitive price. While there are many electric car companies from abroad, there are only a few foreign companies that have vehicles in the category of medium-duty trucks.

We believe that the primary competitive factors within the medium-duty commercial vehicle market are:

- the difference in the initial purchase prices of electric vehicles and comparable vehicles 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 vehicle ownership over the vehicle's expected life, which includes the initial purchase price and ongoing operational and maintenance costs;

- vehicle quality, performance and safety;

- government regulations and economic incentives promoting fuel efficiency and alternate forms of energy;

- the environmental impact of electric vehicles, which are less harmful to the environment than internal combustion engines; and

- the quality and availability of service for the vehicle, including the availability of replacement parts.

Government Regulation

Our electric vehicles are designed to comply with a significant number of governmental regulations and industry standards, some of which are changing as new technologies are deployed. 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 upon 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 in model years 2018 through 2020. NHTSA and EPA 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 that the 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 in excess of 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 issued by the EPA and a California Executive Order issued by the California Air Resource Board ("CARB") with respect to emissions and mileage requirements for our vehicles. On February 14, 2020, Workhorse received its Certificate of Conformity from the EPA. The Certificate of Conformity 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. The testing program that leads to an Executive Order from CARB is now underway.

Manufacturers who sell vehicles in states covered by federal requirements under the Clean Air Act without a Certificate of Conformity may be subject to penalties of up to $44,539 per violation and be required to recall and remedy any vehicles sold with emissions in excess of Clean Air Act standards.

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 that defects related to motor vehicle safety be remedied through safety recall campaigns. A manufacturer is obligated to recall vehicles if it determines that the vehicles do not comply with a safety standard. Should we or NHTSA determine that either a safety defect or noncompliance exists with respect to any of our vehicles, the cost of such recall campaigns could be substantial.

Battery safety and testing

Our battery pack configurations are designed to conform to mandatory regulations that govern transport of “dangerous goods,” which includes lithium-ion batteries, which may present a risk in transportation. The governing regulations, which are issued by the Pipeline and Hazardous Safety Administration and are based on the United Nations Recommendations on the Safe Transport of Dangerous Goods Model Regulations, and related United Nations Manual of Tests and Criteria. The requirements for shipments of these goods vary by mode of transportation, such as ocean vessel, rail, truck and air.

Our battery suppliers have completed the applicable transportation test for our prototype and production battery packs demonstrating our compliance with the United Nations Manual of Tests and Criteria, including:

- altitude simulation, which involves simulating air transport;
- thermal cycling, which involves assessing cell and battery seal integrity;
- vibration, which involves simulating vibration during transport;
- shock, which involves simulating possible impacts during transport;
- external short circuit, which involves simulating an external short circuit; and
- overcharge, which involves evaluating the ability of a rechargeable battery to withstand overcharging.

Vehicle dealer and distribution regulation

Certain states’ laws require motor vehicle manufacturers and dealers to be licensed in such states in order to conduct manufacturing and sales activities. To date, we are registered as a motor vehicle manufacturer in Indiana and Ohio and as a dealer in California, New York and Chicago. We have not yet sought formal clarification of our ability to manufacture or sell our vehicles in any other states.

Intellectual Property

We have four pending trademark applications and 12 issued trademark registrations (US and foreign). We also intend to pursue additional trademark registrations. We have four pending (one non-provisional, one design and two provisional) U.S. and foreign patent applications, and eight existing patents, two of which are design patents. We also plan to pursue appropriate foreign patent protection on those inventions, if available as well pursue additional inventions. The following is a summary of our patents:

Country	Serial Number	Application Date	Patent Number	Issue/Grant Date	Expiration Date	Title
United States	13/283,663	10/28/2011	8,541,915	9/24/2013	12/16/2031	Drive module and manifold for electric motor drive assembly
Canada	2,523,653	10/17/2005	2,523,653	12/22/2009	10/17/2025	Vehicle chassis assembly
United States	11/252,220	10/17/2005	7,717,464	5/18/2010	9/6/2026	Vehicle chassis assembly
United States	11/252,219	10/17/2005	7,559,578	7/14/2009	9/6/2026	Vehicle chassis assembly
United States	29/243,074	11/18/2005	D561,078	2/5/2008	2/5/2022	Vehicle header
United States	29/243,129	11/18/2005	D561,079	2/5/2008	2/5/2022	Vehicle header
United States	14/606,497	1/27/2015	9,481,256	11/1/2016	5/3/2035	Onboard generator drive system for electric vehicles
United States	14/989,870	1/7/2016	9,915,956	3/13/2018	6/24/2036	Package delivery by means of an automated multicopter UAS/UAV dispatched from a conventional delivery vehicle
United States	15/915,144	3/8/2018				Package delivery by means of an automated multicopter UAS/UAV dispatched from a conventional delivery vehicle (1)
United States	62/957,577	1/6/2020				Systems and Methods for Manufacturing Land Vehicles
United States	62/959,548	1/10/2020				Electric Delivery Truck Control System for Electric Power Management
United States	29/719,591	1/6/2020				Design Application that covering the electric delivery truck

(1) Assigned to Certus, a joint venture, that is 50% owned by the Company and 50% owned by Moog Inc.

Employees

We currently have 81 full-time employees.

ITEM 1A. RISK FACTORS

We need access to additional financing in 2020 and beyond, which may not be available to us on acceptable terms or at all. If we cannot access additional financing when we need it and on acceptable terms, our business may fail.

Our business plan to design, produce, sell and service commercial electric vehicles through our Union City facility will require continued capital investment in 2020. Our research and development activities will also require continued investment. For the year ended December 31, 2019, our independent registered public accounting firm issued a report on our 2019 financial statements that contained an explanatory paragraph stating that the lack of sales, negative working capital and stockholders' deficit, raise substantial doubt about our ability to continue as a going concern. We expect to have adequate capital to continue operations through the second quarter 2020. 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 public and/or private offerings of equity securities and/or debt financings. We do not currently have any committed future funding for operating costs or for confirmed purchase orders. If we are not able to obtain additional financing when needed in 2020 and/or substantially increase revenue from sales, we will be unable to continue as a going concern or satisfy the delivery of our orders. As a result, we may have to liquidate our assets and may receive less than the value at which those assets are carried on our consolidated financial statements, and investors will likely lose a substantial part or all of their investment. We cannot be certain that additional financing will be available to us on favorable terms when required, or at all. Further, if there remains doubt about our ability to continue as a going concern, investors or other financing sources may be unwilling to provide additional funding on acceptable terms or at all. If we cannot obtain additional financing when we need it and on terms acceptable to us, we will not be able to continue as a going concern.

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 $178.8 million as of December 31, 2019. We have had net losses in each year since our inception. We may continue to incur net losses in 2020. 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 that 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, that 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 $36.9 million and $21.8 million for the years ended December 31, 2019 and 2018, respectively. We may continue to have negative cash flow from operating and investing activities for 2020 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 that the Company will achieve positive cash flow in the near future or at all.

The development of our business in the near future is contingent upon the implementation of orders from UPS and other key customers for the purchase of Workhorse vehicles and if we are unable to perform under these orders, our business may fail.

On June 4, 2014, the Company entered into a Vehicle Purchase Agreement with United Parcel Service Inc. ("UPS") which outlined the relationship by which the Company would sell vehicles to UPS. To date, we have received six separate orders totaling up to 1,405 vehicles from UPS. The sixth and most recent order is from the first quarter of 2018. There is no guarantee that the Company will be able to perform under these orders and if it does perform, that UPS will purchase additional vehicles from the Company. Also, there is no assurance that UPS will not terminate its agreement with the Company pursuant to the termination provisions therein. Further, if the Company is not able to raise the required capital to purchase required parts and pay certain vendors, the Company may not be able to comply with UPS's deadlines. Accordingly, despite the receipt of the orders from UPS, there is no assurance, due to the Company's financial constraints and status as a development stage company, that the Company will be able to deliver such vehicles or that it will receive additional orders whether from UPS or other potential customers.

If we are unable to perform under our orders with UPS, the Company business will be negatively impacted.

The Covid-19 novel coronavirus, or other epidemics, could have a material adverse impact on our business, results of operations, or financial condition.

In December 2019, COVID-19 began to impact the population of Wuhan, China. We rely upon third-party manufacturers to provide certain parts that are incorporated into our vehicles. The outbreak has resulted in significant governmental measures being implemented to control the spread of the virus, including, among others, restrictions on manufacturing and the movement of employees in many regions of the country. As a result of COVID-19 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 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 temporary, the duration of the production and supply chain disruption, and related financial impact, 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 China and globally 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 fully 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, 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 offer no financing on our vehicles. As such, our business is dependent on cash sales, which may adversely affect our growth prospects.

While most of our current customers are well-established companies with significant purchasing power, many of our potential smaller and medium-sized customers may need to rely on credit or leasing arrangements to gain access to our vehicles. Unlike some of our competitors who provide credit or leasing services for the purchase of their vehicles, we do not provide, and currently do not have commercial arrangements with a third party that provides, such financial services. We believe the current limited availability of credit or leasing solutions for our vehicles could adversely affect our revenues and market share in the commercial electric vehicle market.

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 have secured supply agreements for our critical components including our batteries. However, these are dependent on volume to ensure that they are available at a competitive price. We continually work on cost-down initiatives to reduce our cost structure so that we may effectively compete. If we do not reduce our costs and expenses, our net losses will continue.

Increases in costs, disruption of supply or shortage of lithium-ion cells could harm our business.

We may experience increases in the cost or a sustained interruption in the supply or shortage of lithium-ion cells. Any such increase, supply interruption or shortage could materially and negatively impact our business, prospects, financial condition and operating results. The prices for these lithium-ion cells can fluctuate depending on market conditions and global demand for these materials and could adversely affect our business and operating results. We are exposed to multiple risks relating to lithium-ion cells including:

- the inability or unwillingness of current battery manufacturers to build or operate battery cell manufacturing plants to supply the numbers of lithium-ion cells we may require going forward;

- disruption in the supply of cells due to quality issues or recalls by battery cell manufacturers;

- an increase in the cost of raw materials used in the cells; and

- fluctuations in the value of the Japanese yen against the U.S. dollar in the event our purchasers of lithium-ion cells are denominated in Japanese yen.

