

Section 1: 10-Q (10-Q)

[Table of Contents](#)

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549
FORM 10-Q

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

For the Quarterly Period Ended March 31, 2020

or

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

Commission file number: 000-51237

FREIGHTCAR AMERICA, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

25-1837219
(I.R.S. Employer
Identification No.)

125 South Wacker Drive, Suite 1500
Chicago, Illinois
(Address of principal executive offices)

60606
(Zip Code)

(800) 458-2235

(Registrant's telephone number, including area code)

| Title of each class | Trading Symbol(s) | Name of Each Exchange on Which Registered |
|--|-------------------|---|
| Common stock, par value \$0.01 per share | RAIL | Nasdaq Global Market |

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

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

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

| | | | |
|-------------------------|--------------------------|---------------------------|-------------------------------------|
| Large accelerated filer | <input type="checkbox"/> | Accelerated Filer | <input checked="" type="checkbox"/> |
| Non-accelerated filer | <input type="checkbox"/> | Smaller reporting company | <input checked="" type="checkbox"/> |
| | | Emerging growth company | <input type="checkbox"/> |

If an emerging growth company, indicate by a 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 April 23, 2020, there were 13,319,197 shares of the registrant's common stock outstanding.

[Table of Contents](#)

FREIGHTCAR AMERICA, INC.

INDEX TO FORM 10-Q

| <u>Item Number</u> | | <u>Page Number</u> |
|------------------------|--|------------------------|
| | PART I – FINANCIAL INFORMATION | |
| 1. | Financial Statements: | |
| | Condensed Consolidated Balance Sheets (Unaudited) as of March 31, 2020 and December 31, 2019 | 3 |
| | Condensed Consolidated Statements of Operations (Unaudited) for the Three Months Ended March 31, 2020 and 2019 | 4 |
| | Condensed Consolidated Statements of Comprehensive Loss (Unaudited) for the Three Months Ended March 31, 2020 and 2019 | 5 |
| | Condensed Consolidated Statements of Stockholders' Equity (Unaudited) for the Three Months Ended March 31, 2020 and 2019 | 6 |
| | Condensed Consolidated Statements of Cash Flows (Unaudited) for the Three Months Ended March 31, 2020 and 2019 | 7 |
| | Notes to Condensed Consolidated Financial Statements (Unaudited) | 8 |
| 2. | Management's Discussion and Analysis of Financial Condition and Results of Operations | 20 |
| 4. | Controls and Procedures | 24 |
| | PART II – OTHER INFORMATION | |
| 1. | Legal Proceedings | 24 |
| 2. | Unregistered Sales of Equity Securities and Use of Proceeds | 24 |
| 3. | Defaults Upon Senior Securities | 25 |
| 4. | Mine Safety Disclosures | 25 |
| 5. | Other Information | 25 |
| 6. | Exhibits | 25 |
| | Signatures | 26 |

[Table of Contents](#)**PART I – FINANCIAL INFORMATION****Item 1. Financial Statements.****FreightCar America, Inc.
Condensed Consolidated Balance Sheets (Unaudited)**

| | <u>March 31, 2020</u> | <u>December 31, 2019</u> |
|---|---|--------------------------|
| | (in thousands, except for share and per share data) | |
| Assets | | |
| Current assets | | |
| Cash, cash equivalents and restricted cash equivalents | \$ 60,484 | \$ 66,257 |
| Restricted certificates of deposit | — | 3,769 |
| Accounts receivable, net of allowance for doubtful accounts of \$161 and \$91, respectively | 5,718 | 6,991 |
| Inventories, net | 41,121 | 25,092 |
| Income tax receivable | 1,022 | 535 |
| Other current assets | 8,309 | 7,035 |
| Total current assets | 116,654 | 109,679 |
| Property, plant and equipment, net | 39,285 | 38,564 |
| Railcars available for lease, net | 38,647 | 38,900 |
| Right of use asset | 55,517 | 56,507 |
| Other long-term assets | 999 | 1,552 |
| Total assets | <u>\$ 251,102</u> | <u>\$ 245,202</u> |
| Liabilities and Stockholders' Equity | | |
| Current liabilities | | |
| Accounts and contractual payables | \$ 19,653 | \$ 11,713 |
| Accrued payroll and other employee costs | 632 | 1,389 |
| Reserve for workers' compensation | 3,274 | 3,210 |
| Accrued warranty | 8,076 | 8,388 |
| Customer deposits | 22,515 | 5,123 |
| Deferred income state and local incentives, current | 2,219 | 2,219 |
| Lease liability, current | 14,932 | 14,960 |
| Other current liabilities | 3,275 | 2,428 |
| Total current liabilities | 74,576 | 49,430 |
| Long-term debt | 10,200 | 10,200 |
| Accrued pension costs | 6,258 | 6,510 |
| Deferred income state and local incentives, long-term | 4,167 | 4,722 |
| Lease liability, long-term | 52,108 | 53,766 |
| Other long-term liabilities | 3,443 | 3,420 |
| Total liabilities | 150,752 | 128,048 |
| Stockholders' equity | | |
| Preferred stock, \$0.01 par value, 2,500,000 shares authorized (100,000 shares each designated as Series A voting and Series B non-voting, 0 shares issued and outstanding at March 31, 2020 and December 31, 2019) | — | — |
| Common stock, \$0.01 par value, 50,000,000 shares authorized, 13,319,197 and 12,731,678 shares issued at March 31, 2020 and December 31, 2019, respectively | 133 | 127 |
| Additional paid in capital | 83,374 | 83,027 |
| Treasury stock, at cost, 152,617 and 44,855 shares at March 31, 2020 and December 31, 2019, respectively | (1,124) | (989) |
| Accumulated other comprehensive loss | (10,639) | (10,780) |
| Retained earnings | 28,877 | 45,824 |
| Total FreightCar America stockholders' equity | 100,621 | 117,209 |
| Noncontrolling interest in JV | (271) | (55) |
| Total stockholders' equity | 100,350 | 117,154 |
| Total liabilities and stockholders' equity | <u>\$ 251,102</u> | <u>\$ 245,202</u> |

See Notes to Condensed Consolidated Financial Statements (Unaudited).

[Table of Contents](#)

FreightCar America, Inc.
Condensed Consolidated Statements of Operations
(Unaudited)

| | Three Months Ended | |
|--|--|-------------|
| | March 31, | |
| | 2020 | 2019 |
| | <i>(in thousands, except for share and per share data)</i> | |
| Revenues | \$ 5,197 | \$ 70,708 |
| Cost of sales | 14,000 | 77,557 |
| Gross loss | (8,803) | (6,849) |
| Selling, general and administrative expenses | 7,410 | 7,667 |
| Restructuring and impairment charges | 880 | — |
| Operating loss | (17,093) | (14,516) |
| Interest expense and deferred financing costs | (296) | (36) |
| Other income | 224 | 319 |
| Loss before income taxes | (17,165) | (14,233) |
| Income tax benefit | (2) | (201) |
| Net loss | (17,163) | (14,032) |
| Less: Net loss attributable to noncontrolling interest in JV | (216) | — |
| Net loss attributable to FreightCar America | \$ (16,947) | \$ (14,032) |
| Net loss per common share attributable to FreightCar America – basic and diluted | \$ (1.29) | \$ (1.12) |
| Weighted average common shares outstanding – basic and diluted | 12,366,880 | 12,337,013 |

See Notes to Condensed Consolidated Financial Statements (Unaudited).

[Table of Contents](#)

FreightCar America, Inc.
Condensed Consolidated Statements of Comprehensive Loss
(Unaudited)

| | Three Months Ended | |
|--|---------------------------|--------------------|
| | March 31, | |
| | 2020 | 2019 |
| | <i>(in thousands)</i> | |
| Net loss | \$ (17,163) | \$ (14,032) |
| Other comprehensive (loss) income net of tax: | | |
| Pension and postretirement liability adjustments, net of tax | 141 | 43 |
| Other comprehensive (loss) income | 141 | 43 |
| Comprehensive loss | <u>\$ (17,022)</u> | <u>\$ (13,989)</u> |

See Notes to Condensed Consolidated Financial Statements (Unaudited).

[Table of Contents](#)

FreightCar America, Inc.
Condensed Consolidated Statements of Stockholders' Equity (Unaudited)
(in thousands, except for share data)

| | FreightCar America Shareholders | | | | | | | | |
|---|---------------------------------|--------|------------|----------------|------------|---------------|------------|----------------|------------|
| | Common Stock | | Additional | Treasury Stock | | Accumulated | | Noncontrolling | Total |
| | Shares | Amount | Paid In | Shares | Amount | Other | Retained | | |
| | | | Capital | | | Comprehensive | Earnings | | Equity |
| | | | | | | Loss | | | |
| Balance, December 31, 2018 | 12,731,678 | \$ 127 | \$ 90,593 | (272,030) | \$ (9,721) | \$ (8,188) | \$ 120,799 | \$ — | \$ 193,610 |
| Cumulative effective of adoption of ASC 842 | — | — | — | — | — | — | 208 | — | 208 |
| Net loss | — | — | — | — | — | — | (14,032) | — | (14,032) |
| Other comprehensive income | — | — | — | — | — | 43 | — | — | 43 |
| Restricted stock awards | — | — | (5,227) | 146,948 | 5,227 | — | — | — | — |
| Employee stock settlement | — | — | — | (7,404) | (59) | — | — | — | (59) |
| Forfeiture of restricted stock awards | — | — | 19 | (2,800) | (19) | — | — | — | — |
| Stock-based compensation recognized | — | — | 689 | — | — | — | — | — | 689 |
| Balance, March 31, 2019 | 12,731,678 | \$ 127 | \$ 86,074 | (135,286) | \$ (4,572) | \$ (8,145) | \$ 106,975 | \$ — | 180,459 |
| Balance, December 31, 2019 | 12,731,678 | \$ 127 | \$ 83,027 | (44,855) | \$ (989) | \$ (10,780) | \$ 45,824 | \$ (55) | \$ 117,154 |
| Net loss | — | — | — | — | — | — | (16,947) | (216) | (17,163) |
| Other comprehensive income | — | — | — | — | — | 141 | — | — | 141 |
| Restricted stock awards | 587,519 | 6 | (6) | — | — | — | — | — | — |
| Employee stock settlement | — | — | — | (5,717) | (9) | — | — | — | (9) |
| Forfeiture of restricted stock awards | — | — | 126 | (102,045) | (126) | — | — | — | — |
| Stock-based compensation recognized | — | — | 227 | — | — | — | — | — | 227 |
| Balance, March 31, 2020 | 13,319,197 | \$ 133 | \$ 83,374 | (152,617) | \$ (1,124) | \$ (10,639) | \$ 28,877 | \$ (271) | \$ 100,350 |

See Notes to Condensed Consolidated Financial Statements (Unaudited).

[Table of Contents](#)

FreightCar America, Inc.
Condensed Consolidated Statements of Cash Flows
(Unaudited)

| | Three Months Ended March 31, | |
|--|-------------------------------------|------------------|
| | 2020 | 2019 |
| | (in thousands) | |
| Cash flows from operating activities | | |
| Net loss | \$ (17,163) | \$ (14,032) |
| Adjustments to reconcile net loss to net cash flows used in operating activities: | | |
| Non-cash restructuring and impairment charges | 312 | — |
| Depreciation and amortization | 3,013 | 3,206 |
| Amortization expense – right-of-use leased assets | 990 | 3,202 |
| Recognition of deferred income from state and local incentives | (555) | (554) |
| Stock-based compensation recognized | 227 | 689 |
| Other non-cash items, net | 1,868 | (736) |
| Changes in operating assets and liabilities, net of acquisitions: | | |
| Accounts receivable | 1,273 | 8,928 |
| Inventories | (17,809) | 12,591 |
| Other assets | (1,273) | (2,355) |
| Accounts and contractual payables | 7,521 | (4,516) |
| Accrued payroll and employee benefits | (654) | 359 |
| Income taxes receivable/payable | (8) | (200) |
| Accrued warranty | (312) | 1,736 |
| Lease liability | (1,686) | (5,037) |
| Customer deposits | 17,392 | (1,719) |
| Other liabilities | 1,051 | 259 |
| Accrued pension costs and accrued postretirement benefits | (214) | (114) |
| Net cash flows (used in) provided by operating activities | <u>(6,027)</u> | <u>1,707</u> |
| Cash flows from investing activities | | |
| Purchase of restricted certificates of deposit | — | (1,117) |
| Maturity of restricted certificates of deposit | 3,769 | 4,400 |
| Purchase of securities held to maturity | — | (1,986) |
| Proceeds from maturity of securities | — | 18,025 |
| Purchase of property, plant and equipment | (3,670) | (760) |
| Proceeds from sale of property, plant and equipment and railcars available for lease | 164 | — |
| Net cash flows provided by investing activities | <u>263</u> | <u>18,562</u> |
| Cash flows from financing activities | | |
| Employee stock settlement | (9) | (59) |
| Deferred financing costs | — | (280) |
| Net cash flows used in financing activities | <u>(9)</u> | <u>(339)</u> |
| Net increase (decrease) in cash and cash equivalents | (5,773) | 19,930 |
| Cash, cash equivalents and restricted cash equivalents at beginning of period | 66,257 | 45,070 |
| Cash, cash equivalents and restricted cash equivalents at end of period | <u>\$ 60,484</u> | <u>\$ 65,000</u> |
| Supplemental cash flow information | | |
| Interest paid | <u>\$ 143</u> | <u>\$ 15</u> |
| Income tax refunds received | <u>\$ —</u> | <u>\$ —</u> |
| Income tax paid | <u>\$ —</u> | <u>\$ —</u> |

See Notes to Condensed Consolidated Financial Statements (Unaudited).

