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

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No.)

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

- ☐ Preliminary Proxy Statement
☐ Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
☒ Definitive Proxy Statement
☐ Definitive Additional Materials
☐ Soliciting Material Pursuant to §240.14a-12

FREIGHTCAR AMERICA, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check all boxes that apply):

- ☒ No fee required
☐ Fee paid previously with preliminary materials
☐ Fee computed on table in exhibit required by Item 25(b) per Exchange Act Rules 14a-6(i)(1) and 0-11
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FREIGHTCAR AMERICA, INC.
125 South Wacker Drive, Suite 1500
Chicago, Illinois 60606

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
To be held on May 14, 2024

April 4, 2024

Dear FreightCar America Stockholder:

We are notifying you that the Annual Meeting of Stockholders of FreightCar America, Inc. will be held at 10:00 a.m. (Central Time) on May 14, 2024 (the "Annual Meeting"). The Annual Meeting will be held in virtual format only, via live webcast on the Internet, with no physical, in-person meeting. You will be able to attend and participate in the Annual Meeting online by visiting www.meetnow.global/MRLY49Q where you will be able to listen to the meeting live, submit questions and vote. We recommend that you log in a few minutes before the meeting to ensure that you are logged in when the meeting starts. The Annual Meeting is being held for the purposes set forth below and such other business as may properly come before the meeting or any adjournment thereof.

1. To elect three directors as Class I directors, each for a term of three years, and one director as a Class III director for the two years remaining in the current Class III director term.
2. To hold an advisory vote to approve the compensation of our Named Executive Officers as named in the enclosed proxy statement.
3. To ratify the appointment of Grant Thornton LLP as our independent registered public accounting firm for fiscal year 2024.
4. To approve an increase in the shares authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan.

On or about April 4, 2024, we will make available to our stockholders copies of the enclosed proxy statement and Annual Report on Form 10-K for the year ended December 31, 2023. Stockholders should review all proxy materials before voting. Only stockholders of record at the close of business on March 20, 2024 are entitled to vote at the Annual Meeting and any postponements or adjournments of the meeting. A complete list of these stockholders will be available at our principal executive offices prior to the Annual Meeting. Each of the matters listed above is described in further detail in the enclosed proxy statement.

Whether or not you plan to attend the Annual Meeting, please be sure to vote your shares in accordance with the instructions on the enclosed proxy card as promptly as possible. You can withdraw your proxy at any time before it is voted.

By order of the Board of Directors,

/s/ Celia R. Perez

CELIA R. PEREZ

VP, General Counsel & Corporate Secretary

Important Notice Regarding Availability of Proxy Materials for the Annual Meeting on May 14, 2024:

FreightCar America, Inc.'s Notice of Annual Meeting of Stockholders, Proxy Statement and Annual Report on Form 10-K for the fiscal year ended December 31, 2023 are available at <https://www.investorvote.com/RAIL>.

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FREIGHTCAR AMERICA, INC.
125 South Wacker Drive, Suite 1500
Chicago, Illinois 60606

PROXY STATEMENT

The board of directors (the “Board”) of FreightCar America, Inc. (“FreightCar America” or the “Company”) is asking for your proxy for use at the annual meeting of our stockholders to be held in virtual format at 10:00 a.m. (Central Time) on May 14, 2024 at www.meetnow.global/MRLY49Q (the “Annual Meeting”). The Annual Meeting will be held in virtual format only, via live webcast on the Internet, with no physical, in-person meeting. Please allow ample time to check-in prior to the Annual Meeting start time. We are initially mailing a Notice of Internet Availability and making available this proxy statement (the “Proxy Statement”) together with a proxy card (the “Proxy Card”) to our stockholders on or about April 4, 2023.

ABOUT THE MEETING

What is the purpose of the Annual Meeting?

At the Annual Meeting, stockholders will act upon the matters outlined in the accompanying notice of annual meeting, and such other business as may properly come before the meeting, including (i) the election of three directors who have been nominated for election as Class I directors, each for a three-year term, and one director who has been nominated for election as a Class III director for the two years remaining in the current Class III director term, (ii) the approval, on an advisory basis, of the compensation of our Named Executive Officers (“NEOs”), (iii) the ratification of the appointment of our independent registered public accounting firm for fiscal year 2024, and (iv) the approval of an increase in the shares authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan.

What are our voting recommendations?

Our Board recommends that you vote your shares:

“**FOR**” the nominees named below under “Proposal 1 – Election of Class I Directors and Class III Director,”

“**FOR**” the approval, on an advisory basis, of the compensation of our NEOs under “Proposal 2 – Approval, on an Advisory Basis, of the Compensation of our Named Executive Officers,”

“**FOR**” the ratification of the appointment of Grant Thornton LLP as our independent registered public accounting firm for fiscal year 2024 under “Proposal 3 – Ratification of the Appointment of Independent Registered Public Accounting Firm for fiscal year 2024,” and

“**FOR**” the approval of an increase in the shares authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan under “Proposal 4 – Approval of Increase in Shares Authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan.”

Who is entitled to vote?

Only stockholders of record at the close of business on the record date, March 20, 2024 (the “Record Date”), are entitled to receive notice of the Annual Meeting and to vote the shares of common stock that they held on the Record Date at the Annual Meeting and any postponements or adjournments of the Annual Meeting. Each outstanding share of common stock entitles its holder to cast one vote, without cumulation, on each matter to be voted on.

What constitutes a quorum?

If a majority of the shares outstanding on the Record Date are present at the Annual Meeting, either in person or by proxy, we will have a quorum at the meeting permitting the conduct of business at the meeting. As of the Record Date, we had 18,345,488 shares of common stock outstanding and entitled to vote. Any shares represented by proxies that abstain from voting on a proposal will be counted as present for purposes of determining whether we have a quorum. If a broker, bank, custodian, nominee or other record holder of our common stock indicates on a proxy that it does not have discretionary authority to vote certain shares on a particular matter, the shares held by that record holder (referred to as “broker non-votes”) will also be counted as present in determining whether we have a quorum.

How do I vote?

If you are a stockholder of record, there are four ways to vote:

1. *Via the Internet (at the Annual Meeting):* You may vote via the Internet at the Annual Meeting by attending the live meeting at www.meetnow.global/MRLY49Q and entering the 15-digit control number included on the Proxy Card or voting instruction form distributed to you. Those without a control number may attend the Annual Meeting as *guests* by logging into the same virtual meeting platform and following the instructions. However, stockholders attending as guests will **not** be able to vote.
2. *Via the Internet (prior to the Annual Meeting):* You may vote by proxy via the Internet prior to the Annual Meeting by visiting <https://www.investorvote.com/RAIL> and entering your 15-digit control number, which is printed on the Notice of Internet Availability or Proxy Card mailed to you.
3. *By Telephone:* You may vote by proxy by calling the toll-free number found on the Notice of Internet Availability or Proxy Card. To vote by telephone, you will need the control number included on the Notice of Internet Availability or Proxy Card.
4. *By Mail:* You may vote by proxy by filling out the Proxy Card, if you have received one, and returning it in the envelope provided, if you have received a paper copy of the proxy materials.

You may vote by proxy by following the instructions for voting by telephone or on the Internet on your Notice of Internet Availability or proxy card or completing, signing, dating and mailing the proxy card, if you have received one. To vote by telephone or on the Internet, as applicable, you will need the control number included on your Notice of Internet Availability or proxy card. If you vote by proxy, the individuals named on the proxy card as proxy holders will vote your shares in the manner you indicate. If you do not indicate your instructions, your shares will be voted:

- “**FOR**” the election of the nominees named below under “Proposal 1 – Election of Class I Directors and Class III Director;”
- “**FOR**” the approval, on an advisory basis, of the compensation of our NEOs under “Proposal 2 – Approval, on an Advisory Basis, of the Compensation of our Named Executive Officers;”
- “**FOR**” the ratification of the appointment of Grant Thornton LLP as our independent registered public accounting firm for fiscal year 2023 under “Proposal 3 – Ratification of the Appointment of Independent Registered Public Accounting Firm;” and
- “**FOR**” the approval of an increase in the shares authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan under “Proposal 4 – Approval of Increase in Shares Authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan.”

If you have any questions or need assistance in voting your shares, please contact our proxy solicitor, Okapi Partners LLC, toll-free at (877) 869-0171.

Can I revoke my proxy or change my vote after I return my proxy card?

Yes. Even after you have submitted your proxy, you may revoke your proxy or change your vote at any time before the proxy is voted at the Annual Meeting by delivering to our General Counsel and Corporate Secretary a written notice of revocation or a properly submitted proxy bearing a later date, or by attending the Annual Meeting and voting virtually. Attendance at the Annual Meeting will not cause your previously granted proxy to be revoked unless you specifically so request or you vote in person at the Annual Meeting.

What vote is required to approve each matter that comes before the Annual Meeting?

Director nominees must receive the affirmative vote of a plurality of the votes of the shares present in person (virtually) at the Annual Meeting or represented by proxy and entitled to vote at the Annual Meeting, meaning that the three nominees for Class I directors and the nominee for Class III director with the most votes “for” will be elected. Each of the approval of the compensation of our NEOs (on an advisory basis), the ratification of the appointment of our independent registered public accounting firm for fiscal year 2024, and the approval of an increase in the authorized shares under the FreightCar America, Inc. 2022 Long Term Incentive Plan for general use requires the affirmative vote of a majority of the votes of the shares present in person (virtually) or represented by proxy and entitled to vote at the Annual Meeting. Broker non-votes will not be counted for purposes of determining whether an item has received the requisite number of votes for approval. Abstentions will have the effect of a vote against the approval, on an advisory basis, of the compensation of our NEOs, the ratification of the appointment of our independent registered public accounting firm for fiscal year 2024, and the approval of an increase in the shares authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan for general use, but will not be taken into account in determining the outcome of the election of directors. Withheld votes will have the effect of a vote against the election of the nominees for director. Each of our directors and director candidates has offered a contingent resignation that may be accepted by the Board in its discretion if a majority of the votes are not cast “FOR” such director in an uncontested election.

How are proxy materials being made available to me?

Our proxy materials are available to stockholders on the Internet. This Proxy Statement and form of proxy, together with our Annual Report on Form 10-K (the “Annual Report”), are being made available to stockholders beginning approximately April 4, 2024. The Annual Report, which has been posted along with this Proxy Statement, is not a part of the proxy solicitation materials, nor are any documents referenced herein which are available on the Company’s website. Upon receipt of a written request, the Company will furnish to any stockholder, without charge, a copy of such Annual Report (without exhibits). Upon request and payment of \$0.10 (ten cents) per page, copies of any exhibit to such Annual Report will also be provided. Any such request should be directed to the Company’s Secretary at 125 South Wacker Drive, Suite 1500, Chicago, Illinois 60606 or (800) 458-2235. These documents are also included in our filings with the Securities and Exchange Commission (“SEC”), which you can access electronically at the SEC’s website at www.sec.gov.

How can I access the proxy materials?

You may access the proxy materials on the Internet. We encourage you to review the proxy materials and to vote via the Internet by following the link to the Proxy Statement and Annual Report, which are both available at <https://www.investorvote.com/RAIL>. This Proxy Statement and the Annual Report are also available on the Company’s website at www.freightcaramerica.com.

What happens if additional proposals are presented at the Annual Meeting?

If you vote by proxy, your proxy grants the persons named as proxy holders the discretion to vote your shares on any additional matters properly presented for a vote at the Annual Meeting.

Who will bear the costs of soliciting votes for the Annual Meeting?

Certain directors, officers and employees, who will not receive any additional compensation for such activities, may solicit proxies by personal interview, mail, telephone or electronic communication. We will also reimburse brokerage houses and other custodians, nominees and fiduciaries for their reasonable out-of-pocket expenses for forwarding proxy and solicitation materials to our stockholders. We will bear all costs of solicitation, including a base fee of \$10,500 and reasonable out-of-pocket expenses to be paid to the proxy solicitation firm of Okapi Partners LLC.

PROPOSALS TO BE VOTED ON

Proposal 1 – Election of Class I Directors and Class III Director

Our Certificate of Incorporation (“Charter”) provides for a classified Board consisting of three classes of the same or nearly the same number of directors. The term of office of each current Class I director is scheduled to expire at our Annual Meeting. Currently, three of our directors, Malcolm F. Moore, José De Nigris Felán and Travis D. Kelly, are Class I directors. At the recommendation of our Nominating and Corporate Governance Committee, our Board has determined to nominate Messrs. Moore, De Nigris Felán and Kelly for election to three-year terms as Class I directors at our Annual Meeting this year. Each nominee elected by our stockholders as a Class I director at the Annual Meeting will be elected to a term to expire at the annual meeting of stockholders in 2027. Mr. Kelly is nominated pursuant to a contractual arrangement. Information about this contractual arrangement is included in the section of this Proxy Statement entitled “Governance of the Company – Board Structure and Composition.”

Effective May 1, 2024, our Board appointed Nicholas J. Randall to the Board as a Class III director and to serve until our Annual Meeting. At the recommendation of our Nominating and Corporate Governance Committee, our Board has determined to nominate Mr. Randall for election at our Annual Meeting as a Class III director to serve the two remaining years of the three-year term of our Class III directors, which term expires at our 2026 annual meeting of stockholders.

Information about the director nominees, the continuing directors and our Board is contained in the section of this Proxy Statement entitled “Governance of the Company – Board Structure and Composition.”

In the event a nominee is not available to serve for any reason when the election occurs, it is intended that the proxies will be voted for the election of the other nominees and may be voted for any substitute nominee. Our Board has no reason to believe that any of the nominees will not be a candidate or, if elected, will be unable or unwilling to serve as a director.

Our Board recommends that you vote “FOR” the election of Malcolm F. Moore, José De Nigris Felán and Travis D. Kelly as Class I directors and Nicholas J. Randall as a Class III director.

Proposal 2 – Approval, on an Advisory Basis, of the Compensation of our Named Executive Officers

We are asking our stockholders to indicate their support for the compensation of our NEOs as described in this Proxy Statement and as required under the proxy rules. This annual proposal, commonly known as a Say-on-Pay proposal, gives our stockholders the opportunity to express their views on the compensation of our NEOs.

We believe that our executive compensation programs must be closely linked to our stockholders’ interests, and we welcome our stockholders’ input in this area. Our compensation programs are designed to attract, motivate and retain the individuals we need to drive business success. We believe that our executives should act in the long-term interests of our stockholders, and therefore, we pay a significant portion of total compensation to our executives in the form of long-term performance-based equity compensation. Our compensation programs also are closely tied to performance, with incentive compensation varying in accordance with objectively determinable Company performance measures. The Company follows best practices in the design and governance of our compensation programs, including, but not limited to the following that are implemented and enforced, with oversight from the Compensation Committee of our Board:

- a clawback policy, applicable to officers;
- an anti-hedging policy, applicable to officers and directors;
- stock ownership guidelines, applicable to officers and directors⁽¹⁾;
- equity incentive plans expressly prohibiting repricing or exchanging awards;
- no payment of tax gross-ups for change in control payments under Section 280G of the Internal Revenue Code of 1986, as amended (the “Code”);
- no perquisites for former or retired executives; and
- no payments for terminations for cause or resignations other than for good reason.

(1) As of December 31, 2023, all officers and directors met the Company’s minimum stock ownership requirements or were in the transition period to comply with such guidelines.

You are invited to review the accompanying summary compensation table and the related narrative disclosure and to vote to approve, on an advisory basis, the compensation of our NEOs through the adoption of the following resolution at the Annual Meeting:

“Resolved, that the compensation paid to the Company’s Named Executive Officers, as disclosed pursuant to Item 402 of Regulation S-K, including the summary compensation table and narrative discussion, is hereby approved.”

This vote is nonbinding. The Board and the Compensation Committee, which is comprised of independent directors, will consider the outcome of the vote when evaluating future executive compensation decisions.

Our Board recommends that you vote “FOR” the approval, on an advisory basis, of the compensation of our NEOs.

Proposal 3 – Ratification of the Appointment of Independent Registered Public Accounting Firm for Fiscal Year 2024

The Audit Committee has selected Grant Thornton LLP as the Company’s independent registered public accounting firm for fiscal year 2024, and the Board recommends ratification of such selection by the stockholders. The Audit Committee is directly responsible for the selection, evaluation, compensation (including negotiation of fees), retention and oversight of the Company’s independent registered public accounting firm. To assure the continued independence of the firm, the Audit Committee periodically considers whether there should be rotation of the independent registered public accounting firm. Representatives of Grant Thornton LLP are not expected to be present at the Annual Meeting.

We are submitting the appointment of Grant Thornton LLP to our stockholders for ratification as a matter of good corporate practice, although it is not required by our Third Amended and Restated By-laws (our “Bylaws”) or otherwise. If our stockholders fail to ratify the appointment, our Audit Committee will review its selection of independent registered public accounting firms. Even if the appointment is ratified, the Audit Committee, in its discretion, may direct the appointment of a different independent registered public accounting firm at any time during the year if it determines that such a change would be in the best interests of the Company and our stockholders.

For information regarding audit and other fees billed by Grant Thornton LLP for services rendered with respect to fiscal years 2023 and 2022, respectively, see the section of this Proxy Statement entitled “Fees of Independent Registered Public Accounting Firm and Audit Committee Report—Fees Billed by Independent Registered Public Accounting Firm.”

Our Board recommends that you vote “FOR” the ratification of the appointment of Grant Thornton LLP as our independent registered public accounting firm for fiscal year 2024.

Introduction

We are asking stockholders to approve an increase in the number of shares authorized for issuance under the FreightCar America, Inc. 2022 Long Term Incentive Plan, as amended to date (the “2022 LTIP”) for general use. At the recommendation of our Compensation Committee, our Board approved an increase in authorized shares under the 2022 LTIP on March 14, 2024, subject to the required approval of our stockholders at our Annual Meeting. If our stockholders approve the proposed increase, it will become effective on May 14, 2024. Our Board believes that it is advisable to approve the proposed increase to continue to give the Company ongoing flexibility to attract, retain and reward talent to lead our Company.