Our business is dependent on the continued supply of battery cells for the battery packs used in our vehicles. While we believe several sources of the battery cells are available for such battery cells, we have fully qualified EnerDel for the supply of the cells used in such battery packs and have very limited flexibility in changing cell suppliers. Any disruption in the supply of battery cells could disrupt production of our vehicles until such time as a different supplier is fully qualified. Furthermore, fluctuations or shortages in petroleum, tariff or trade issues and other economic or tax conditions may cause us to experience significant increases in freight charges. Substantial increases in the prices for the battery cells or prices charged to us, 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 vehicle prices in response to increased costs in our battery cells could result in cancellations of vehicle orders and therefore materially and adversely affect our brand, image, business, prospects and operating results.

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 that 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 continuing 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 benefit from during the life of the vehicle. As such, we believe that 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 that there is not a compelling business justification for purchasing commercial electric vehicles, particularly those that 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 long-term supply contracts with guaranteed pricing which exposes 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, prospects, financial condition and operating results.

Because we currently do not have long-term supply contracts with guaranteed pricing, we are 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, prospects, financial condition and operating results.

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, prospects, financial condition and operating results 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, prospects, financial condition and operating results 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 CEO, Duane Hughes and top management. On November 6, 2019, Mr. Hughes and the Company entered into an Amended and Restated Employment Agreement. Further, we entered into an amended and restated employment agreement with Mr. Robert Willison, our Chief Operating Officer. 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 that we will be able to attract such individuals or that 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, financial condition, 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 Ford Motor Company and Freightliner. Ford and Freightliner are currently selling alternative fuel fleet vehicles including hybrids. Ford and Freightliner have substantially more financial resources, established market positions, long-standing relationships with customers and dealers, and who 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. While we are seeking to partner with existing delivery companies to improve their efficiencies in the last mile of delivery, our competitors are seeking to redefine the delivery model using drones from a central location requiring extended flight patterns. Our competitors’ new aerial delivery model would essentially eliminate traditional package delivery companies. 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 more significant 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.

We currently have a limited number of customers, with whom we do not have long-term agreements, and 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 that ensure future sales of vehicles. As such, a customer may take actions that negatively affect us for reasons that we cannot anticipate or control, such as reasons related to the customer's financial condition, changes in the customer's business strategy or operations or as the result of the perceived performance or cost-effectiveness of our vehicles. 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.

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, 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;
- the environmental consciousness of customers;
- the ability of electric vehicles to successfully compete with vehicles powered by internal combustion engines; and
- whether future regulation and legislation requiring increased use of non-polluting vehicles is enacted.

We cannot assume that 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.

President Trump's administration may create regulatory uncertainty for the alternative energy sector and may materially harm our business, financial condition and operating results.

President Trump's administration may create regulatory uncertainty in the alternative energy sector. During the election campaign, President Trump made comments suggesting that he was not supportive of various clean energy programs and initiatives designed to curtail global warming. Since taking office, President Trump has released his America First Energy Plan which relies on fossil fuels, canceled U.S. participation in the Paris Climate Agreement and signed several executive orders relating to oil pipelines. It remains unclear what specifically President Trump would or would not do with respect to these programs and initiatives, and what support he would have for any potential changes to such legislative programs and initiatives in the Unites States Congress. If President Trump and/or the United States Congress take action or publicly speak out about the need to eliminate or further reduce legislation, regulations and incentives supporting alternative energy or take action to further support the use of fossil fuels, such actions may result in a decrease in demand for alternative energy in the United States and may materially harm our business, financial condition and operating results.

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 that, currently, 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 that 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 competitive position.

Our current products 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 competitive position.

The failure of certain key suppliers to provide us with components could have a severe and negative impact upon our business.

We have secured supply agreements for our critical components, including our batteries. However, the agreements are dependent on volume to ensure that they are available at a competitive price. If these suppliers become unwilling or unable to provide components or if we are unable to meet certain volume requirements in our existing supply agreements, there are a limited number of alternative suppliers who could provide them and the price for them could be substantially higher. Changes in business conditions, wars, governmental changes, and other factors beyond our control or which we do not presently anticipate could negatively affect our ability to receive components from our suppliers. Further, it could be difficult to find replacement components if our current suppliers fail to provide the parts needed for these products. 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.

Product liability or other claims could have a material adverse affect 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 our consumer and commercial products, that insurance may be inadequate to cover all potential product claims. We also carry liability insurance on our products. 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 could generate substantial negative publicity about our products and business and inhibit or prevent commercialization of other future product candidates. We cannot provide assurance that such claims and/or recalls will not be made in the future.

Regulatory requirements may have a negative impact upon our business.

While our vehicles are subject to substantial regulation under federal, state, and local laws, we believe that our vehicles are in compliance with all applicable laws. However, to the extent the laws change, or if we introduce new vehicles in the future, 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.

Our products are subject to environmental and safety compliance with various federal and state regulations, including regulations promulgated by the EPA, NHTSA, FAA and various state boards, and compliance certification is required for each new model year. The cost of these compliance activities and the delays and risks associated with obtaining approval can be substantial. The risks, delays, and expenses incurred in connection with such compliance could be substantial.

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 five patent applications. Our patents relate to the vehicle chassis assembly, vehicle header and drive module and manifold for electric motor drive assembly. Our existing patent applications relates to the 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 but have not finalized any as of this date. Although we have entered into confidentiality agreements with our employees and consultants, we cannot be certain that 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. We do not maintain proprietary rights agreements with our employees, which agreements would further protect our intellectual property rights against claims by our employees. Therefore we may be subject to disputes with our employees over ownership of any new technologies or enhancements that 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 at automotive companies 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 that 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's health.

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, in defending any patent or trademark infringement suits or in asserting any patent or trademark rights, in a suit with another party.

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 and controlled, 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 could adversely affect our business, prospects, financial condition and operating results. Warranty expense for the years ended December 31, 2019 and 2018 was $0.1 million and $8.0 million, respectively.

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.

Any impairment of our investment in Lordstown Motor Corp. could negatively impact our financial results.

Our investment in Lordstown Motor Corp. ("LMC") is recorded at fair value. For the year ended December 31, 2019, the carrying value of our investment is $12.2 million. In the event there are future events or circumstances that are likely to have a significant adverse effect on LMC, we will estimate the fair value of the investment and compare it to its carrying value. Our estimation of fair value considers financial information related to LMC available to us, including valuations based on recent third-party equity investments in LMC. If the fair value of the investment is less than its carrying value, we will recognize an impairment loss which will negatively impact our financial position and results of operations.

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.

Risks Related to Owning Our Warrants or Common Stock

There is no public market for the Warrants to purchase shares of our common stock.

There is no public trading market for Warrants to purchase shares of our common stock, and we do not expect a market to develop. In addition, we do not intend to apply to list the Warrants on any national securities exchange or other nationally recognized trading system, including the Nasdaq Capital Market. Without an active market, the liquidity of the Warrants will be limited, and warrant holders may not be able to resell the Warrants. If the Warrants cannot be resold, a holder will have to depend upon any appreciation in the value of our common stock over the exercise price of the Warrants in order to realize a return on investment in the Warrants.

Except as otherwise provided in the Warrants, holders of our Warrants will not have the rights or privileges of a holder of our common stock, including any voting rights, until such holders exercise their Warrants and acquire our common stock.

Except as otherwise provided in the Warrants, holders of our Warrants will not have the rights or privileges of a holder of our common stock, including any voting rights, until such holders exercise their Warrants and acquire our common stock. As a result, absent exercise of the Warrants, holders of the Warrants will not have the ability to vote their shares underlying the Warrants, which may limit the influence that investors in our offering may have over the outcome of matters submitted to our stockholders for a vote.

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.

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, shareholders 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 Owning 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 4.5% 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, 2019, our outstanding indebtedness is approximately $58.2 million, 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 holder 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 may dilute the ownership interest of existing stockholders or 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 you exercise your 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.

The holder of the Note will not be entitled to certain rights with respect to our common stock, but will be subject to all changes made with respect to them.

The holder of the Note will not be entitled to certain rights with respect to our common stock (including, without limitation, voting rights) but to the extent the conversion consideration includes shares of our common stock, the holder of the Note will be subject to all changes affecting our common stock.

We cannot assure that an active trading market will develop for the Note.

There has been no trading market for the Note, and we do not intend to apply to list the Note on any securities exchange or to arrange for quotation on any automated dealer quotation system. As a result, we cannot assure note holders that an active trading market will develop for the Note. If an active trading market does not develop or is not maintained, the market price and liquidity of the Note may be adversely affected. In that case note holders may not be able to sell the Note at a particular time or note holders may not be able to sell their Note at a favorable price.

We are subject to certain covenants set forth in the Note. Upon an event of default, including a breach of a covenant or the failure to obtain shareholder approval to increase our authorized shares of common stock, we may not be able to make such accelerated payments under the Note.

The Note 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. Among other things, we will be required to maintain a minimum liquidity of at least $8.0 million at all times. We do not expect that we will be able to maintain compliance with this covenant unless we obtain further financing in addition to the proceeds of this offering.

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.

Note holders may be subject to tax if we make or fail to make certain adjustments to the applicable conversion rate of the Note even though note holders did not receive a corresponding cash distribution.

The conversion rate is subject to adjustment in certain circumstances, including the payment of cash dividends. If the applicable conversion rate is adjusted as a result of a distribution that is taxable to our common stockholders, such as a cash dividend, note holders may be deemed to have received a dividend subject to U.S. federal income tax without the receipt of any cash. In addition, a failure to adjust (or to adjust adequately) the applicable conversion rate after an event that increases a note holders' proportionate interest in us could be treated as a deemed taxable dividend to a note holder.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

The following table sets forth the location, approximate size and primary use of our principal owned, leased and licensed facilities:

Location	Approximate Size (Building) in Square Feet	Primary Use	Owned, Lease or Licensed	Lease/License Expiration Date (if applicable)
Loveland, Ohio	45,000	Administration, Research and Development, Manufacturing	Owned	N/A
Union City, Indiana	250,000	Manufacturing	Owned	N/A
Loveland, Ohio	5,810	Administration	Lease	Monthly

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

In May 2018, Precision Manufacturing Company, Inc. (“PMC”) filed a complaint against the Company in the Common Pleas Court of Montgomery, Ohio, which complaint was amended July 26, 2018. PMC, a former vendor, is claiming Breach of Contract, Unjust Enrichment, Action on Account and Fraud and is seeking approximately $132,000 in damages plus attorney fees and costs. On June 10, 2019, the Company and PMC settled all claims whereby the Company paid PMC $75,000 in consideration of PMC releasing the Company.