[Table of Contents](#)

FreightCar America, Inc. **Notes to Condensed Consolidated Financial Statements** **(Unaudited)** *(In thousands, except for share and per share data)*

Note 1 – Description of the Business

FreightCar America, Inc. (“FreightCar”) operates primarily in North America through its direct and indirect subsidiaries, JAC Operations, Inc., Johnstown America, LLC, Freight Car Services, Inc., JAIX Leasing Company (“JAIX”), FreightCar America Leasing, LLC, FreightCar America Leasing 1, LLC, FreightCar Roanoke, LLC, FreightCar Mauritius Ltd. (“Mauritius”), FreightCar Rail Services, LLC (“FCRS”), FreightCar Short Line, Inc. (“FCSL”), FreightCar Alabama, LLC, FreightCar (Shanghai) Trading Co., Ltd, FCAI Holdings, LLC, (“FCAI”), FCA-FASEMEX, LLC, FCA-FASEMEX, S. de R.L., de C.V. and FCA-FASEMEX Enterprise, S. de R.L., de C.V., (herein collectively referred to as the “Company”), and manufactures a wide range of railroad freight cars, supplies railcar parts and leases freight cars. The Company designs and builds high-quality railcars, including coal cars, bulk commodity cars, covered hopper cars, intermodal and non-intermodal flat cars, mill gondola cars, coil steel cars and boxcars. The Company is headquartered in Chicago, Illinois and has facilities in the following locations: Cherokee, Alabama; Grand Island, Nebraska; Johnstown, Pennsylvania; and Shanghai, People’s Republic of China, and construction is underway on a facility in Castaños, Mexico.

The Company’s direct and indirect subsidiaries are wholly owned except for the Fasemex entities related to our Mexico operations. The Company and its direct and indirect subsidiaries are all Delaware corporations or Delaware limited liability companies except Mauritius, which is incorporated in Mauritius, FreightCar (Shanghai) Trading Co., Ltd., which is organized in the People’s Republic of China, and FCA-FASEMEX, S. de R.L., de C.V. and FCA-FASEMEX Enterprise, S. de R.L., de C.V. which are organized in Mexico.

On September 19, 2019, the Company announced the formation of a joint venture with Fabricaciones y Servicios de México, S.A. de C.V. (“Fasemex”), a Mexican company with operations in both Mexico and the United States. The joint venture will lease a manufacturing facility in Castaños, Mexico in which it will manufacture railcars. Production of railcars at the facility is expected to begin in the second half of 2020. The Company ceased operations at its Roanoke, Virginia manufacturing facility and has vacated the facility as of March 31, 2020.

Note 2 – Basis of Presentation

The accompanying condensed consolidated financial statements include the accounts of FreightCar America, Inc. and subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. During 2019 the Company entered into a joint venture arrangement with Fasemex to manufacture railcars in Castaños, Mexico, in exchange for a 50% interest in the operation. Under the terms of the joint venture operating agreement, the Company has the right to appoint the majority of the members of the board and management for the joint venture. The Company therefore, has determined that it has the power to direct the activities of the related entities that most significantly impact their economic performance and it also has the right to receive significant benefits and obligation to absorb losses from the operations, and as such, the Company has determined that it is the primary beneficiary of these variable interest entities (“VIEs”). Therefore, these entities are consolidated as VIEs. The Company’s initial commitments under the joint venture include capital contributions of \$25,000 over several years through a combination of assets and cash of which \$4.7 million has been provided as of March 31, 2020. The total assets of the Mexico operations amount to \$4.0 million, consisting primarily of construction in progress as of March 31, 2020. The total liabilities of the Mexico operations amount to \$0.2 million as of March 31, 2020. The net loss of the Mexico operations for the three months ended March 31, 2020 is \$0.4 million. The noncontrolling minority interest as of March 31, 2020 and net loss attributable to the noncontrolling minority interest for the three months ended March 31, 2020 amounted to \$(0.3) million and \$(0.2) million, respectively.

The foregoing financial information has been prepared in accordance with the accounting principles generally accepted in the United States of America (“GAAP”) and rules and regulations of the U.S. Securities and Exchange Commission (the “SEC”) for interim financial reporting. The preparation of the financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from these estimates. The results of operations for the three months ended March 31, 2020 are not necessarily indicative of the results to be expected for the full year. The accompanying interim financial information is unaudited; however, the Company believes the financial information reflects all adjustments (consisting of items of a normal recurring nature) necessary for a fair presentation of financial position, results of operations and cash flows in conformity

[Table of Contents](#)

with GAAP. The 2019 year-end balance sheet data was derived from the audited financial statements as of December 31, 2019. Certain information and note disclosures normally included in the Company's annual financial statements prepared in accordance with GAAP have been condensed or omitted. These interim financial statements should be read in conjunction with the audited financial statements contained in the Company's annual report on Form 10-K for the year ended December 31, 2019.

Note 3 – Recent Accounting Pronouncements

In March 2020, the Financial Accounting Standards Board (the "FASB") issued Accounting Standards Update ("ASU") 2020-04, *Reference Rate Reform*, which provides companies with optional guidance, including expedients and exceptions for applying generally accepted accounting principles to contracts and other transactions affected by reference rate reform, such as the London Interbank Offered Rate (LIBOR). This new standard was effective upon issuance and generally can be applied to applicable contract modifications through December 31, 2022. The Company is currently evaluating the impact of ASU 2020-04 on its consolidated financial statements.

In August 2018, the FASB ASU 2018-15, *Intangibles – Goodwill and Other – Internal-Use Software*, which requires capitalization of certain implementation costs incurred in a cloud computing arrangement that is a service contract. ASU 2018-15 is effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Adoption of this standard on January 1, 2020 did not have a material impact on the Company's consolidated financial statements.

In August 2018, the FASB issued ASU 2018-14, *Compensation – Retirement Benefits – Defined Benefit Plans – General*, which modifies the disclosure requirements for defined benefit and other postretirement plans. ASU 2018-14 eliminates certain disclosures related to accumulated other comprehensive income, plan assets, related parties and the effects of interest rate basis point changes on assumed health care costs, and adds disclosures to address significant gains and losses related to changes in benefit obligations. ASU 2018-14 also clarifies disclosure requirements for projected benefit and accumulated benefit obligations. ASU 2018-14 is effective for fiscal years ending after December 15, 2020. Early adoption is permitted. Adoption on a retrospective basis for all periods presented is required. The Company is currently assessing the impact of this standard on its consolidated financial statements and related disclosures.

Note 4 – Leases

The Company determines if an arrangement is a lease at inception of a contract. Substantially all of the Company's leases are operating leases. A significant portion of the Company's operating lease portfolio includes manufacturing sites, component warehouses and corporate offices. The remaining lease terms on the majority of the Company's leases is between 2.5 to 8 years, some of which include options to extend the lease terms. Leases with an initial term of 12 months or less are not recorded on the condensed consolidated balance sheet. Operating lease right of use ("ROU") assets are presented within long term assets, the current portion of operating lease liabilities is presented within current liabilities and the non-current portion of operating lease liabilities are presented within long term liabilities on the condensed consolidated balance sheet.

ROU assets represent the Company's right to use an underlying asset during the lease term and the lease liabilities represent the Company's obligation to make the lease payments arising during the lease. ROU assets and liabilities are recognized at commencement date based on the net present value of fixed lease payments over the lease term. The Company's lease term includes options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. As most of the Company's operating leases do not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. Operating lease expense is recognized on a straight-line basis over the lease term.

The components of the lease costs were as follows:

| | Three Months Ended March 31, 2020 |
|-------------------------|--|
| Operating lease costs: | |
| Fixed | \$ 3,082 |
| Short-term | 239 |
| Total lease cost | \$ 3,321 |

Table of Contents

Supplemental balance sheet information related to leases were as follows:

| | March 31, 2020 |
|-----------------------------------|-----------------------|
| Operating leases: | |
| Right of use assets | \$ 55,517 |
| Lease liabilities: | |
| Lease liability, current | \$ 14,932 |
| Lease liability, long-term | 52,108 |
| Total operating lease liabilities | <u>\$ 67,040</u> |

Supplemental cash flow information is as follows:

| | Three Months Ended March 31, 2020 |
|---|--|
| Cash paid for amounts included in the measurement of lease liabilities: | |
| Operating cash flows from operating leases | \$ 4,571 |
| Total | <u>\$ 4,571</u> |
| Right of use assets obtained in exchange for new lease obligations: | |
| Operating leases | \$ 1,326 |
| Total | <u>\$ 1,326</u> |

The aggregate future lease payments for operating leases as of March 31, 2020 are as follows:

| | Operating leases |
|----------------------|-------------------------|
| 2020 | 13,172 |
| 2021 | 17,411 |
| 2022 | 10,205 |
| 2023 | 9,074 |
| 2024 | 8,332 |
| Thereafter | 18,039 |
| Total lease payments | 76,234 |
| Less: interest | (9,194) |
| Total | <u>\$ 67,040</u> |

The aggregate future lease payments for operating leases as of December 31, 2019 were as follows:

| | Operating leases |
|----------------------|-------------------------|
| 2020 | 17,743 |
| 2021 | 17,200 |
| 2022 | 9,969 |
| 2023 | 8,832 |
| 2024 | 8,082 |
| Thereafter | 16,164 |
| Total lease payments | 77,990 |
| Less: interest | (9,263) |
| Total | <u>\$ 68,726</u> |

Table of Contents

| | |
|---|------|
| Weighted-average remaining lease term (years) | |
| Operating leases | 7.5 |
| Weighted-average discount rate | |
| Operating leases | 4.5% |

On February 26, 2019, the Company entered into an Amendment to its lease of the Shoals, Alabama manufacturing facility to extend the initial term thereof from December 31, 2021 to December 31, 2026, with two five-year extension terms thereafter through December 31, 2031 and December 31, 2036, at the Company's option. In addition, the Company will vacate up to 40% of the manufacturing facility on or before December 31, 2021 with the base rent payable to the Landlord reduced on proportional basis. The Company accounted for the amendment as a modification of the lease, resulting in a non-cash increase to lease liability and right of use asset of \$32,079 during the first quarter of 2019. The Company concluded that the initial term through December 31, 2026 would be included in the measurement of lease liabilities as of the modification date. The Company has concluded that the options for extensions beyond that date are not reasonably certain of exercise, and have been excluded from the measurement of lease liabilities.

During 2019, the Company entered into a lease agreement of new office space for which the Company took possession on February 1, 2020. The new lease arrangement requires total minimum lease payments of approximately \$3,000 over 11.5 years.

Note 5 – Revenue Recognition

The following table disaggregates the Company's revenues by major source:

| | Three months ended | |
|--|--------------------|------------------|
| | March 31, | |
| | 2020 | 2019 |
| Railcar sales | \$ 1,526 | \$ 65,944 |
| Parts sales | 2,213 | 3,064 |
| Other sales | — | 19 |
| Revenues from contracts with customers | 3,739 | 69,027 |
| Leasing revenues | 1,458 | 1,681 |
| Total revenues | <u>\$ 5,197</u> | <u>\$ 70,708</u> |

Contract Balances and Accounts Receivable

Accounts receivable payments for railcar sales are typically due within 5 to 10 business days of invoicing, while payments from parts sales are typically due within 30 to 45 business days of invoicing. The Company has not experienced significant historical credit losses.

Contract assets represent the Company's rights to consideration for performance obligations that have been satisfied but for which the terms of the contract do not permit billing at the reporting date. The Company has no contract assets as of March 31, 2020. The Company may receive cash payments from customers in advance of the Company satisfying performance obligations under its sales contracts resulting in deferred revenue or customer deposits, which are considered contract liabilities. Deferred revenue and customer deposits are classified as either current or long-term in the Consolidated Balance Sheet based on the timing of when the Company expects to recognize the related revenue. Deferred revenue and customer deposits included in customer deposits, other current liabilities and other long-term liabilities in the Company's Condensed Consolidated Balance Sheet were \$24,280 and \$5,607 as of March 31, 2020 and December 31, 2019, respectively.

Performance Obligations

The Company is electing not to disclose the value of the remaining unsatisfied performance obligation with a duration of one year or less as permitted by ASU 2014-09, *Revenue from Contracts with Customers*. The Company had remaining unsatisfied performance obligations as of March 31, 2020 with expected duration of greater than one year of \$95,889.

[Table of Contents](#)

Note 6 – Segment Information

The Company's operations comprise two operating segments, Manufacturing and Parts, and one reportable segment, Manufacturing. The Company's Manufacturing segment includes new railcar manufacturing, used railcar sales, railcar leasing and major railcar rebuilds. The Company's Parts operating segment is not significant for reporting purposes and has been combined with corporate and other non-operating activities as Corporate and Other.

Segment operating income is an internal performance measure used by the Company's Chief Operating Decision Maker to assess the performance of each segment in a given period. Segment operating income includes all external revenues attributable to the segments as well as operating costs and income that management believes are directly attributable to the current production of goods and services. The Company's management reporting package does not include interest revenue, interest expense or income taxes allocated to individual segments and these items are not considered as a component of segment operating income. Segment assets represent operating assets and exclude intersegment accounts, deferred tax assets and income tax receivables. The Company does not allocate cash and cash equivalents and restricted cash and restricted cash equivalents to its operating segments as the Company's treasury function is managed at the corporate level. Intersegment revenues were not material in any period presented.

| | Three Months Ended | |
|--|--------------------|--------------------|
| | March 31, | |
| | 2020 | 2019 |
| Revenues: | | |
| Manufacturing | \$ 2,940 | \$ 67,595 |
| Corporate and Other | 2,257 | 3,113 |
| Consolidated revenues | \$ 5,197 | \$ 70,708 |
| Operating (loss) income: | | |
| Manufacturing (1) | \$ (11,800) | \$ (9,637) |
| Corporate and Other | (5,293) | (4,879) |
| Consolidated operating loss | (17,093) | (14,516) |
| Consolidated interest expense and deferred financing costs | (296) | (36) |
| Consolidated other income | 224 | 319 |
| Consolidated loss before income taxes | \$ (17,165) | \$ (14,233) |
| Depreciation and amortization: | | |
| Manufacturing | \$ 2,795 | \$ 3,013 |
| Corporate and Other | 218 | 184 |
| Consolidated depreciation and amortization | \$ 3,013 | \$ 3,197 |
| Capital expenditures: | | |
| Manufacturing | \$ 2,920 | \$ 535 |
| Corporate and Other | 750 | 225 |
| Consolidated capital expenditures | \$ 3,670 | \$ 760 |

(1) Results for the three months ended March 31, 2020 include restructuring and impairment charges of \$880.