Pursuant to this Proposal 4, in the form of the amendment included in this Proxy Statement as Appendix A, the Board proposes to amend the 2022 LTIP to increase the number of shares of common stock authorized for issuance under the 2022 LTIP by 3,000,000 from (i) 4,796,901, which includes 354,788 shares under the Corporation’s 2018 Long Term Incentive Plan, as amended and restated (the “2018 LTIP”), and the 2005 Long Term Incentive Plan, as amended and restated (the “2005 LTIP” and, together with the 2018 LTIP, the “Prior LTIPs”) that remained available for grant as of May 12, 2022, plus (ii) any shares remaining for grant under the Prior LTIPs subject to awards that, after May 12, 2022, were or are forfeited, terminated, lapsed or satisfied thereunder in cash or property other than shares. If approved, the number of shares of common stock authorized for issuance under the 2022 LTIP would increase, to (i) 7,796,901 shares, which includes the 354,788 shares carried over from the Prior LTIPs that remained available for grant as of May 12, 2022, plus (ii) any shares remaining for grant under the Prior LTIPs subject to awards that, after May 12, 2022, were or are forfeited, terminated, lapsed or satisfied thereunder in cash or property other than shares (the “General Increase”).

Purpose of the General Increase

The purpose of the General Increase would be to permit the Company to continue the operation of the 2022 LTIP for the benefit of new participants, as well as to allow additional awards to current participants. Participants under the 2022 LTIP may include employees, consultants and directors of the Company, a subsidiary, or affiliates. At the closing stock price on the Record Date, we anticipate that the new shares requested would be sufficient to cover two years of our annual equity grants at currently expected rates to the currently eligible population.

Run Rate and Dilution

As of the Record Date, approximately 521,491 shares of common stock remained available for issuance of future awards under the 2022 LTIP. As of the Record Date, 1,174,877 full value awards and 3,965,555 stock options and stock appreciation rights were outstanding under the 2022 LTIP. As of the Record Date, the average weighted per share exercise price of all outstanding stock options was \$2.95 and the weighted average remaining contractual term was 6.82 years. Based on past trends and current expectations for possible future awards, the Company is recommending that an additional 3,000,000 shares of common stock be made available for issuance under the 2022 LTIP, resulting in a total of 7,796,901 available if the General Increase is approved by stockholders (with approximately 3,521,491 shares being available for grant upon shareholder approval of this amendment). The Company anticipates these shares will be sufficient to cover equity awards for approximately the next two years. Despite this estimate, the duration of the share reserve may be shorter or longer depending on various factors such as stock price, aggregate equity needs, and equity award type mix. On the Record Date, the closing price per share of the Company’s common stock on the Nasdaq Global Market (“Nasdaq”) was \$3.70.

Common measures for the use of stock incentive plans include the run rate and the overhang rate. The run rate measures the annual dilution from equity awards granted during a particular year. The Company calculates this based on all options and restricted share awards granted under the 2022 LTIP, together with any awards remaining outstanding under our Prior LTIPs in a given year as a percent of the weighted average shares of common stock outstanding in that year. The Company’s run rates for 2021, 2022 and 2023 were approximately 3.96%, 3.63%, and 4.43%, respectively, with a three-year average of 4.00%. After discussing with Meridian Compensation Partners, LLC, our compensation consultant beginning in October 2023 (“Meridian”), and reviewing the grant practices of comparator

companies, the Company believes these are reasonable levels. The run rate may increase in future years as the number of Company employees who are eligible to receive equity awards grows, and if the Company continues to have equity awards as an important component of compensation for executives and other key employees to better align their interests with the interests of stockholders.

The overhang rate is a measure of potential dilution to stockholders. The Company calculates this based on all unissued shares available for grant under the 2022 LTIP plus outstanding options and restricted shares under the 2022 LTIP and the Prior LTIPs as a percentage of the total number of shares of common stock outstanding. As of the Record Date, the Company's overhang rate was approximately 32.50%. After discussing with Meridian and reviewing the grant practices of comparator companies, the Company believes this is a reasonable level and provides the Company with the appropriate flexibility to ensure meaningful equity awards in future years to executives and other key employees to better align their interests with the interests of stockholders.

Governance Highlights and Best Practices of the 2022 LTIP

The 2022 LTIP incorporates certain compensation governance provisions that reflect best and prevalent practices. These include:

- Minimum vesting period of one year from the date of grant for all awards under the 2022 LTIP, subject to certain limited exceptions (including an exception for up to 5% of the shares reserved for issuance under the 2022 LTIP);
- Fungible share ratio, under which the total number of shares authorized to be issued under the 2022 LTIP will be reduced by one share for each share subject to an appreciation award granted under the 2022 LTIP and by 1.2 shares for each share subject to a full-value stock-based award granted under the 2022 LTIP;
- Minimum 100% fair market value exercise or grant price for options and stock appreciation rights ("SARs"), which have a maximum term of 10 years from the date of grant;
- Maximum limit of 4,796,901 shares that may be issued pursuant to options intended to qualify as incentive stock options, which number will be increased by the number of shares carried over from the Prior LTIPs that remained available for grant as of May 12, 2022 and the number of newly authorized shares if the General Increase is approved;
- Annual limit of \$500,000 on the cash and equity compensation that may be paid or awarded to a non-employee director (\$1,000,000 for the lead independent director and/or non-executive chair of the Board) in any calendar year with respect to his or her service as a non-employee director;
- No repricing of options or SARs and no cash buyout of underwater options and SARs without stockholder approval;
- No "liberal" share recycling for any awards under the 2022 LTIP;
- No dividends or dividend equivalents paid out currently on unvested awards;
- No dividend equivalents on options or SARs;
- No evergreen provision;
- No "liberal" change in control definition;
- "Double-trigger" vesting for change in control benefits; and
- No tax gross-up on change in control benefits.

Summary of the 2022 LTIP

The following summary of the 2022 LTIP reflects the 2022 LTIP without giving effect to the General Increase and should be read in conjunction with, and is qualified in its entirety by reference to, the full text of the 2022 LTIP and Amendment No. 1 and Amendment No. 2 thereto, which are included as exhibits to our Annual Report on Form 10-K, filed with the Securities and Exchange Commission on March 18, 2024, available at www.sec.gov.

Purpose. The 2022 LTIP is intended to provide incentives to attract, retain and motivate talent to lead our Company, to encourage long-term service, to recognize individual contributions and reward achievement of performance goals and to promote the creation of long-term value for our stockholders by aligning the interests of such persons with those of our stockholders.

Eligibility and Administration. Employees, consultants and non-employee directors of the Company and its subsidiaries and affiliates are eligible to be granted awards under the 2022 LTIP. The 2022 LTIP will be administered by the Compensation Committee or such other committee so designated by the Board (the “Administrator”). The Administrator determines which employees, consultants and non-employee directors receive awards and the types of awards to be granted. As of the Record Date, approximately 398 employees, 1 consultant and 6 non-employee directors would be eligible to receive awards under the 2022 LTIP.

Available Shares. The total number of shares reserved for issuance under the 2022 LTIP, without giving effect to this Proposal 4, is equal to the sum of (i) 4,796,901 shares, which includes the 354,788 shares carried over from the Prior LTIPs that remained available for grant as of May 12, 2022, plus (ii) any shares remaining for grant under the Prior LTIPs subject to awards that, after May 12, 2022, were or are forfeited, terminated, lapsed or satisfied thereunder in cash or property other than shares. No new awards may be granted under the Prior LTIPs following May 12, 2022, but the Prior LTIPs and any applicable award agreements issued thereunder will continue to govern any awards that remain outstanding thereunder on and after such date.

The total number of shares authorized to be issued under the 2022 LTIP will be reduced by one share for each share that is subject to an option, stock appreciation right (“SAR”) or other appreciation-only award granted under the 2022 LTIP, and by 1.2 shares for each share that is subject to a restricted stock, restricted stock unit (“RSU”), performance share or other full-value stock-based award granted under the 2022 LTIP. Any shares relating to awards that terminate by expiration, forfeiture or cancellation without the issuance of such shares, cash or other benefit in lieu of such shares will become available again for grant under the 2022 LTIP; provided that the number of shares authorized to be issued under the 2022 LTIP will be increased by one share for each such share that was subject to an option, SAR or other appreciation-only award granted under the 2022 LTIP, and by 1.2 shares for each such share that was subject to a restricted stock, RSU, performance share or other full-value stock-based award granted under the 2022 LTIP. The following shares shall not become available for issuance under the 2022 LTIP: (i) shares tendered by participants as full or partial payment to the Company upon exercise of options granted under the 2022 LTIP; and (ii) shares withheld by, or otherwise remitted to, the Company to satisfy a participant’s tax withholding obligations upon the lapse of restrictions on restricted stock or RSUs, the exercise of options or SARs granted under the 2022 LTIP, or upon any other payment or issuance of shares under the 2022 LTIP. Awards that, pursuant to their terms, may be settled only in cash will not count against the share reserve under the 2022 LTIP. Shares issued under the 2022 LTIP will be either authorized but previously unissued shares or treasury shares.

Non-Employee Director Compensation Limit. During any Directors’ Compensation Year (as defined in the 2022 LTIP), in no event will compensation paid to any one non-employee director, including cash fees and awards under the 2022 LTIP (based on the grant date fair value of such awards for financial reporting purposes) in respect of his or her service as a director, exceed \$500,000 (“Director Compensation Limit”); *provided* that, with respect to the compensation paid to any one non-employee director in respect of his or her service as the lead independent director or non-executive chair of the Board, such Director Compensation Limit shall equal \$1,000,000.

Minimum Vesting Requirement. Awards granted under the 2022 LTIP will vest no earlier than the first anniversary of the date on which the award is granted and no award may provide for partial or graduated vesting prior to the first anniversary of the date on which it is granted; provided that awards that result in the issuance in the aggregate of no more than five percent (5%) of the shares available for issuance under the 2022 LTIP may be granted to any one or more participants without respect to this minimum vesting period requirement. Awards to non-employee directors will

be deemed to satisfy this minimum vesting requirement to the extent that such awards vest on the earlier of the one-year anniversary of the date of grant and the date of the next annual meeting of the Company's stockholders that is at least 50 weeks after the immediately preceding year's annual meeting. The Administrator may waive restrictions or forfeiture conditions in any individual case in the event of termination of service resulting from a specified event.

Awards. The 2022 LTIP provides for the grant of stock options, SARs, restricted shares, RSUs, performance shares, performance units, annual cash incentive awards, dividend equivalents, other share-based awards and substitute awards.

Stock Options. Both incentive stock options, which are intended to qualify for special tax treatment under the Code ("incentive stock options"), and nonqualified stock options, which are not intended to qualify for special tax treatment under the Code, may be granted under the 2022 LTIP. The Administrator is authorized to set the terms of an option, including exercise price and the time and method of exercise; provided that the exercise price cannot be less than the market price of our common stock on the date of grant. Without stockholder approval, the Administrator is prohibited from repricing stock options, canceling outstanding options in exchange for the grant of new options with a lower exercise price or another cash or stock award, offering a cash buyout of underwater options or granting reload options. Incentive stock options may only be granted to employees and no employee may be granted more than 4,796,901 incentive stock options.

Share Appreciation Rights. Each SAR entitles the holder to receive an amount equal to the difference between the fair market value of a specified number of shares on the exercise date and the exercise price of the SAR set by the Administrator as of the date of grant; provided that the exercise price cannot be less than the market price of our common stock on the date of grant. The Administrator is authorized to set the terms of the SARs, including the time and method of exercise. Without stockholder approval, the Administrator is prohibited from repricing SARs, canceling outstanding SARs in exchange for the grant of new SARs or options with a lower exercise price or another cash or stock award, or offering a cash buyout of underwater SARs.

Restricted Shares and RSUs. Awards of restricted shares are subject to restrictions on transferability and such other restrictions, if any, as the Administrator may impose on the date of grant or thereafter. Such restrictions may lapse under such circumstances as the Administrator may determine (subject to the one-year minimum vesting requirement), such as completion of a specified period of continued employment or upon the achievement of performance criteria. Except as otherwise determined by the Administrator, eligible participants who are granted restricted shares will have all of the rights of a stockholder, including the right to vote and to receive dividends. Restricted shares are forfeited upon the termination of a participant's employment during the applicable restriction period.

Each RSU entitles the holder to receive shares of common stock or cash at the end of a specified deferral period. RSUs may also be subject to such restrictions as the Administrator may impose. Such restrictions may lapse under such circumstances as the Administrator may determine, such as completion of a specified period of continued employment or upon the achievement of performance criteria. Except as otherwise determined by the Administrator (subject to the one-year minimum vesting requirement), RSUs subject to restriction are forfeited upon the termination of a participant's employment during any applicable restriction period.

Performance Shares and Performance Units. Performance shares and performance units provide for the future issuance of shares and payment of cash, respectively, to the recipient upon the attainment of performance goals established by the Administrator. Except as otherwise determined by the Administrator (subject to the one-year minimum vesting requirement), performance shares and performance units will be forfeited upon the termination of a participant's employment during any applicable performance period. Performance objectives may vary from person to person and will be based upon such criteria as the Administrator may deem appropriate. The Administrator may revise performance objectives if significant events occur during the performance period that the Administrator expects will have a substantial effect on such objectives.

Substitute Awards. Substitute awards are awards that may be granted in replacement of stock or stock-based awards from another business held by current and former employees or non-employee directors of such business that is, or whose stock is, acquired by the Company, in order to preserve the economic value of all or a portion of a

substituted award on such terms and conditions (including price) as the Administrator determines. Substitute awards will not reduce the shares authorized for issuance under the 2022 LTIP.

Dividend, Dividend Equivalents and Other Awards. The Administrator may also grant dividends and dividend equivalent rights under the 2022 LTIP. Any dividends or dividend equivalent rights may be paid only at the time and to the extent that the shares underlying the award are distributed. The Administrator also is authorized to grant such other awards that may be denominated in, valued in, or otherwise based on shares. No dividends or dividend equivalents may be paid on stock options or SARs.

Performance Goals. The Administrator may establish performance goals for performance-based awards under the 2022 LTIP, which may be based on any performance measures selected by the Administrator. Such performance measures may include, but are not limited to, any of the following: earnings per share (basic or fully diluted); revenues; earnings (including, but not limited to, earnings before or after taxes, from operations (generally or specified operations), or before or after interest expense, depreciation, amortization, incentives, or extraordinary or special items); earnings growth; cash flow, including operation cash flow, free cash flow, cash flow return on investment (discounted or otherwise), net cash provided by operations, or cash flow in excess of cost of capital; return on net assets, return on assets, return on investment, return on capital, or return on equity; economic value added; operating margin or operating expense; net income (absolute or competitive growth rates comparative); net income applicable to shares; share price or stockholder return (absolute or peer-group comparative); backlog; net sales growth; customer satisfaction; quality metrics; expense reduction; and strategic business criteria, consisting of one or more objectives based on meeting specified market penetration, geographic business expansion goals, cost targets, customer satisfaction, new product/service placement, supervision of litigation and information technology, leasing execution, or goals relating to acquisitions or divestitures of subsidiaries, affiliates or joint ventures.

Change of Control. If a participant experiences a Qualifying Termination (as described below) following a Change of Control (as defined in the 2022 LTIP) and the awards are assumed or replaced in accordance with the terms of the 2022 LTIP: (i) all outstanding awards granted under the 2022 LTIP with time-based vesting conditions or restrictions shall become fully vested (and all options and SARs shall become exercisable) at the time of such Qualifying Termination; and (ii) all performance-based awards shall become earned and vested and the performance criteria shall be deemed to be achieved or fulfilled at the greater of (A) the actual performance achieved or (B) the target level of performance applicable to the award, but prorated based on the elapsed portion of the performance period as of the time of such Qualifying Termination. Under the 2022 LTIP, a “Qualifying Termination” means a participant’s termination of employment due to the participant’s death or disability (as defined in the 2022 LTIP), an involuntary termination of employment by the Company (other than for cause) or a voluntary termination of employment by the participant for good reason (as defined in the 2022 LTIP), any of which occurs on or following 24 months of the consummation of a Change of Control. If upon a Change of Control the awards are not assumed or replaced in accordance with the terms of the 2022 LTIP: (i) all outstanding awards granted under the 2022 LTIP with time-based vesting conditions or restrictions shall become fully vested (and all options and SARs shall become exercisable) as of the time of the Change of Control; and (ii) all performance-based awards shall become earned and vested and the performance criteria shall be deemed to be achieved or fulfilled at the greater of (A) the actual performance level achieved or (B) the target level of performance applicable to the awards, but prorated based on the elapsed portion of the performance period that has elapsed as of the time of the Change of Control.

Capital Structure Changes. If the Administrator determines that a share dividend, recapitalization, share split, reverse split, reorganization, merger, consolidation, spin-off, repurchase, share exchange, or other similar corporate transaction affects the shares of the Company’s common stock to be issued pursuant to the 2022 LTIP such that an adjustment is appropriate in order to prevent the dilution of the rights of participants, the Administrator may make such changes as it deems appropriate.

Amendment and Termination. The 2022 LTIP may be amended, suspended or terminated by the Board. However, any amendment or modification for which stockholder approval is required will not be effective until such stockholder approval has been obtained.

Restrictive Covenants. The 2022 LTIP provides that the Administrator may include in any award an agreement that, if the participant breaches the non-competition, non-solicitation, non-disclosure or other similar provisions of the

award agreement, whether during or after such participant's employment, the participant will forfeit all awards granted under the 2022 LTIP, including any awards that have vested and are then exercisable.

Incentive Compensation Recoupment Policy. All awards granted under the 2022 LTIP are subject to the Company's incentive compensation recoupment policy, as in effect from time to time, including the FreightCar America, Inc. Executive Compensation Recovery Policy currently in effect.

Effective Date and Term. The 2022 LTIP became effective on May 12, 2022, and will terminate as to future awards on May 12, 2032. If this Proposal 4 is approved by stockholders, the General Increase will be effective on May 14, 2024.

New Plan Benefits

Our executive officers and directors have an interest in the approval of the General Increase because it relates to the issuance of share-based awards for which executive officers and non-employee directors may be eligible. However, future awards under the 2022 LTIP are at the discretion of the Administrator and the executive officers who may receive awards under the 2022 LTIP in the future cannot be determined at this time.

U.S. Federal Income Tax Considerations for 2022 LTIP

The following is a brief description of the federal income tax treatment that generally applies to 2022 LTIP awards. The description is based on current federal tax laws, rules and regulations, which are subject to change, and does not purport to be a complete description of the federal income tax aspects of the 2022 LTIP. A participant may also be subject to state and local taxes.