In August 2018, Workhorse Motor Works Inc was served with a Declaration of Forced Intervention and Application in Warranty in connection with an action in the Superior Court (Civil Division) located in the Province of Quebec, District of Montreal between Aviva Insurance Company of Canada v. Thor Motor Coach and Navistar Canada, Inc. pertaining to the motor home destroyed by fire. The Company intends to vigorously defend this action. On October 22, 2019, the parties entered into a Settlement Agreement whereby the parties agreed to settle the matter for a nominal cash payment in consideration of a full release.

On May 3, 2019, C.E.E., LLC, a California limited liability company filed an action entitled C.E.E., LLC, a California limited liability company, against the Company in the Central Justice Center of the Superior Court of California for the County of Orange, Case No. 30- 2019-01067928-CU-BC-CJC for breach of contract. In August 2019, the parties settled all claims whereby the Company paid C.E.E., LLC $75,000 in consideration of C.E.E., LLC releasing the Company.

On January 10, 2019, the Company was served with a Default Request, Affidavit, Entry and Judgment in the Circuit Court for the County of Oakland by a former service provider (“Vendor”) relating to a Verified Complaint by Pilot for Breach of Contract claim that the Company was not properly served. On February 14, 2019, the Company and Pilot entered into a Stipulated Order to Set Aside and Dismiss Lawsuit providing that the parties have entered into a Settlement Agreement whereby Workhorse agreed to make cash payments in the amount of $600,000 in several tranches in return of certain property including two development chassis, the development vehicle and all intellectual property developed as well as a full release of all parties.

On July 18, 2019, All Cell Technologies, LLC and Illinois Institute of Technology filed a Complaint for Patent Infringement against the Company in the United States District Court for the Southern District of Indiana (Civil Action No. 1:19-cv-2975) claiming infringement of US Patent No. 6,468,689, 6,942,944 and, 8,273,474. On October 28, 2019, the Company filed its Answer, Affirmative Defenses and Counterclaims. On November 18, 2019, the Plaintiffs filed their Answer to Counterclaims.

On November 21, 2019, the Court entered a Scheduling Order with a trial date set for June 21, 2021. On February 28, 2020, the Court ordered a Settlement Conference between the parties for May 22, 2020 before the Magistrate Judge assigned to the case. Management of the Company believes this lawsuit is baseless and, in addition to defending itself vigorously, is also pursuing whether the lawsuit can be settled. Because the number of allegedly infringing products (battery bricks) is small and the accused products are no longer being used by the Company, Management believes that the lawsuit may be amenable to early resolution.

On October 15, 2019, Jennifer Johnson-Campbell, individually, and as administrator of the Estate of Cathy and Windham Johnson, deceased, and Jessica Tagney, Individually, filed a Complaint in the Superior Court of Dougherty County in the State of Georgia (Civil Action File No. 2019SUCV2019001345) against the Company in connection with the death of the plaintiff while operating a W-42 truck on October 19, 2017 claiming Strict Liability, Negligence and Punitive Damages. The Company does not believe it manufactured the W-42 that is the subject to the Complaint. On November 15, 2019, the Company removed this case to U.S. District Court for the Middle District of Georgia (Civil Action File No 1:19-cv-00209), and on December 6, 2019, timely filed a motion to dismiss for lack of personal jurisdiction and failure to state a claim, advising the court and the Plaintiffs that the Company was not the manufacturer of the subject W-42 truck and had insufficient contacts with the state of Georgia to justify the exercise of jurisdiction in Georgia. The Plaintiffs responded to the motion to dismiss on December 26, 2019 and subsequently filed a motion for leave to amend their complaint to add Workhorse Trucks, Inc., Navistar, and Workhorse Custom Chassis, LLC. The Company opposed the motion for leave to amend on the grounds that the proposed amendments would be futile, because Georgia courts do not have jurisdiction over either the Company or Workhorse Trucks. The motions are fully briefed and pending before the Court. In the event that the motion to dismiss is not granted, the Company will vigorously defend themselves and, among other things, move for summary judgment at the close of discovery on the grounds that these entities did not manufacture the subject truck.

ITEM 4. MINE SAFETY DISCLOSURES

None.

PART II

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

Market Information

The Company's common stock is traded on the NASDAQ Capital Market under the symbol "WKHS".

Holders of our Common Stock

As of February 28, 2020, there were approximately 200 stockholders of record of our common stock. This number does not include shares held by brokerage clearing houses, depositories or others in unregistered form.

Dividends

The Company has never declared or paid any cash dividends on its common stock. The Company currently intends to retain future earnings, if any, to finance the expansion of its business. As a result, the Company does not anticipate paying any cash dividends in the foreseeable future.

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 under the Securities Act of 1933, as amended, 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, 2014 through December 31, 2019, of the cumulative total return for our common stock, the NASDAQ Composite Index, and a group of peer group companies similarly situated. 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 assumes an investment of $100 on January 1, 2014 and reinvestment of dividends. We have never declared or paid cash dividends on our capital stock nor do we anticipate paying any such cash dividends in the foreseeable future.

wkhs-20191231_g1.jpg

Securities Authorized for Issuance Under Equity Compensation Plans

The following table sets forth the aggregate information of our equity compensation plans in effect as of December 31, 2019:

Plan	Number of Securities to be Issued upon Exercise of Outstanding Options and Rights	Weighted Average Exercise Price of Outstanding Options	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (excluding securities reflected in first column)
Equity Compensation Plans approved by security holders - 2015 Stock Incentive Plan	197,500	$ 4.41	—
Equity Compensation Plans approved by security holders - 2016 Stock Incentive Plan	455,000	$ 6.59	—
Equity Compensation Plans approved by security holders - 2017 Stock Incentive Plan	2,672,500	$ 1.64	2,235,000
Equity Compensation Plans approved by security holders - 2019 Stock Incentive Plan	400,000	$ 0.93	5,794,778
	3,725,000		8,029,778

Unregistered Sales of Equity Securities

In February 2019, the Company sold 1,616,683 shares of common stock to investors (the “February 2019 Investors”) for net proceeds of $1.5 million. Through July 2019, if the Company issued shares of its common stock for a lower price per share than the price paid by the February 2019 Investors (a “Down Round”), the Company was required to issue additional shares of common stock (for no additional consideration) resulting in the effective purchase price per share being equal to the purchase price per share paid in the Down Round. On May 1, 2019 the Down Round provision of the agreement was triggered and an additional 116,496 shares of common stock were issued to the February 2019 Investors. Benjamin Samuels and Gerald Budde, directors of the Company, acquired 841,928 and 26,310 shares of common stock, respectively, as part of the February 2019 offering at a price per share of $0.95, which was above the closing price the date prior to close. They did not receive the Down Round protection.

The Company entered into an employment agreement (the “Ackerson Employment Agreement”) with Mr. Ackerson, effective November 12, 2019. Pursuant to the Ackerson Employment Agreement, among other compensation, Mr. Ackerson was granted 104,166 shares of restricted common stock under the Company’s 2019 Stock Incentive Plan. The restricted stock will vest over three years.

On November 6, 2019, the Company entered into an amended and restated employment agreement (the “Hughes Employment Agreement”) with Duane Hughes, Chief Executive Officer, effective November 6, 2019. Pursuant to the Hughes Employment Agreement, among other compensation, the Company granted 239,044 shares of restricted common stock under the Company’s 2019 Stock Incentive Plan. The restricted stock will vest over three years commencing on January 1, 2020. The stock options to acquire 1,000,000 shares of common stock issued earlier in 2019 immediately vested on the effective date of the Hughes Employment Agreement.

The Company entered into an amended and restated employment agreement (the “Willison Employment Agreement”) with Mr. Robert Willison, Chief Operating Officer, effective November 6, 2019. Pursuant to the Willison Employment Agreement, Mr.

Willison, among other compensation, was granted 119,522 shares of restricted common stock under the Company's 2019 Stock Incentive Plan. The restricted stock will vest over three years commencing on January 1, 2020.

The Company entered into an employment agreement (the "Furey Employment Agreement") with Mr. Anthony Furey, Vice President of Finance, effective November 6, 2019. Pursuant to the Furey Employment Agreement, Mr. Furey, among other compensation, was granted 338,648 shares of restricted common stock under the Company's 2019 Stock Incentive Plan. The restricted stock will vest over three years. In addition, for services in relation to the sale of Surefly during the year ended December 31, 2019, Mr. Furey was granted 34,496 shares of restricted common stock which vested on November 27, 2019.

On November 6, 2019, the Company appointed Mr. Stephen M. Fleming as General Counsel and Vice President of the Company. In connection with the appointment of Mr. Fleming, the Company entered into an employment agreement (the "Fleming Employment Agreement") with Mr. Fleming effective November 6, 2019. Pursuant to the Fleming Employment Agreement, among other compensation, Mr. Fleming was granted 517,928 shares of restricted common stock under the Company's 2019 Stock Incentive Plan.

The Company granted Ray Chess, Chairman of the Board, 47,809 shares of restricted common stock for historical services rendered for which no director compensation was received. The restricted stock will vest over two years in semi-annual installments commencing May 6, 2020. In addition, for director services for the year ended December 31, 2019, Mr. Chess was granted 29,880 shares of common stock vesting May 6, 2020. Going forward, Mr. Chess will receive an annual grant of restricted stock in the amount of $75,000. In addition, Michael Clark, Gerald Budde, Benjamin Samuels and Harry DeMott were granted 47,809 restricted common stock in consideration for historical services. The restricted stock will vest over two years in semi-annual installments commencing on May 6, 2020. In addition, for director services for the year ended December 31, 2019, Messrs. Clark, Budde, Samuels and DeMott were granted 23,904 shares of restricted common stock vesting May 6, 2020. Going forward, Messrs. Clark, Budde, Samuels and DeMott will receive an annual grant of restricted stock in the amount of $60,000. All stock grants were issued under the Company's 2019 Stock Incentive Plan.

Pursuant to the Credit Agreement entered between the Company and Marathon Asset Management, LP, on behalf of certain entities it manages (the "Marathon Lenders"), dated December 31, 2018 , the Company issued the Marathon Lenders warrants to acquire 358,450 shares of common stock exercisable at a price of $1.039 per share on March 27, 2019, 1,481,825 shares of common stock exercisable at a price of $1.4863 per share on June 30, 2019, 11,274 shares of common stock exercisable at a price of $1.782 per share on July 1, 2019, 34,293 shares of common stock exercisable at a price of $1.782 per share on October 1, 2019, 1,493,624 shares of common stock exercisable at a price of $3.355 per share on December 4, 2019 and 34,293 shares of common stock exercisable at a price of $1.782 per share on January 1, 2020.