Table of Contents

| | <u>March 31,</u> <u>2020</u> | <u>December 31,</u> <u>2019</u> |
|---|---------------------------------|------------------------------------|
| Assets: | | |
| Manufacturing | \$ 169,154 | \$ 156,859 |
| Corporate and Other | 80,929 | 87,329 |
| Total operating assets | 250,083 | 244,188 |
| Consolidated income taxes receivable | 1,022 | 1,014 |
| Consolidated deferred income taxes, long-term | (3) | — |
| Consolidated assets | <u>\$ 251,102</u> | <u>\$ 245,202</u> |

Geographic Information

| | <u>Revenues</u> | | <u>Long Lived Assets (a)</u> | |
|---------------|---------------------------|-------------------------|------------------------------|--------------------------|
| | <u>Three Months Ended</u> | | <u>March 31,</u> | <u>December 31,</u> |
| | <u>March 31,</u> | <u>March 31,</u> | <u>2020</u> | <u>2019</u> |
| | <u>2020</u> | <u>2019</u> | <u>2020</u> | <u>2019</u> |
| United States | \$ 5,197 | \$ 70,708 | \$ 130,008 | \$ 132,825 |
| Mexico (b) | — | — | 3,441 | 1,146 |
| Total | <u>\$ 5,197</u> | <u>\$ 70,708</u> | <u>\$ 133,449</u> | <u>\$ 133,971</u> |

(a) Long lived assets include Net property plant and equipment, Railcars available for lease, and ROU Assets.

(b) Mexico operations are included in manufacturing segment.

Note 7 – Fair Value Measurements

The following table sets forth by level within the fair value hierarchy the Company's financial assets that were recorded at fair value on a recurring basis and the Company's non-financial assets that were recorded at fair value on a non-recurring basis.

| <u>Recurring Fair Value Measurements</u> | <u>As of March 31, 2020</u> | | | |
|--|-----------------------------|----------------|----------------|--------------|
| | <u>Level 1</u> | <u>Level 2</u> | <u>Level 3</u> | <u>Total</u> |
| ASSETS: | | | | |
| Cash equivalents and restricted cash equivalents | \$ 8,156 | \$ — | \$ — | \$8,156 |
| Escrow receivable | \$ — | \$ — | \$ 930 | \$ 930 |

| <u>Recurring Fair Value Measurements</u> | <u>As of December 31, 2019</u> | | | |
|--|--------------------------------|----------------|----------------|--------------|
| | <u>Level 1</u> | <u>Level 2</u> | <u>Level 3</u> | <u>Total</u> |
| ASSETS: | | | | |
| Cash equivalents and restricted cash equivalents | \$ 4,580 | \$ — | \$ — | \$4,580 |
| Restricted certificates of deposit | \$ 3,769 | \$ — | \$ — | \$3,769 |
| Escrow receivable | \$ — | \$ — | \$ 930 | \$ 930 |

The sale of the Company's railcar repair and maintenance services business on September 30, 2015 resulted in \$1,960 of the aggregate purchase price being placed into escrow in order to secure the indemnification obligations of FCRS and FCSL. The fair market value of the remaining escrow receivable above represents the escrow balance of \$980 as of each of March

Table of Contents

31, 2020 and December 31, 2019, net of the fair value of the indemnification obligations, which was estimated using the discounted probability-weighted cash flow method.

Note 8 – Restricted Cash

The Company establishes restricted cash balances when required by customer contracts and to collateralize standby letters of credit. The carrying value of restricted cash approximates fair value.

The Company's restricted cash balances are as follows:

| | March 31, 2020 | December 31, 2019 |
|--|---------------------------|------------------------------|
| Restricted cash from customer deposit | \$ 11,201 | \$ — |
| Restricted cash to collateralize standby letters of credit | 203 | — |
| Total restricted cash | <u>\$ 11,404</u> | <u>\$ —</u> |

Note 9 – Inventories

Inventories, net of reserve for excess and obsolete items, consist of the following:

| | March 31, 2020 | December 31, 2019 |
|------------------------|---------------------------|------------------------------|
| Work in process | \$ 35,474 | \$ 19,742 |
| Finished new railcars | 166 | — |
| Parts inventory | 5,481 | 5,350 |
| Total inventories, net | <u>\$ 41,121</u> | <u>\$ 25,092</u> |

Inventory on the Company's Condensed Consolidated Balance Sheets includes reserves of \$7,413 and \$5,633 relating to excess or slow-moving inventory and lower of cost or net realizable value for parts and work in process at March 31, 2020 and December 31, 2019, respectively.

Note 10 – Revolving Credit Facilities

BMO Credit Agreement

On April 12, 2019, the Company entered into a Credit and Security Agreement (the "BMO Credit Agreement") by and among the Company and certain of its subsidiaries, as borrowers and guarantors (together with the Company, the "Borrowers"), and BMO Harris Bank N.A., as lender ("BMO"). Pursuant to the BMO Credit Agreement, BMO extended an asset-backed credit facility, in the maximum aggregate principal amount of up to \$50,000, consisting of revolving loans and a sub-facility for letters of credit not to exceed the lesser of \$10,000 and the amount of the revolving credit facility.

The BMO Credit Agreement has a term ending on April 12, 2024. Revolving loans outstanding thereunder will bear interest, at the Borrowers' option and subject to the provisions of the BMO Credit Agreement, at Base Rate (as defined in the BMO Credit Agreement) or LIBOR Rate (as defined in the BMO Credit Agreement) plus the Applicable Margin for each such interest rate set forth in the BMO Credit Agreement.

The BMO Credit Agreement provides for a revolving credit facility with maximum availability of \$42,500, subject to borrowing base requirements set forth in the BMO Credit Agreement. The maximum availability under the BMO Credit Agreement is determined by a formula and may fluctuate depending on the value of the borrowing base included in such

Table of Contents

formula at the time of determination. On February 21, 2020, the Company, certain of its subsidiaries, as borrowers and guarantors, and BMO, amended the BMO Credit Agreement, to, among other things, increase the borrowing base during the period commencing February 21, 2020 until May 15, 2020 by the lesser of (i) 100% of qualified unrestricted cash and (ii) \$4,000.

The BMO Credit Agreement has both affirmative and negative covenants, including, without limitation, limitations on indebtedness, liens and investments. The BMO Credit Agreement also provides for customary events of default. Borrowings under the BMO Credit Agreement are collateralized by substantially all of the Borrowers' assets. As of March 31, 2020, the Company had no borrowings under the BMO credit facility and \$7,750 available for borrowing under the BMO credit facility.

M&T Credit Agreement

On April 16, 2019, FreightCar America Leasing 1, LLC, an indirect wholly-owned subsidiary of the Company ("Freightcar Leasing Borrower"), entered into a Credit Agreement (the "M&T Credit Agreement") with M & T Bank, N.A., as lender ("M&T"). Pursuant to the M&T Credit Agreement, M&T extended a revolving credit facility to Freightcar Leasing Borrower in an aggregate amount of up to \$40,000 for the purpose of financing railcars which will be leased to third parties.

Freightcar Leasing Borrower also entered into a Security Agreement on April 16, 2019 (the "M&T Security Agreement") pursuant to which it granted a security interest in all of its assets to M&T to secure its obligations under the M&T Credit Agreement.

On April 16, 2019, FreightCar America Leasing, LLC, a wholly-owned subsidiary of the Company and parent of Freightcar Leasing Borrower ("Freightcar Leasing Guarantor"), entered into (i) a Guaranty Agreement (the "M&T Guaranty Agreement") pursuant to which Freightcar Leasing Guarantor guaranties the repayment and performance of certain obligations of Freightcar Leasing Borrower and (ii) a Pledge Agreement (the "M&T Pledge Agreement") pursuant to which Freightcar Leasing Guarantor pledged all of the equity of Freightcar Leasing Borrower held by Freightcar Leasing Guarantor.

The loans under the M&T Credit Agreement are non-recourse to the assets of the Company or its subsidiaries other than the assets of Freightcar Leasing Borrower and Freightcar Leasing Guarantor.

The M&T Credit Agreement has a term ending on April 16, 2021. Loans outstanding thereunder will bear interest, accrued daily, at the Adjusted LIBOR Rate (as defined in the M&T Credit Agreement) or the Adjusted Base Rate (as defined in the M&T Credit Agreement).

The M&T Credit Agreement has both affirmative and negative covenants, including, without limitation, maintaining an Interest Coverage Ratio (as defined in the M&T Credit Agreement) of not less than 1.25:1.00, measured quarterly, and limitations on indebtedness, loans, liens and investments. The M&T Credit Agreement also provides for customary events of default. As of March 31, 2020, FreightCar Leasing Borrower had \$10,200 in outstanding debt under the M&T Credit Agreement which was collateralized by leased railcars with a carrying value of \$16,352. As of March 31, 2020, the interest rate on outstanding debt under the M&T Credit Agreement was 3.05% representing the 90 day LIBOR plus 2.05%.

Note 11 – Accumulated Other Comprehensive Income (Loss)

The changes in accumulated other comprehensive income (loss) consist of the following:

Table of Contents

| | <u>Pre-Tax</u> | <u>Tax</u> | <u>After-Tax</u> |
|---|----------------|------------|------------------|
| Three months ended March 31, 2020 | | | |
| Pension liability activity: | | | |
| Reclassification adjustment for amortization of net loss (pre-tax other income (expense)) | \$ 140 | \$— | \$ 140 |
| | <u>\$ 140</u> | <u>\$—</u> | <u>\$ 140</u> |
| Three months ended March 31, 2019 | | | |
| Pension liability activity: | | | |
| Reclassification adjustment for amortization of net loss (pre-tax other income (expense)) | \$ 137 | \$— | \$ 137 |
| Postretirement liability activity: | | | |
| Reclassification adjustment for amortization of net gain (pre-tax other income (expense)) | (97) | — | (97) |
| Reclassification adjustment for amortization of prior service cost (pre-tax other income (expense)) | 3 | — | 3 |
| | <u>\$ 43</u> | <u>\$—</u> | <u>\$ 43</u> |

The components of accumulated other comprehensive loss consist of the following:

| | <u>March 31, 2020</u> | <u>December 31, 2019</u> |
|--|---------------------------|------------------------------|
| Unrecognized pension cost, net of tax of \$6,282 and \$6,282, respectively | \$ (10,639) | \$ (10,780) |
| | <u>\$ (10,639)</u> | <u>\$ (10,780)</u> |

Note 12 – Stock-Based Compensation

Total stock-based compensation was \$227 and \$689 for the three months ended March 31, 2020 and 2019, respectively. As of March 31, 2020, there was \$1,845 of unearned compensation expense related to restricted stock awards, which will be recognized over the remaining weighed average requisite service period of 27 months. As of March 31, 2020, there was \$12 of unearned compensation related to performance stock options, which will be recognized over the remaining weighted average derived service period of 3 months. As of March 31, 2020, there was \$478 of unearned compensation related to time-vested stock options, which will be recognized over the remaining requisite service period of 20 months.

During the three months ended March 31, 2020, the Company granted 1,119,464 cash settled stock appreciation rights to certain employees of which 78,661 were forfeited during 2020 and 1,040,803 remain outstanding as of March 31, 2020. Each stock appreciation right represents the right to receive a payment measured by the increase in the fair market value of one share of the Company's stock from the date of grant of the stock appreciation right to the date of exercise of the stock appreciation right. The cash settled stock appreciation rights vest ratably over three years and have a contractual life of 10 years. Cash settled stock appreciation rights are classified as liabilities. The Company measures the fair value of cash settled stock appreciation rights using the Black-Scholes option valuation model and remeasures the fair value of the award each reporting period until the award is settled. Compensation cost for cash settled stock appreciation rights is trued up each reporting period for changes in fair value pro-rated for the portion of the requisite service period rendered. Once vested the Company immediately recognizes compensation cost for any changes in fair value of cash settled stock appreciation rights until settlement. The estimated fair value of the cash settled stock appreciation rights as of March 31, 2020 was \$325. Stock-based compensation for cash settled stock appreciation rights for the three months ended March 31, 2020 was not material.

Table of Contents

The fair value of cash settled stock appreciation rights as of March 31, 2020 was estimated using the Black-Scholes option valuation model with the following assumptions:

| <u>Grant Year</u> | <u>Grant Date</u> | <u>Expected Life</u> | <u>Expected Volatility</u> | <u>Expected Dividend Yield</u> | <u>Risk Free Interest Rate</u> | <u>Fair Value Per Award</u> |
|-------------------|-------------------|----------------------|----------------------------|--------------------------------|--------------------------------|-----------------------------|
| 2020 | 1/24/2020 | 6 years | 52.12% | 0.00% | 0.44% | \$0.31 |
| 2020 | 3/9/2020 | 6 years | 52.12% | 0.00% | 0.44% | \$0.35 |

Note 13 – Employee Benefit Plans

The Company has a qualified, defined benefit pension plan that was established to provide benefits to certain employees. The plan is frozen and participants are no longer accruing benefits. Generally, contributions to the plan are not less than the minimum amounts required under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and not more than the maximum amount that can be deducted for federal income tax purposes. The plan assets are held by an independent trustee and consist primarily of equity and fixed income securities.