Nonqualified Stock Options. The grant of a nonqualified stock option will not result in taxable income to the participant. The participant will realize ordinary income at the time of exercise in an amount equal to the excess, if any, of the then-fair market value of the stock acquired over the exercise price for those shares, and we will be entitled to a corresponding deduction. Gains or losses realized by the participant upon disposition of such shares will be treated as capital gains or losses, with the basis in such stock equal to the fair market value of the shares at the time of exercise.

Incentive Stock Options. The grant of an incentive stock option will not result in taxable income to the participant. The exercise of an incentive stock option will not result in taxable income to the participant if the participant was, employed by us or an affiliate, without a break in service, from the date of the grant of the option until the date three months prior to the date of exercise (one year prior to the date of exercise if the participant is disabled). The excess, if any, of the fair market value of the stock at the time of exercise over the exercise price is an adjustment that is included in the calculation of the participant's alternative minimum taxable income for the tax year in which the incentive stock option is exercised.

If the participant does not sell or otherwise dispose of the stock acquired upon the exercise of an incentive stock option within two years from the date of the grant of the incentive stock option or within one year after the transfer of such stock to the participant, then, upon disposition of such stock, any amount realized in excess of the exercise price will be taxed to the participant as capital gain, and we will not be entitled to a corresponding deduction. A capital loss will be recognized by the participant to the extent that the amount realized is less than the exercise price. If the foregoing holding period requirements are not met, the participant will generally realize ordinary income at the time of the disposition of the shares, in an amount equal to the lesser of (i) the excess, if any, of the fair market value of the stock on the date of exercise over the exercise price or (ii) the excess, if any, of the amount realized upon disposition of the shares over the exercise price, and we will be entitled to a corresponding deduction.

SARs. The grant of a SAR will not result in taxable income to the participant at the time of the grant. The participant will realize ordinary income at the time of exercise in an amount equal to the amount of cash or the fair market value of the shares paid upon exercise, and we will be entitled to a corresponding deduction. Gains or losses realized by the participant upon disposition of any shares received will be treated as capital gains or losses, with the basis in such stock equal to the fair market value of the shares at the time of exercise.

Restricted Shares and Performance Shares. A grant of restricted shares or performance shares will not result in taxable income to the participant at the time of grant, and we will not be entitled to a corresponding deduction, assuming that the shares are subject to transferability restrictions and that certain restrictions on the shares constitute a “substantial risk of forfeiture” for federal income tax purposes. Upon vesting, the holder will realize ordinary income in an amount equal to the then-fair market value of the vested shares, and we will be entitled to a corresponding deduction. Gains or losses realized by the participant upon subsequent disposition of such shares will be treated as capital gains or losses, with the basis in such shares equal to the fair market value of the shares at the time of vesting. Dividends paid to the holder of restricted shares during the restricted period also will be compensation income to the participant, and we will be entitled to a corresponding deduction when the dividends no longer are subject to a substantial risk of forfeiture or become transferable. A participant may elect pursuant to Section 83(b) of the Code to have income recognized at the date a restricted share award or performance share award, as the case may be, is granted and to have the applicable capital gains holding period commence as of that date. In such a case, we will be entitled to a corresponding deduction on the date of grant.

RSUs and Performance Units. A grant of RSUs or performance units will not result in taxable income to the participant at the time of grant, and we will not be entitled to a corresponding deduction. Upon vesting and issuance of the underlying shares (if the RSUs are paid in stock), the holder will realize ordinary income in an amount equal to the then-fair market value of the issued shares, and we will be entitled to a corresponding deduction. Gains or losses realized by the participant upon disposition of such shares will be treated as capital gains or losses, with the basis in such shares equal to the fair market value of the shares at the time of vesting and issuance. Dividend equivalents accrued on behalf of the holder of RSUs during the restricted period also will be compensation income to the participant when paid, and we will be entitled to a corresponding deduction when the dividend equivalents are paid. No election pursuant to Section 83(b) of the Code may be made with respect to RSUs and performance units.

Annual Cash Incentive Awards. A participant will recognize taxable compensation equal to the amount of an annual cash incentive award (including RSUs that are paid in cash) on the date the award is paid to the participant. The Company will be able to deduct, at the same time as it is recognized by the participant, the amount of taxable compensation to the participant for U.S. federal income tax purposes.

Performance Awards and Other Share-Based Awards. A grant of a performance award or other share-based award will not result in taxable income to the participant at the time of grant, and we will not be entitled to a corresponding deduction. Upon payment of cash or the vesting or issuance of the underlying shares, the participant will recognize ordinary income in an amount equal to the cash received or the then-fair market value of the issued shares, and we will be entitled to a corresponding deduction. Gains or losses realized by the participant upon subsequent disposition of such shares will be treated as capital gains or losses, with the basis in such shares equal to the fair market value of the shares at the time of vesting and issuance.

Tax Withholding. As a condition to the delivery of any shares to the recipient of an award, we may require the recipient to make arrangements for meeting certain tax withholding requirements in connection with the award or withhold or receive shares in satisfaction of a participant’s tax obligations; provided that the amount of tax withholding to be satisfied by withholding shares will be limited to the maximum individual statutory tax rate in a given jurisdiction (or such lower amount as may be necessary to avoid liability award accounting or any other accounting consequence or cost to the Company).

Section 162(m). In general, Code Section 162(m) denies a publicly held corporation a deduction for U.S. federal income tax purposes for compensation in excess of \$1,000,000 per year per covered employee.

Section 409A. To the extent applicable, it is intended that the 2022 LTIP and any awards made under the 2022 LTIP either be exempt from, or, in the alternative, comply with the provisions of Code Section 409A, including the available exemptions from Section 409A including qualifying stock rights and short-term deferrals. The Company intends to administer the 2022 LTIP and any awards made thereunder in a manner consistent with the requirements of Code Section 409A.

Our Board recommends that you vote “FOR” the approval of the increase in shares authorized under the FreightCar America, Inc. 2022 Long Term Incentive Plan for general use.

GOVERNANCE OF THE COMPANY

Board Structure and Composition

Our Charter provides for a classified Board consisting of three classes of the same or nearly the same number of directors.

- Malcolm F. Moore, José De Nigris Felán and Travis D. Kelly serve in Class I. Their terms will expire on the date of the Annual Meeting.
- William D. Gehl, Jesús Salvador Gil Benavides and Rodger L. Boehm serve in Class II. Their terms will expire on the date of the annual meeting of stockholders to be held in 2025.
- Elizabeth K. Arnold and James R. Meyer, and, effective May 1, 2024, Nicholas J. Randall serve in Class III. Ms. Arnold's and Mr. Meyer's terms will expire on the date of the annual meeting of stockholders to be held in 2026. Mr. Randall's term will expire on the date of the Annual Meeting.

At the recommendation of our Nominating and Corporate Governance Committee, our Board has nominated Messrs. Moore, De Nigris Felán and Kelly to terms as Class I directors, pursuant to contractual arrangements in the case of Mr. Kelly, to serve until our annual meeting of stockholders in 2027. Effective May 1, 2024, our Board appointed Nicholas J. Randall to the Board. At the recommendation of our Nominating and Corporate Governance Committee, our Board has nominated Mr. Randall for election at our Annual Meeting to a term as a Class III director to serve until our annual meeting of stockholders in 2026. However, pursuant to our Bylaws, any director, such as Mr. Randall, who is appointed to the Board other than by election at an annual meeting of stockholders, must stand for re-election at the next annual meeting of stockholders.

Each of our directors has signed a contingent resignation letter providing that if a majority of the votes of the shares in an uncontested election in which such director is a nominee are designated to be "withheld" from, or are voted "against," the director's election, and the Board accepts the contingent resignation letter following such election, the director's resignation will be effective upon the acceptance of the resignation by the Board.

The Company is party to an investor rights agreement (the "Investor Rights Agreement") with Fasemex, Inc. (the "US Seller"), Fabricaciones y Servicios de México, S.A. de C.V. ("Fasemex Mexico") and Agben de Mexico, S.A. de C.V. ("Agben" and, together with Fasemex Mexico, the "MX Sellers", and the MX Sellers, together with the US Seller, the "Sellers"). Pursuant to the Investor Rights Agreement, the Sellers have the right to designate one nominee for election to the Company's Board for so long as the Sellers beneficially own in the aggregate, common stock of the Company equal to at least five percent (5%) of shares of the Company's common stock outstanding. The director nominee designated by the Sellers is Mr. Jesús Salvador Gil Benavides, who was initially appointed by the Board to serve as a Class II director effective on October 23, 2020.

In addition, the Investor Rights Agreement provides the Sellers with the right to designate a non-voting observer to attend meetings of the Board and of committees of the Board, subject to customary limitations, for so long as the Sellers beneficially own, in the aggregate, common stock of the Company equal to at least five percent (5%) of shares of the Company's common stock outstanding. The non-voting board observer is currently Mr. Alejandro Gil.

In connection with the Credit Agreement (the "Term Loan Credit Agreement") by and among the Company, as guarantor, FreightCar North America (together with the Company, the "Loan Parties"), CO Finance LVS VI LLC, as lender (the "Lender"), an affiliate of a corporate credit fund for which Pacific Investment Management Company LLC serves as an investment manager, and U.S. Bank National Association, as disbursing and collateral agent (the "Agent"), the Company also entered into a warrant acquisition agreement (the "Warrant Acquisition Agreement") with the Lender, which provides for the issuance of a warrant (the "Warrant") to the Lender, allowing Lender to purchase a number of shares of the Company's common stock, par value \$0.01 per share, equal to 23% of the outstanding common stock on a fully-diluted basis at the time the Warrant is exercised. Pursuant to the Warrant Acquisition Agreement, for so long as the Lender or its affiliates hold (a) at least 50% of the Warrant or (b) at least 50% of the shares issuable pursuant to the exercise of the Warrant, the Lender shall be entitled to designate for

recommendation to the Nominating and Corporate Governance Committee of the Board and, upon such recommendation, nomination by the Board one director to the Board and a non-voting observer. Each director designated by the Lender, including the initial director designee, must comply with the requirements of the charter for, and related guidelines of, the Nominating and Corporate Governance Committee of the Board. The director nominee initially designated by the Lender was Travis D. Kelly, who was appointed by the Board to serve as a Class I director, effective June 20, 2022.

Our Charter provides that the authorized number of directors may be changed only by resolution of the Board. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the total number of directors. Our Charter also provides that our Board may fill any vacancy created by the resignation of a director or an increase in the size of the Board. On March 14, 2024, the Board passed a resolution increasing the size of the Board from eight (8) directors to nine (9) directors effective May 1, 2024.

The Board met eight (8) times during 2023.

Nominees for election at this meeting for terms expiring in 2027

Malcolm F. Moore, 73, has served as a director since March 2015 and is the chair of our Nominating and Corporate Governance Committee and a member of our Compensation and Audit Committees. From July 2015 to June 2019, Mr. Moore served as Executive Vice President and Chief Operating Officer of Twin Disc, Inc., a publicly held global manufacturer and distributor of power transmission equipment for the marine, transportation and industrial business sectors. Between 2006 and 2015, he also served on the board of directors of Twin Disc, Inc. From June 2013 to June 2015, Mr. Moore served as the President and Chief Executive Officer of Digi-Star LLC, a global supplier of electronic components and software used in precision agriculture. From November 2011 to June 2013, Mr. Moore served as Chairman of Digi-Star. Prior to joining Digi-Star, Mr. Moore served as an advisor to Baird Capital Partners from June 2010 to November 2011. Between 1999 and 2010, Mr. Moore worked in a variety of executive roles at Gehl Company, a publicly held manufacturer of compact construction equipment, including serving as President and Chief Executive Officer from August 2009 to April 2010. Earlier in his career, Mr. Moore served in senior executive roles at Pangborn Corporation, an international manufacturer of blast media equipment used by manufacturers of metal products, and LINAC Holdings Inc., a manufacturer of specialized equipment used in steel production, industrial heat-treating, scientific research and product manufacturing. Mr. Moore currently serves on the board of directors of AG Growth International Inc., a manufacturer of equipment and digital solutions for agriculture and food processing. Having served as a senior executive for over 25 years, and as a board member for many years, of companies in the manufacturing sector, Mr. Moore brings to our board extensive experience in leading complex heavy manufacturing organizations.

José De Nigris Felán, 51, has served as a director since June 2022. Mr. De Nigris Felán is the Executive Vice President of Katcon Global USA, Inc., a global supplier of exhaust and after treatment solutions to the automotive industry. Mr. De Nigris Felán has served as a board member of Katcon Global since 2000, and has held various positions since with its subsidiaries. Mr. De Nigris Felán is the Director of Katcon Global, SA (Luxembourg) since 2009, the Director of Katcon Korea since 2016, and the Managing Director of Wendt Automotive GMBH (Germany) since 2018. Mr. De Nigris Felán brings to our Board significant experience in industrial manufacturing.

Travis D. Kelly, 47, has served as a director since June 2022. Mr. Kelly has served since December 2018 as the President and Chief Executive Officer of Isola Group LLC, a global material sciences company specialized in making laminate materials used to fabricate multilayer printed circuit boards. From 2007 to 2018, Mr. Kelly served as the Global Chief Operating Officer for Cerberus Capital Management, L.P. Prior to this, Mr. Kelly served numerous operating, financial, and strategic planning roles across several public and private capital raising manufacturing and industrial companies. Mr. Kelly brings to our Board experience in operating an industrial company as well as finance and strategic planning.

Nominee for election at this meeting for a term expiring in 2026

Nicholas J. Randall, 50, will begin serving as a director on May 1, 2024. Mr. Randall was appointed as our President and Chief Executive Officer effective May 1, 2024 and previously served as our Chief Operating Officer from June

2023 until then. Prior to joining the Company, Mr. Randall led a division of Precision Castparts Corporation from 2017-2023. From 2007 to 2017, Mr. Randall served in various capacities at Alcoa Corporation and Arconic Corporation, a company formed from the split of Alcoa in 2016. Prior to that, Mr. Randall worked in various engineering roles at Jaguar Land Rover Automotive. Mr. Randall holds a bachelor's degree in manufacturing engineering from Liverpool John Moores University. Mr. Randall brings to the Board extensive experience in operations of industrial products companies and insight from his previous roles and as the Company's Chief Operating Officer.

Directors whose terms continue until 2025

William D. Gehl, 77, has served as a director since May 2007 and as Chair of the Board from January 2013. Effective May 1, 2024, Mr. Gehl will resign as Chair of the Board and become Lead Independent Director of the Board. He is a member of our Audit and Nominating and Corporate Governance Committees. He is currently Chairman and owner of Interstate Batteries of Southeastern Wisconsin, a distributor of automotive and other batteries. He was previously Chairman and Chief Executive Officer of Gehl Company, a publicly held manufacturer of compact construction equipment, from April 2003 until April 2009. Prior to that time, he was President and Chief Executive Officer of Gehl Company since November 1992, Chairman of Gehl Company since April 1996, and a director of Gehl Company since 1987. During the past six years, Mr. Gehl has been a member and Chairman of the board of directors of Astec Industries, Inc. (a publicly held manufacturer of roadbuilding and construction equipment). He brings to our Board, among other things, his background as the chief executive officer of a public company for over 17 years and general management, marketing and financial experience, as well as MBA and law degrees. He is a member of the Wisconsin and Florida state bars.

Jesús Salvador Gil Benavides, 60, has served as a director since October 2020. Mr. Gil has over 30 years of experience in metal fabrications, and over 20 years of experience in the railcar manufacturing industry. From October 2020 to January 2024, Mr. Gil served as the Vice President of Operations for the Company. From 2005 to 2017, Mr. Gil held various roles with Grupo Industrial Monclova, S.A. de C.V. ("Grupo Industrial"), a corporation operating in railcar manufacturing, offshore platform fabrication, mining, industrial gases and energy. During this time, he also served as a member of Grupo Industrial's board of directors. From 1997 to 2005, Mr. Gil worked for Trinity Industries de Mexico as Plant Manager at the Monclova plant and the General Manager of Monclova-Sabinas. In 2018, he finished a one-year Advanced Executive Management Program (AD-2) at the Instituto Panamericano de Alta Dirección de Empresa (IPADE) in Monterrey, Mexico. In 1988, he obtained a master's degree in electrical engineering from Washington University, Saint Louis, Missouri, and in 1986 he received his bachelor's degree in electronic engineering from the Instituto Tecnológico de Monterrey. Mr. Gil brings to our Board extensive and specific experience in the railcar industry.

Rodger L. Boehm, 64, has served as a director since May 2022 and is the chairman of our Compensation Committee and a member of our Audit Committee. Until his retirement in September 2017, Mr. Boehm was a senior partner at McKinsey & Company, Inc. He spent 31 years at the premier management consulting firm in a variety of roles with increasing responsibility, beginning in 1986. Mr. Boehm led client service for leading global institutions, primarily focused on Fortune 500 companies. His client service focused on long-term global growth and performance improvement, helping companies to significantly improve their cost, revenue and service performance. Mr. Boehm's background in strategic leadership in the industrial sector ranges from developing a global growth strategy for an agricultural and construction equipment manufacturer to improving the enterprise marketing capabilities for a leading global industrial conglomerate. Before McKinsey, he was a quality control engineer with Jones & Laughlin Steel from 1982 to 1984. He currently serves on the board of Ruggable and Hyliion and was formerly a board member for Meritor and Home Chef. Mr. Boehm earned a Bachelor of Science in materials engineering from Purdue University in 1982 and a Master of Business Administration from Harvard University in 1986. Mr. Boehm brings to our Board deep and broad experience in strategic leadership in the industrial sector.

Directors whose terms continue until 2026

Elizabeth K. Arnold, 59, has served as a director since August 2019 and is chairperson of our Audit Committee. She is a member of our Nominating and Corporate Governance Committee and our Compensation Committee. Ms. Arnold served as the Senior Vice President, Chief Financial Officer and Treasurer of Houghton International, a specialty chemical company with international operations, from October 2014 to August 2019. From October 2012 to April

2014, Ms. Arnold served as the Chief Financial Officer of Physiotherapy Associates. Prior to joining Physiotherapy Associates, Ms. Arnold served as the Chief Financial Officer of Tyco Flow Control from April 2010 to September 2012. Between 2003 and 2010, Ms. Arnold worked as the Vice President, Corporate Financial Planning & Analysis at Tyco. Earlier in her career, Ms. Arnold served in numerous roles, including executive leadership positions, for General Electric, a global industrial company with products and services ranging from aircraft engines, power generation and oil and gas production to medical imaging. Ms. Arnold also serves as a member of the board of directors and audit committee of Innospec Inc. (Nasdaq: IOSP). She brings to our Board, among other things, extensive corporate finance and public accounting experiences, as well as a wealth of operational knowledge. Ms. Arnold possesses a B.S. in economics from the University of Alabama.