On June 5, 2019, the Company closed agreements for the sale of 1,250,000 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 purchase 7.41 shares of the common stock (the "Warrants") for an aggregate purchase price of $25.0 million. The Preferred Stock is not convertible and does not have voting rights. The Preferred Stock ranks senior to the Company's common stock with respect to dividend rights and rights upon liquidation, winding-up or dissolution. The Preferred Stock is entitled to annual dividends at a rate equal to 8.0% per annum on the Stated Value. Accrued dividends will be payable quarterly in shares of common stock of the Company based on a fixed share price of $1.62. During the year ended December 31, 2019, the Company issued 718,755 shares of common stock to the holders of the Preferred Stock.

The Company entered into an employment agreement (the "Schrader Employment Agreement") with Mr. Schrader effective December 19, 2019. Pursuant to the Schrader Employment Agreement, Mr. Schrader, among other compensation, was granted Mr. Schrader 84,877 shares of restricted common stock under the Company's 2019 Stock Incentive Plan. The restricted stock will vest over three years commencing on July 1, 2020.

The shares of common stock described above have not been registered under the Securities Act of 1933, as amended (the "Securities Act") and were issued and sold in reliance upon the exemption from registration contained in Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder. Each of the parties is an accredited investor as defined by Rule 501 under the Securities Act.

ITEM 6. SELECTED FINANCIAL DATA

YEARS ENDED DECEMBER 31,	2019	2018	2017
OPERATING SUMMARY			
Net sales	$ 376,562	$ 763,173	$ 10,038,460
Net loss	$ (37,162,827)	$ (36,502,316)	$ (41,216,788)
Net loss attributable to common stockholders per share – basic and diluted	$ (0.58)	$ (0.74)	$ (1.06)
Weighted average number of common shares outstanding	64,314,756	50,377,909	38,755,796
FINANCIAL POSITION SUMMARY			
Total assets	$ 50,673,829	$ 11,804,773	$ 16,504,293
Long-term debt and mandatory redeemable Series B preferred stock	$ 19,142,908	$ 8,312,079	$ 1,709,881
Convertible Note, at fair value	$ 39,020,000	$ —	$ —
Cash dividends per common share	$ —	$ —	$ —

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 our consolidated financial statements and the related notes that appear elsewhere in this Annual Report on Form 10-K.

Overview and 2019 Highlights

We are a technology company focused on providing sustainable and cost-effective solutions to the commercial transportation sector. As an American manufacturer, we design and build high performance battery-electric vehicles and aircraft that make movement of people and goods more efficient and less harmful to the environment. As part of our solution, we also develop cloud-based, real-time telematics performance monitoring systems that enable fleet operators to optimize energy and route efficiency. We are currently focused on our core competency of bringing the C-Series electric delivery truck to market and fulfilling our existing backlog of orders. We have licensed some of our previously developed intellectual property to Lordstown Motors Corp. ("LMC") and have sold our SureFly™ multicopter business which were assets that are outside of our core focus.

Workhorse electric delivery trucks are in use by our customers on U.S. roads. Our delivery customers include companies such as UPS, FedEx Express, Alpha Baking and W.B. Mason. Data from our in-house developed telematics system demonstrates our vehicles on the road are averaging approximately a 500% increase in fuel economy as compared to conventional gasoline-based trucks of the same size and duty cycle.

In addition to improved fuel economy, we anticipate that the performance of our vehicles on-route will reduce long-term vehicle maintenance expense by approximately 60% as compared to fossil-fueled trucks.

We are an OEM capable of manufacturing Class 3-6 commercial-grade, medium-duty truck at our Union City, Indiana facility, marketed under the Workhorse® brand. Workhorse last mile delivery trucks are assembled in the Union City assembly facility.

From our development modeling and the existing performance of our electric vehicles on American roads, we estimate that our C-Series delivery trucks will save over $170,000 in fuel and maintenance savings over the 20-year life of the vehicle. We expect that fleet buyers will be able to achieve a three-year or better return-of-investment (without government incentives), which we believe justifies the higher acquisition cost of our vehicles.

Our goal is to continue to increase sales and production, while executing on our cost-down strategy to a point that will enable us to achieve gross margin profitability of the last mile delivery truck platform. As a key strategy, we have developed the Workhorse C-Series platform, which has been accelerated from our previous development efforts.

The Workhorse C-Series electric delivery truck platform will be available in multiple size configurations, 450, 650 and 1,000 cubic feet. This ultra-low floor platform incorporates state-of-the-art safety features, economy and performance. We expect these vehicles offer fleet operators the most favorable total cost-of-ownership of any comparable vehicle available today. We believe we are the first American OEM to market a U.S. built electric delivery truck, and early indications of fleet interest are significant. We expect the C-Series trucks will be supported by our Ryder Systems partnership. Using C-Series light duty prototypes, we delivered over 100,000 packages in San Francisco and Ohio during our testing. During the testing period we achieved 50 MPGe and successfully demonstrated the role the vehicle can have in last mile delivery.

Our HorseFly™ delivery drone is a custom designed, purpose-built drone that is fully integrated in our electric trucks. HorseFly is designed with a maximum gross weight of 30 lbs., a 10 lb. payload and a maximum air speed of 50 mph. It is designed and built to be rugged and consisting of redundant systems to further meet the FAA's required rules and regulations. As part of the divestiture of SureFly, the Company formed a 50/50 joint venture to which we contributed our HorseFly technology.

SureFly

On November 27, 2019, the Company completed the sale of SureFly for $4.0 million.

Hackney

On October 31, 2019, the Company and ST Engineering Hackney, Inc. ("Seller") entered into an Asset Purchase Agreement (the "Purchase Agreement") to purchase certain assets of Seller (the "Acquired Assets") and assume certain liabilities of Seller. The closing under the Purchase Agreement provides that the Company will be required to deliver shares of its common stock to the Seller if it does not make the Second Payment (as defined below) on a timely basis. Accordingly, upon execution of the Purchase Agreement, the Company deposited $1.0 million in cash and shares of its common stock having an aggregate value of $6.6 million based on the closing price as of the day immediately preceding the date of the Purchase Agreement (the "Escrow Shares") into an escrow account (the "Escrow Account"). The number of Escrow Shares shall be subject to adjustment if the aggregate value of the Escrow Shares is less than $5.28 million or greater than $7.92 million on certain dates.

The Company agreed to pay $7.0 million for the purchase of the Acquired Assets, $1.0 million of which was paid from the Escrow Account in January 2020 after satisfaction of certain conditions, and the remaining $6.0 million which (the “Second Payment”) is payable in cash within 45 days if certain additional conditions are attained. The Purchase Agreement provides that the Company shall make additional payments to Seller in the event the Second Payment is not made within 45 days of when such payment is due. In the event the Second Payment is not made to Seller within 105 days after such payment is due, Seller may, at its option, require that the Escrow Agent release to Seller Escrow Shares with a value (based on the then-current market price of the shares) equal to $6,000,000 in satisfaction of the Second Payment.

LMC

On November 7, 2019, the Company entered into a transaction with LMC pursuant to which the Company agreed to grant 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 (the “Licensed Intellectual Property”) in exchange for royalties, equity interests in LMC, and other consideration (the “LMC Transaction”). LMC was founded by Stephen S. Burns, a current stockholder and former Chief Executive Officer and Director of the Company.

In connection with the LMC Transaction, the following agreements (collectively, the “Agreements”) were entered into:

- Intellectual Property License Agreement between the Company and LMC (the “License Agreement”);
- Subscription Agreement between the Company and LMC (the “Subscription Agreement”);
- Voting and Registration Rights Agreement among the Company, LMC, and certain LMC stockholders (the “Voting Agreement”); and
- Consent and Waiver to Credit Agreement among the Company, Wilmington Trust, as agent, and the lenders under the Credit Agreement (defined below) (the “Consent and Waiver”).

LMC will endeavor to, among other things, raise sufficient third-party capital for the acquisition, retrofitting, and restart of the Lordstown Assembly Complex, and the ongoing operating costs, of which are expected to be significant (the “Capital Raise”). The Agreements provide that LMC would manufacture electric pickup trucks or similar vehicles under 10,001 gross vehicle weight (“GVW”) using the Licensed Intellectual Property (the “Vehicles”).

Under the Agreements, LMC has exclusive rights to the Licensed Intellectual Property from the date of the License Agreement until the earliest of: (i) June 30, 2020, if the Capital Raise has not occurred; (ii) the second anniversary of the LMC Transaction, if LMC has not started regularly manufacturing Vehicles; (iii) the third anniversary of the LMC Transaction; and (iv) the date that any third-party automotive manufacturer acquires more than ten percent of LMC’s outstanding common stock. The Licensed Intellectual Property excludes the Company’s intellectual property relating to delivery trucks for last mile delivery or commercial use. LMC will have the right, with limited exceptions, to match the best competing offer as a subcontractor for the Company should need to engage a subcontractor in connection with larger potential production contracts to assemble such vehicles utilizing its existing capabilities and technologies. The limited exceptions include the event in which the Company elects to award a subcontract for the manufacturing or assembly to a strategic partner owning in excess of 19% of the Company.

LMC must pay the Company one percent of the aggregate debt and equity commitments funded to LMC upon completion of the Capital Raise (the “Royalty Advance”). LMC must also pay a one percent royalty on the gross sales price of the first 200,000 Vehicles sold, but only to the extent that the aggregate amount of such royalty fees exceed the amount paid as the Royalty Advance. Upon completion of the Capital Raise, the Company intends to transfer its approximately 6,000 existing orders for Vehicles to LMC, subject to customer consent. LMC will pay the Company a four percent commission on the gross sales price of any transferred existing orders fulfilled by LMC. The success of the Capital Raise is not within the Company’s control, and it therefore cannot provide assurance that it will receive the Royalty Advance or receive the projected underlying royalty from the production of Vehicles.

Under the Subscription Agreement, LMC issued ten percent of its common stock to the Company in exchange for the Company’s obligations under the License Agreement. The Subscription Agreement grants the Company anti-dilution rights for two years. The Company is subject to certain restrictions on transferring LMC's equity for this two-year period. Under the Voting Agreement, the Company has the right to designate one director to LMC's board of directors, subject to certain limitations.