The Company also provided certain postretirement health care benefits for certain of its salaried retired employees. Generally, employees became eligible for health care benefits if they retired after attaining specified age and service requirements. These benefits were subject to deductibles, co-payment provisions and other limitations. On October 15, 2019, the Company notified retirees and affected active employees that it would terminate medical benefits offered to retirees of the Company and their dependents effective January 1, 2020. The retiree benefits that were terminated include medical insurance and vision insurance that were offered under the FreightCar America, Inc. Health and Welfare Plan.

The components of net periodic benefit cost (benefit) for the three months ended March 31, 2020 and 2019, are as follows:

| | <u>Three Months Ended March 31,</u> | |
|--|---|----------------|
| | <u>2020</u> | <u>2019</u> |
| Pension Benefits | | |
| Interest cost | \$ 358 | \$ 466 |
| Expected return on plan assets | (609) | (555) |
| Amortization of unrecognized net loss | 140 | 137 |
| | <u>\$ (111)</u> | <u>\$ 48</u> |
| | | |
| | <u>Three Months Ended March 31,</u> | |
| | <u>2020</u> | <u>2019</u> |
| Postretirement Benefit Plan | | |
| Service cost | \$ — | \$ 5 |
| Interest cost | — | 45 |
| Amortization of prior service cost | — | 4 |
| Amortization of unrecognized net (gain) loss | — | (97) |
| | <u>\$ —</u> | <u>\$ (43)</u> |

The Company made no contributions to the Company’s defined benefit pension plan for each of the three months ended March 31, 2020 and 2019. The Company expects to make no contributions to its pension plan in 2020.

Due to the plan termination the Company made no postretirement benefit plan contributions during the three months ended March 31, 2020. The Company made contributions to the Company’s postretirement benefit plan for salaried retirees of \$118 for the three months ended March 31, 2019.

Table of Contents

The Company also maintains qualified defined contribution plans, which provide benefits to employees based on employee contributions and employee earnings with discretionary contributions allowed. Expenses related to these plans were \$20 and \$371 for the three months ended March 31, 2020 and 2019, respectively. Effective January 1, 2020, the Company suspended the employer contribution to its defined contribution plans.

Note 14 – Contingencies

The Company is involved in various warranty and repair claims and, in certain cases, related pending and threatened legal proceedings with its customers in the normal course of business. In the opinion of management, the Company's potential losses in excess of the accrued warranty and legal provisions, if any, are not expected to be material to the Company's consolidated financial condition, results of operations or cash flows.

The Company received cash payments of \$15,733 and \$1,410 during 2015 and 2017, respectively, for Alabama state and local incentives related to its capital investment and employment levels at its Cherokee, Alabama ("Shoals") facility. Under the incentive agreements a certain portion of the incentives may be repayable by the Company if targeted levels of employment are not maintained for a period of up to six years from the date of the incentive. In the event that employment levels drop below the minimum targeted levels of employment and any portion of the incentives is required to be paid back, the amount is unlikely to exceed the deferred liability balance of \$7,496 as of March 31, 2020.

As part of a settlement agreement reached with one of its customers during 2019, the Company agreed to pay \$7,500 to settle all claims related to a prior year's commercial dispute. During 2019, the Company paid \$3,500 of the settlement amount and the remaining \$4,000 will be paid over a period of three years, or on an accelerated basis in the event both parties agree to accelerate delivery of railcars currently in the backlog.

In addition to the foregoing, the Company is involved in certain other pending and threatened legal proceedings, including commercial disputes and workers' compensation and employee matters arising out of the conduct of its business. While the ultimate outcome of these other legal proceedings cannot be determined at this time, it is the opinion of management that the resolution of these other actions will not have a material adverse effect on the Company's financial condition, results of operations or cash flows.

Note 15 – Earnings Per Share

Shares used in the computation of the Company's basic and diluted earnings per common share are reconciled as follows:

| | Three Months Ended | |
|--|--------------------|------------|
| | March 31, | |
| | 2020 | 2019 |
| Weighted average common shares outstanding | 12,366,880 | 12,337,013 |
| Dilutive effect of employee stock options and nonvested share awards | — | — |
| Weighted average diluted common shares outstanding | 12,366,880 | 12,337,013 |

Weighted average diluted common shares outstanding include the incremental shares that would be issued upon the assumed exercise of stock options and the assumed vesting of nonvested share awards. For the three months ended March 31, 2020 and 2019, 1,039,850 and 628,912 shares, respectively, were not included in the weighted average common shares outstanding calculation as they were anti-dilutive.

Note 16 – Restructuring and Impairment Charges

On July 22, 2019, the Company announced its intention to close its Roanoke, Virginia manufacturing facility as part of its "Back to Basics" strategy. The Company ceased operations at the facility as of November 29, 2019. The Company terminated its leases for the facility effective as of March 31, 2020. Restructuring and impairment charges of \$3,295 and a lease termination gain of \$2,224 related to the plant closure were recorded during 2019. Restructuring and impairment charges related to the plant closure primarily include non-cash impairment charges for property, plant and equipment at the Roanoke facility and employee severance and retention charges.

Table of Contents

Restructuring and impairment charges are reported as a separate line item on the Company's condensed consolidated statements of operations for the three months ended March 31, 2020 and are detailed below:

| | Three Months Ended March 31, 2020 |
|---|--|
| Loss on disposal of machinery and equipment | \$ 438 |
| Employee severance and retention | (4) |
| Other charges related to facility closure | 446 |
| Total restructuring and impairment costs | <u>\$ 880</u> |

There were no restructuring and impairment charges for the three months ended March 31, 2019.

| | Accrued as of December 31, 2019 | Cash Charges | Non-cash charges | Cash payments | Accrued as of March 31, 2020 |
|---|--|-------------------------|-----------------------------|--------------------------|---|
| Loss on disposal of machinery and equipment | \$ — | \$ — | \$ 438 | \$ — | \$ — |
| Employee severance and retention | 647 | (4) | — | (612) | 31 |
| Other charges related to facility closure | 359 | 567 | (120) | (848) | 78 |
| Total restructuring and impairment costs | <u>\$ 1,006</u> | <u>\$ 563</u> | <u>\$ 318</u> | <u>\$ (1,460)</u> | <u>\$ 109</u> |

Note 17 – Subsequent Event

The COVID-19 pandemic continues to create a general disruption across the world economy. The United States government and the Mexico Federal Ministry of Health and Federal Ministry of Communications and Transportation cited the railcar industry as critical to the United States and Mexico's response efforts to the pandemic.

On April 16, 2020, the Company received approximately \$10,000 (the "PPP Loan") from BMO Harris Bank N.A., the Company's existing lender under the BMO Credit Agreement, pursuant to the Paycheck Protection Program of the CARES Act. The Company intends to use all proceeds from the PPP Loan to retain employees, maintain payroll and make lease and utility payments to support business continuity throughout the COVID-19 pandemic, which amounts are intended to be eligible for forgiveness, subject to the provisions of the CARES Act. On April 14, 2020, the Company, certain of its subsidiaries, as borrowers and guarantors, and BMO, amended the BMO Credit Agreement, to add CARES Act covenants related to the Company's PPP Loan.

[Table of Contents](#)

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

OVERVIEW

You should read the following discussion in conjunction with our condensed consolidated financial statements and related notes included elsewhere in this quarterly report on Form 10-Q. This discussion contains forward-looking statements that are based on management's current expectations, estimates and projections about our business and operations. Our actual results may differ materially from those currently anticipated and expressed in such forward-looking statements. See "Cautionary Statement Regarding Forward-Looking Statements."

We are a diversified manufacturer of railcars and railcar components. We design and manufacture a broad variety of railcar types for transportation of bulk commodities and containerized freight products primarily in North America. We rebuild and convert railcars and sell forged, cast and fabricated parts for all of the railcars we produce, as well as those manufactured by others. We also lease freight cars. Our primary customers are railroads, shippers and financial institutions.

On July 22, 2019, the Company announced its intention to close its Roanoke, Virginia manufacturing facility as part of its "Back to Basics" strategy. The Company ceased operations at the facility as of November 29, 2019. The Company terminated its leases for the facility effective as of March 31, 2020. Restructuring and impairment charges of \$3.3 million and a lease termination gain of \$2.2 million related to the plant closure were recorded during the last half of 2019. Additional restructuring and impairment charges of \$0.9 million were recorded during the three months ended March 31, 2020. Restructuring and impairment charges related to the plant closure primarily include charges related to property, plant and equipment disposed of or abandoned at the Roanoke facility and employee severance and retention charges.

On September 19, 2019, the Company announced the formation of a joint venture with Fabricaciones y Servicios de México, S.A. de C.V. ("Fasemex"), a Mexican company with operations in both Mexico and the United States. The joint venture will lease a manufacturing facility in Castanos, Mexico in which it will manufacture railcars. Production of railcars at the facility is expected to begin in the second half of 2020. The Company's initial obligations under the joint venture include capital contributions of \$25 million over several years through a combination of assets and cash. The Company expects to contribute between \$5 million and \$9 million to the joint venture during the remainder of 2020.

Total new orders received for railcars for the three months ended March 31, 2020 were 300 units all of which were rebuilt railcars, compared to orders for 694 units, consisting of 194 new railcars and 500 rebuilt railcars, for the three months ended March 31, 2019. Total backlog of unfilled orders was 1,939 units at March 31, 2020, compared to 1,650 units at December 31, 2019. The estimated sales value of the backlog was \$221 million and \$206 million, respectively, as of March 31, 2020 and December 31, 2019.

Since first being reported in December 2019, the COVID-19 pandemic continues to create a general disruption across the world economy. The United States government and the Mexico Federal Ministry of Health and Federal Ministry of Communications and Transportation cited the railcar industry as critical to the United States and Mexico's response efforts to the pandemic. The railcar industry is susceptible to a reduction in demand associated with the overall economic slowdown caused by the virus. In addition, public health organizations and national, state and local governments have implemented measures to combat the spread of COVID-19, including restrictions on movement such as quarantines, "stay-at-home" orders and social distancing ordinances and restricting or prohibiting some forms of business activity. Accordingly, our ability to predict industry demand and establish forecasts for sales, operating results and cash flows may be impacted. Furthermore, our plant operations and supply chain are potentially susceptible to large-scale outbreaks of the virus within our workforce or that of any of our suppliers.

Our management is focused on mitigating the impact of COVID-19 on our business and the risk to our employees. Therefore, we have taken a number of precautionary measures intended to mitigate the impact of COVID-19 on our business and the risk to our employees, including implementing detailed cleaning and disinfecting processes at our facilities, adhering to social distancing protocols, suspending non-essential air travel and encouraging employees to work remotely, when possible.

RESULTS OF OPERATIONS

Three Months Ended March 31, 2020 compared to Three Months Ended March 31, 2019

Revenues

Table of Contents

Our consolidated revenues for the three months ended March 31, 2020 were \$5.2 million compared to \$70.7 million for the three months ended March 31, 2019. Manufacturing segment revenues for the three months ended March 31, 2020 were \$2.9 million compared to \$67.6 million for the three months ended March 31, 2019. The decrease in Manufacturing segment revenues for the 2020 period compared to the 2019 period reflects the decrease in the number of railcars delivered due to lower industry demand, which was partially offset by a higher average selling price for new railcars in 2020. New railcar deliveries totaled 11 units in the first quarter of 2020, compared to new railcar deliveries of 641 units, in the first quarter of 2019. Corporate and Other revenues for the three months ended March 31, 2020 were \$2.3 million compared to \$3.1 million for the three months ended March 31, 2019, reflecting lower parts sales.

Gross Profit (Loss)

Our consolidated gross loss was \$8.8 million for the three months ended March 31, 2020 compared to \$6.8 million for the three months ended March 31, 2019. Manufacturing segment gross loss for the three months ended March 31, 2020 was \$9.3 million compared to \$7.6 million for the three months ended March 31, 2019. The decrease in gross profit for our Manufacturing segment for the three months ended March 31, 2020 compared to the three months ended March 31, 2019 was primarily due to lower railcar deliveries and changes in product mix, which were partially offset by lower warranty charges.

Selling, General and Administrative Expenses

Consolidated selling, general and administrative expenses for the three months ended March 31, 2020 were \$7.4 million compared to \$7.7 million for the three months ended March 31, 2019, reflecting lower compensation and research and development costs, the impact of which were partially offset by project related costs including costs related to bringing the Mexico operations online and amortization of retention program costs.

Restructuring and Impairment Charges

On July 22, 2019, we announced our intention to close our Roanoke, Virginia manufacturing facility as part of our “Back to Basics” strategy. We ceased operations at the facility as of November 29, 2019. We terminated our leases for the facility effective as of March 31, 2020. Restructuring and impairment charges of \$0.9 million for the three months ended March 31, 2020 primarily represented impairment charges for property, plant and equipment at our Roanoke facility and costs related to relocating some of the facility’s equipment to other manufacturing locations. There were no restructuring and impairment charges for the three months ended March 31, 2019.

Operating Loss

Our consolidated operating loss for the three months ended March 31, 2020 was \$17.1 million compared to \$14.5 million for the three months ended March 31, 2019. Operating loss for the Manufacturing segment was \$11.8 million for the three months ended March 31, 2020 compared to \$9.6 million for the three months ended March 31, 2019 reflecting the decline in Manufacturing segment gross profit and the increase in restructuring and impairment charges described above. Corporate and Other operating loss was \$5.3 million for the three months ended March 31, 2020 compared to \$4.9 million for the three months ended March 31, 2019 reflecting retention program costs and the decrease in parts sales described above.

Income Taxes

Our income tax benefit was \$0.0 million for the three months ended March 31, 2020 compared to \$0.2 million for the three months ended March 31, 2019. Due to current market conditions we are unable to make a reliable estimate of our full year effective tax rate as of March 31, 2020 and have used our actual year to date effective tax rate when calculating our tax benefit for the three months ended March 31, 2020. Our effective tax rate for the three months ended March 31, 2020 was 0% compared to 1.4% for the three months ended March 31, 2019.