James R. Meyer, 62, served as our President and Chief Executive Officer from July 2017 and will serve until his retirement from this position with the Company on May 1, 2024. Mr. Meyer has served as a director since July 2017, and effective May 1, 2024, Mr. Meyer will become Executive Chairman of the Board. Mr. Meyer has over 30 years of experience in the heavy equipment, automotive and consumer goods industries. He became Chairman of the Board of Commercial Specialty Truck Holdings, LLC, a commercial truck manufacturer, in 2015 and continues to serve in this capacity. From 2012 to 2015, he served as Chief Operating Officer of Allied Specialty Vehicles, Inc., a manufacturer of specialty vehicles for fire and emergency, commercial and recreation segments. Prior to that, Mr. Meyer held various leadership positions at Brunswick Corporation from 2006 to 2012. Mr. Meyer also spent 16 years at Ford Motor Company where he held various executive positions. Mr. Meyer brings to the board his broad leadership experience from serving in management and directorship roles in the automotive and manufacturing industries. Mr. Meyer has an MBA from the University of Michigan, and graduate and undergraduate degrees in engineering from the Massachusetts Institute of Technology and University of Michigan, respectively.

Nasdaq listing rules require all Nasdaq listed companies to disclose consistent, transparent diversity statistics regarding their boards of directors. The Board Diversity Matrix below presents the Board's diversity statistics in the format prescribed by the Nasdaq rules.

Board Diversity Matrix⁽¹⁾				
Total Number of Directors	8			
	Female	Male	Non-Binary	Did Not Disclose Gender
Part I: Gender Identity				
Directors	1	7		
Part II: Demographic Background				
African American or Black				
Alaskan Native or Native American				
Asian				
Hispanic or Latinx		2		
Native Hawaiian or Pacific Islander				
White	1	5		
Two or More Races or Ethnicities				
LGBTQ+				
Did Not Disclose Demographic Background				

(1) As of the Record Date. Does not include Nicholas J. Randall, who will join the Board on May 1, 2024.

Committees of the Board

Our Board has three standing committees: an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee. Membership in each committee is shown in the following table. ⁽¹⁾

	<u>Audit Committee</u>	<u>Compensation Committee</u>	<u>Nominating & Corporate Governance Committee</u>
William D. Gehl	•		•
James R. Meyer			
Elizabeth K. Arnold	▲	•	•
Jesús Salvador Gil Benavides			
Rodger L. Boehm	•	▲	
José De Nigris Felán			•
Travis D. Kelly			
Malcolm F. Moore	•	•	▲
▲ Chair • Member			

(1) As of the Record Date. Does not include Nicholas J. Randall, who will join the Board on May 1, 2024.

Audit Committee. Our Audit Committee currently consists of Ms. Arnold and Messrs. Moore, Gehl and Boehm. Ms. Arnold currently serves as the chair. The primary purpose of our Audit Committee is to assist the Board in monitoring and overseeing the Company’s (i) financial reporting processes, (ii) internal accounting and financial controls, and (iii) accounting principles and auditing practices employed in the preparation and review of financial statements. The Audit Committee appoints the independent registered public accountants to audit our annual financial statements and the scope of and plans for the audit to be undertaken by such accountants. The Audit Committee pre-approves the audit services and permissible non-audit services to be performed by such accountants and takes appropriate actions to ensure the independence of such accountants. The Audit Committee is also responsible for approving related-party transactions.

The Audit Committee operates under a written charter, a copy of which is available on our website, www.freightcaramerica.com. The Audit Committee has established and regularly monitors procedures for the receipt, retention and treatment of complaints received regarding accounting, internal accounting controls or auditing matters. The Audit Committee met five (5) times during 2023.

Our Board has determined that Ms. Arnold and Messrs. Moore, Gehl and Boehm meet the applicable independence requirements under the Sarbanes-Oxley Act of 2002, Nasdaq rules and the rules and regulations of the SEC. Each of Ms. Arnold and Messrs. Moore, Gehl and Boehm has been determined to be an audit committee financial expert, as that term is defined under the SEC rules implementing Section 407 of the Sarbanes-Oxley Act of 2002, and each is “independent” as defined in the applicable listing standards for audit committee members.

Compensation Committee. Our Compensation Committee currently consists of Ms. Arnold and Messrs. Moore and Boehm. Mr. Boehm currently serves as the chair. The primary purpose of our Compensation Committee is to (i) oversee the Company compensation plans, policies, guidelines and practices; and (ii) annually review and approve a report on NEO and director compensation for inclusion in our proxy statement, in accordance with all applicable rules and regulations. The Compensation Committee operates under a written charter, a copy of which is available on our website, www.freightcaramerica.com. The Compensation Committee met four (4) times during 2023.

Our Board has determined that Ms. Arnold and Messrs. Moore and Boehm meet the applicable independence requirements under the rules of Nasdaq (including the enhanced independence requirements for compensation committee members) and the rules and regulations of the SEC. In addition, each of Ms. Arnold and Messrs. Moore and Boehm is an “outside director,” as defined in Code Section 162(m), and each of Ms. Arnold and Messrs. Moore and Boehm is a “non-employee” director within the meaning of Rule 16b-3 under the Exchange Act of 1934 (the “Exchange Act”).

Nominating and Corporate Governance Committee. Our Nominating and Corporate Governance Committee consists of Ms. Arnold and Messrs. Gehl, Moore and De Nigris Felán. Mr. Moore serves as the chair. The primary purpose of our Nominating and Corporate Governance Committee is to: (i) identify individuals qualified to become board

members, consistent with criteria approved by the Board; (ii) recommend to the Board nominees for the Board; (iii) recommend to the Board nominees for each Board committee; (iv) recommend to the Board and review annually the Corporate Governance Guidelines, the Code of Business Conduct and Ethics, Insider Trading Policy and committee charters; and (v) review annually the independence qualifications of the Board and committee members. The Nominating and Corporate Governance Committee operates under a written charter, a copy of which is available on our website, www.freightcaramerica.com. The Nominating and Corporate Governance Committee met three (3) times during 2023.

Our Board has determined that Ms. Arnold and Messrs. Gehl, Moore and De Nigris Felán meet the applicable independence requirements under the Sarbanes-Oxley Act of 2002, the rules of Nasdaq and the rules and regulations of the SEC.

Commitment to Corporate Responsibility

We are committed to growing our business in a sustainable and socially responsible manner with strong governance principles in place. The Nominating and Corporate Governance Committee of our Board has oversight of, and periodically reviews, our policies and programs related to environmental stewardship, social responsibility and governance matters. The Nominating and Corporate Governance Committee meets periodically with senior management to develop, assess and prioritize key corporate responsibility topics that enhance long-term value for the Company and our stakeholders.

Environmental Stewardship

We aim to minimize the environmental impact of our business by working with our customers to offer lighter weight freight cars, which require less energy to manufacture and offer higher capacity than the freight cars they replace. We are also a leader in the railcar conversion and rebody space, with over 14,000 conversion and rebody projects completed over the last decade. Our conversion and rebody projects use recycled scrap materials from underutilized and inefficient railcar assets to support a more sustainable steel manufacturing process and the reuse of key components, contributing to reduced energy consumption and greenhouse gas emissions.

Social Responsibility

We continuously strive to improve the health, safety and well-being of our employees, foster an inclusive and collaborative workplace, promote opportunities for professional development, and actively contribute to the communities in which we operate. Workplace safety is a top priority for the Company and we are focused on improving our safety performance with an ultimate goal of zero injuries and incidents. Our safety performance is regularly monitored by our senior leadership team, our Chief Executive Officer (“CEO”), and our Board.

Governance

Our governance structure is designed to provide accountability for responsible business practices, facilitate transparency and ultimately promote the long-term interests of our stakeholders. We strive to ensure that all our employees act ethically and with integrity in all aspects of their work. A majority of our Board includes diverse and/or independent Board members with extensive experience and expertise in a variety of industries. Our Board provides counsel to and oversight of the senior management team to ensure that our business strategies align with our corporate responsibility goals.

Independence of Directors

The Board has determined that five (5) of our eight (8) current directors (nine (9) including Mr. Randall effective May 1, 2024), consisting of Ms. Arnold and Messrs. Gehl, Moore, Boehm and De Nigris Felán, are “independent directors” as defined in Nasdaq Listing Rule 5605 and as defined in applicable rules by the SEC. Nasdaq Listing Rule 5605 requires that a majority of our Board be composed of independent directors and that our committees be composed solely of independent directors.

Board Leadership Structure

Our Board strongly endorses the view that one of its primary functions is to protect stockholders' interests by providing independent oversight of management, including the CEO. However, the Board does not believe that mandating a particular structure, such as a separate Chairman of the Board and CEO, is necessary to achieve effective oversight. The Board retains the right to exercise its judgment to combine or separate the roles of Chairman of the Board and CEO. Currently, the offices of Board Chair and CEO are held by separate persons because the Board has determined that this structure aids in the oversight of management and is currently in the best interests of the Company and its stockholders. Effective May 1, 2024, the Board will have a separate Board Chair (Mr. Meyer as Executive Chair), CEO (Mr. Randall) and Lead Independent Director (Mr. Gehl).

Code of Business Conduct and Ethics

We have established a Code of Business Conduct and Ethics that applies to our officers, directors and employees, including our CEO and Chief Financial Officer. A copy of the Code of Business Conduct and Ethics is available on our website, www.freightcaramerica.com. We intend to disclose on our website at www.freightcaramerica.com any amendments to or waivers from our Code of Business Conduct and Ethics applicable to any of our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. Under the Code of Business Conduct and Ethics, the Board, its committees and the non-employee directors have the right at any time to retain independent outside financial, legal or other advisors as they deem necessary, without the necessity of consulting with or obtaining prior approval of any officer of the Company.

Risk Oversight

In its governance role, and particularly in exercising its duty of care and diligence, our Board is responsible for monitoring and overseeing the Company's approach to risk assessment and risk management. The Board has the ultimate responsibility in this area. The Board has delegated the responsibility for overseeing financial risks to the Audit Committee and compensation-related risks to the Compensation Committee. Where appropriate, the Board may delegate risk oversight responsibility in other specific areas to Board committees. The Board requires management to ensure that an appropriate approach to risk management is implemented as part of the day-to-day operations of the Company. The Board further requires that management design internal control systems with a view to identifying and managing the material risks to the business.

In fulfilling its responsibilities delegated by the Board as described above, on a periodic basis (but not less often than annually), the Audit Committee reviews and discusses with management and our internal audit function the Company's significant financial risk exposures and establishes an annual review schedule, which includes periodic financial reviews, internal control assessments and reviews of specific risk areas. The Audit Committee receives periodic updates from management and our internal audit function as per the annual schedule and as necessary based on subsequent determinations. The Audit Committee reports its activities to the full Board on a regular basis and is responsible for making such recommendations with respect to the matters described above and other matters as the Audit Committee may deem necessary or appropriate. The Audit Committee believes that in addition to its own deliberations and assessment of potential risks, the advice and recommendations of its independent auditor provide important objective guidance in this area.

In fulfilling its responsibilities delegated by the Board as described above, on a periodic basis (but not less often than annually), the Compensation Committee reports its activities to the full Board and is responsible for making such recommendations with respect to the matters described above and other matters as the Compensation Committee may deem necessary or appropriate.

Director Nomination Process

The Nominating and Corporate Governance Committee of our Board considers candidates to fill new directorships created by expansion and vacancies that may occur and makes recommendations to the Board with respect to such candidates. The Nominating and Corporate Governance Committee considers all relevant qualifications of candidates for board membership, including factors such as industry knowledge and experience, public company, academic or

regulatory experience, financial expertise, current employment and other board memberships, and whether the candidate will be independent under the listing standards of Nasdaq. In addition, in accordance with the Company's corporate governance guidelines, as part of the nomination process the Nominating and Corporate Governance Committee considers the diversity of the candidate and the diversity of the Board as a whole, including but not limited to factors such as background, experience, expertise, perspective, age, gender, LGBTQ+ and ethnicity.

The Nominating and Corporate Governance Committee evaluates each individual in the context of the Board as a whole, with the objective of recommending a group that can best perpetuate the success of our business and represent stockholder interests through the exercise of sound judgment using its diversity of experience. The Nominating and Corporate Governance Committee evaluates each incumbent director to determine whether he or she should be nominated to stand for re-election, based on the types of criteria outlined above as well as the director's overall service to us during his or her term and any relationships and transactions that might impair such director's independence.

The number of members of our Board is currently fixed at eight (8) directors and will be increased to nine (9) effective May 1, 2024 in connection with the addition of Mr. Randall to the Board. The Nominating and Corporate Governance Committee periodically evaluates the current size and the composition of the Board.

Our Bylaws provide that nominations for the election of directors at our annual meeting may be made by our Board or any stockholder entitled to vote for the election of directors generally who complies with the procedures set forth in the Bylaws and who is a stockholder of record at the time notice described below is delivered to us. Any stockholder entitled to vote in the election of directors generally may nominate a person for election to the Board at our annual meeting only if timely notice of such stockholder's intent to make such nomination has been given in writing to our General Counsel and Corporate Secretary at our offices at 125 South Wacker Drive, Suite 1500, Chicago, Illinois 60606. Any recommendations received from stockholders will be evaluated by the Nominating and Corporate Governance Committee in the same manner that potential director nominees suggested by Board members, management or other parties are evaluated.

To be timely, a stockholder's notice shall be delivered to or mailed and received at the principal executive offices of the Company not less than 90 nor more than 120 days prior to the first anniversary of the previous year's annual meeting; provided, however, that in the event less than 30 days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the day on which such notice of the date of the meeting was mailed or such public disclosure was made.

Communications with Directors

Stockholders and third parties may communicate directly with the entire Board, the independent members of the Board as a group, any individual member of the Board, or the Lead Independent Director by sending correspondence to the below address:

FreightCar America, Inc.
125 South Wacker Drive, Suite 1500
Chicago, Illinois 60606
Attention: Chair of the Board or Lead Independent Director

Communications of a confidential nature can be made directly to the Chair of the Audit Committee regarding any matter, including any accounting, internal accounting control or auditing matter, by submitting such concerns to the Audit Committee. Any submissions to the Audit Committee should be marked confidential and addressed to the Chair of the Audit Committee at:

FreightCar America, Inc.
125 South Wacker Drive, Suite 1500
Chicago, Illinois 60606
Attention: Chair of the Audit Committee

Communications are distributed as appropriate, depending on the facts and circumstances outlined in the communication. In that regard, the Board has requested that certain items that are unrelated to the duties and responsibilities of the Board be excluded from communications to the Board, such as product complaints, product inquiries, new product suggestions, résumés and other forms of job inquiries, surveys and business solicitations or advertisements.

Director Attendance at Meetings

Directors are encouraged to attend all annual and special meetings of our stockholders. During 2023, the Board held eight (8) meetings. Each of our directors then serving attended at least 75% of the aggregate number of meetings of the Board and meetings of those committees on which he or she served during 2023. All of our directors then serving attended the 2023 annual meeting of stockholders.

Director Compensation

For a discussion of director compensation, see the section of this Proxy Statement entitled “Director Compensation.”

STOCK OWNERSHIP

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth certain information regarding the beneficial ownership of our common stock as of the Record Date (except as indicated below) by:

- all persons known by us to own beneficially 5% or more of our outstanding common stock;
- each of our directors and director nominees;
- each of the NEOs listed in the “Executive Compensation—Summary Compensation Table” section of this Proxy Statement; and
- all of our directors and executive officers as a group.

Unless otherwise indicated, each stockholder listed below has sole voting and investment power with respect to the shares of common stock beneficially owned by such stockholder.

<u>Name of Beneficial Owner</u>	<u>Number of Shares Beneficially Owned⁽¹⁾</u>	<u>Approximate Percent of Class⁽¹⁾</u>
Pacific Investment Management Company LLC 650 Newport Center Drive Newport Beach, California 92660	14,703,223 ⁽²⁾	47.4% ⁽²⁾
Michael Gorzynski 595 Madison Avenue, 30th Floor New York, NY 10022	1,583,533 ⁽³⁾	8.6%
Alejandro Gil Benavides c/o Fabricaciones y Servicios de Mexico, S.A. de C.V. Carretera 57 KM 178, Castanos, Coahuila, O5 25780	2,121,221 ⁽⁴⁾	11.6%
DIRECTORS AND EXECUTIVE OFFICERS ⁽⁵⁾ :		
William D. Gehl	149,700	*
James R. Meyer	2,635,319 ⁽⁶⁾	13.3%

<u>Name of Beneficial Owner</u>	<u>Number of Shares Beneficially Owned⁽¹⁾</u>	<u>Approximate Percent of Class⁽¹⁾</u>
Elizabeth K. Arnold	110,591	*
Rodger L. Boehm	41,867	*
Malcolm F. Moore	126,658	*
Travis D. Kelly	38,739	*
José De Nigris Felán	48,739	*
Jesús Salvador Gil Benavides	1,450,516 ⁽⁷⁾	7.8%
W. Matthew Tonn	784,886 ⁽⁸⁾	4.2%
Michael A. Riordan	340,015 ⁽⁹⁾	*
All directors and executive officers as a group (12 persons)	5,845,703 ⁽¹⁰⁾	28.0%
* = less than 1%		

- (1) “Beneficial ownership” means any person who, directly or indirectly, has or shares voting or investment power with respect to a security or has the right to acquire such power within 60 days. Shares of common stock subject to options or warrants that are currently exercisable or exercisable within 60 days of the Record Date are deemed outstanding for computing the ownership percentage of the person holding such options or warrants, but are not deemed outstanding for computing the ownership percentage of any other person. The amounts and percentages are based upon 18,345,488 shares of our common stock outstanding as of the Record Date.
- (2) Based on the information in Schedule 13D/A filed by Pacific Investment Management Company LLC (“PIMCO”) with the SEC on July 14, 2023. The Schedule 13D/A discloses that PIMCO beneficially owns (i) 1,547,266 shares of Company common stock, (ii) a warrant exercisable for an indeterminate number of shares equal to 23% of the outstanding shares of the Company’s common stock on a fully-diluted basis (including shares reserved for issuance under the Company’s equity plans) on the date the warrant is exercised (iii) a warrant exercisable for an indeterminate number of shares equal to 5.0% of the outstanding shares of the Company’s common stock on a fully-diluted basis (including shares reserved for issuance under the Company’s equity plans) on the date the warrant is exercised, (iv) a warrant exercisable for an indeterminate number of shares equal to 5.0% of the outstanding shares of the Company’s common stock on a fully-diluted basis (including shares reserved for issuance under the Company’s equity plans) on the date the warrant is exercised, and (v) a warrant exercisable for 1,636,313 shares of the Company’s common stock. The number of warrants included and the percentage shown is based on 17,846,369 outstanding shares of common stock of the Company on a fully-diluted basis as of May 15, 2023, as provided by the Company to PIMCO, assuming hypothetically that the warrants were exercised on such date, as set forth in the Schedule 13D/A.
- (3) Based on the information in Schedule 13G/A filed by Percy Rockdale LLC (“Percy Rockdale”), Continental General Insurance Company (“CGIC”), Continental Insurance Group, Ltd. (“CIG”), Continental General Holdings LLC (“CGH”), and Michael Gorzynski (“Mr. Gorzynski”) with the SEC on February 14, 2024. As of December 31, 2023, Percy Rockdale beneficially owned zero shares of common stock and CGIC beneficially owned 1,583,533 shares of common stock. As the sole owner of CGIC, CIG may be deemed to beneficially own the 1,583,533 shares of common stock held by CGIC. As the sole owner of CIG, CGH may be deemed to beneficially own the 1,583,533 shares of common stock held by CGIC. As the sole Manager of Percy Rockdale and as a manager and Executive Chairman of CGH, Mr. Gorzynski may be deemed to beneficially own 1,583,533 shares of common stock, consisting of the 1,583,533 shares of common stock beneficially owned by CGIC. The address of the principal office for Percy Rockdale and Mr. Gorzynski is 595 Madison Avenue, 30th Floor, New York, NY 10022. The principal business address for each of CGIC, CIG and CGH is 11001 Lakeline Blvd., Ste. 120, Austin, TX 78717.
- (4) Includes (i) 180,000 shares directly owned by Alejandro Gil and (ii) 1,941,221 shares owned by Fabricaciones y Servicios de México, S.A. de C.V. (“Fasemex”). Alejandro Gil owns 51%, and is the Chairman and Chief Executive Officer of Fasemex and is deemed to beneficially own all of the shares owned by Fasemex.