Results of Operations

Our Consolidated Statements of Operations financial information is as follows:

	Years Ended December 31, 2019	Years Ended December 31, 2018
Net sales	$ 376,562	763,173
Cost of sales	5,752,700	7,981,413
Warranty expense	92,191	7,972,152
Gross loss	(5,468,329)	(15,190,392)
Operating expenses		
Selling, general and administrative	10,199,534	11,485,482
Research and development	8,199,074	7,391,693
Total operating expenses	18,398,608	18,877,175
Other income	15,849,800	—
Loss from operations	(8,017,137)	(34,067,567)
Interest expense, net	29,145,690	2,434,749
Loss before provision for income taxes	(37,162,827)	(36,502,316)
Provision for income taxes	—	—
Net loss	$ (37,162,827)	$ (36,502,316)

Revenue

Net sales for the years ended December 31, 2019 and 2018 were $0.4 million and $0.8 million, respectively. The decrease in net sales was primarily due to a strategic shift to development of the C-Series, which resulted in a decrease in volume of trucks sold.

Cost of Sales

Cost of sales for the years ended December 31, 2019 and 2018 were $5.8 million and $8.0 million, respectively. The cost of sales decrease was primarily due to a decrease in volume of trucks sold due to strategic shift to development of the C-Series platform. In addition, cost of sales included an inventory reserve of $0.7 million and $2.5 million for the years ended December 31, 2019 and 2018, respectively.

Warranty Expense

Warranty expense for the years ended December 31, 2019 and 2018 was $0.1 million and $8.0 million, respectively. The expense in 2018 relates to issues with certain battery packs in our 2016 and 2017 E-Series trucks. During the fourth quarter of 2018, the battery pack monitoring software indicated that some of the battery packs were not performing at expected levels. In 2019, some vehicles have undergone replacement of battery pack components. The expense includes estimated costs for labor and transportation and excludes any contribution from vendors.

Selling, General and Administrative Expenses

Selling, general and administrative ("SG&A") expenses for the year ended December 31, 2019 were $10.2 million, a decrease from $11.5 million for the year ended December 31, 2018. The decrease is primarily due to lower spending in areas such as marketing and employee-related costs.

Research and Development Expenses

Research and development ("R&D") expenses for the year ended December 31, 2019 were $8.2 million, an increase from $7.4 million for the year ended December 31, 2018. The increase in R&D expenses is due to the increase in prototype and product design expenses for our bid for the United States Postal Service and for the C-Series design.

Other Income

Other income is comprised of the following:

	Years Ended December 31,			
		2019		2018
Technology licensing income	$	12,194,800	$	—
Gain on divestiture		3,655,000		—
Total other income	$	15,849,800	$	—

LMC

On November 7, 2019, the Company entered into a transaction with LMC and granted LMC a perpetual license to certain intellectual property.

Consideration for the License Agreement is as follows:

- A ten percent ownership interest in the common stock of LMC in exchange for the Company's obligations under the License Agreement. The LMC common stock received provides the Company with anti-dilution rights for two years. Under the Voting Agreement, the Company has the right to designate one director to LMC's board of directors, subject to certain limitations.
- One percent of the aggregate debt and equity commitments funded to LMC upon completion of the Capital Raise (the "Minimum Royalty"). Any amount paid to the Company from the Capital Raise is non refundable.
- A one percent royalty on the gross sales price of the first 200,000 Vehicles sold, but only to the extent that the aggregate amount of such royalty fees exceeds the amount paid as the Royalty Advance.
- Upon completion of the Capital Raise, the Company intends to transfer approximately 6,000 existing Vehicles orders to LMC. LMC will pay a four percent commission on the gross sales price of any transferred orders fulfilled by LMC. The success of the Capital Raise is not within the Company's control, and it therefore cannot provide assurance that it will receive the Royalty Advance or receive the projected underlying royalty from the production of Vehicles.

The consideration for the License Agreement includes a fixed and variable component:

- The fixed component consists of the ten percent ownership interest in LMC and any amounts received under the Minimum Royalty. The fair value of the LMC ownership interest received was $12.2 million and was recorded in Other Income for the year ended December 31, 2019.
- The variable component consists of the four percent commission and the one percent royalty. Variable consideration will be recognized when each vehicle for which a royalty or commission is owed is sold.

SureFly divestiture

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 or 2018. Operating expenses associated with the development of Surefly were $1.4 million and $2.5 million in 2019 and 2018, respectively.

Interest Expense, Net

Interest expense, net is comprised of the following:

	Years Ended December 31,	
	2019	2018
Contractual interest expense	$ 4,673,979	$ 520,130
Amortization of discount and debt issuance costs	1,922,164	2,348,289
Loss on extinguishment of debt	6,079,000	2,249,800
Change in fair value of warrant liability	15,369,253	(2,683,470)
Change in fair value of Convertible Note	981,728	—
Other	119,566	—
Total interest expense, net	$ 29,145,690	$ 2,434,749

Contractual interest expense increased due to higher loan balances year-over-year. The dividends on the mandatory redeemable Series B preferred stock are classified as interest expense. The loss on extinguishment of debt in 2019 includes a $2.4 million write-off of deferred loan fees and a $3.4 million premium payable on the early payoff of the Marathon Loans. The loss on extinguishment of debt in 2018 includes a $2.2 million write-off of deferred loan fees on the payoff of the Arosa Loans. Warrants issued under certain of our loan agreements have been classified as liabilities and are marked-to-market at each balance sheet date until terms of the respective warrant agreements change and no longer meet the criteria to be classified as liabilities. Our 4.5% Convertible Note issued in December 2019 (the "Convertible Note") is accounted for at fair value and changes in fair value are classified in interest expense.

Provision for Income Tax

For the years ended December 31, 2019 and 2018, the Company has net losses and no current tax expense or benefit was recorded. The Company has recorded a full valuation allowance on its deferred tax assets for the years ended December 31, 2019 and 2018 and no deferred tax expense has been recorded.

Liquidity and Capital Resources

Cash Requirements

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, 2019, we had approximately $23.9 million in cash and cash equivalents, compared to approximately $1.5 million as of December 31, 2018, an increase of $22.4 million. The increase in cash and cash equivalents was primarily attributable to the issuance of debt and other financings during the year offset by cash used in operations.

We believe our existing capital resources will be sufficient to support our current and projected funding requirements through the second quarter of 2020 after which time additional funding will be required.

Our operations will require significant additional funding for the foreseeable future. Unless we are able to generate a sufficient amount of revenue and reduce our costs, we expect to finance future cash needs through public and/or private offerings of equity securities and/or debt financings. 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 are able to 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, 2019 and 2018, 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,	
	2019	2018
Net cash used in operating activities	$ (36,871,677)	$ (21,754,133)
Net cash provided by (used in) investing activities	1,654,502	(18,422)
Net cash provided by financing activities	58,572,841	19,215,828

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, 2019 and 2018, cash used in operating activities was $36.9 million and $21.8 million, respectively. The increase in net cash used in operations in 2019 as compared to 2018 is mainly due to the net loss for the year, payments for prepaid purchases during the year and the reduction of accounts payable and accrued expense balances.

Cash Flows from Investing Activities

During the year ended December 31, 2019 cash provided by investing activities was $1.7 million, while in 2018 it was negligible. The Company received net proceeds from the divestiture of SureFly of $3.7 million and had capital expenditures of $2.0 million for tooling for the production of the C-Series truck.

Cash Flows from Financing Activities

During the years ended December 31, 2019 and 2018, net cash provided by financing activities was $58.6 million and $19.2 million, respectively.

The significant financing activities that occurred in 2019 and 2018 include:

2019

- Issuance of Convertible Note with net proceeds of $39.0 million.
- Issuance of Series B Preferred Stock with net proceeds of $25.0 million.
- Sale of common stock with net proceeds of $5.9 million.
- $5.8 million drawn on the Marathon Tranche Two loan, paid off at the end of 2019.
- $10.0 million for the pay off of the Marathon Tranche One loan.

2018

- $17.8 million net proceeds from long-term debt.
- Sale of common stock with net proceeds of $16.4 million.
- $9.9 million of payments on long-term debt.
- $5.8 million payment on notes payable.

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 Policies and Estimates

The following accounting principles and practices of the Company are set forth to facilitate the understanding of data presented in the consolidated financial statements:

Use of estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Investment in LMC

We have an investment in LMC, which is a private company with no readily determinable fair value. We have elected the measurement alternative for valuing our investment in LMC. Under the measurement alternative, we measure this investment at cost, less any impairment, plus or minus changes resulting from observable price changes in orderly transactions in an identical or similar investment made in LMC.

Warranty liability

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. As of December 31, 2019 and 2018 the warranty liability was $6.0 million and $7.1 million, respectively.

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.

Although we believe that 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.

Warrant liability

We account for certain outstanding common stock warrants as liabilities recorded at fair value which are marked-to-market at the end of each reporting period. As of December 31, 2019 and 2018 the warrant liability was $16.3 million and $1.8 million, respectively. The warrant liability is remeasured at each balance sheet date until the warrants are exercised, expire or there is a change in their terms that changes their classification to an equity instrument. Any change in fair value is recognized as an adjustment to current period interest expense. The fair value of the warrants is measured using a Black-Scholes valuation model which includes various inputs, including the market price of our common stock on the balance sheet date and estimated volatility of our common stock. If factors change and different assumptions are used, the warrant liability and the change in estimated fair value could be materially different. Generally, as the market price of our common stock increases, the fair value of the warrant increases, and conversely, as the market price of our common stock decreases, the fair value of the warrant decreases. Also, 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 measurement; and a significant decrease in volatility would result in a significantly lower fair value measurement. Changes in the fair value of the warrants are reflected in the Consolidated Statements of Operations as Interest Expense.

Fair Value Option for Convertible Notes

As permitted under ASC 825, Financial Instruments, ("ASC 825"), the Company has elected the fair value option to account for its Convertible Note that was issued during 2019. As of December 31, 2019 the fair value of the Convertible Note was $39.0 million. In accordance with ASC 825, the Company records its Convertible Note at fair value with changes in fair value recorded in the Consolidated Statement of Operations in Interest Expense. The primary reason for electing the fair value option is for simplification and cost-benefit considerations of accounting for the Convertible Note (the hybrid financial instrument) at fair value in its entirety versus bifurcation of the embedded derivatives. 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 the credit spread and the volatility of the Company's common stock. If different assumptions are used, the fair value of the convertible notes and the change in estimated fair value could be materially different. 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. Also, 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.

Income taxes

The Company has had no taxable income for the last three years and deferred tax assets of $33.4 million at December 31, 2019 are fully reserved. No provision or benefit for federal or state income taxes has been included in the consolidated financial statements.

Research and development costs

Research and development costs are expensed as they are incurred. Research and development expense was $8.2 million and $7.4 million for the years ended December 31, 2019 and 2018, respectively, consisting of consulting, payroll and payroll taxes, engineering, supplies, legal fees, parts and small tools.