Net Loss Attributable to FreightCar America

As a result of the foregoing, net loss attributable to FreightCar America was \$16.9 million for the three months ended March 31, 2020 compared to \$14.0 million for the three months ended March 31, 2019. For the three months ended March 31, 2020, basic and diluted net loss per share attributable to FreightCar America was \$1.29 compared to \$1.12 for the three months ended March 31, 2019. The pandemic did not materially impact our financial results for the first quarter of 2020. We will continue to monitor business conditions and implement appropriate operational and financial actions as necessary.

Table of Contents

LIQUIDITY AND CAPITAL RESOURCES

Our primary sources of liquidity are our cash and cash equivalent balances on hand and our credit and debt facilities outlined below.

The Company manufactures and provides essential products and services to a variety of critical infrastructure customers, and it intends to continue providing its products and services to these customers. The extent of the impact of the COVID-19 pandemic on the Company's operational and financial performance will depend on future developments, including the duration and spread of the pandemic and related actions taken by the U.S. and Mexico governments, state and local government officials, and other international governments to prevent disease spread, all of which are uncertain and cannot be predicted. Accordingly, our ability to predict industry demand and establish forecasts for sales, operating results and cash flows may be impacted.

On March 25, 2020, the United States enacted the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") which, among other things, removed the 80% taxable income limitation for utilization of net operating losses generated in tax years 2018 -2020, allowing for 5-year net operating loss carrybacks, increased the adjusted taxable income limitation for the disallowance of interest expense from 30% to 50%, and provided for refunds of any remaining alternative minimum tax ("AMT") credits. As a result of the CARES Act, the Company has a total of \$1.0 million of AMT refunds in income tax receivable on the condensed consolidated balance sheet related to the AMT refund that we anticipate will be received during the second half of 2020.

On April 16, 2020, the Company received approximately \$10.0 million (the "PPP Loan") from BMO Harris Bank N.A., the lender under the BMO Credit Agreement, pursuant to the Paycheck Protection Program of the CARES Act. The Company intends to use all proceeds from the PPP Loan to retain employees, maintain payroll and make lease and utility payments to support business continuity throughout the COVID-19 pandemic, which amounts are intended to be eligible for forgiveness, subject to the provisions of the CARES Act. On April 14, 2020, the Company, certain of its subsidiaries, as borrowers and guarantors, and BMO, amended the BMO Credit Agreement to add CARES Act covenants related to the Company's PPP Loan.

On April 12, 2019, the Company entered into a Credit and Security Agreement (the "BMO Credit Agreement") by and among the Company and certain of its subsidiaries, as borrowers and guarantors (together with the Company, the "Borrowers"), and BMO Harris Bank N.A., as lender ("BMO"). On February 21, 2020, the Borrowers and BMO amended the BMO Credit Agreement, to, among other things, increase the borrowing base during the period commencing February 21, 2020 until May 15, 2020 by the lesser of (i) 100% of qualified unrestricted cash and (ii) \$4 million. As of March 31, 2020, we had no borrowings under the BMO credit facility and we had \$7.7 million available for borrowing under the BMO credit facility. See Note 10 Revolving Credit Facilities.

On April 16, 2019, FreightCar America Leasing 1, LLC, an indirect wholly-owned subsidiary of the Company, entered into a credit agreement (the "M&T Credit Agreement") with M&T Bank N.A. As of March 31, 2020, FreightCar America Leasing 1, LLC had \$10.2 million in outstanding debt under the M&T Credit Agreement, which was collateralized by leased railcars with a carrying value of \$16.4 million. See Note 10 – Revolving Credit Facilities.

Our restricted cash, restricted cash equivalents and restricted certificates of deposit balances were \$15.4 million and \$4.2 million as of March 31, 2020 and December 31, 2019, respectively. Restricted deposits of \$11.2 million as of March 31, 2020 relate to a customer deposit for purchase of railcars. Restricted deposits of \$4.2 million as of each of March 31, 2020 and December 31, 2019 are used to collateralize standby letters of credit with respect to performance guarantees and to support our workers' compensation insurance claims. The standby letters of credit outstanding as of March 31, 2020 are scheduled to expire at various dates through February 1, 2021.

Based on our current level of operations and known changes in planned volume based on our backlog, we believe that our operating cash flows and our cash balances, together with the PPP Loan, will be sufficient to meet our expected liquidity needs. Our long-term liquidity is contingent upon future operating performance and our ability to continue to meet financial covenants under our revolving credit facilities and any other indebtedness. We may also require additional capital in the future to fund working capital as demand for railcars increases, payments for contractual obligations, organic growth opportunities, including new plant and equipment and development of railcars, joint ventures, international expansion and acquisitions, and these capital requirements could be substantial.

Table of Contents

Based upon our operating performance and capital requirements, we may, from time to time, be required to raise additional funds through additional offerings of our common stock and through long-term borrowings. There can be no assurance that long-term debt, if needed, will be available on terms attractive to us, or at all. Furthermore, any additional equity financing may be dilutive to stockholders and debt financing, if available, may involve restrictive covenants. Our failure to raise capital if and when needed could have a material adverse effect on our results of operations and financial condition.

Cash Flows

The following table summarizes our net cash provided by (used in) operating activities, investing activities and financing activities for the three months ended March 31, 2020 and 2019:

| | Three Months Ended March 31, | |
|--|-------------------------------------|------------------|
| | 2020 | 2019 |
| | <i>(In thousands)</i> | |
| Net cash provided by (used in): | | |
| Operating activities | \$ (6,027) | \$ 1,707 |
| Investing activities | 263 | 18,562 |
| Financing activities | (9) | (339) |
| Total | \$ (5,773) | \$ 19,930 |

Operating Activities. Our net cash provided by or used in operating activities reflects net income or loss adjusted for non-cash charges and changes in operating assets and liabilities. Cash flows from operating activities are affected by several factors, including fluctuations in business volume, contract terms for billings and collections, the timing of collections on our contract receivables, processing of bi-weekly payroll and associated taxes, and payments to our suppliers. As some of our customers accept delivery of new railcars in train-set quantities, variations in our sales lead to significant fluctuations in our operating profits and cash from operating activities. We do not usually experience business credit issues, although a payment may be delayed pending completion of closing documentation.

Our net cash used in operating activities for the three months ended March 31, 2020 was \$6.0 million compared to net cash provided by operating activities of \$1.7 million for the three months ended March 31, 2019. Our net cash used in operating activities for the three months ended March 31, 2020 reflects our net loss and changes in working capital. Our net cash provided by operating activities for the three months ended March 31, 2019 reflects changes in working capital, including decreases in inventory and accounts receivable due to the timing of deliveries of railcars and the related cash receipts.

Investing Activities. Net cash provided by investing activities for the three months ended March 31, 2020 was \$0.3 million and represented the \$3.8 million maturity of restricted certificates of deposit and \$0.2 million proceeds from sale of property plant and equipment, which were partially offset by capital expenditures of \$3.7 million. Net cash provided by investing activities for the three months ended March 31, 2019 was \$18.6 million and primarily represented the \$16.0 million maturity of U.S. Treasury securities and certificates of deposit (net of purchases) and the \$3.3 million maturity of restricted certificates of deposit (net of purchases), which were partially offset by the \$0.8 million cost of property, plant and equipment.

Financing Activities. Net cash used in financing activities was \$0.0 million for the three months ended March 31, 2020, compared to net cash used in financing activities of \$0.3 million for the three months ended March 31, 2019. Net cash used in financing activities for the three months ended March 31, 2019 primarily represented deferred financing costs related to our credit facilities.

Capital Expenditures

Our capital expenditures were \$3.7 million in the three months ended March 31, 2020 compared to \$0.8 million in the three months ended March 31, 2019. We anticipate capital expenditures during 2020 to be in the range of \$10 million to \$12 million including amounts already paid, primarily related to the construction of our Mexico facility. Our total obligations under our Mexico joint venture agreement are up to \$25.0 million over several years through a combination of assets and cash of which \$4.7 million has been advanced as of March 31, 2020, leaving \$20.3 million of remaining obligations.

Table of Contents

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This quarterly report on Form 10-Q contains certain forward-looking statements including, in particular, statements about our plans, strategies and prospects. We have used the words “may,” “will,” “expect,” “anticipate,” “believe,” “estimate,” “plan,” “intend” and similar expressions in this report to identify forward-looking statements. We have based these forward-looking statements on our current views with respect to future events and financial performance. However, forward-looking statements inherently involve risks and uncertainties that could cause actual results to differ materially from those projected in the forward-looking statements. These risks and uncertainties relate to, among other things, the cyclical nature of our business, the competitive nature of our industry, our reliance upon a small number of customers that represent a large percentage of our sales, the variable purchase patterns of our customers and the timing of completion, delivery and customer acceptance of orders, fluctuating costs of raw materials, including steel and aluminum, and delays in the delivery of raw materials, the risk of lack of acceptance of our new railcar offerings by our customers, risks relating to our relationship with our unionized employees and their unions and other competitive factors. The factors listed above are not exhaustive. Other sections of this quarterly report on Form 10-Q include additional factors that could materially and adversely affect our business, financial condition and results of operations. New factors emerge from time to time and it is not possible for management to predict the impact of all of these factors on our business, financial condition or results of operations or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, investors should not rely on forward-looking statements as a prediction of actual results. We expressly disclaim any duty to provide updates to forward-looking statements, and the estimates and assumptions associated with them, in order to reflect changes in circumstances or expectations or the occurrence of unanticipated events except to the extent required by applicable securities laws.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our Chief Executive Officer and Principal Financial Officer, our management evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as of the end of the period covered by this quarterly report on Form 10-Q (the “Evaluation Date”). Based upon that evaluation, our Chief Executive Officer and Principal Financial Officer concluded that, as of the Evaluation Date, our disclosure controls and procedures are effective to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission’s rules and forms.

Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting during the last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

We have not experienced any material impact to our internal controls over financial reporting despite the fact that most of our non-production employees are working remotely due to the COVID-19 pandemic. We are continually monitoring and assessing the impact of COVID-19 on our internal controls to minimize the impact on their design and operating effectiveness.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings.

The information in response to this item is included in Note 14 – Contingencies to our condensed consolidated financial statements included in Part I, Item 1 of this Form 10-Q.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Table of Contents

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

(a) Exhibits filed as part of this Form 10-Q:

| | |
|---------|---|
| 10.1 | <u>Limited Waiver and Second Amendment to Credit and Security Agreement, dated as of February 20, 2020, by and among FreightCar America, Inc. and certain subsidiaries and BMO Harris Bank N.A.</u> |
| 10.2 | <u>Form of Cash Settled Stock Appreciation Right Award Agreement for the Company's employees</u> |
| 10.3 | <u>Form of Cash Settled Restricted Stock Unit Award Agreement for the Company's employees</u> |
| 31.1 | <u>Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u> |
| 31.2 | <u>Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u> |
| 32 | <u>Certification of Principal Executive Officer and Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u> |
| 101.INS | XBRL Instance Document |
| 101.SCH | XBRL Taxonomy Extension Schema Document |
| 101.CAL | XBRL Taxonomy Extension Calculation Linkbase Document |
| 101.DEF | XBRL Taxonomy Extension Definition Linkbase Document |
| 101.LAB | XBRL Taxonomy Extension Label Linkbase Document |
| 101.PRE | XBRL Taxonomy Extension Presentation Linkbase Document |

[Table of Contents](#)

SIGNATURES

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

Date: May 11, 2020

FREIGHTCAR AMERICA, INC.

By: /s/ JAMES R. MEYER
James R. Meyer, President and Chief Executive Officer (Principal Executive Officer)

By: /s/ CHRISTOPHER J. EPPEL
Christopher J. Eppel, Vice President, Finance, Chief Financial Officer and Treasurer (Principal Financial Officer)

Table of Contents

EXHIBIT INDEX

| <u>Exhibit Number</u> | <u>Description</u> |
|-----------------------|--|
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[\(Back To Top\)](#)

Section 2: EX-10.1 (EX-10.1)

Exhibit 10.1

LIMITED WAIVER AND SECOND AMENDMENT TO CREDIT AND SECURITY AGREEMENT

THIS LIMITED WAIVER AND SECOND AMENDMENT TO CREDIT AND SECURITY AGREEMENT, dated as of February 20, 2020 (this "**Agreement**"), is entered into among FREIGHTCAR AMERICA, INC., a Delaware corporation (the "**Company**"), JAC OPERATIONS, INC., a Delaware corporation ("**JAC**"), FREIGHT CAR SERVICES, INC., a Delaware corporation ("**FCS**"), JOHNSTOWN AMERICA, LLC, a Delaware limited liability company ("**Johnstown**"), FREIGHTCAR RAIL SERVICES, LLC, a Delaware limited liability company ("**F CRS**"), FREIGHTCAR ROANOKE, LLC, a Delaware limited liability company ("**Roanoke**"), FREIGHTCAR ALABAMA, LLC, a Delaware limited liability company ("**Alabama**") (each of the Company, JAC, FCS, Johnstown, FCRS, Roanoke, and Alabama, may be referred to herein individually, as a "**Borrower**" and collectively, as the "**Borrowers**"), FREIGHTCAR SHORT LINE, INC., a Delaware corporation ("**FCSL**") and FCAI HOLDINGS, LLC, a Delaware limited liability company ("**FCAI**" and with FCSL, the "**Guarantors**") (collectively, together with the Borrowers, the "**Loan Parties**") and BMO HARRIS BANK N.A., as Lender (in such capacity, together with its successors and assigns in such capacity, the "**Lender**").

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement (as defined below).