- (5) Unless otherwise indicated, the business address of each person named in the table is c/o FreightCar America, Inc., 125 South Wacker Drive, Suite 1500, Chicago, IL 60606.
- (6) The figure shown includes 794,470 shares owned by Mr. Meyer, 17,327 shares owned by Cinci-Cebu, Inc., of which Mr. Meyer is the sole owner and whose securities are deemed to be beneficially owned by Mr. Meyer, and 350,000 performance-based stock options featuring a vesting schedule whereby the stock options will vest if the average closing price per share of the Company's stock over the previous 90 calendar days (the "Threshold Stock Price") exceeds the closing price per share of the Company's stock on July 31, 2017 of \$16.44 (the "July Reference Stock Price") as follows: 34% of the stock options will vest if the Threshold Stock Price exceeds the July Reference Stock Price by \$5.00; another 33% of the stock options will vest if the Threshold Stock Price exceeds the July Reference Stock Price by \$10.00; and the remaining 33% of the stock options will vest if the Threshold Stock Price exceeds the July Reference Stock Price by \$15.00. Such stock price appreciation goals can be achieved at any point during the options' ten-year contractual term. The figure shown also includes 391,517 shares of common stock underlying currently exercisable options and 1,082,005 shares of common stock underlying currently exercisable stock appreciation rights.
- (7) The figure shown includes 28,772 shares owned by Jesús Salvador Gil Benavides and 640,603 shares owned by Fasemex, a corporation in which Jesús Salvador Gil Benavides owns 33% of the equity interests, and therefore is deemed to have voting and dispositive power over 33% of the shares held by such entity. Fasemex, which is owned by Jesús Salvador Gil Benavides, Alejandro Gil Benavides and Salvador Gil Benavides, owns a total of 1,941,221 shares of common stock of the Company. The principal address for Fasemex is Carretera 57 Km 178 Castaños Coahuila, 25780 Mexico. This figure also includes 316,013 shares owned by Agben de Mexico, S.A. de C.V., a corporation in which Jesús Salvador Gil Benavides owns 99% of the equity interests, and therefore is deemed to have voting and dispositive power over the securities held by such entity. The principal address for Agben de Mexico, S.A. de C.V. is Carretera 57 Km 178 Int B Castaños Coahuila, 25780 Mexico. The figure shown includes 223,730 shares of common stock underlying currently exercisable options.
- (8) The figure shown includes 544,318 shares of common stock underlying currently exercisable options.
- (9) The figure shown includes 175,384 shares of common stock underlying currently exercisable options.
- (10) The figure shown includes 2,560,634 shares of common stock underlying currently exercisable options.

Delinquent Section 16(a) Reports

Section 16(a) of the Exchange Act requires the Company's directors, executive officers and persons who beneficially own more than 10% of its Class A common stock to file reports of ownership and changes in ownership with the Commission and to furnish the Company with copies of all such reports they file. Based on the Company's review of the copies of such forms received by it, or written representations from certain reporting persons, the Company believes that none of its directors, executive officers or persons who beneficially own more than 10% of the Company's Class A common stock failed to comply with Section 16(a) reporting requirements during the year ended December 31, 2023, except for one late Form 4 reporting two late transactions for Alejandro Gil Benavides.

EXECUTIVE OFFICERS

The following table sets forth certain information concerning each of our current executive officers as of the Record Date:

<u>Name</u>	<u>Age</u>	<u>Position(s)</u>
James R. Meyer	62	President, Chief Executive Officer and Director
Nicholas J. Randall	50	Chief Operating Officer
Michael A. Riordan	39	Chief Financial Officer and Treasurer
W. Matthew Tonn	58	Chief Commercial Officer
Celia R. Perez	37	General Counsel and Corporate Secretary

James R. Meyer, 62, has served as our President and Chief Executive Officer from July 2017 and will serve until his retirement from this position with the Company on May 1, 2024. Biographical information for Mr. Meyer is included above under the section of this Proxy Statement entitled “Governance of the Company – Directors whose terms continue until 2026.”

Nicholas J. Randall, 50, has served as our Chief Operating Officer from June 2023 and will serve in this role until May 1, 2024, upon which he will become President and Chief Executive Officer of the Company. Biographical information for Mr. Randall is included above under the section of this Proxy Statement entitled “Governance of the Company – Nominee for election at this meeting for a term expiring in 2026.”

Michael A. Riordan, 39, has served as our Chief Financial Officer and Treasurer since March 2022. Mr. Riordan joined the Company in November 2020 and served as our Chief Accounting Officer and Controller until his promotion to Chief Financial Officer and Treasurer. Mr. Riordan was Controller at InnerWorkings from 2017 to 2020. Prior to joining InnerWorkings, Mr. Riordan served in several financial management positions at Zekelman Industries, from 2013 to 2017. Mr. Riordan also held various positions at PricewaterhouseCoopers earlier in his career. He holds a bachelor’s degree in Accounting and Finance from Miami University and is a Certified Public Accountant.

W. Matthew Tonn, 58, has served as our Chief Commercial Officer since September 30, 2019. Mr. Tonn has over 30 years of commercial and operations experience in the railroad industry. Prior to joining the Company, Mr. Tonn served as the Vice President, Sales and Marketing of Westinghouse Air Brake Technologies Corporation’s (“WABTEC”) Train Control, Signaling and Analytics Group from May 2017 to September 2019 and as a regional Vice President, Sales and Marketing of WABTEC from October 2008 to May 2017. His earlier work experience includes various sales and marketing positions at Standard Car Truck, Co., National Castings/ABC NACO and VP Sales & Marketing / Equity Partner of ZefTek, Inc.

Celia R. Perez, 37, has served as our General Counsel and Corporate Secretary since August 2022 and served as our interim Vice President of Human Resources from March 2023 until January 2024. Prior to joining the Company, Ms. Perez held various legal roles of increasing responsibility at Fortune Brands Home & Security, Inc., from August 2018 to August 2022. From 2012 to 2018, Ms. Perez worked as an associate attorney in private law firms focusing on mergers & acquisitions and complex commercial transactions. Ms. Perez holds a bachelor’s degree in Communication Studies, with a minor in Environmental Policy & Culture, from Northwestern University and a juris doctor from The George Washington University Law School.

COMPENSATION OVERVIEW

We qualify as a “smaller reporting company,” as defined in Item 10 of Regulation S-K promulgated under the Securities Exchange Act of 1934 because our public float was less than \$250,000,000 as of the last business day of our most recently completed second fiscal quarter. We have elected to provide in this Proxy Statement certain scaled disclosures as permitted under the Exchange Act for smaller reporting companies. Therefore, we do not provide in this Proxy Statement a compensation discussion and analysis or a Compensation Committee report, compensation and risk and chief executive officer pay ratio disclosures, among other disclosures.

For the year ended December 31, 2023, our named executive officers (“NEOs”) were:

- James R. Meyer, President and Chief Executive Officer;
- W. Matthew Tonn, Chief Commercial Officer; and
- Michael A. Riordan, Vice President, Finance, Chief Financial Officer and Treasurer

The following sections discuss the material factors involved in the Company’s decisions regarding the compensation of the Company’s NEOs during 2023. The specific amounts paid or payable to the NEOs are disclosed in the tables and narrative in the section of this Proxy Statement entitled “Executive Compensation.” The following discussion cross-references those specific tabular and narrative disclosures where appropriate.

Effective May 1, 2024, James R. Meyer will retire from the position of President and Chief Executive Officer of the Company. Nicholas J. Randall, the Company's Chief Operating Officer since June 2023, and President and Chief Executive Officer effective May 1, 2024, does not qualify as an NEO for the year ended December 31, 2023.

Executive Summary

Our NEO compensation program is designed to attract, motivate and retain the individuals we need to drive business success. We believe that our executives should act in the long-term interests of our stockholders. Therefore, we pay a significant portion of total compensation to our executives in the form of short-term incentive-based cash compensation and long-term performance-based equity compensation. Our compensation programs also are closely tied to performance, with incentive compensation varying in accordance with objectively determinable Company performance measures.

With the assistance of Exequity LLP, our independent compensation consultant through September 2023 ("Exequity") as described below, the Compensation Committee took the following actions with respect to the base salary and annual and long-term incentive compensation programs for our NEOs in 2023:

- **Base compensation.** Based on NEO compensation benchmarking analysis by Exequity, the Compensation Committee approved the base salary for Mr. Meyer (\$625,000), Mr. Tonn (\$375,000), and Mr. Riordan (\$360,000). Future base salary adjustments for each NEO are considered by the Compensation Committee on an annual basis.
- **Annual incentive compensation.** Historically, our annual cash incentive program primarily utilized financial metrics that the Compensation Committee, with input from our CEO, had determined were appropriately linked to stockholder value creation. Accordingly, the performance objectives underlying our annual cash incentive program for 2023 were based on adjusted EBITDA, sales goals, transformational goals, cash related goals and people goals.
- **Long-term incentive compensation.** In January 2023, our Board, at the recommendation of the Compensation Committee, approved awards to Messrs. Meyer, Tonn and Riordan of time-based restricted shares and time-based stock options, with each form of award comprising approximately 50% of the target long-term incentive opportunity for each NEO.

When designing our fiscal year 2023 NEO compensation program, the Compensation Committee considered the Company's fiscal year 2023 budget and financial performance expectations with respect to the annual and long-term incentive plans to ensure a strong link between compensation and performance. The Compensation Committee believes that its actions were balanced in terms of containing costs, calibrating compensation with performance expectations and the degree of difficulty associated with achieving performance goals, and retaining and motivating our NEOs.

Compensation Committee's Processes and Procedures for Consideration

General Authorities and Responsibilities

The Compensation Committee, consulting with its independent compensation consultants, and with management as necessary, reviews and recommends for approval by the Board our general policies relating to NEO compensation and oversees the development and implementation of such compensation programs. The Compensation Committee, consulting with its independent compensation consultant and with management as necessary, reviews and approves, or recommends for ratification by the Board, NEO compensation, including, to the extent applicable, (i) salary, bonus and incentive compensation levels, (ii) equity compensation, (iii) employment agreements, severance arrangements and change in control agreements/provisions, in each case as, when and if appropriate, and (iv) other forms of NEO compensation. The Compensation Committee meets without the presence of senior management when approving or deliberating on CEO compensation but may, in its discretion, invite the CEO to be present during the approval of, or deliberations with respect to, other NEO compensation. The Compensation Committee may delegate

authority to subcommittees, including committees whose members are not members of the Board, as it deems appropriate.

The Compensation Committee, as a committee or together with independent members of the Board, periodically reviews and approves corporate goals and objectives relevant to NEO compensation and evaluates the CEO's performance in light of those goals and objectives. The Compensation Committee recommends for ratification by the Board the CEO's compensation levels taking into account this evaluation. The Compensation Committee periodically reviews and makes recommendations to the Board with respect to director compensation for non-employee members of the Board and its committees.

Oversight of Compensation Plans

The Compensation Committee oversees, periodically reviews and makes recommendations to the Board with respect to stock incentive plans, stock purchase plans, bonus plans, deferred compensation plans, an executive compensation recovery policy and similar programs. The Compensation Committee has the power and authority under its charter to oversee these plans and policies, establish guidelines, interpret plan and policy documents, select participants, approve grants and awards and exercise discretion (as provided in its charter) as may be permitted or required under such plans or policies, as applicable. The Compensation Committee may also undertake such additional activities within the scope of its primary function as the Board or the Compensation Committee may from time to time determine or as may otherwise be required by law, the Board or our Charter or Bylaws.

Compensation Consultant

The Compensation Committee has the authority to obtain advice and assistance from internal or external legal, accounting or other advisors as it deems appropriate or necessary. The Compensation Committee has the authority to conduct or authorize investigations into any matter within its scope of responsibilities, and retain, at the Company's expense, such independent counsel, compensation consultant or other consultants and advisors as it deems necessary. During 2023, the Compensation Committee received independent compensation consulting advice from both Exequity and Meridian, including advice on director and executive compensation levels and incentive plan design work relating to the NEOs. The Compensation Committee has reviewed the independence of each of Exequity and Meridian in light of SEC rules and Nasdaq listing standards regarding compensation consultants and has concluded that each of Exequity's work and Meridian's work for the Compensation Committee does not raise any conflict of interest.

Compensation Philosophy and Objectives

The Compensation Committee has adopted, and periodically reviews, an executive compensation philosophy statement. This statement sets forth the Company's values and beliefs regarding the nature of its executive compensation strategy and programs. The purpose of our philosophy is twofold: to serve as a link between the interests of the Company's stockholders and its compensation arrangements, and to serve as a framework for program design and assessment. The application of these values and beliefs reflects and takes into account a broad business context. Business judgment is brought to bear to determine the appropriate application of these values and beliefs in each circumstance. In periodically reviewing the executive compensation philosophy statement, the Compensation Committee will revise the statement as necessary to ensure that it is properly linked to the Company's business strategies and to reflect changes to the Company's business operations and goals, as well as external market conditions.

Our compensation program is designed to attract, motivate and retain the highly talented individuals that the Company needs to drive business success. The program reflects the following principles:

- **Company employees should act in the interests of the Company's stockholders.** We believe that the best way to encourage our employees to act in the long-term interests of the Company's stockholders is through an equity stake in the Company. We pay a significant portion of total compensation to executives and certain other key employees in the form of long-term performance-based equity compensation, such as performance-based stock options, stock options and restricted shares.

- **Compensation should be related to Company performance.** The Company’s compensation program endeavors to reinforce the Company’s business and financial objectives. Employee compensation will vary based on objectively determinable measures of Company performance. When the Company performs well based on financial measures, employees will receive greater incentive compensation. When the Company does not meet objectives, incentive awards will be reduced, potentially to zero.
- **Other goals.** The Company’s compensation program is designed to balance short-term and long-term financial objectives.

Elements of Executive Compensation

Total compensation for each NEO is comprised of base salary, annual cash incentive awards, long-term equity awards, retirement and post-employment benefits, including severance protection, and other benefits. The various elements of executive compensation reflect the policies summarized below:

<u>Element</u>	<u>Purpose</u>
Base Salary	Base salary is comprised of periodic, fixed payments made to each NEO. Base salary is provided to each NEO in order to provide the NEO with a degree of financial certainty and to competitively compensate the NEO for rendering ongoing services to the Company. Competitive base salaries further the compensation program’s objectives by allowing the Company to attract and retain talented employees by providing a fixed portion of compensation.
Annual Cash Incentive Awards	The primary purposes of the annual cash incentive program are to incentivize employees to achieve certain pre-determined performance objectives over the fiscal year that, among other things, are linked to stockholder value creation and to competitively reward employees for achieving results.
Long-Term Incentive Awards	The primary purpose of the long-term incentive award program is to align employee and stockholder interests through equity instruments that incentivize employees to increase stockholder value, competitively reward employees for increasing stockholder value, and retain employees who are critical to value creation.
Post-Employment Benefits	In the event of certain qualifying terminations of employment, termination benefits provide NEOs with additional financial security, which we believe is necessary to attract and retain talented executives. For more details, see below under “Severance Arrangements”.
Retention and Change in Control Benefits	We provide NEOs with certain retention and change in control benefits that we believe help minimize inherent conflicts of interest that may arise for executives in potential change in control transactions.

Base Salary

In general, the Company’s executive compensation philosophy is to provide base salaries at a level that allows the Company to attract and retain executives that have the ability and experience to manage the business, utilizing, in the aggregate, the median of a comparison group as a target for each specific executive officer position. Base salary may vary from the median in certain cases based on the executive officer’s skills and experience. For details about the Company’s process for establishing the comparison group median for executive officer positions, see the section of this Proxy Statement entitled “Compensation Overview—Elements of Executive Compensation—Determination of Compensation.” The objective is to reward executives with upside for superior performance through our annual and long-term incentive programs. The Compensation Committee considers base salary adjustments for each NEO on an annual basis.

The 2022 and 2023 base salaries of our NEOs are shown in the table below. The base salary amounts reflect those that were in effect on December 31 of the year presented.