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 2019, 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 have operated primarily in the United States. Accordingly, we have not had any significant exposure to foreign currency rate fluctuations.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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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, 2019, 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, 2019, 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, 2019, and our report dated March 13, 2020 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 13, 2020

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, 2019 and 2018, the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the two years in the period ended December 31, 2019, 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, 2019 and 2018, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2019, 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, 2019, 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 13, 2020 expressed an unqualified opinion.

Going concern
The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the financial statements, the Company incurred a net loss of $37,162,827 during the year ended December 31, 2019, and as of that date, the Company's current liabilities exceeded its current assets by $15,524,360 and its total liabilities exceeded its total assets by $34,913,110. These conditions, along with other matters as set forth in Note 1, raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

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 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 supporting 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.

/s/ GRANT THORNTON LLP

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

Cincinnati, Ohio
March 13, 2020

Workhorse Group Inc.
Consolidated Balance Sheets

	December 31, 2019	December 31, 2018
Assets		
Current assets:		
Cash and cash equivalents	$ 23,868,416	$ 1,512,750
Restricted cash held in escrow	1,000,000	—
Accounts receivable, less allowance for doubtful accounts of $0 at December 31, 2019 and 2018	7,921	—
Lease receivable, current	33,100	48,271
Inventory, net	1,798,146	2,533,616
Prepaid expenses and deposits	4,812,088	2,274,595
Total current assets	31,519,671	6,369,232
Property, plant and equipment, net	6,830,181	5,237,451
Investment in LMC	12,194,800	—
Lease receivable, long-term	129,177	198,090
Total Assets	$ 50,673,829	$ 11,804,773
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable	$ 1,678,983	$ 4,340,463
Accrued liabilities	3,105,184	3,946,386
Warranty liability	6,001,864	7,058,769
Warrant liability	16,335,000	1,822,819
Customer deposits	303,000	406,000
Duke financing obligation	—	1,340,700
Current portion of Convertible Note, at fair value	19,620,000	—
Total current liabilities	47,044,031	18,915,137
Long-term debt	—	8,312,079
Convertible Note, at fair value	19,400,000	—
Mandatory redeemable Series B preferred stock	19,142,908	—
Commitments and contingencies		
Stockholders' deficit:		
Series A preferred stock, par value of $0.001 per share 75,000,000 shares authorized, 0 shares issued and outstanding at December 31, 2019 and 2018	—	—
Common stock, par value of $0.001 per share 250,000,000 shares authorized, 67,105,000 shares issued and outstanding at December 31, 2019 and 58,270,934 shares issued and outstanding at December 31, 2018	67,105	58,271
Additional paid-in capital	143,826,315	126,076,782
Accumulated deficit	(178,806,530)	(141,557,496)
Total stockholders' deficit	(34,913,110)	(15,422,443)
Total Liabilities and Stockholders' Deficit	$ 50,673,829	$ 11,804,773

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.
Consolidated Statements of Operations

	For the Years Ended December 31,	
	2019	2018
Net sales	$ 376,562	$ 763,173
Cost of sales	5,752,700	7,981,413
Warranty expense	92,191	7,972,152
Gross loss	(5,468,329)	(15,190,392)
Operating expenses		
Selling, general and administrative	10,199,534	11,485,482
Research and development	8,199,074	7,391,693
Total operating expenses	18,398,608	18,877,175
Other income	15,849,800	—
Loss from operations	(8,017,137)	(34,067,567)
Interest expense, net	29,145,690	2,434,749
Loss before provision for income taxes	(37,162,827)	(36,502,316)
Provision for income taxes	—	—
Net loss	$ (37,162,827)	$ (36,502,316)
Net loss attributable to common stockholders per share - basic and diluted	$ (0.58)	$ (0.74)
Weighted average number of common shares outstanding	64,314,756	50,377,909

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.
Consolidated Statements of Stockholders' Equity (Deficit)
For the Years Ended December 31, 2019 and 2018

	Common Stock		Series A Preferred Stock				
	Number of Shares	Amount	Number of Shares	Amount	Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity (Deficit)
Balance as of December 31, 2017	41,529,181	$ 41,529	—	$ —	$ 107,760,036	$ (104,290,001)	$ 3,511,564
Issuance of common stock	14,614,500	14,614	—	—	16,105,698	—	16,120,312
Stock options and warrants exercised	44,643	45	—	—	90,020	—	90,065
Exchange offer - 2017 Warrants deemed dividend	—	—	—	—	765,179	(765,179)	—
Exchange offer - 2017 Warrants	1,968,736	1,969	—	—	(1,969)	—	—
Conversion of accounts payable	113,874	114	—	—	298,236	—	298,350
Stock-based compensation	—	—	—	—	1,059,582	—	1,059,582
Net loss for the year ended December 31, 2018	—	—	—	—	—	(36,502,316)	(36,502,316)
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 Note	—	—	—	—	430,000	—	430,000
Common stock issued for preferred stock dividends	718,755	719	—	—	1,166,052	—	1,166,771
Conversion of Convertible Note	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)

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.
Consolidated Statements of Cash Flows

	For the Years Ended December 31,	
	2019	2018
Cash flows from operating activities:		
Net loss	$ (37,162,827)	$ (36,502,316)
Adjustments to reconcile net loss to net cash used in operations:		
Depreciation	388,401	348,339
Amortization of discount and debt issuance costs on long-term debt	3,518,356	4,598,089
Amortization of discount on mandatory redeemable Series B preferred stock	852,869	—
Change in fair value of Convertible Note and loss on conversion to common stock	1,064,817	—
Change in fair value of warrant liability	15,369,253	(2,683,470)
Dividends for mandatory redeemable Series B preferred stock paid in common stock	1,166,771	—
Stock-based compensation	1,979,998	1,059,582
Write down of inventory	694,448	2,488,100
Gain on divestiture	(3,655,000)	—
Investment received from license of intellectual property	(12,194,800)	—
Loss on sale of fixed assets	19,367	28,645
Effects of changes in operating assets and liabilities:		
Accounts and lease receivable	76,163	1,024,366
Inventory	41,022	(399,774)
Prepaid expenses and deposits	(4,367,928)	(1,328,461)
Accounts payable and accrued liabilities	(3,502,682)	2,399,877
Warranty liability	(1,056,905)	6,916,209
Accounts payable, related parties	—	(54,914)
Customer deposits	(103,000)	351,595
Net cash used in operating activities	(36,871,677)	(21,754,133)
Cash flows from investing activities:		
Capital expenditures	(2,005,498)	(23,222)
Net proceeds received on divestiture	3,655,000	—
Proceeds from sale of fixed assets	5,000	4,800
Net cash provided by (used in) investing activities	1,654,502	(18,422)
Cash flows from financing activities:		
Proceeds from notes payable	5,854,140	—
Payments on notes payable	(5,854,140)	(5,750,000)
Proceeds from issuance of mandatory redeemable Series B preferred stock	25,000,000	—
Proceeds from issuance of Convertible Note	38,950,000	—
(Repayment) proceeds, Duke financing obligation	(1,340,700)	1,340,700
Proceeds from long-term debt	—	17,800,000
Payments on long-term debt	(10,000,000)	(9,891,378)
Loan issuance costs	—	(792,221)
Proceeds from issuance of common stock	5,928,235	16,418,662
Proceeds from exercise of warrants and options	35,306	90,065
Net cash provided by financing activities	58,572,841	19,215,828
Change in cash, cash equivalents and restricted cash	23,355,666	(2,556,727)
Cash, cash equivalents and restricted cash, beginning of the year	1,512,750	4,069,477
Cash, cash equivalents and restricted cash, end of the year	$ 24,868,416	$ 1,512,750

Cash paid for interest was $7,193,613 and $1,128,470 for the years ended December 31, 2019 and 2018, respectively.

The following table provides a reconciliation of cash, cash equivalents and restricted cash to the amounts reported within the consolidated balance sheets:

	December 31	
	2019	2018
Cash and cash equivalents	$ 23,868,416	$ 1,512,750
Restricted cash held in escrow	1,000,000	—
Total cash, cash equivalents and restricted cash	$ 24,868,416	$ 1,512,750

Supplemental disclosure of non-cash activities:

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 $6,709,961. The Company recorded additional paid-in capital with the offset as a discount on the Series B Preferred Stock.

During the year ended December 31, 2018, the Company issued warrants to purchase common stock in connection with debt financing, which were valued at $965,747. The

Company recorded a warrant liability with the offset as a debt discount for the Marathon Loan.

During the year ended December 31, 2018, the Company issued warrants to purchase common stock to Arosa in association with the Arosa Loan, which were valued at $3,540,542. The Company recorded a warrant liability with the offset recorded as a debt discount.

During the year ended December 31, 2018, the Company settled $298,350 of accounts payable by the issuance of common stock.

See accompanying notes to the consolidated financial statements.

Workhorse Group Inc.
Notes to Consolidated Financial Statements

1. SUMMARY OF BUSINESS AND SIGNIFICANT ACCOUNTING PRINCIPLES

Nature of operations

Workhorse Group Inc. (“Workhorse”, the “Company”, “we”, “us” or “our”) is a technology company focused on providing sustainable and cost-effective solutions to the commercial transportation sector. We are an American manufacturer who designs and builds high performance electric vehicles. As part of our solutions, we also develop cloud-based, real-time telematics performance monitoring systems that enable fleet operators to optimize energy and route efficiency. We are currently focused on bringing the C-Series electric delivery truck to market and fulfilling our existing backlog of orders. We are also exploring other opportunities in monetizing our intellectual property which could include a sale, license or other arrangement of assets that are outside of our core focus.

Principles of consolidation

The consolidated financial statements include the financial statements of the Company and its wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

Basis of presentation

The financial statements have been prepared on a going concern basis, which contemplates the realization of assets and liquidation of liabilities in the normal course of business. However, the Company has limited revenue and a history of negative working capital and stockholders’ deficits. Our existing capital resources will be insufficient to fund our operations through the 2020. 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 public and/or private offerings of equity securities and/or debt financings. If we are not able to obtain additional financing and/or substantially increase revenue from sales, we will be unable to continue as a going concern. These conditions raise substantial doubt about the ability of the Company to continue as a going concern.

In view of these matters, continuation as a going concern is dependent upon the continued operations of the Company, which, in turn, is dependent upon the Company’s ability to meet its financial requirements, raise additional capital, and successfully carry out its future operations. The financial statements do not include any adjustments to the amount and classification of assets and liabilities that may be necessary, should the Company not continue as a going concern.