RECITALS

WHEREAS, the Loan Parties and the Lender are parties to that certain Credit and Security Agreement, dated as of April 12, 2019 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**");

WHEREAS, a Dominion Trigger Period is currently in effect pursuant to the definition thereof in Section 1.01 of the Credit Agreement pursuant to clause (ii) of such definition;

WHEREAS, pursuant to the terms of the Credit Agreement, such Dominion Trigger Period shall continue until the date that (i) no Event of Default has occurred and is continuing and not waived, (ii) Adjusted Excess Availability has been greater than or equal \$25,000,000 for thirty (30) consecutive days (the "**Availability Condition**") and (iii) the Outstanding Amount of Revolving Loans has been less than or equal to \$10,000,000 for thirty (30) consecutive days;

WHEREAS, the Loan Parties have requested and, subject to the terms and conditions set forth herein, the Lender has agreed to (i) waive the Availability Condition with respect to the Dominion Trigger Period in effect on the date hereof and (ii) amend the Credit Agreement as set forth herein;

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

AGREEMENT

1. Limited Waiver. Subject to satisfaction of the conditions precedent set forth in Section 3 hereof and solely with respect to the Dominion Trigger Period in effect as of the date hereof, the Lender hereby waives the Availability Condition and any obligations of the Loan Parties or any of their Subsidiaries that resulted solely from such Dominion Trigger Period. The waiver set forth in this Section 1 is effective solely for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (w) waive, release, modify or limit any Loan Party's obligations to otherwise comply with any other terms and conditions of the Credit Agreement and the other Loan Documents, (x) except as

expressly provided herein, be a consent to any amendment, waiver or modification of any term or condition of the Credit Agreement or of any other Loan Document, (y) waive any future Event of Default or (z) prejudice any right or rights that the Lender may have or may have in the future under or in connection with the Credit Agreement or any other Loan Document, except as expressly provided herein. For the avoidance of doubt, as a result of the foregoing waiver of the Availability Condition, no Dominion Trigger Period shall be deemed to be in effect as of the Second Amendment Effective Date.

2. Amendments to Credit Agreement.

(a) Section 1.01 of the Credit Agreement is hereby amended by adding the following new defined term to Section 1.01 of the Credit Agreement in the appropriate alphabetical order:

“Second Amendment Effective Date” means February 20, 2020.

(b) Section 1.01 of the Credit Agreement is hereby amended by deleting the definitions of “Adjusted Excess Availability” and “Borrowing Base” in their entirety and replacing them with the following, respectively:

“Adjusted Excess Availability” means, at any time of calculation, the sum of (a) Excess Availability plus (b) (x) for the period commencing on the Second Amendment Effective Date and continuing until the earlier of (1) March 31, 2020 and (2) the date of the first Borrowing following the Second Amendment Effective Date, Qualified Unrestricted Cash, and thereafter (y) the lesser of (1) Qualified Unrestricted Cash of the Borrowers and (2) \$12,500,000.

“Borrowing Base” means, at any time of calculation, an amount equal to:

(a) eighty-five percent (85%) of the Value of Eligible Accounts (less all cash received but not yet applied in respect of such Eligible Accounts); plus

(b) ninety percent (90%) of the Value of Eligible Accounts supported by credit insurance or letters of credit acceptable to the Lender (less all cash received but not yet applied in respect of such Eligible Accounts); plus

(c) up to the lesser of (i) eighty-five percent (85%) of the NOLV of Eligible Inventory, (ii) seventy-five percent (75%) of the Cost of Eligible Inventory and (iii) \$30,000,000; provided that Excess Availability under this clause (c) provided by work-in-process Inventory shall not contribute more than \$5,000,000 at any time; plus

(d) (x) for the period commencing on the Second Amendment Effective Date and continuing until March 31, 2020, the lesser of (i) 100% of Qualified Unrestricted Cash and (ii) \$4,000,000 and (y) thereafter, \$0; minus

(e) the amount of all Availability Reserves; minus

(f) the Specific Reserve.

The term “Borrowing Base” and the calculation thereof shall not include any assets or property acquired in an Acquisition or otherwise outside the Ordinary Course of Business unless (x) if so required by the Lender, the Lender has conducted Field Exams and appraisals reasonably required by it (with results reasonably satisfactory to the Lender) and (y) the Person owning such assets or property shall be a (directly or indirectly) wholly-owned Domestic Subsidiary of the Company and shall have become a Borrower.

(c) Section 8.03 of the Credit Agreement is hereby amended by deleting Section 8.03(1) in its entirety and replacing it with the following:

“(1) Investments in Designated Entities in an amount not to exceed \$6,000,000 in the aggregate to the extent made on or prior to March 31, 2020, so long as the JV Payment Conditions are satisfied with respect thereto.”

3. Effectiveness; Conditions Precedent. This Agreement shall be effective upon the satisfaction of the following conditions precedent (such date, the “*Second Amendment Effective Date*”):

(a) Receipt by the Lender of the executed counterparts of this Agreement executed by Loan Parties and the Lender.

(b) The representations and warranties contained in Article VI of the Credit Agreement and each other Loan Document, shall be true and correct in all material respects, except (i) to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, (ii) to the extent that such representations and warranties are qualified by materiality or Material Adverse Effect, in which case they shall be true and correct in all respects, and (iii) the representations and warranties contained in subsections (a) and (b) of Section 6.05 of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 7.01 of the Credit Agreement.

(c) Borrowers shall have paid all fees, charges and disbursements of counsel to the Lender (directly to such counsel if requested by the Lender) pursuant to the Credit Agreement to the extent invoiced at least one (1) Business Day prior to or on the date hereof.

4. Reaffirmation by Loan Parties.

(a) All the Loan Documents are hereby ratified, approved, reaffirmed and confirmed in all respects. Without limiting the foregoing, each of the Borrowers and the other Loan Parties, as debtors, grantors, pledgors, guarantors, assignors, or in other similar capacities in which such parties grant liens or security interests in their properties or otherwise act as accommodation parties or guarantors, as the case may be, under the Loan Documents, hereby ratifies and reaffirms all of its payment and performance obligations and obligations to indemnify, contingent or otherwise, under each of such Loan Documents to which such party is a party, and each such party hereby ratifies and reaffirms its grant of liens on or security interests in its properties pursuant to such Loan Documents to which it is a party as security for the Obligations under or with respect to the Credit Agreement, and confirms and agrees that such liens and security interests hereafter secure all of the Obligations, including, without limitation, all additional Obligations hereafter arising or incurred pursuant to or in connection with this Agreement, the Credit Agreement or any other Loan Document. The Borrowers and other Loan Parties each further agrees and reaffirms that the Loan Documents to which it is a party now apply to all Obligations as defined in the Credit Agreement, (including, without limitation, all additional Obligations hereafter arising or incurred pursuant to or in connection with this Agreement, the Credit Agreement or any other Loan Document). Each such party (i) further acknowledges receipt of a copy of this Agreement and all other agreements, documents, and instruments executed and/or delivered in connection herewith and (ii) consents to the terms and conditions of same.

(b) Neither the Borrowers nor any other Loan Party has any rights of offset, defenses, claims, counterclaims or challenges against the payment of any sums owing under the Loan Documents, or the enforcement of any of the terms or conditions thereof as of the date hereof. Each of the Borrowers and the other Loan Parties further agrees that, to the extent any such offset, defenses, claims, counterclaims or challenges against the payment of any sums owing under the Loan Documents, or the enforcement of any of the terms or conditions thereof of any kind exists as of the date hereof, each of the Borrowers and the other Loan Parties hereby waives and releases each and all of them in consideration for the Lender entering into this Agreement.

(c) Neither this Agreement nor any other agreement executed in connection herewith or pursuant to the terms hereof, nor any actions taken pursuant to this Agreement or such other agreement shall be deemed to waive or cure any Default or any other Events of Default which may now or hereafter exist under the Loan Documents (other than the waiver pursuant to Section 1 hereof) or of any rights or remedies in connection therewith or with respect thereto, it being the intention of the parties hereto that the obligations of Loan Parties under the Loan Documents are and shall remain in full force and effect.

5. No Waiver; Loan Documents.

(a) Other than the waiver pursuant to Section 1 hereof, nothing contained herein shall be deemed to constitute a waiver of compliance with any term or condition contained in the Credit Agreement or any of the other Loan Documents and shall not be deemed to prejudice any right or rights which the Lender may now have or may have in the future under or in connection with any Loan Documents or any of the instruments or agreements referred to therein, as the same may be amended from time to time.

(b) Except as expressly stated herein, the Lender reserves all rights, privileges and remedies under the Loan Documents, and the Credit Agreement and other Loan Documents remain unmodified and in full force and effect in accordance with their terms. This Agreement is a Loan Document, and, together with the other Loan Documents, incorporates all negotiations of the parties hereto with respect to the subject matter hereof and is the final expression and agreement of the parties hereto with respect to the subject matter hereof. This Agreement shall not be deemed or construed to be a satisfaction, reinstatement, novation or release of the Credit Agreement or any other Loan Document, nor, is it to be construed as a release, waiver or modification of any of the terms, conditions, representations, warranties or covenants set forth in the Loan Documents, except as expressly stated herein. Other than the waiver pursuant to Section 1 hereof, nothing contained in this Agreement shall constitute a waiver of any rights or remedies of the Lender under the Loan Documents, in equity or at law.

6. Representations and Warranties. Each Loan Party represents and warrants as follows:

(a) It has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of this Agreement.

(b) This Agreement has been duly executed and delivered by such Loan Party and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws relating to or affecting creditors' rights generally and general principles of equity (whether considered in a proceeding in equity or law).

(c) No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by such Loan Party of this Agreement, other than those that have been duly obtained or made and which are in full force and effect, or if not obtained or made, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(d) The execution and delivery of this Agreement does not (i) contravene the terms of its Organization Documents or (ii) violate any material applicable Law, except, with respect to the foregoing clause (ii), to the extent such contravention could not reasonably be expected to have a Material Adverse Effect.

(e) After giving effect to this Agreement (i) the representations and warranties set forth in Article VI of the Credit Agreement and in each other Loan Document, are true and correct in all material respects (except to the extent such representations and warranties are already qualified by materiality or Material Adverse Effect, which representations and warranties shall be true and correct in all respects) as of the date hereof, except to the extent such representations and warranties expressly relate solely to an earlier date, in which case they are true and correct in all material respects as of such earlier date and (ii), no Default or Event of Default exists as of the date hereof.

(f) After giving effect to this Agreement and the other transactions related thereto, Company and its Subsidiaries, on a consolidated basis, are Solvent.

(g) Since the Closing Date, (i) no new Loan Parties or Subsidiaries have been formed or acquired, other than FCAI and Designated Entities, (ii) the address of the principal place of business, the chief executive office and the location of books and records of each Loan Party has not changed, except as otherwise specified in writing to the Lender, and (iii) no Loan Party has changed its name or jurisdiction of organization.

7. Release. Each Loan Party hereby remises, releases, acquits, satisfies and forever discharges the Lender, its affiliates, agents, employees, officers, directors, members, shareholders, partners, predecessors, attorneys, other advisors and all other Persons acting or purporting to act on behalf of or at the direction of the Lender (the foregoing, collectively, the “**Releasees**”), of and from any and all manner of actions, causes of action, suit, debts, accounts, covenants, contracts, controversies, agreements, variances, damages, judgments, claims and demands whatsoever, in law or in equity, and whether known or unknown, in each case, which any of such parties ever had, now has or, to the extent arising from or in connection with any act, omission or state of facts relating to, or in connection with or arising out of the Loan Documents or the transactions contemplated thereby and taken or existing on or prior to the date hereof. Without limiting the generality of the foregoing, each Loan Party waives and affirmatively agrees not to allege or otherwise pursue any defenses, affirmative defenses, counterclaims, claims, causes of action, setoffs or other rights they do, shall or may have as of the date hereof relating to, or in connection with or arising out of the Loan Documents or the transactions contemplated thereby, including, but not limited to, the rights to contest: (a) the right of the Lender to exercise its rights and remedies described in this Agreement, the Credit Agreement or the other Loan Documents; (b) any provision of this Agreement, the Credit Agreement or the other Loan Documents; or (c) the conduct of the Lender or any other Releasees relating to, in connection with, or arising out of the Credit Agreement or any of the other Loan Documents on or prior to the date hereof.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Delivery of executed counterparts of this Agreement by facsimile or other secure electronic format (.pdf) shall be effective as an original.

9. Governing Law; Submission to Jurisdiction; Waiver of Jury Trial. The terms and provisions of Sections 10.13 (“Governing Law; Jurisdiction; Etc.”) and 10.14 (“Waivers of Jury Trial”) of the Credit Agreement are hereby incorporated herein by reference, mutatis mutandis, with the same force and effect as if fully set forth herein, and the parties hereto agree to such terms.

10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted by the Credit Agreement.

11. Headings. The headings of the sections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

12. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13. Loan Document. This Agreement constitutes a “Loan Document” under and defined in the Credit Agreement and is subject to the provisions therein regarding Loan Documents.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWERS:

FREIGHTCAR AMERICA, INC.

By: /s/ Chris Eppel
Name: Chris Eppel
Title: Chief Financial Officer

JAC OPERATIONS, INC.

By: /s/ Chris Eppel
Name: Chris Eppel
Title: Chief Financial Officer

FREIGHT CAR SERVICES, INC.

By: /s/ Chris Eppel
Name: Chris Eppel
Title: Chief Financial Officer

JOHNSTOWN AMERICA, LLC

By: /s/ Chris Eppel
Name: Chris Eppel
Title: Chief Financial Officer

FREIGHTCAR RAIL SERVICES, LLC

By: /s/ Chris Eppel
Name: Chris Eppel
Title: Chief Financial Officer

[Signature Page to Limited Waiver and Second Amendment to Credit and Security Agreement]

FREIGHTCAR ROANOKE, LLC

By: /s/ Chris Eppel

Name: Chris Eppel

Title: Chief Financial Officer

FREIGHTCAR ALABAMA, LLC

By: /s/ Chris Eppel

Name: Chris Eppel

GUARANTORS:

FREIGHTCAR SHORT LINE, INC.