<u>NEO</u>	<u>2022 Base Salary</u>	<u>2023 Base Salary</u>	<u>% Change</u>
James R. Meyer	\$ 565,000	\$ 625,000	11% increase
W. Matthew Tonn	\$ 335,000	\$ 375,000	12% increase
Michael A. Riordan	\$ 300,000	\$ 360,000	20% increase

The base salary increases above reflect market adjustments to bring each NEO closer to market levels. These adjustments were based on a benchmarking analysis completed by Exequity. The amount of each NEO's base salary is the reference point for certain other elements of the NEO's compensation. For example, the potential annual cash incentive and long-term incentive award for each NEO is based, in part, on the NEO's base salary. NEO cash severance benefits also are determined, in part, by base salary.

Annual Cash Incentive Awards

Annual incentive plan performance measures and goals are linked to the Company's business plan. Performance goals are recalibrated each year based on that year's budget, business plan, goals and other relevant considerations. For 2023, the performance objectives underlying our annual cash incentive program were based on adjusted EBITDA, sales goals, transformational goals, cash related goals and people goals. Due to the Company's actual performance compared to the goals previously approved by the Compensation Committee and the Board, the Compensation Committee approved variable payouts under the 2023 annual incentive program for each NEO that reflect exceeding performance objectives.

Long-Term Incentive Awards

The Company maintains the 2022 LTIP, adopted at the 2022 annual meeting, the 2018 LTIP, and the 2005 LTIP. Under the 2022 LTIP and the Prior LTIPs, the Company is and was, respectively, able to grant to NEOs and other eligible employees cash incentive awards, stock options, share appreciation rights, restricted shares, restricted share units, performance shares, performance units, dividend equivalents and other share-based awards.

In January 2023, our Board, at the recommendation of the Compensation Committee, approved awards to our NEOs of time-based restricted shares and time-based stock options, with each form of award comprising approximately 50% of the target long-term incentive opportunity for each NEO. The Compensation Committee has granted stock options (and previously, SARs) to align the compensation of our NEOs more closely with increases in stockholder value over the long term and to provide, when combined with the other elements of compensation, market-competitive performance-based total compensation opportunities to our NEOs.

The following table sets forth the number of equity incentive awards granted to each of our NEOs in 2023:

<u>NEO</u>	<u>Options</u>	<u>Restricted Shares</u>
James R. Meyer	188,585	131,599
W. Matthew Tonn	55,908	39,014
Michael A. Riordan	50,067	34,938

The NEOs' restricted share awards generally vest on the third anniversary of the grant date, subject to each NEO's continued service through the applicable vesting date. The NEOs' option awards generally vest in three equal installments, beginning on the first anniversary of the grant date, subject to each NEO's continued service through the applicable vesting date. It is the policy of the Compensation Committee not to time the award of equity-based compensation to coincide with the release of favorable or unfavorable material non-public information about the Company.

Equity Compensation Plan Information

The following table contains information as of December 31, 2023 about the Company's equity compensation plans, all of which have been approved by the Company's stockholders.

	<u>Number of common shares to be issued upon exercise of outstanding options, warrants and rights</u>	<u>Weighted-average exercise price of outstanding options, warrants and rights</u>		<u>Number of common shares remaining available for future issuance under equity compensation plans (excluding common shares reflected in the first column)</u>
Equity compensation plans approved by stockholders	3,389,086		\$3.03	1,738,766 ⁽¹⁾
Equity compensation plans not approved by stockholders	300,000 ⁽²⁾		\$2.73	-
Total	3,689,086		\$3.01	1,738,766

(1) Represents shares of common stock authorized for issuance under the LTIP in connection with awards of stock options, share appreciation rights, restricted shares, restricted share units, performance shares, performance units, dividend equivalents and other share-based awards.

(2) Constitutes inducement grant of 300,000 stock options that were not vested as of December 2023.

Retirement and Pension Benefits

The Company provides matching contributions to participants in the Company's 401(k) Plan of up to 4% of eligible compensation. These matching contributions and any earnings thereon generally are held and invested under the plans until termination of the participant's employment. The Company maintains a tax-qualified defined benefit pension plan, for the benefit of eligible employees. Benefits under our pension plan are frozen and will not be impacted by increases due to future service and compensation increases. We made no contributions to our defined benefit pension plan during fiscal year 2023 and are not required to make any contributions to our defined benefit pension plan in 2024. During fiscal year 2023, the Company offered a one-time, lump-sum pay-out option to its terminated vested participants. None of the NEOs participate in the Company pension plan. The Company does not make available a non-qualified deferred compensation plan for its NEOs or other employees.

Change in Control and Post-Employment Benefits

For 2023, we set termination and change in control benefits at levels that we believe fall within the range of competitive market practices. Each of our NEOs is eligible to receive certain payments and benefits in connection with his or her termination of employment under various circumstances, including following a change in control of the Company, under the Company's Executive Severance Plan (as defined below), the 2022 LTIP (and the associated award agreements) and, with respect to Mr. Meyer, his employment agreement.

Severance Arrangements

Our NEOs participate in the Company's Executive Severance Plan, as amended and restated January 17, 2022 (the "Executive Severance Plan"), pursuant to which they are each eligible for payments and benefits in connection with certain terminations of their employment. In connection with Mr. Meyer's appointment as President and CEO, the Company entered into a letter agreement with Mr. Meyer, effective July 31, 2017 (as amended, the "Meyer Agreement"), as summarized in more detail below under the heading "Employment Agreements and Other Arrangements for NEOs." As noted below, the Meyer Agreement modifies the terms of the applicable NEOs' payments and benefits pursuant to the severance plans under certain circumstances.

Executive Severance Plan

The Executive Severance Plan covers executives who are designated by the Company to participate (each, a “Participant”). Upon a Participant’s termination of employment for any reason, including death, disability, voluntary resignation, and termination by the Company for Cause (as defined in the Executive Severance Plan), the Participant is entitled to the following accrued obligations: (i) accrued base salary and unused vacation through the date of termination, (ii) prior fiscal year bonuses that were previously earned but not yet paid, and (iii) accrued and vested benefits and unreimbursed expenses incurred but unpaid as of the date of termination ((i), (ii) and (iii) referred to as the “Accrued Obligations”).

In addition, Participants who experience an involuntary termination of employment by the Company without Cause or a resignation for Good Reason (as defined in the Executive Severance Plan), are also entitled under the Executive Severance Plan to (i) 12 months of base salary continuation (“Salary Continuation”); (ii) an amount equal to the average of the annual bonuses paid to them for the last two full years, payable on March 15 of the year following termination (“Average Annual Bonus”); and (iii) 12 months of subsidized participation in the Company’s group health plan for the Participant and their covered family members, where the Participant’s costs for the coverage shall be at the same cost and coverage levels as apply to active employees (“Subsidized Health Coverage”). To qualify for the foregoing Salary Continuation, Average Annual Bonus and Subsidized Health Coverage benefits, the Participant must provide transition services to the Company, if reasonably requested by the Board, for up to 12 months following such Participant’s termination.

Following a Change in Control (as defined in the Executive Severance Plan), if a Participant is not retained by the successor employer on terms substantially comparable in the aggregate to the terms on which they were employed prior to the Change in Control, the Participant’s termination shall qualify as a resignation for Good Reason, making them eligible for the benefits noted above. Otherwise, the Executive Severance Plan does not provide for special severance benefits if a Participant is terminated in connection with a Change in Control.

For Participants who terminate employment after attaining age 60 and completing at least 5 years of service with the Company, having provided the Company at least 12 months (6 months in the case of Messrs. Riordan and Tonn) prior notice of their retirement date, the following special Executive Severance Plan benefits shall apply with respect to those Participants’ outstanding equity incentive awards: (i) such awards shall continue to vest as if the Participant had remained in continuous service through (a) each applicable vesting date, or (b) for awards subject to performance-vesting, through the performance period, with any performance goal or metric vesting only based upon the achievement of the same, and (ii) any options and SAR awards that are vested or become vested under (i), shall remain exercisable until the earlier of their original expiration date or the 10-year anniversary of their grant date.

The Meyer Agreement modifies application of the Executive Severance Plan provisions for Mr. Meyer in the following respects: (a) the definitions of “Cause” and “Good Reason” in the Meyer Agreement shall apply to Mr. Meyer in lieu of the corresponding definitions set forth in the Executive Severance Plan; (b) Mr. Meyer shall also be eligible for, as an Accrued Obligation, his current (prorated) fiscal year bonus, to the extent earned and unpaid; and (c) with respect to the payments and benefits payable upon a termination without Cause (if such termination without Cause occurs within the 24 months following a Change in Control) or a resignation for Good Reason, the Meyer Agreement provides instead for (i) 24 months’ Salary Continuation, (ii) two times his Average Annual Bonus (payable in two installments, on March 15 of the year following Mr. Meyer’s termination and March 15 of the second year following Mr. Meyer’s termination), and (iii) 24 months of Subsidized Health Coverage.

Enhanced Severance Plan

In 2019, the Company adopted the Enhanced Severance Plan (the “Enhanced Plan”) to provide for enhanced severance if Mr. Meyer experiences a Qualifying Termination in connection with a Successful Transaction (as defined under the Enhanced Plan). Under the Company’s Enhanced Plan, a “Qualifying Termination” occurs if, in connection with—or within 24 months following—the consummation of a Successful Transaction, a participant is terminated by the Company without Cause or resigns from the Company due to Good Reason (each as defined under the Enhanced Plan). If a participant’s employment is terminated by the Company without Cause or terminated by the participant for Good Reason, in either case within three months prior to the date on which the Successful Transaction occurs, and it is reasonably demonstrated by the participant that such termination of employment or event constituting Good Reason

(x) was at the request of a third party that had taken steps reasonably calculated to effect a Successful Transaction or (y) otherwise arose in connection with or in anticipation of a Successful Transaction, then the participant's termination shall be deemed to be a Qualifying Termination under the plan upon consummation of the Successful Transaction and the participant shall be entitled to receive the same severance benefits as if such termination occurred in connection with a Successful Transaction.

Upon a Qualifying Termination under the Enhanced Plan, Mr. Meyer is eligible to receive a lump sum payment of six months' annual base salary plus one-half of his Average Annual Bonus, in addition to any amounts that might be payable under the Executive Severance Plan for a termination without Cause, a resignation for Good Reason or a termination without Cause in the 24 months following a Change in Control, as applicable, thereunder.

In addition, the Enhanced Plan also provides Mr. Meyer with 12 months of Subsidized Health Coverage. To the extent that Mr. Meyer is also eligible for Subsidized Health Coverage under the Executive Severance Plan, the benefit will be capped at 18 months, unless an employment agreement provides for a longer continuation period (e.g., the Meyer Agreement provides for 24 months of Subsidized Health Coverage upon a resignation for Good Reason or a termination without Cause in the 24 months following a Change in Control).

If a participant's employment is terminated due to death or Disability (as defined under the Enhanced Plan) after a Qualifying Termination but before severance payments have been made under the Enhanced Plan, the Company will pay such severance payments to the participant's surviving spouse (or, if none, the participant's representative), and the Company shall have no further obligations to the participant (or the participant's representative) under the Enhanced Plan.

Employment Agreements and Other Arrangements for NEOs

James R. Meyer. As noted above, Mr. Meyer entered into the Meyer Agreement in connection with his appointment as President and CEO. The Meyer Agreement does not provide for a specified term. It provides for an initial base salary of \$500,000 per year; target and maximum annual bonus opportunities of 100% and 200%, respectively, of his base salary; and a prorated bonus in respect of any partial year in accordance with the terms of the Meyer Agreement; and eligibility for an equity award equal to 100% of his base salary. Mr. Meyer is entitled to participate in all incentive compensation plans and to receive all benefits under any employee benefit plan made available to executive employees. In connection with Mr. Meyer being hired, he was granted a performance-based stock option to purchase up to 350,000 shares of the Company's common stock, with a vesting schedule as described in footnote 5 to the Outstanding Equity Awards at Fiscal Year-End 2020 table.

In addition, Mr. Meyer is a participant in the Company's Executive Severance Plan and Enhanced Plan, with the modifications described above. Under the terms of the LTIP and Mr. Meyer's incentive equity award agreements, upon a Qualifying Termination (as defined in the LTIP), all unvested awards with time-based vesting conditions or restrictions would become fully vested (and options or SARs exercisable) and, to the extent that any performance awards have been granted, such awards would become vested at the greater of actual performance achieved or target level, but in all cases prorated based on the elapsed proportion of the performance period as of such termination. Under the terms of the LTIP, all of Mr. Meyer's unvested equity awards would fully vest upon his death. Notwithstanding the foregoing, if a third-party successor following a Change of Control (as defined in the LTIP) does not assume or replace the obligations under the outstanding equity awards, then all outstanding awards will fully and immediately vest.

Mr. Meyer has agreed to keep confidential certain information and agreed to certain non-solicitation, non-competition and non-disparagement restrictions that apply for one year following termination of employment.

W. Matthew Tonn. Mr. Tonn was appointed Chief Commercial Officer effective September 30, 2019 pursuant to an offer letter, dated June 9, 2019 (the "Tonn Agreement"). The Tonn Agreement does not provide for a specified term. The Tonn Agreement provides for a base salary of \$310,000; threshold, target, and maximum bonus opportunities of 20%, 50% and 100%, respectively, of his base salary; a sign-on award granting 40,000 restricted shares of Company stock under the LTIP; and a signing bonus of \$50,000. Mr. Tonn is entitled to participate in all management incentive plans and to receive all benefits under any employee benefit plan made available to employees.

Mr. Tonn became a participant in the Company's Executive Severance Plan as of his start date. Mr. Tonn is also eligible for additional severance in the event his employment is terminated by the Company without "Cause" or he terminates his employment for "Good Reason" within 24 months following a "Change of Control" (each as defined in the Executive Severance Plan). Upon the occurrence of such event, in addition to any benefits provided under the Executive Severance Plan, Mr. Tonn is eligible to receive continued base salary for an additional 12-month period following termination of employment, an additional payment equal to the average of the annual bonuses paid for the last two full years and an additional six months of health insurance continuation. In the event of a Change of Control while Mr. Tonn is employed with the Company, his equity vesting will be accelerated, and he will receive a transaction payment equal to 75% of his annual base salary.

Mr. Tonn has agreed to keep confidential certain information, to assign intellectual property rights to the Company and to certain restrictions with respect to non-competition and non-solicitation of current or prospective customers that apply for one year following termination of employment, and non-solicitation of employees that apply for two years following termination of employment.

Michael A. Riordan. In connection with Mr. Riordan's appointment as Vice President, Chief Financial Officer, Treasurer, the Company and Mr. Riordan entered into a letter agreement regarding the terms of employment (the "Riordan Agreement") dated March 18, 2022 and effective as of March 21, 2022. The Riordan Agreement does not provide for a specified term. It provides for an initial base salary of \$300,000 per year; threshold, target and maximum annual bonus opportunities of 20%, 50% and 100%, respectively, of his base salary, and a sign-on award granting (i) 40,000 restricted shares of Company stock under the LTIP and (ii) 100,000 Company stock options. Mr. Riordan is entitled to participate in all management incentive plans and to receive all benefits under any employee benefit plan made available to employees. Mr. Riordan is a participant in the Company's Executive Severance Plan.

Mr. Riordan has agreed to keep confidential certain information, to assign intellectual property rights to the Company and to certain restrictions with respect to non-competition and non-solicitation of current or prospective customers that apply for one year following termination of employment, and non-solicitation of employees that apply for two years following termination of employment.

Stock Ownership Guidelines

The Board requires that the Company's NEOs and meet minimum stock ownership requirements that are consistent with industry standards and are set forth in the Company's Corporate Governance Guidelines. Each NEO must maintain Company stock holdings at least equal to the aggregate number of shares (including options or shares granted but not vested) that the Company has awarded to such NEO during the three-year period ending on any given date of determination. As of December 31, 2023, the stock ownership of each of our NEOs met or exceeded the Company's minimum stock ownership requirements.

Executive Compensation Recovery Policy ("Clawback Policy")

In 2023, the Company adopted a new Clawback Policy in accordance with Section 10D of the Exchange Act and Rule 10D-1 promulgated thereunder (collectively, "Section 10D"). In the event the Company is required to prepare an accounting restatement, the Clawback Policy provides that the Company will reasonably promptly recover the erroneously awarded compensation from covered executive officers in accordance with Section 10D and Nasdaq rules. The Clawback Policy was filed with the SEC on March 18, 2024 as Exhibit Number 97.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023.

Company Insider Trading Policy

The Company's Insider Trading Policy prohibits directors, NEOs, other officers who are subject to Section 16 of the Exchange Act, and certain other employees who may be designated from time to time by the Company's General Counsel (collectively, "Insiders") from the following actions, without prior written consent from the Company's General Counsel: (i) trading in Company securities during certain restricted periods, (ii) engaging in short sales of Company securities, (iii) buying or selling Company options (other than options granted pursuant to the Company's long-term incentive plans), including puts or calls, (iv) holding Company securities in margin accounts

and/or pledging Company securities as collateral, (v) hedging transactions, and (vi) placing standing orders with a broker to buy or sell Company securities that have a duration in excess of two (2) business days (other than when such orders are made pursuant to a trading plan that complies with SEC Rule 10b5-1). In addition, Insiders must preclear transactions in Company securities in advance with the Company's General Counsel.

EXECUTIVE COMPENSATION

Summary Compensation Table

The following table sets forth information regarding 2023 compensation for each of the Company's NEOs. Pursuant to SEC rules, information regarding 2022 compensation is presented for each executive who was also an NEO.