The Company has continued to raise capital and debt. Management believes the proceeds from these offerings, future offerings, and the Company’s anticipated revenue, provides an opportunity to continue as a going concern. If additional funding is required, the Company plans to obtain working capital from either debt or equity financing from the sale of common, preferred stock, and/or convertible debentures. Obtaining such working capital is not assured. The Company is currently in a production ramp up mode and placing greater emphasis on manufacturing capability.

Reclassifications

Certain reclassifications were made to the prior year financial statements to conform to the current year presentation. These reclassifications had no effect on previously reported results of operations or stockholders’ equity.

Cash and cash equivalents

Cash includes cash equivalents which are highly liquid investments that are readily convertible to cash. A cash equivalent is a highly liquid investment that at the time of acquisition has a maturity of three months or less.

Financial instruments

The carrying amounts of financial instruments including cash, inventory, accounts payable and the Convertible Note approximate fair value because of the relatively short maturity of these instruments.

Accounts receivable

Accounts receivable consists of collectible amounts for products and services rendered. The Company carries its accounts receivable at invoice amount less an allowance for doubtful accounts. On a periodic basis, the Company evaluates its accounts receivable and establishes an allowance for doubtful accounts based on a history of past write-offs and collections and current credit conditions.

Inventory, net

Inventory is stated at the lower of cost or net realizable value. Manufactured inventories are valued at standard cost, which approximates actual costs on a first-in, first-out basis. We record inventory reserves for excess or obsolete inventories based upon assumptions about our current and future demand forecasts.

Property, plant and equipment, net

Property, plant and equipment, net is stated at cost less accumulated depreciation. Major renewals and improvements are capitalized while replacements, maintenance and repairs, which do not improve or extend the lives of the respective assets, are expensed as incurred. When property, plant and equipment is retired or otherwise disposed of, a gain or loss is realized for the difference between the net book value of the asset and the proceeds realized thereon. Depreciation is calculated using the straight-line method, based upon the following estimated useful lives:

Buildings	15 - 39 years
Software	3 - 6 years
Equipment	5 years
Vehicles and prototypes	3 - 5 years

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 that 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 have elected the measurement alternative allowed under generally accepted accounting principles ("GAAP") for our investment in Lordstown Motor Corp. ("LMC"), which does not have a readily determinable fair value. Under the measurement alternative, we measure this investment at cost, less any impairment, plus or minus changes resulting from observable price changes in orderly transactions in an identical or similar investment in LMC.

At each reporting period, we evaluate our investment in LMC to determine if there are any events or circumstances that are likely to have a significant adverse effect on the fair value of the investment. Examples of such impairment indicators include, but are not limited to, a significant deterioration in earnings performance, recent financing rounds at reduced valuations, a significant adverse change in the regulatory, economic or technological environment of an investee or a significant doubt about an investee's ability to continue as a going concern. If we identify an impairment indicator, we will estimate the fair value of the investment and compare it to its carrying value. Our estimation of fair value considers financial information related to the investee available to us, including valuations based on recent third-party equity investments in the investee. If the fair value of the investment is less than its carrying value, the investment is impaired and we recognize an impairment loss equal to the difference between an investment's carrying value and its fair value measured under the measurement alternative.

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. Also, each quarter, the Company reviews actual warranty claims experience to determine if there are systemic defects that would require a field campaign.

Although we believe that 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,	
	2019	2018
Balance at beginning of year	$ 7,058,769	$ 142,560
Accrual for warranty	92,191	7,981,413
Warranty costs incurred	(1,149,096)	(1,065,204)
Balance at end of year	$ 6,001,864	$ 7,058,769

Fair value option

As permitted under ASC 825, Financial Instruments, ("ASC 825"), the Company has elected the fair value option to account for its Convertible Note that was issued during 2019. In accordance with ASC 825, the Company records its Convertible Note at fair value with changes in fair value recorded in the Consolidated Statement of Operations in Interest Expense. As a result of applying the fair value option, direct costs and fees related to the Convertible Note were recognized in earnings as incurred and were not deferred.

Common stock

On May 3, 2019, the Company filed an amendment to its Articles of Incorporation to increase the authorized number of shares of common stock froml00,000,000 to 250,000,000.

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 that 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.

Research and development costs

The Company expenses research and development costs as they are incurred. Research and development costs consist primarily of personnel costs for engineering and research, prototyping costs, and contract and professional services.

Basic and diluted loss per share

Basic loss per share is computed by dividing net loss available to common stockholders (numerator) by the weighted average number of shares outstanding (denominator) during the period. Diluted earnings per share are calculated using the treasury stock method, on the basis of the weighted average number of shares outstanding plus the dilutive effect, if any, of stock options, unvested restricted stock and warrants. The if converted method is used for determining the impact of the Convertible Note. For all periods presented, due to the Company's net losses, all of the common stock equivalents were anti-dilutive and excluded from the calculation of diluted loss per share.

The following table shows the computation of basic and diluted earnings per share:

	Years Ended December 31,	
	2019	2018
Net loss	$ (37,162,827)	$ (36,502,316)
Deemed dividends	86,207	765,179
Net loss attributable to common stockholders	$ (37,249,034)	$ (37,267,495)
Basic weighted average shares outstanding	64,314,756	50,377,909
Dilutive effect of options and warrants	—	—
Dilutive effect of Convertible Note	—	—
Diluted weighted average shares outstanding	64,314,756	50,377,909
Anti-dilutive options and warrants excluded from diluted average shares outstanding	36,021,502	21,686,465

Excluded from the above table are the shares on the conversion of the Convertible Note, which are convertible into13,278,689 shares of common stock at December 31, 2019.

Stock-based compensation

The Company recognizes in its Consolidated Statements of Operations the grant-date fair value of share based awards issued to employees and non-employees over the awards' vesting period which equals the service period. Forfeitures are recognized as they occur.

The fair value of restricted stock awards is the price of our common stock on the date of the award.

The fair value for stock options is 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 50% based on results from other public companies in our industry. The expected term of the awards granted was assumed to be the contract life of the option as determined in the specific arrangement. 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.

Use of estimates

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses for the periods presented. Significant estimates and assumptions are used for, but are not limited to warranty liability, warrant liability, fair value of the Convertible Note and litigation-related accruals. Actual results could differ from our estimates.

2. INVENTORY, NET

Inventory, net consists of the following:

	December 31, 2019	December 31, 2018
Raw materials	$ 3,741,097	$ 4,319,637
Work in process	422,176	702,079
Finished goods	—	—
	4,163,273	5,021,716
Less: Inventory reserve	(2,365,127)	(2,488,100)
Total Inventory, net	$ 1,798,146	$ 2,533,616

During the years ended December 31, 2019 and 2018, the Company recorded an increase in its inventory reserve of approximately $0.7 million and $2.5 million. In 2019, certain raw materials that were included in the inventory reserve as of December 31, 2018 were disposed of and reduced the reserve. The reserve relates to the Company's strategic switch from the legacy E-GEN/E-100 platform to our C-Series platform. Certain raw materials and work in process were unique to the E-GEN/E-100 vehicles and cannot be repurposed.

3. REVENUE

Revenue Recognition

Net sales include products and shipping and handling charges, net of estimates for customer allowances. Revenue is measured as the amount of consideration we expect to receive in exchange for transferring products. All revenue is recognized when we satisfy our performance obligations under the contract. We recognize revenue by transferring the promised products to the customer, with the majority of revenue recognized at the point in time the customer obtains control of the products. We recognize revenue for shipping and handling charges at the time the products are delivered to or picked up by the customer. The majority of our contracts have a single performance obligation and are short term in nature.

Revenues related to repair and maintenance services are recognized over time as services are provided. Payment for used vehicles, services, and merchandise are typically received at the point when control transfers to the customer or in accordance with payment terms customary to the business.

Accounts Receivable

Credit is extended based upon an evaluation of the customer's financial condition. Accounts receivable are stated at their estimated net realizable value. The allowance for doubtful accounts is based on an analysis of customer accounts and our historical experience with accounts receivable write-offs.

As performance obligations are satisfied within one year from a given reporting date we omit disclosures of the transaction price apportioned to remaining performance obligations on open orders.

Disaggregation of Revenue

Our revenues related to the following types of business were as follows:

	Years Ended December 31, 2019	Years Ended December 31, 2018
Automotive	$ 240,280	$ 498,000
Other	136,282	265,173
Total revenues	$ 376,562	$ 763,173

Automotive – consists of sales of any of our truck platforms. We recognize revenue when control transfers upon shipment to the customer.

Other – consists of our former Delivery Service Protocol program, grant-related research work and non-warranty after-sales vehicle services.

4. PROPERTY, PLANT AND EQUIPMENT, NET

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

	December 31,	
	2019	2018
Land	$ 700,000	$ 700,000
Buildings	5,900,000	5,900,000
Leasehold Improvements	—	19,236
Software	28,352	102,367
Equipment	860,104	836,646
Construction in progress	1,925,500	—
Vehicles and prototypes	65,529	86,679
	9,479,485	7,644,928
Less: accumulated depreciation	(2,649,304)	(2,407,477)
Property, plant and equipment, net	$ 6,830,181	$ 5,237,451

5. CONVERTIBLE NOTE AND LONG-TERM DEBT

Convertible Note and long-term debt consists of the following:

	December 31,	
	2019	2018
Convertible Note, at fair value	$ 39,020,000	$ —
Marathon Tranche I Loan	—	10,000,000
Marathon Credit Agreement unamortized debt discount and issuance costs	—	(1,687,921)
Net Marathon Credit Agreement	—	8,312,079
Total long-term debt	39,020,000	8,312,079
Less current portion	19,620,000	—
Long-term debt, net of current portion	$ 19,400,000	$ 8,312,079

Aggregate maturities of the Convertible Note are as follows:

2020	$ 19,500,000
2021	18,000,000
2022	3,000,000
	$ 40,500,000

The amounts in the aggregate maturities table only include the par value of the Convertible Note to be repaid and does not include the additional 12% premium described below. The 2019 year includes the remaining $4.5 million the Company is required to convert by April 2020 and all of the Redemption Payments (described below).

The current portion of the Convertible Note includes the remaining $4.5 million required to be converted through April 1, 2020, as well as the Redemption Payment (described below) due in 2020.

Amortization expense for debt issuance costs and unamortized discounts was $1,922,164 and $2,348,289 for the years ended December 31, 2019 and 2018, respectively.