By: /s/ Chris Eppel

Name: Chris Eppel

Title: Chief Financial Officer

FCAI HOLDINGS, LLC

By: /s/ Chris Eppel

Name: Chris Eppel

Title: Chief Financial Officer

[Signature Page to Limited Waiver and Second Amendment to Credit and Security Agreement]

LENDER:

BMO HARRIS BANK N.A., as Lender

By: /s/ Jason Hoefler

Name: Jason Hoefler

Title: Managing Director

[Signature Page to Limited Waiver and Second Amendment to Credit and Security Agreement]

[\(Back To Top\)](#)

Section 3: EX-10.2 (EX-10.2)

Exhibit 10.2 Form of Cash Settled Stock Appreciation Right Agreement for the Company's Employees

SHARE APPRECIATION RIGHTS AWARD AGREEMENT

THIS SHARE APPRECIATION RIGHTS AWARD AGREEMENT (this "Agreement") is made and entered into effective as of [date] (the "Date of Grant") by and between FreightCar America, Inc., a Delaware corporation (the "Company"), and [name] (the "Participant").

WHEREAS, the Participant has been designated by the Compensation Committee of the Board of Directors of the Company (the "Committee") to participate in the 2018 Long Term Incentive Plan (the "Plan") (capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Plan);

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and for other good and valuable consideration, the Company and the Participant agree as follows:

1. Grant. Pursuant to the Plan, all of the terms of which are incorporated herein by reference, unless otherwise provided herein, the Company hereby grants to the Participant, on the Date of Grant, [number] Share Appreciation Rights (the "SARs"). Each SAR entitles the Participant, upon the proper exercise of the SAR, and subject to the vesting restrictions of Section 4, to receive, upon exercise, a distribution in cash equal to the difference between the Fair Market Value of a Share on the Date of Grant (the "Grant Price") and the Fair Market Value of a Share on the Date of Exercise. In the event of a conflict between the Plan and this Agreement, the terms of the Plan shall govern. In addition, the SARs and any cash acquired upon exercise of the SARs are subject to the Company's compensation recoupment (or "clawback") policy as in effect from time to time or as required by applicable law, including any retroactive recoupment.

2. Grant Price. The Grant Price of each SAR shall be [state amount]¹, subject to adjustment as provided in Section 4(g) of the Plan, which is the Fair Market Value of a Share on the Date of Grant.

3. Term of SARs. The SARs may be exercised, subject to the recoupment, vesting, forfeiture, and Termination of Service provisions of Sections 1, 4, 5, and 6, only during the period commencing on the Date of Grant and continuing until the close of business on the tenth anniversary of the Date of Grant (the "SAR Period"). At the end of the SAR Period, the SARs shall terminate, unless sooner terminated or forfeited, as provided herein.

4. Vesting and Exercisability. The Participant's right to receive a distribution of cash under the SARs shall be exercisable only to the extent that the SARs have vested. Subject to Sections 6 and 9 below, the SARs shall vest and become exercisable pursuant to the following schedule (provided the Participant remains continuously employed by the Company until the applicable vesting date):

- (a) 34% of the SARs vest on the first anniversary of the Date of Grant;
- (b) an additional 33% of the SARs vest on the second anniversary of the Date of Grant; and
- (c) the final 33% of the SARs vest on the third anniversary of the Date of Grant.

If the Participant incurs a Termination of Service (i) due to his or her death, all of the SARs shall vest on the date of the Participant's death, or (ii) for any other reason, all

¹ **NTD:** This shall be determined based upon the average of the high/low share price on the Date of Grant, which may be [date].

of the SARs that have not vested will be forfeited on the effective date of such Termination of Service. Neither the Company nor any of its Subsidiaries or Affiliates will have any further obligations to the Participant under this Agreement upon forfeiture and cancellation of the SARs.

5. Restrictive Covenants.

(a) Covenant Not to Compete. The Participant agrees that, during employment with the Company and for a period of twelve (12) months after termination, the Participant shall not, without the prior written consent of the Company, accept employment with, join or become affiliated with any business entity anywhere in North America that is engaged in direct competition with any business of the Company on the date of the Participant's employment termination for which Participant worked or had responsibility during the Participant's employment.

(b) Covenant Not to Solicit Customers. The Participant agrees that, during employment with the Company and for a period of twelve (12) months after termination of employment with the Company, the Participant shall not, without the prior written consent of the Company, directly or indirectly solicit any current customer or prospective customer of the Company or any of its subsidiaries, with which the Participant had contact or knowledge of Confidential Information (as defined below) regarding during the last twelve (12) months of the Participant's employment.

(c) Covenant Not to Solicit Employees. The Participant agrees that, during employment with the Company and for a period of twenty-four (24) months after termination of employment with the Company, the Participant shall not, without the prior written consent of the Company, directly or indirectly solicit any current employee of the Company or any of its subsidiaries, or any individual who becomes an employee on or before the date of the Participant's termination of employment from the Company, to leave such employment.

(d) Covenant Not to Disclose or Use of Confidential Information. The Participant recognizes that the Participant will have access to confidential information, trade secrets, proprietary methods and other data which are the property of and integral to the operations and success of the Company ("Confidential Information") and therefore agrees to be bound by the provisions of this Section 5(d), which both the Company and the Participant agree and acknowledge to be reasonable and to be necessary to the Company. In recognition of this fact, the Participant agrees that the Participant will not disclose any Confidential Information (except (i) information which becomes publicly available without violation of this Agreement, (ii) information which the Participant did not know and should not have known was disclosed to the Participant in violation of any other person's confidentiality obligation and (iii) disclosure required in connection with any legal process (after giving the Company the opportunity to dispute such requirement)) to any person, firm, corporation, association or other entity, for any reason or purpose whatsoever, nor shall the Participant make use of any such information for the benefit of any person, firm, corporation or other entity except the Company. The Participant's obligation to keep all such information confidential shall be in effect during and for a period of twenty-four (24) months after the termination of the Participant's employment with the Company; provided, however, that the Participant will keep confidential and will not disclose any trade secret or similar information protected under law as intangible property (subject to the same exceptions set forth in the parenthetical clause above) for so long as such protection under law is extended. For the avoidance of doubt, this Section 5(d) does

not prohibit or restrict the Participant (or the Participant's attorney) from responding to any inquiry about this Agreement or its underlying facts and circumstances by the Securities and Exchange Commission, the Financial Industry Regulatory Authority, any other self-regulatory organization or governmental entity, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. The Participant understands and acknowledges that the Participant does not need the prior authorization of the Company to make any such reports or disclosures and that the Participant is not required to notify the Company that the Participant has made such reports or disclosures.

(e) Intellectual Property. For purposes of this Agreement, "Inventions" includes all improvements, inventions, designs, formulas, works of authorship, trade secrets, technology, computer programs, compositions, ideas, processes, techniques, know-how and data, whether or not patentable, made or conceived or reduced to practice or developed by the Participant, either alone or jointly with others, during the term of the Participant's employment, including during any period prior to the Date of Grant. Except as defined in this Agreement, all Inventions that the Participant makes, conceives, reduces to practice or develops (in whole or in part, either alone or jointly with others) during the Participant's employment will be the sole property of the Company to the maximum extent permitted by law. The Participant agrees to assign such Inventions and all rights in them to the Company. Exemptions from this agreement to assign may be authorized in those circumstances where the mission of the Company is better served by such action, provided that overriding obligations to other parties are met and such exemptions are not inconsistent with other Company policies. Further, the Participant may petition the Company for license to make, market or sell an Invention.

(f) Remedies. Participant acknowledges that monetary damages will not be an adequate remedy for the Company in the event of a breach of this Section 5, and that it would be impossible for the Company to measure damages in the event of such a breach. Therefore, Participant agrees that, in addition to other rights and remedies that the Company may have, the Company is entitled to an injunction preventing Participant from any breach of this Section 5, and Participant hereby waives any requirement that the Company post any bond in connection with any such injunction. Participant further agrees that injunctive relief is reasonable and necessary to protect a legitimate, protectable interest of the Company. In addition to the foregoing and any other penalties or restrictions that may apply under any employment agreement, state law, or otherwise, in the event of a breach of this Section 5, the Participant shall also forfeit all of the SARs granted under this Agreement, including SARs that have fully vested, and the Company shall have the right to recapture and seek repayment of any cash received upon the exercise of the SARs under this Agreement.

(h) Blue Pencil. If the final judgment of a court of competent jurisdiction determines that the covenants contained in this Section 5, or any part hereof, is invalid or unenforceable, the parties agree that (i) the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration, or geographic area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, (ii) the parties shall request that the court exercise that power, and (iii) this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment or decision may be appealed.

(i) Survival. The restrictive covenants and forfeiture provisions contained in this Section 5 shall survive the termination of Participant's employment.

6. Termination of Service.

(a) If, during the SAR Period, the Participant has a Termination of Service for Cause (as defined in the Plan), the SARs shall immediately terminate and be forfeited.

(b) If, during the SAR Period, the Participant experiences a Termination of Service by reason of the Company's termination of the Participant without Cause, Participant's termination of employment for Good Reason (other than a Qualifying Termination) or Participant's voluntary resignation, the SARs shall be exercisable only to the extent that they were exercisable on the date of the Participant's Termination of Service and shall terminate on the earlier of (i) ninety (90) calendar days following the date of the Participant's Termination of Service or (ii) the end of the SAR Period.

(c) If, during the SAR Period, the Participant experiences a Termination of Service by reason of the Participant's (i) Disability, (ii) retirement or (iii) Qualifying Termination, the SARs shall be exercisable only to the extent that they were exercisable on the date of the Participant's Termination of Service and shall terminate on the earlier of (i) one hundred and eighty (180) calendar days following the date of the Participant's Termination of Service or (ii) the end of the SAR Period.

(d) If, during the SAR Period, the Participant experiences a Termination of Service by reason of the Participant's death, the SARs shall be fully vested and exercisable on the date of the Participant's death and shall terminate on the earlier of (i) one hundred and eighty (180) calendar days following the date of the Participant's death, or (ii) the end of the SAR Period.

7. Exercise of SAR. In order to exercise the SARs, the Participant shall submit to the Secretary of the Company an instrument in writing specifying the number of SARs that are being exercised. The amount delivered to the Participant upon exercise of the SARs will be equal to the product of (a) the excess, if any, of the Fair Market Value of a Share on the Date of Exercise over the Grant Price, multiplied by (b) the number of SARs being exercised; provided, that the amount delivered to the Participant shall be subject to withholding as described in Section 13. Any amount due to the Participant upon exercise of the SARs will be paid in cash. The Participant shall not be entitled to any earnings on the value of the amount payable for the period between the Date of Exercise and the receipt of such payment.

8. Conditions. The Participant will not have any of the rights of a shareholder with respect to the SARs. Notwithstanding anything herein to the contrary, the SARs will not be exercisable in whole or in part, if exercise may, in the opinion of counsel for the Company, violate the Securities Act of 1933, as amended (or other federal or state statutes having similar requirements), as it may be in effect at that time, or cause the Company to violate the terms of the Plan.

9. Change of Control. In the event of a Change of Control, the terms of the Plan shall control.

10. Non-Transferable. The SARs may not be sold, assigned, transferred, exchanged, pledged, hypothecated or otherwise disposed of or encumbered, except by will or the laws of descent, as provided in Section 6(d) of the Plan.

11. No Obligation to Exercise. Neither the Participant nor any permissible transferee is or will be obligated by the grant of the SARs to exercise them.

12. References. References herein to rights and obligations of the Participant shall apply, where appropriate, to the Participant's legal representative or guardian without regard to whether specific reference to such legal representative or guardian is contained in a particular provision of this Agreement or the Plan.

13. Taxes. The Participant shall be responsible for all of Participant's taxes required to be paid under applicable tax laws with respect to the SARs. The Company or any Affiliate is authorized to withhold from any distribution of cash, or any payroll or other payment, to the Participant, amounts of withholding and other taxes due in connection with the SARs. The amount of the withholding shall not exceed the Company's maximum statutory withholding requirement.

14. Entire Agreement. This Agreement contains all the understandings between the parties hereto pertaining to the matters referred to herein, and supersedes all undertakings and agreements, whether oral or in writing, previously entered into by them with respect thereto. The Participant represents that, in executing this Agreement, the Participant does not rely and has not relied upon any representation or statement not set forth herein made by the Company with regard to the subject matter, bases or effect of this Agreement or otherwise.

15. Amendment or Modification, Waiver. The Committee may waive any conditions or rights under, amend any terms of, or amend, alter, suspend, discontinue or terminate, the SARs, prospectively or retrospectively; provided, however, that, without the consent of the Participant, no amendment, alteration, suspension, discontinuation or termination of the SARs may materially and adversely affect the rights of the Participant under the SARs. No waiver by any party hereto of any breach by another party hereto of any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of a similar or dissimilar condition or provision at the same time, any prior time or any subsequent time.

16. Notices. Any notice to be given hereunder shall be in writing and shall be deemed given hereunder when delivered personally, sent by courier or telecopy, or registered or certified mail, postage prepaid, return receipt requested, addressed to the party concerned at the address indicated below or to such other address as such party may subsequently give notice of hereunder in writing:

To the Participant at his or her last known address as shown on the records of the Company;

To the Company at:

FreightCar America, Inc.
125 South Wacker Drive
Suite 1500
Chicago, IL 60606
Attention: VP, General Counsel, Secretary & Human Resources

Any notice delivered personally or by courier under this Section 16 shall be deemed given on the date delivered and any notice sent by electronic means, telecopy or registered or certified mail, postage prepaid, return receipt requested, shall be deemed given on the date sent, telecopied, or mailed. The Company, in its sole discretion, may decide to deliver any documents related to current or future participation in the Plan or request Participant's consent to participate in the Plan by electronic means. Participant hereby consents to receive such documents by

electronic delivery and, if requested, agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company.