Summary Compensation Table								
Name	Principal Position	Year	Salary (1)	Stock Awards (2)	Option Awards (3)	Non-Equity Incentive Plan Compensation (4)	All Other Compensation	Total
James R. Meyer	President & Chief Executive Officer	2023	\$625,000	\$423,749	\$421,651	\$621,500	\$20,724	\$2,112,624
		2022	\$565,000	\$423,749	\$423,750	\$621,500	\$8,473	\$2,042,472
Michael A. Riordan	Chief Financial Officer & Treasurer	2023	\$360,000	\$112,500	\$111,943	\$165,000	\$9,724	\$759,167
		2022	\$283,756	\$225,900	\$313,251	\$165,000	\$14,901	\$1,002,808
W. Matthew Tonn	Chief Commercial Officer	2023	\$375,000	\$125,625	\$125,003	\$184,250	\$16,812	\$826,690
		2022	\$335,000	\$125,625	\$125,624	\$184,250	\$29,130	\$799,629

- (1) Amounts disclosed in the Salary column represent base salary earned by the NEO during the respective year and include amounts deferred at the officer's election.
- (2) Amounts disclosed in the Stock Awards column for 2022 relate to grants of restricted shares made under the 2022 LTIP. With respect to each restricted share, the amounts disclosed generally reflect the grant date fair value computed in accordance with ASC Topic 718. The grant date fair value of each restricted share was determined by multiplying the number of restricted shares granted by the average of the high and low stock trading prices for the Company's common stock as reported by Nasdaq on the grant date. The assumptions used in calculating the grant date fair value of each restricted share award are disclosed in the notes to the consolidated financial statements in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023.
- (3) Amounts disclosed in the Option Awards column for 2023 relate to grants of stock-settled and cash-settled stock options made under the 2022 LTIP. With respect to each award, the amounts disclosed generally reflect the grant date fair value computed in accordance with ASC Topic 718. Grant date fair value for our time-vested stock-settled stock options was determined using a Black-Scholes option valuation model. Grant date fair value of our mixed performance- and time-vested cash-settled stock options was determined using a Monte Carlo simulation model, since the awards included a market condition in addition to a service condition. The assumptions used in calculating the grant date fair value of all awards are disclosed in the notes to the consolidated financial statements in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023. In the notes to the consolidated financial statements, the Company refers to the cash-settled stock options as cash-settled SARs.

(4) Amounts disclosed in the Non-Equity Incentive Plan Compensation column represent amounts earned in the reported year under the Company's annual cash incentive program.

Supplemental Narrative to Summary Compensation Table

A substantial portion of the total compensation reported in the Summary Compensation Table above is paid to the NEOs pursuant to the terms of their employment agreements or other compensation plans maintained by the Company. See the section of this Proxy Statement entitled "Compensation Overview" for more information.

Outstanding Equity Awards at 2023 Fiscal Year-End

Outstanding Equity Awards (NEOs)

Name	Option Awards				Option Expiration Date	Stock Awards	
	Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised and Unearned Options ⁽¹⁾	Option Exercise Price (\$)		Number of Shares or Units of Stock That Have Not Vested	Market Value of Shares or Units of Stock That Have Not Vested ⁽²⁾
James R. Meyer						65,617 ⁽³⁾	177,166
						110,929 ⁽⁴⁾	299,508
						131,599 ⁽⁵⁾	355,317
			350,000	16.44	7/31/2027		
	33,025			16.66	1/12/2028		
	72,959			7.41	1/14/2029		
	332,005			1.66	1/24/2030		
	502,500	247,500 ⁽⁸⁾		2.38	1/5/2031		
	75,894	37,382 ⁽⁹⁾		3.81	1/28/2031		
	54,876	106,526 ⁽¹⁰⁾		3.82	1/17/2032		
		188,585 ⁽¹²⁾		3.22	1/6/2033		
W. Matthew Tonn						28,478 ⁽³⁾	76,891
						32,886 ⁽⁴⁾	88,792
						39,014 ⁽⁵⁾	105,338
	144,090			1.66	1/24/2030		
	201,000	99,000 ⁽⁸⁾		2.38	1/5/2031		
	32,938	16,224 ⁽⁹⁾		3.81	1/28/2031		
	16,268	31,581 ⁽¹⁰⁾		3.82	1/17/2032		
		55,908 ⁽¹²⁾		3.22	1/6/2033		
Michael A. Riordan						14,147 ⁽³⁾	38,197
						14,110 ⁽⁴⁾	38,097
						40,000 ⁽⁶⁾	108,000
						34,938 ⁽⁵⁾	94,333

	<u>Option Awards</u>					<u>Stock Awards</u>	
	25,000			2.58	11/30/2030		
	33,500	16,500 ⁽⁸⁾		2.38	1/5/2031		
	7,012	3,455 ⁽⁹⁾		3.81	1/28/2031		
	2,991	5,808 ⁽¹⁰⁾		3.82	1/17/2032		
	34,000	66,000 ⁽¹¹⁾		4.30	3/21/2032		
		50,067 ⁽¹²⁾		3.22	1/6/2033		

- (1) Represents unearned non-qualified performance-based stock options.
- (2) Market value of unvested restricted shares based on closing price of the Company's common stock on the Nasdaq of \$2.70 per share on December 29, 2023.
- (3) Restricted share award vested on January 28, 2024.
- (4) Restricted share award vesting on January 17, 2025.
- (5) Restricted share award vesting on January 6, 2026.
- (6) Restricted share award vesting on March 21, 2025.
- (7) Represents performance-based stock options, which will vest if the average closing price per share of the Company's stock over the previous 90 calendar days (the "Threshold Stock Price") exceeds the closing price per share of the Company's stock on July 31, 2017 (the "Reference Stock Price") as follows: 34% of the stock options will vest if the Threshold Stock Price exceeds the Reference Stock Price by \$5.00; another 33% of the stock options will vest if the Threshold Stock Price exceeds the Reference Stock Price by \$10.00; and the remaining 33% of the stock options will vest if the Threshold Stock Price exceeds the Reference Stock Price by \$15.00. Such stock price appreciation goals can be achieved at any point during the options' ten-year contractual term.
- (8) The performance condition for the awards (described above under "—Long-Term Incentive Awards") was met during the first quarter for 2021. The cash settled stock options remain subject to service vesting conditions, providing that the awards vest in three equal annual installments beginning on January 5, 2022.
- (9) Stock option award vesting in three equal annual installments beginning on January 28, 2022.
- (10) Stock option award vesting in three equal annual installments beginning on January 17, 2023.
- (11) Stock option award vesting in three equal annual installments beginning on March 21, 2023.
- (12) Stock option award vesting in three equal annual installments beginning on January 6, 2024.

Potential Payments upon Termination or Change in Control

Each NEO is eligible for certain payments and benefits at, following, or in connection with the resignation, severance, retirement or other termination of the NEO or a change in control of the Company. These benefits are in addition to benefits generally available to salaried employees. The Company does not provide any of its executives with change in control tax gross-ups.

For a description of the potential payments and benefits payable to NEOs upon a termination or change in control, see the section of this Proxy Statement entitled "Compensation Overview—Elements of Executive Compensation—Change in Control and Post-Employment Benefits."

Pay vs. Performance

As required by Item 402(v) of Regulation S-K, we are providing the following information about the relationship between compensation actually paid ("CAP") (as defined in Item 402(v)) and performance.

<u>Year</u>	<u>Summary Compensation Table Total for PEO⁽¹⁾⁽²⁾</u>	<u>Compensation Actually Paid to PEO⁽¹⁾⁽²⁾</u>	<u>Average Summary Compensation Table Total for Non-PEO Named Executive Officers⁽¹⁾⁽²⁾</u>	<u>Average Compensation Actually Paid to Non-PEO Named Executive Officers⁽¹⁾⁽²⁾</u>	<u>Value of Initial Fixed \$100 Investment Based On Total Shareholder Return</u>	<u>Net Income⁽³⁾</u>
2023	\$2,112,624	\$1,049,247	\$792,929	\$668,546	\$112	(\$23,544,000)
2022	\$2,042,472	\$2,156,711	\$842,552	\$485,722	\$133	(\$38,847,000)
2021	\$2,849,256	\$3,918,003	\$1,222,954	\$1,458,205	\$153	(\$41,447,000)

(1) James R. Meyer was our Principal Executive Officer (“PEO”) for each year presented, 2021, 2022 and 2023. The individuals comprising the Non-PEO named executive officers (NEOs) for each year presented are listed below:

2021
Terrence R. Rogers
W. Matthew Tonn

2022
Terrence R. Rogers
W. Matthew Tonn
Mike Riordan

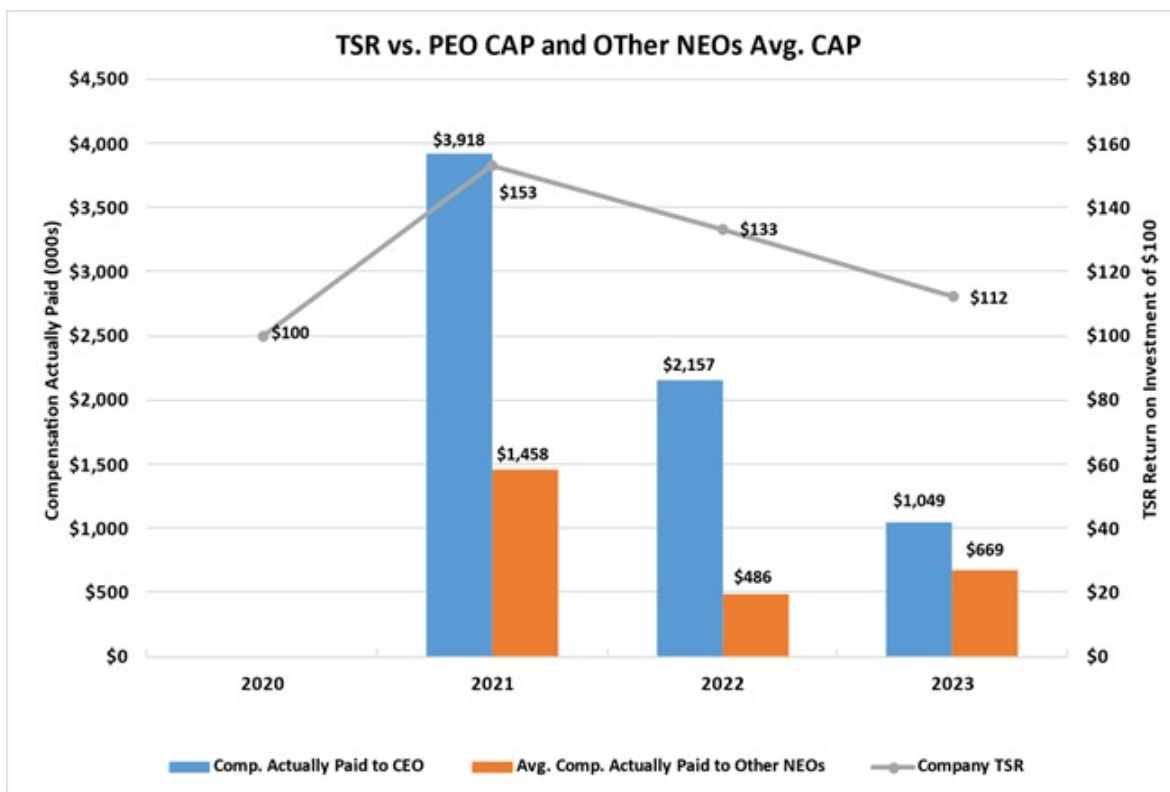
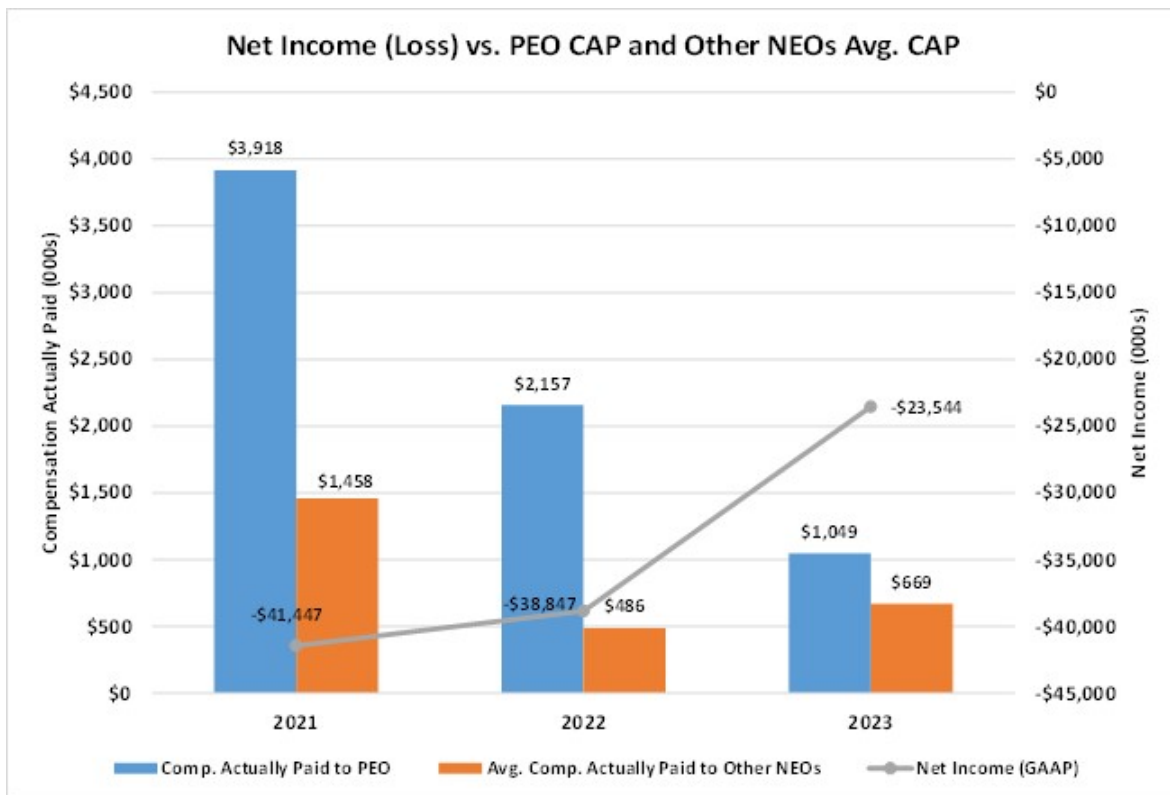
2023
Terrence R. Rogers
W. Matthew Tonn
Mike Riordan

(2) The table below provides the details on the manner in which CAP was determined based on the summary compensation table total (“SCT Total”) amounts shown for the PEO and the other Non-PEO NEOs.

	<u>SCT Total</u>	<u>Subtract Reported SCT Stock Awards Value</u>	<u>Subtract Reported SCT Option Awards Value</u>	<u>Add FYE fair value of outstanding and unvested awards granted during the FY</u>	<u>Add Change in Fair Value of outstanding and unvested awards at FYE from prior FYE</u>	<u>Add the Change in Fair Value of awards that vested during the FY from the prior FYE</u>	<u>Subtract the fair value as of the prior FYE for awards that did not vest</u>	<u>CAP</u>
2023								
PEO	\$2,112,624	\$423,749	\$421,651	\$694,770	\$(967,067)	\$54,320	\$-	\$1,049,247
Avg. Non-PEO NEOs	\$792,929	\$119,063	\$118,473	\$195,213	\$(89,248)	\$7,188	\$-	\$668,546
2022								
PEO	\$2,042,472	\$423,749	\$423,750	\$700,715	\$201,858	\$59,166	\$0	\$2,156,711
Avg. Non-PEO NEOs	\$842,552	\$157,799	\$186,917	\$202,696	\$(48,473)	\$19,546	\$(185,884)	\$485,722
2021								
PEO	\$2,849,256	\$250,001	\$1,550,000	\$2,242,548	\$495,591	\$130,609	\$0	\$3,918,003
Avg. Non-PEO NEOs	\$1,222,954	\$103,938	\$662,341	\$853,140	\$124,171	\$24,219	\$0	\$1,458,205

(3) The dollar amounts reported represent the amount of net income (loss) reflected in the Company’s audited financial statement for the applicable year.

The graphs below depict the relationship between the PEO’s and Other NEO’s Average CAP during 2021, 2022 and 2023 compared to the Company’s total stockholder return (“TSR”) and Net Income (Loss).



DIRECTOR COMPENSATION

Set forth below are summaries of the compensation paid to each of our non-employee directors in 2023, in both cash and equity awards. No information is presented for Mr. Randall, who will join the Board on May 1, 2024 and will not receive any compensation for his role as an employee director.

2023 Director Compensation Table

<u>Name</u>		<u>Fees Earned or Paid in Cash⁽¹⁾</u>		<u>Stock Awards⁽²⁾</u>		<u>Total</u>
Elizabeth K. Arnold	\$	73,000	\$	64,999	\$	137,999
Rodger Boehm	\$	65,000	\$	64,999	\$	129,999
José De Nigris Felán	\$	49,000	\$	64,999	\$	113,999
William D. Gehl	\$	124,000	\$	64,999	\$	188,999
Travis Kelly	\$	46,000	\$	64,999	\$	110,999
Malcolm F. Moore	\$	68,000	\$	64,999	\$	132,999

(1) Includes the following: annual retainer fees, committee chairmanship fees, board of director fees, and committee meeting attendance fees (as defined below):

	<u>Ms. Arnold</u>	<u>Mr. Boehm</u>	<u>Mr. De Nigris Felán</u>	<u>Mr. Gehl</u>	<u>Mr. Kelly</u>	<u>Mr. Moore</u>
Retainer	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000
Chairmanship	\$ 15,000	\$ 10,000	\$ -	\$ 70,000	\$ -	\$ 10,000
Attendance	\$ 13,000	\$ 10,000	\$ 4,000	\$ 9,000	\$ 1,000	\$ 13,000
Total	\$ 73,000	\$ 65,000	\$ 49,000	\$ 124,000	\$ 46,000	\$ 68,000

(2) Represents the grant date fair value of restricted shares granted by the Company during 2023 computed in accordance with ASC Topic 718. Grant date fair value was determined by multiplying the number of restricted shares granted by the average of the high and low stock trading prices for the Company's common stock as reported by Nasdaq on the grant date.

The number of shares awarded to non-employee directors during 2023 and the aggregate unvested stock awards as of December 31, 2023 are as follows:

<u>Director</u>	<u>Stock Awards During 2023</u>	<u>Aggregate Unvested Stock Awards</u>
Elizabeth K. Arnold	23,985	23,985
Rodger Boehm	23,985	23,985
José De Nigris Felán	23,985	23,985
William D. Gehl	23,985	23,985
Travis D. Kelly	23,985	23,985
Malcolm F. Moore	23,985	23,985

We reimburse directors for expenses incurred in connection with attendance at Board or committee meetings. Our Board, at the recommendation of the Compensation Committee based on the study and suggestions of its independent compensation consultant, approved the Company's non-executive director compensation policy (the "Director Compensation Policy"), which became effective May 22, 2022, consisting of an annual cash retainer payable to non-executive members of the Board (inclusive of meeting fees for up to seven meetings annually) is \$45,000, and an annual equity award is a grant of restricted shares valued at \$65,000, with the shares to vest fully on the earlier of (a) the first anniversary of the date of grant or (b) the next annual meeting of the Company's stockholders following the date of grant. For each Board meeting in excess of seven per year, non-executive members of the Board receive a meeting fee of \$1,000 per board meeting.