Convertible Note

On December 9, 2019, the Company issued a $41.0 million par value Convertible Note (the "Convertible Note") due November 2022, with a stated interest rate of 4.50% per annum. The Company has elected to account for the Convertible Note using the fair value option allowed under GAAP. The fair value of the Convertible Note was $38.5 million on December 9, 2019. The Convertible Note was issued at 95% of par. Interest is payable quarterly beginning February 1, 2020. The Convertible Note is initially convertible at a rate of $3.05 per share subject to change for anti-dilution adjustments or certain corporate events.

The Company is required to convert a minimum of $5.0 million of the Convertible Note for the period by April 1, 2020. During the year ended December 31, 2019, $0.5 million par value of the Convertible Note was converted into 185,186 shares of common stock resulting in a gain of $83,089, which is included in Interest Expense. Subsequent to December 31, 2019, an additional $4.5 million par value of the Convertible Note was converted into 1,546,889 shares of common stock.

As of December 31, 2019, the fair value of the Convertible Note was $39.0 million and the contractual principal balance was $40.5 million. In electing the fair value option, the Company recognizes changes in fair value related to changes in credit risk, if any, in Other Comprehensive Income and the remaining change in fair value in Interest Expense. For the year ended December 31, 2019, the fair value of the Convertible Note increased $1.0 million which is included in Interest Expense. No portion of the change in fair value was related to changes in credit risk for the period.

Any principal repayment of the Convertible Note is at 112% of the par value. Beginning March 1, 2020 the holder of the Convertible Note may require the Company to redeem up to $1.5 million par value ("Redemption Payment") of the Convertible Note monthly. Subject to certain limitations, the Company at its discretion can pay some or all of Redemption Payment in cash or shares of common stock.

The Convertible Note is a senior secured obligation of the Company secured by substantially all assets of the Company and rank senior to all unsecured debt of the Company. The Convertible Note contains certain covenants, including that we maintain at all times liquidity calculated as unrestricted, unencumbered cash and cash equivalents in a minimum amount of $8.0 million.

The primary reason for electing the fair value option is for simplification and cost-benefit considerations of accounting for the Convertible Note (the hybrid financial instrument) at fair value in its entirety versus bifurcation of the embedded derivatives. The significant inputs to the valuation of the Convertible Note at fair value are Level 3 inputs since they 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.

The Convertible Note was issued with 15,459,016 warrants to purchase common stock of the Company. The exercise price is the greater of the conversion price of the Convertible Note on the day the warrants become exercisable or the weighted average 30 day price of our common stock. The initial exercise price was $3.05 per share. The warrants are only exercisable at the option of the Company following the full or partial redemption of the Convertible Note. The Convertible Note and the warrants were determined to be freestanding instruments and were accounted for separately. The warrants are classified as equity instruments and the fair value has been estimated to be $0.4 million on December 9, 2019 and recorded as an increase to Additional Paid-In Capital.

Marathon Credit Agreement

On December 31, 2018, the Company entered into a Credit Agreement (the “Credit Agreement”), with Marathon Asset Management, LP, on behalf of certain entities it manages (collectively, the “Lenders”). The Credit Agreement provided the Company with $10 million of term loans (the “Tranche One Loans”) and $25 million of revolving term loans (the Tranche Two Loans together with the Tranche One Loans, the “Loans”).

The Loans bore interest at a rate per annum equal to LIBOR plus 7.625%. The interest rate at December 31, 2018, was 10.4% per annum.

In conjunction with entering into the Credit Agreement, the Company issued a Common Stock Purchase Warrant to purchase 8,053,390 shares of common stock at an exercise price of $1.25 per share (the “Initial Warrants”). Until December 31, 2020 even after the payoff of the Loans, the Company is required to issue additional Common Stock Purchase Warrants (the “Additional Warrants”) to the Lenders equal to 10%, in the aggregate, of any additional issuance. The initial exercise price is 110% of the issuance price of the applicable issuance.

The Marathon Credit Agreement and Initial Warrants were determined to be freestanding instruments and were accounted for separately. The Initial Warrants do not qualify for equity classification and have been classified as liability instruments. The value of the Initial Warrants on the date of the Credit Agreement was estimated to be $965,747 which was determined using the Black-Scholes valuation model and was recorded as a liability with the offset being recorded as a debt discount. The liability for the Initial Warrants are marked-to-market quarterly in accordance with liability accounting with a corresponding charge to Interest Expense.

The closing costs associated with the Marathon Credit Agreement were allocated based on proportional value to the Tranche One Loan, Tranche Two Loan and the Initial Warrants. Costs of $722,174 allocated to Tranche 1 were recorded as a debt discount; costs of $1,830,435 allocated to Tranche 2 were recorded as a prepaid asset and were amortized over the expected life of the loan; and costs of $69,744 allocated to the Initial Warrants were expensed in the year ended December 31, 2018.

As of December 31, 2019 and 2018, the liability for the Initial Warrants was $16,335,000 and $965,747, respectively. Any additional warrants issued in connection with the Credit Agreement are classified as equity instruments and are not marked-to-market at each balance sheet date as they do not include the features of the Initial Warrants that required liability accounting.

A loss on extinguishment of approximately $6.1 million was recognized on the payoff of the Marathon Loans and is recorded within Interest Expense in the accompanying Consolidated Statements of Operations for the year ended December 31, 2019. The loss on extinguishment includes a $3.4 million premium which was payable on the early payoff of the Marathon Loans.

Arosa Loan Agreement

In 2018, the Company entered into a $7.8 million term loan with a fund managed by Arosa (the “Arosa Loan”). The interest rate for the Arosa Loan was 8% per annum. On December 31, 2018, proceeds from the Marathon Credit Agreement were utilized to repay all outstanding amounts under the Arosa Loan.

In conjunction with the Arosa Loan, the Company issued Arosa a warrant to purchase 5,000,358 shares of common stock of the Company at an exercise price of $2.00 per share exercisable in cash only for a period of five years. While the Arosa Loan remained outstanding, the Company was required to issue additional warrants to purchase common stock equal to 10% of any additional issuance of common stock.

The Arosa Loan and related warrants were considered freestanding instruments and were accounted for separately. The warrants did not qualify for equity accounting and liability treatment was applied. The fair value of the warrants on the date of the Arosa Loan was estimated to be $3,540,542, using the Black-Scholes valuation method and was recorded as a liability with the offset being recorded as a debt discount. Through and including December 31, 2018, the warrants held by Arosa were required to be marked-to-market as the warrants were classified as liabilities. On January 1, 2019, the warrants no longer included anti-dilution protection and no longer met the criteria for liability classification at which time they were reclassified to equity. As a result of the 2019 reclassification event, the $857,072 Arosa warrant liability was reclassified to Additional Paid-In Capital.

On August 14, 2018 the Company issued Arosa a warrant to acquire 1,143,200 shares of common stock at an exercise price of $1.21 following the closing of the Company's August 2018 public offering. On October 1, 2018, the Company issued Arosa a warrant to acquire 108,768 shares of common stock at an exercise price of $1.60 warrants, due to our third quarter At The Market (“ATM”) offerings. On the payoff of the Arosa Loan, the Company issued Arosa a Warrant to purchase 894,821 shares of common stock exercisable at $1.25 per share.

A loss on extinguishment of approximately $2.2 million was recognized on the payoff of the Arosa Loan which is recorded in Interest Expense in the accompanying Consolidated Statement of Operations for the year ended December 31, 2018.

6. DUKE FINANCING OBLIGATION

On November 28, 2018, the Company entered into a Sales Agreement to sell Duke Energy One, Inc. ("Duke") 615,000 battery cells (the " Cells") for $1,340,700. Workhorse continued to use the Cells for the delivery of trucks.

The Duke transaction was accounted for as a financing obligation and a $1,340,700 liability was recorded. The Company exercised an option to purchase the Cells for a price of $2.18 per cell on December 11, 2019 at which time the financing obligation was repaid.

In consideration for consenting to the Company selling the Cells to Duke, which served as collateral for the Arosa Loan Agreement, the Company issued Arosa 2,000,000 shares of common stock and restruck the exercise price of previously issued warrants to $1.25 per share.

7. MANDATORY REDEEMABLE SERIES B PREFERRED STOCK

On June 5, 2019, the Company closed agreements for the sale of 1,250,000 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 purchase 7.41 shares of the common stock (the "Warrants") for an aggregate purchase price of $25.0 million. The Preferred Stock is not convertible and does not have voting rights.

The Preferred Stock ranks senior to the Company's common stock with respect to dividend rights and rights upon liquidation, winding-up or dissolution. The Preferred Stock is entitled to annual dividends at a rate equal to 8.0% per annum on the Stated Value. Accrued dividends will be payable quarterly in shares of common stock of the Company based on a fixed share price of $1.62. The Warrants have an exercise price of $1.62 per share and expire seven years from the date of issuance.

In June 2023, the Company is required to redeem all the outstanding shares of the Preferred Stock at the Stated Value, plus accrued and unpaid dividends. At any time prior to such date, the Company may redeem any outstanding shares of Preferred Stock at the Stated Value, plus accrued and unpaid dividends.

The aggregate number of shares of common stock issued in payment of dividends on the Preferred Stock when added to the number of shares of common stock issued upon exercise of any warrants shall not exceed 19.9% of either (a) the total number of shares of common stock outstanding on the date hereof; or (b) the total voting power of the Company's securities outstanding on the date hereof that are entitled to vote on a matter being voted on by holders of the common stock, unless and until the Company obtains stockholder approval permitting such issuances.

As the Preferred Stock is mandatorily redeemable, it is classified as a liability on the Consolidated Balance Sheets. All dividends payable on the Preferred Stock are classified as Interest Expense.

The Preferred Stock and Warrants are considered freestanding financial instruments and have been accounted for separately. The Warrants are 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 is being amortized to Interest Expense using the effective interest method through May 2023. Amortization of the discount was $0.9 million for the year ended December 31, 2019.

8. INCOME TAXES

For the years ended December 31, 2019 and 2018, the Company has net losses andno current tax expense was recorded. The Company has recorded a full valuation allowance on its deferred tax assets for the years ended December 31, 2019 and 2018 and no deferred tax expense was recorded.

The components of the provision for income tax is as follows:

	Years Ended December 31,	
	2019	2018
Current		
Federal	$ —	$ —
State and Local	—	—
Total Current	—	—
Deferred		
Federal	—	—
State and Local	—	—
Total Deferred	—	—
Total provision for income taxes	$ —	$ —

The reconciliation of the statutory federal income tax with the provision for income taxes is as follows:

	Years Ended December 31,	
	2019	2018
Federal tax benefit at statutory rates	21.0 %	21.0 %
State and local taxes	(0.6)%	