17. Severability. If any provision of this Agreement or the application of any such provision to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances other than those to which it is so determined to be invalid and unenforceable, shall not be affected thereby, and each provision hereof shall be validated and shall be enforced to the fullest extent permitted by law.

18. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws principles.

19. Jurisdiction and Venue. The Company and the Participant agree that the jurisdiction and venue for any disputes arising under, or any action brought to enforce, or otherwise relating to, this Agreement shall be exclusively in the courts in the State of Illinois, Cook County, including the Federal Courts located therein (should Federal jurisdiction exist), and the Company and the Participant hereby submit and consent to said jurisdiction and venue.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

21. No Right to Continued Employment or Service. Neither the Plan nor any action taken thereunder shall be construed as giving the Participant the right to be retained in the employ or service of the Company or any of its Subsidiaries or Affiliates, nor shall it interfere in any way with the right of the Company or any of its Subsidiaries or Affiliates to terminate the Participant’s employment or service at any time.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year set forth above.

FREIGHTCAR AMERICA, INC.

PARTICIPANT:

By: _____
Name: _____
Title: _____

Name: _____
Title: _____

[\(Back To Top\)](#)

Section 4: EX-10.3 (EX-10.3)

Exhibit 10.3 Form of Cash Settled Restricted Share Unit Award Agreement for the Company’s Employees

CASH-SETTLED RESTRICTED SHARE UNIT AWARD AGREEMENT

THIS RESTRICTED SHARE UNIT AWARD AGREEMENT (this “Agreement”) is made and entered into effective as of [date] (the “Date of Grant”), by and between FreightCar America, Inc., a Delaware corporation (the “Company”), and [name] (the “Participant”).

WHEREAS, the Participant has been designated by the Compensation Committee of the Board of Directors of the Company (the “Committee”) to participate in the 2018 Long Term Incentive Plan, (the “Plan”) (capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Plan);

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and for other good and valuable consideration, the Company and the Participant agree as follows:

1. Grant. Pursuant to the provisions of the Plan, all of the terms of which are incorporated herein by reference unless otherwise provided herein, the Company hereby grants to the Participant, on the Date of Grant, [number] Restricted Share Units (the “RSUs”). Each RSU is a notional amount that represents the right, subject to the vesting restrictions of Section 3 and the other terms and conditions of the Plan and this Agreement, to receive a cash payment equal to the Fair Market Value of a Share on the Vesting Date (as defined below) or such earlier vesting date as provided in this Agreement. In the event of a conflict between the Plan and this Agreement, the terms of the Plan shall govern. In addition, the RSUs and any cash distributed upon settlement of any vested RSUs are subject to the Company’s compensation recoupment (or “clawback”) policy as in effect from time to time.

2. No Rights as Shareholder; Dividend Equivalents. The Participant shall not have any of the rights of a shareholder with respect to the RSUs (including, without limitation, the right to vote the RSUs or to receive dividends and other distributions payable with respect to the Shares). If the Company declares a cash dividend on its Shares while the RSUs remain outstanding, then, on the payment date of such dividend, the Participant will be credited with Dividend Equivalents equal to the amount of cash dividend per Share, multiplied by the number of RSUs credited to the Participant through the record date for such dividend. The dollar amount credited to the Participant under the preceding sentence will be credited to an account (“Account”) established for the Participant for bookkeeping purposes only on the books of the Company. The balance in the Account will be subject to the same terms regarding vesting and forfeiture as the Participant’s RSUs awarded under this Agreement, and will be paid in cash in a single sum at the time that the RSUs are settled in cash (or forfeited at the time that the Participant’s RSUs are forfeited).

3. Vesting. Subject to Section 4, the Participant’s RSUs will become vested upon the following schedule (provided that the Participant remains continuously employed by the Company until the applicable vesting date):

- (a) All of the RSUs shall vest on the third anniversary of the Date of Grant (the "Vesting Date"); and
- (b) If the Participant incurs a Termination of Service due to his or her death, all of the RSUs shall vest on the date of the Participant's death.

In the event of a Change of Control, vesting of the RSUs shall be governed by the terms of the Plan. If the Participant has a Termination of Service before all of his or her RSUs have become

vested under this Agreement, the Participant's RSUs that have not become vested will be forfeited on as of the effective date of the Termination of Service. Neither the Company nor any Affiliate will have any further obligations to the Participant under this Agreement when the Participant's RSUs are forfeited.

4. Restrictive Covenants.

(a) Covenant Not to Compete. The Participant agrees that, during employment with the Company and for a period of twelve (12) months after termination, the Participant shall not, without the prior written consent of the Company, accept employment with, join or become affiliated with any business entity anywhere in North America that is engaged in direct competition with any business of the Company on the date of the Participant's employment termination for which Participant worked or had responsibility during the Participant's employment.

(b) Covenant Not to Solicit Customers. The Participant agrees that, during employment with the Company and for a period of twelve (12) months after termination of employment with the Company, the Participant shall not, without the prior written consent of the Company, directly or indirectly solicit any current customer or prospective customer of the Company or any of its subsidiaries, with which the Participant had contact or knowledge of Confidential Information regarding during the last twelve (12) months of the Participant's employment.

(c) Covenant Not to Solicit Employees. The Participant agrees that, during employment with the Company and for a period of twenty-four (24) months after termination of employment with the Company, the Participant shall not, without the prior written consent of the Company, directly or indirectly solicit any current employee of the Company or any of its subsidiaries, or any individual who becomes an employee on or before the date of the Participant's termination of employment from the Company, to leave such employment.

(d) Covenant Not to Disclose or Use of Confidential Information. The Participant recognizes that the Participant will have access to confidential information, trade secrets, proprietary methods and other data which are the property of and integral to the operations and success of the Company ("Confidential Information") and therefore agrees to be bound by the provisions of this Section 4(d), which both the Company and the Participant agree and acknowledge to be reasonable and to be necessary to the Company. In recognition of this fact, the Participant agrees that the Participant will not disclose any Confidential Information (except (i) information which becomes publicly available without violation of this Agreement, (ii) information which the Participant did not know and should not have known was disclosed to the Participant in violation of any other person's confidentiality obligation and (iii) disclosure required in connection with any legal process (after giving the Company the opportunity to dispute such requirement)) to any person, firm, corporation, association or other entity, for any reason or purpose whatsoever, nor shall the Participant make use of any such information for the benefit of any person, firm, corporation or other entity except the Company. The Participant's obligation to keep all such information confidential shall be in effect during and for a period of twenty-four (24) months after the termination of the Participant's employment with the Company; provided, however, that the Participant will keep confidential and will not disclose any trade secret or similar information protected under law as intangible property (subject to the same exceptions set forth in the parenthetical clause above) for so long as such protection under law is

extended. For the avoidance of doubt, this Section 4(d) does not prohibit or restrict the Participant (or the Participant's attorney) from responding to any inquiry about this Agreement or its underlying facts and circumstances by the Securities and Exchange Commission, the Financial Industry Regulatory Authority, any other self-regulatory organization or governmental entity, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. The Participant understands and acknowledges that the Participant does not need the prior authorization of the Company to make any such reports or disclosures and that the Participant is not required to notify the Company that the Participant has made such reports or disclosures.

(e) Intellectual Property. For purposes of this Agreement, "Inventions" includes all improvements, inventions, designs, formulas, works of authorship, trade secrets, technology, computer programs, compositions, ideas, processes, techniques, know-how and data, whether or not patentable, made or conceived or reduced to practice or developed by the Participant, either alone or jointly with others, during the term of the Participant's employment, including during any period prior to the Date of Grant. Except as defined in this Agreement, all Inventions that the Participant makes, conceives, reduces to practice or develops (in whole or in part, either alone or jointly with others) during the Participant's employment will be the sole property of the Company to the maximum extent permitted by law. The Participant agrees to assign such Inventions and all rights in them to the Company. Exemptions from this agreement to assign may be authorized in those circumstances where the mission of the Company is better served by such action, provided that overriding obligations to other parties are met and such exemptions are not inconsistent with other Company policies. Further, the Participant may petition the Company for license to make, market or sell an Invention.

(f) Remedies. Participant acknowledges that monetary damages will not be an adequate remedy for the Company in the event of a breach of this Section 4, and that it would be impossible for the Company to measure damages in the event of such a breach. Therefore, Participant agrees that, in addition to other rights and remedies that the Company may have, the Company is entitled to an injunction preventing Participant from any breach of this Section 4, and Participant hereby waives any requirement that the Company post any bond in connection with any such injunction. Participant further agrees that injunctive relief is reasonable and necessary to protect a legitimate, protectable interest of the Company. In addition to the foregoing and any other penalties or restrictions that may apply under any employment agreement, state law, or otherwise, in the event of a breach of this Section 4, the Participant shall also forfeit all of the RSUs granted under this Agreement, including RSUs that have fully vested, and the Company shall have the right to recapture and seek repayment of any cash received upon the vesting and settlement of the RSUs under this Agreement.

(g) Blue Pencil. If the final judgment of a court of competent jurisdiction declares that any term or provision of this Section 4 is invalid or unenforceable, the parties agree that (i) the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration, or geographic area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, (ii) the parties shall request that the court exercise that power, and (iii) this Agreement shall be enforceable as so modified after the expiration of the time within which the judgment or decision may be appealed.

(h) Survival. The restrictive covenants and forfeiture provisions contained in this Section 4 shall survive the termination of Participant's employment.

5. Timing and Form of Payment. Once the RSUs vest, the Participant will be entitled to receive an amount, in cash, equal to the product of (a) the Fair Market Value of a Share on the Vesting Date or such earlier vesting date as provided in this Agreement, and (b) the number of RSUs that have vested; provided, that the amount delivered to the Participant shall be subject to withholding as described in Section 9.

6. Conditions. Notwithstanding anything herein to the contrary, no cash will be payable upon vesting of the RSUs if such payment may, in the opinion of counsel for the Company, violate the Securities Act of 1933, as amended (or other federal or state statutes having similar requirements), as it may be in effect at that time or the requirements of any stock exchange on which the Shares may be listed at the time of such payment, or cause the Company to violate the terms of the Plan.

7. Non-Transferable. The RSUs may not be sold, assigned, transferred, exchanged, pledged, hypothecated or otherwise disposed of or encumbered, except by will or the laws of descent, as provided in Section 6(d) of the Plan.

8. References. References herein to rights and obligations of the Participant shall apply, where appropriate, to the Participant's legal representative or guardian without regard to whether specific reference to such legal representative or guardian is contained in a particular provision of this Agreement or the Plan.

9. Taxes. The Participant shall be responsible for all taxes required to be paid under applicable tax laws with respect to the RSUs. The Company or any Affiliate is authorized to withhold from any distribution of cash, or any payroll or other payment, to the Participant, amounts of withholding and other taxes due in connection with the RSUs. The amount of the withholding shall not exceed the employer's minimum statutory withholding requirement.

10. Entire Agreement. This Agreement contains all the understandings between the parties hereto pertaining to the matters referred to herein, and supersedes all undertakings and agreements, whether oral or in writing, previously entered into by them with respect thereto. The Participant represents that, in executing this Agreement, the Participant does not rely and has not relied upon any representation or statement not set forth herein made by the Company with regard to the subject matter, bases or effect of this Agreement or otherwise.

11. Amendment or Modification, Waiver. The Compensation Committee of the Company's Board of Directors may waive any conditions or rights under, amend any terms of, or amend, alter, suspend, discontinue or terminate, the RSUs, prospectively or retrospectively; provided, however, that, without the consent of the Participant, no amendment, alteration, suspension, discontinuation or termination of the RSUs may materially and adversely affect the rights of the Participant under the RSUs. No waiver by any party hereto of any breach by another party hereto of any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of a similar or dissimilar condition or provision at the same time, any prior time or any subsequent time.

12. Notices. Any notice to be given hereunder shall be in writing and shall be

deemed given hereunder when delivered personally, sent by courier or telecopy or registered or certified mail, postage prepaid, return receipt requested, addressed to the party concerned at the address indicated below or to such other address as such party may subsequently give notice of hereunder in writing:

To the Participant at his last known address as shown on the records of the Company;

To the Company at:

FreightCar America, Inc.
125 South Wacker Drive
Suite 1500
Chicago, IL 60606
Attention: VP, General Counsel, Secretary & Human Resources

Any notice delivered personally or by courier under this Section 12 shall be deemed given on the date delivered and any notice sent by telecopy or registered or certified mail, postage prepaid, return receipt requested, shall be deemed given on the date telecopied or mailed. The Company, in its sole discretion, may decide to deliver any documents related to current or future participation in the Plan or request Participant's consent to participate in the Plan by electronic means. Participant hereby consents to receive such documents by electronic delivery and, if requested, agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company.

13. Severability. If any provision of this Agreement or the application of any such provision to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances other than those to which it is so determined to be invalid and unenforceable, shall not be affected thereby, and each provision hereof shall be validated and shall be enforced to the fullest extent permitted by law.

14. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws principles.

15. Jurisdiction and Venue. The Company and the Participant agree that the jurisdiction and venue for any disputes arising under, or any action brought to enforce, or otherwise relating to, this Agreement shall be exclusively in the courts in the State of Illinois, Cook County, including the Federal Courts located therein (should Federal jurisdiction exist), and the Company and the Participant hereby submit and consent to said jurisdiction and venue.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. No Right to Continued Employment or Service. Neither the Plan nor any action taken thereunder shall be construed as giving the Participant the right to be retained in the employ or service of the Company or any of its Subsidiaries or Affiliates, nor shall it interfere in any way with the right of the Company or any of its Subsidiaries or Affiliates to terminate the Participant's employment or service at any time.

Chief Financial Officer and Treasurer
(Principal Financial Officer)

A signed copy of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

[\(Back To Top\)](#)