In addition, the Chair and members of each Board committee receive additional compensation as follows:

	<u>Chair Retainer</u> <u>(annual)</u>	<u>Meeting Fees</u> <u>(per meeting)</u>
Audit	\$15,000	\$1,000
Compensation	\$10,000	\$1,000
Nominating and Corporate Governance	\$10,000	\$1,000

The Chair of the Board receives an incremental cash retainer of \$70,000 per year and, effective May 1, 2024 the Lead Independent Director will receive an annual incremental cash retainer of \$15,000. The cash retainers and meeting fees are payable on a quarterly basis, in arrears, on the first day of each quarter. The Company does not provide any incentive-based non-equity compensation to directors and does not maintain a defined benefit or actuarial pension plan or a deferred compensation plan for directors.

Stock Ownership Guidelines

The Board requires that each non-executive director will maintain an amount of Company stock holdings at least equal in value to three times the amount of annual cash retainer paid to the non-executive director (not including any additional fees for service on a Board committee or as chair of a committee). The director may reduce the amount of stock holdings by the number of shares the director has applied directly to the payments of taxes on such awards. Company stock holdings that count towards meeting ownership requirements include: (a) shares owned outright or in trust; and (b) stock options, restricted shares or restricted share units, including options or shares granted but not vested. If a director consistently fails to comply with the stock ownership requirements, the Compensation Committee will take such actions as it deems appropriate, including, but not limited to allocating an additional amount of the director's annual compensation to the purchase of stock in accordance with the program or reducing future equity compensation awards.

As of December 31, 2023, the stock ownership of each of our non-executive directors either (i) exceeded the Company's minimum stock ownership requirements or (ii) was in the transition period to comply with such guidelines.

FEES OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM AND AUDIT COMMITTEE REPORT

Fees Billed by Independent Registered Public Accounting Firm

The Audit Committee has adopted a pre-approval policy pursuant to which it must pre-approve all audit and permissible non-audit services provided by our independent registered public accounting firm. These services may include audit services, audit-related services and tax services. Under the policy, the Audit Committee may delegate the authority to pre-approve any audit or non-audit services to be provided by our independent registered public accounting firm to one or more of its members. The pre-approval of services by a member of the Audit Committee pursuant to this delegated authority, if any, must be reported at the next meeting of the Audit Committee.

From time to time, the Audit Committee may pre-approve specified types of services that are expected to be provided by our independent registered public accounting firm. Unless the Audit Committee determines otherwise, the term for any service pre-approved by the Audit Committee is twelve months from the date of pre-approval. Any pre-approval must set forth in detail the particular service or type of services to be provided and is generally subject to a specific cost limit. Any services that exceed these cost limits require specific approval by the Audit Committee. The Audit Committee may periodically review and, as necessary, revise the list of pre-approved services based on subsequent determinations.

The following table presents fees for services rendered by Grant Thornton LLP for the audit of our annual financial statements for the fiscal years ended December 31, 2023 and 2022, respectively.

<u>Fees</u>	<u>Fiscal Year Ended December 31, 2023</u>	<u>Fiscal Year Ended December 31, 2022</u>
Audit Fees ⁽¹⁾	\$450,497	\$425,820
Audit-Related Fees ⁽²⁾	—	—
Tax Fees ⁽³⁾	—	—
Total	\$450,497	\$425,820

- (1) Audit Fees include fees billed or expected to be billed for professional services rendered for the audit of our annual consolidated financial statements, the review of the interim consolidated financial statements included in our quarterly reports and other related services that are normally provided in connection with statutory and regulatory filings.
- (2) Audit-Related Fees include fees billed for assurance and related services that are reasonably related to the performance of the audit or review of our annual consolidated financial statements and not reported under “Audit Fees.”
- (3) Tax Fees include fees billed or expected to be billed for services performed related to tax compliance, tax advice and tax planning.

Report of the Audit Committee

The following report of the Audit Committee does not constitute soliciting material and should not be deemed filed or incorporated by reference into any other of our filings under the Securities Act of 1933 or the Exchange Act, except to the extent we specifically incorporate this report by reference therein.

The Audit Committee is currently comprised of Ms. Arnold and Messrs. Moore, Gehl and Boehm. Our Board has determined that each member of the Audit Committee meets the independence requirements under the listing standards of Nasdaq, the Exchange Act and the rules and regulations of the Securities and Exchange Commission. The committee operates under a written charter that was adopted by our Board.

The committee oversees our accounting and financial reporting process on behalf of our Board. Management has the primary responsibility for the preparation of our financial statements and the disclosure and financial reporting process, including establishing a system of internal controls. In fulfilling its oversight responsibilities, the committee reviewed and discussed with management and Grant Thornton LLP, our independent registered public accounting firm, the audited financial statements as of and for the year ended December 31, 2023 and the reports of Grant Thornton LLP issued in connection therewith. Grant Thornton LLP is responsible for expressing an opinion on the conformity of these audited financial statements with generally accepted accounting principles.

The committee has discussed and reviewed with Grant Thornton LLP the matters required to be discussed by Public Company Accounting Oversight Board Auditing Standard 1301 (Communications with Audit Committees), which includes, among other things, matters related to the conduct of the audit of our financial statements. The committee has also received from Grant Thornton LLP the written disclosures describing the relationships between Grant Thornton LLP and us that might bear on the independence of Grant Thornton LLP consistent with and required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant’s communications with the Audit Committee concerning independence, and has discussed with Grant Thornton LLP its independence.

In reliance on the reviews and discussions referred to above, the committee recommended to our Board that the audited financial statements be included in our Annual Report on Form 10-K for the year ended December 31, 2023 for filing with the Securities and Exchange Commission. The committee and our Board also have recommended the ratification of the appointment of Grant Thornton LLP as our independent registered public accounting firm for 2024.

Respectfully submitted by the Audit Committee,

Elizabeth K. Arnold, Chair
William D. Gehl
Malcolm F. Moore
Rodger L. Boehm

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Under its charter, our Audit Committee is responsible for the review and approval of “related-person transactions” involving the Company or its subsidiaries and related persons. As defined under the SEC’s rules, a “related person” is a director, executive officer, nominee for director or 5% stockholder of the Company, and their immediate family members. Any transaction or series of transactions in which the Company or a subsidiary is a participant, the amount involved exceeds \$120,000 and a related person has a direct or indirect material interest must be reported in our filings with the SEC pursuant to its rules.

The following persons are owners of Fabricaciones y Servicios de México, S.A. de C.V. (“Fasemex”): Jesús Gil, a director of the Company and former VP, Operations; and Alejandro Gil and Salvador Gil, siblings of Jesús Gil. Fasemex owns approximately 10.8% of the outstanding shares of Common Stock as of December 31, 2023 and provides steel fabrication services to the Company. The lessors of the Castaños Facility are Jesús Gil, Alejandro Gil, and Salvador Gil. Distribuciones Industriales JAS S.A. de C.V. (“DI”) is owned by Alejandro Gil and Salvador Gil and provides material and safety supplies to the Company. Maquinaria y equipo de transporte Jova S.A. de C.V. (“METJ”) is owned by Jorge Gil, a sibling of Jesús Gil, and provides trucking services to the Company. Fasemex, DI, METJ, Jesús Gil, Alejandro Gil, Salvador Gil, and Jorge Gil are collectively referred to as the “Gil Family”.

The Company paid approximately \$17,379,000 and \$33,814,000 to the Gil Family during the years ended December 31, 2023 and 2022, respectively, related to steel fabrication services, rent and security deposit payments for the Castaños Facility, material and safety supplies, trucking services and royalty payments.

Commercial Specialty Truck Holdings, LLC (“CSTH”) is minority owned by James R. Meyer, CEO and a member of our Board and beneficial owner of over 5% of our Common Stock. The Company sold specialty parts supplies in an amount equal to approximately \$121,000 to CSTH during the year ended December 31, 2023.

Related party asset on the condensed balance sheet of approximately \$638,000 as of December 31, 2023 includes other receivables of approximately \$517,000 from the Gil Family and approximately \$121,000 from CSTH. Related party accounts payable on the condensed balance sheet of approximately \$2,478,000 as of December 31, 2023 is payable to the Gil Family. Related party asset on the condensed consolidated balance sheet of approximately \$3,261,000 as of December 31, 2022 includes prepaid inventory of approximately \$2,014,000 and other receivables of approximately \$1,247,000 from the Gil Family. Related party accounts payable on the condensed consolidated balance sheet of approximately \$3,393,000 as of December 31, 2022 is payable to the Gil Family.

An affiliate of the Lender (the “Warrantholder”) beneficially owns approximately 47.4% of the outstanding shares of Common Stock (as disclosed by the Warrantholder in its Schedule 13D/A No. 5 filed with the SEC on July 14, 2023). The Company paid approximately \$4,776,000 to the Warrantholder during the year ended December 31, 2023 for term loan interest, of which approximately \$1,615,000 was paid in cash and approximately \$3,161,000 was payment in kind during the year ended December 31, 2023. The Company did not pay equity or cash fee during the year ended December 31, 2023 to the Warrantholder related to the standby letter of credit described in “Note 11 - Debt Financing and Revolving Credit Facilities” disclosed in the notes to the consolidated financial statements in the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2023.

2025 ANNUAL MEETING OF STOCKHOLDERS

We expect that our 2025 annual meeting of stockholders will be held within 30 days of May 14, 2025, which will be the first anniversary of the upcoming annual meeting. Subject to certain exceptions set forth in our Bylaws, proposals of stockholders intended for inclusion in the proxy statement for our 2025 annual meeting of stockholders must be

received by the Corporate Secretary at our principal executive offices (currently at 125 South Wacker Drive, Suite 1500, Chicago, Illinois 60606) by December 5, 2024. If a stockholder intends to present a proposal at the 2025 annual meeting of stockholders, but not to have such proposal included in our proxy statement relating to that meeting, such proposal must be received by our Corporate Secretary not earlier than January 14, 2025 and not later than February 13, 2025. Such proposals must contain specific information concerning the person to be nominated or the matters to be brought before the meeting and concerning the stockholder submitting the proposal. In order for stockholders to give timely notice of nominations for directors, other than those nominated by the Company, for inclusion on a universal proxy card in connection with the 2025 annual meeting, notice must be submitted no later than March 15, 2025 and include all of the information required by Rule 14a-19 under the Exchange Act.

“HOUSEHOLDING” OF PROXY MATERIALS

The SEC has adopted rules that permit companies and intermediaries (e.g., brokers) to satisfy the delivery requirements for proxy materials with respect to two or more stockholders sharing the same address by delivering a single proxy statement addressed to those stockholders. This process, which is commonly referred to as “householding,” potentially provides convenience for stockholders and cost savings for companies.

A number of brokers with account holders who are stockholders will be “householding” our proxy materials. As indicated in the notice previously provided by these brokers to stockholders, a single proxy statement will be delivered to multiple stockholders sharing an address unless contrary instructions have been received from an affected stockholder. Once you have received notice from your broker or us that they will be “householding” communications to your address, “householding” will continue until you are notified otherwise.

Stockholders who currently receive multiple copies of the Proxy Statement at their address and would like to request “householding” of their communications, or who would like to opt out of “householding” and receive an additional copy of any such document, should contact their broker or, if a stockholder is a direct holder of shares of our common stock, they should submit a written request to our transfer agent, Computershare Investor Services, P.O. Box 43078, Providence, Rhode Island 02940.

By Order of the Board of Directors
FreightCar America, Inc.

/s/ Celia R. Perez
CELIA R. PEREZ
VP, General Counsel & Corporate Secretary

APPENDIX A

**AMENDMENT NO. _
TO
FREIGHTCAR AMERICA, INC. 2022 LONG TERM INCENTIVE PLAN**

AMENDMENT NO. _, dated as of May 14, 2024 (this “Amendment”), to the 2022 Long Term Incentive Plan (as amended, the “Plan”) of FreightCar America, Inc., a Delaware corporation (the “Corporation”).

WHEREAS, the Corporation maintains the Plan, effective as of May 12, 2022 and as amended thereafter; and

WHEREAS, the Board of Directors of the Corporation deems it to be in the best interest of the Corporation and its stockholders to amend the Plan in order to increase the maximum number of shares of the Corporation's common stock, par value \$0.01 per share, which may be issued and sold under the Plan from (i) 4,796,901, which number includes 354,788 shares under the Corporation's 2018 Long Term Incentive Plan, as amended and restated (the “2018 LTIP”), and the 2005 Long Term Incentive Plan, as amended and restated (the “2005 LTIP” and, together with the 2018 LTIP, the “Prior Plans”) that remained available for grant as of May 12, 2022, plus (ii) any shares remaining for grant under the Prior Plans subject to awards that, after May 12, 2022, were or are forfeited, terminated, lapsed or satisfied thereunder in cash or property other than shares, to (i) 7,796,901 shares, which number of shares includes the 354,788 shares carried over from the Prior Plans that remained available for grant as of May 12, 2022, plus (ii) any shares remaining for grant under the Prior Plans subject to awards that, after May 12, 2022, were or are forfeited, terminated, lapsed or satisfied thereunder in cash or property other than shares.

NOW, THEREFORE, BE IT RESOLVED the Plan is hereby amended as follows:

1. The first sentence of Section 4.1(a) shall be revised and amended to read as follows:

“Subject to adjustment as provided in Section 4(d), the total number of Shares reserved for issuance in connection with Awards under the Plan shall be equal to the sum of (i) 7,796,901, which includes the 354,788 Shares carried over from the Prior Plans that remained available for grant as of May 12, 2022, plus (ii) any Shares under the Prior Plans subject to Awards that, after the date of this Amendment, are forfeited, terminated, lapsed or satisfied thereunder in cash or property other than Shares.”

2. The final sentence of Section 4.1(a) shall be revised and amended to read as follows:

“The maximum number of Shares that may be issued or transferred to Eligible Persons as ISOs is 7,796,901 Shares.”

3. This Amendment shall be effective as of the date first set forth above.
4. In all respects not amended, the Plan is hereby ratified and confirmed and remains in full force and effect.

FREIGHTCAR AMERICA, INC.

By: _____
Name:
Title:

FREIGHTCAR AMERICA, INC.



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ENDORSEMENT_LINE SACKPACK



1000000

MR A SAMPLE
DESIGNATION (IF ANY)
ADD 1
ADD 2
ADD 3
ADD 4
ADD 5
ADD 6

Your vote matters - here's how to vote!

You may vote online or by phone instead of mailing this card.



Online

Go to www.investorvote.com/RAIL
or scan the QR code - login details are
located in the shaded bar below.



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Using a black ink pen, mark your votes with an X as shown in this example.
Please do not write outside the designated areas.



2024 Annual Meeting Proxy Card

1234 5678 9012 345

▼ IF VOTING BY MAIL, SIGN, DETACH AND RETURN THE BOTTOM PORTION IN THE ENCLOSED ENVELOPE. ▼

A Proposals - The Board of Directors recommend a vote "FOR" all the nominees listed, "FOR" Proposals 2, 3 and 4.

1. To elect three directors as Class I directors, each for a term of three years, and one director as a Class III director for the two years remaining in the current Class III director term.

	For	Against	Abstain		For	Against	Abstain		For	Against	Abstain
01 - Malcolm F. Moore (Class I)	☐	☐	☐	02 - José De Nigris Felín (Class I)	☐	☐	☐	03 - Travis D. Kelly (Class I)	☐	☐	☐
04 - Nicholas J. Randall (Class III)	☐	☐	☐								

2. To hold an advisory vote to approve the compensation of our
Named Executive Officers.

For Against Abstain
☐ ☐ ☐

3. To ratify the appointment of Grant Thornton LLP as our
independent registered public accounting firm for fiscal year
2024.

For Against Abstain
☐ ☐ ☐

4. To approve an increase in the shares authorized under the
FreightCar America, Inc. 2022 Long Term Incentive Plan for
general use.

For Against Abstain
☐ ☐ ☐

B Authorized Signatures - This section must be completed for your vote to be counted. - Date and Sign Below

Please sign this proxy exactly as your name appears on the proxy. If held in joint tenancy, all joint tenants should sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such. If held by a corporation, please sign in full corporate name by president or other authorized officer. If held by a partnership, limited liability company or other similar entity, please sign in such entity's name by an authorized person.

Date (mm/dd/yyyy) - Please print date below.

Signature 1 - Please keep signature within the box.

Signature 2 - Please keep signature within the box.

/ /



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MR A SAMPLE (THIS AREA IS SET UP TO ACCOMMODATE
140 CHARACTERS) MR A SAMPLE AND MR A SAMPLE AND
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The Annual Meeting of Stockholders of FreightCar America, Inc. will be held on
May 14, 2024, 10:00 A.M. Central Time, virtually via the internet at meetnow.global/MRLY49Q.

To access the virtual meeting, you must have the information that is printed in the shaded bar
located on the reverse side of this form.



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Proxy – FreightCar America, Inc.



2024 ANNUAL MEETING OF STOCKHOLDERS MAY 14, 2024

10:00 A.M. Central Time

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS OF FREIGHTCAR AMERICA, INC., FOR THE 2024 ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON
MAY 14, 2024, AND ANY ADJOURNMENT OR POSTPONEMENT THEREOF.

The undersigned hereby appoints each of Nicholas J. Randall and Celia R. Perez as proxy with full power of substitution to represent and to vote, as designated on the reverse side of this proxy card, all of the shares of common stock of FreightCar America, Inc., which the undersigned may be entitled to vote at the Annual Meeting of Stockholders to be held virtually at 10:00 a.m. Central Time on May 14, 2024, and at any postponement(s) or adjournment(s) thereof and, in such proxies' discretion, to vote upon such other business as may properly come before the meeting, and at any postponement(s) or adjournment(s) thereof, as set forth in the related Notice of Annual Meeting and Proxy Statement, the receipt of which is hereby acknowledged. The undersigned hereby revokes all prior proxies given by the undersigned to vote at said meeting and any adjournment(s) or postponement(s) thereof. This proxy card is valid only when signed and dated.

(Continued and to be dated and signed on the reverse side.)

C Non-Voting Items

Change of Address – Please print new address below.

Comments – Please print your comments below.

Meeting Attendance
Mark box to the right if
you plan to attend the
Annual Meeting.

☐