Risk Factors Comparison 2024-02-26 to 2023-02-27 Form: 10-K

Legend: New Text ~~Removed Text~~ Unchanged Text Moved Text Section

Risks Related to our Business and Industry Our business is subject to overall economic **and geopolitical** conditions that could have a material adverse effect on our results of operations **and financial condition** . We are sensitive to changes in ~~overall~~ economic **or geopolitical** conditions that impact customer shipping volumes, industry freight demand, and industry truck capacity. When shipping volumes decline or available truck capacity increases, freight pricing generally becomes more competitive as carriers compete for loads to maintain truck productivity. We may be negatively affected by future economic conditions including employment levels, business conditions, fuel and energy costs, public health crises, interest rates and tax rates. Economic **or geopolitical** conditions may also impact the financial condition of our customers, resulting in **a decreased demand for services or** a greater risk of bad debt losses, and that of our suppliers, which may affect negotiated pricing or availability of needed goods and services. **Labor and employment matters, including** ~~Difficulty~~ **difficulty** in recruiting and retaining experienced drivers, recent driver training school graduates and independent contractors **, could** ~~impacts~~ - **impact** our results of operations **and financial condition** . At times, the trucking industry has experienced driver shortages. Driver availability may be affected by changing workforce demographics, alternative employment opportunities, national unemployment rates, freight market conditions, availability of financial aid for driver training schools and changing industry regulations. If such a shortage were to occur and ~~additional~~ driver pay rate increases ~~were~~ **became** necessary to attract and retain drivers, our results of operations would be negatively impacted to the extent that we could not obtain corresponding freight rate increases. Additionally, a shortage of drivers could result in idled equipment, which would affect our profitability and would limit growth opportunities. Independent contractor availability may also be affected by both inflationary cost increases that are the responsibility of independent contractors and the availability **and cost** of equipment financing. ~~On- going~~ **Ongoing** federal and state legislative challenges to the independent contractor model could also affect independent contractor availability. In recent years, the topic of the classification of individuals as employees or independent contractors has gained increased attention among federal and state regulators as well as the plaintiffs' bar. Various legislative or regulatory proposals have been introduced at the federal and state levels that may affect the classification status of individuals as independent contractors or employees for either employment tax purposes (e. g., withholding, social security, Medicare and unemployment taxes) or other benefits available to employees (e. g., workers' compensation benefits and minimum wage). Recently, certain states ~~(most prominently, California)~~ have seen significant increased activity by tax and other regulators **regarding worker classification,** and ~~numerous~~ class action lawsuits ~~filed against~~ **alleging misclassification by** transportation companies ~~that engage independent contractors~~ **have resulted in significant damage awards or monetary settlements** . Potential changes, if any, that could impact the legal classification of the independent contractor relationship between us and our independent contractors could have a material adverse effect on our ability to recruit and retain independent contractors. If a shortage of independent contractors occurs, ~~additional~~ increases in per- mile settlement rates (for independent contractors) and driver pay rates (for company drivers) may become necessary to attract and retain a sufficient number of drivers. These increases would negatively affect our results of operations to the extent that we would be unable to obtain corresponding freight rate increases. ~~Moreover~~ **During 2023** , ~~class action litigation~~ **union organizing efforts occurred at two locations of a U. S. subsidiary, which resulted** in ~~this area against~~ **fewer than 30 of our employees being represented by a union. Additional unionization, if broad- based, could have a material adverse effect on our costs, efficiency, and profitability. Driver or** other **employee dissatisfaction** ~~transportation companies has resulted in significant damage awards~~ and ~~/~~ **regulations that govern organization procedures could impact** ~~or~~ **our** ~~monetary settlements~~ **ability to effectively** ~~for~~ - **or timely address any organization efforts** ~~workers who have been allegedly misclassified as independent contractors~~ . Increases in fuel prices and shortages of fuel can have a material adverse effect on the results of operations and profitability. Increases in fuel prices and shortages of fuel can be caused by, among other things, changes in macroeconomic and geopolitical conditions. To lessen the effect of fluctuating fuel prices on our margins, we have fuel surcharge programs with our customers. These programs generally enable us to recover a majority, but not all, of the fuel price increases. Fuel prices that change rapidly in short time periods also impact our recovery because the surcharge rate in most programs only changes once per week. Fuel shortages, increases in fuel prices and petroleum product rationing could have a material adverse impact on our operations and profitability. To the extent that we cannot recover the higher cost of fuel through customer fuel surcharges, our financial results would be negatively impacted. As of December 31, ~~2022~~ **2023** , we had no derivative financial instruments to reduce our exposure to fuel price fluctuations. We operate in a highly competitive industry, which may limit growth opportunities and reduce profitability. The freight transportation industry is highly competitive and includes thousands of trucking and non- asset- based logistics companies. We compete primarily with other truckload carriers in our TTS segment. Logistics companies, digital brokers, intermodal companies, railroads, less- than- truckload carriers and private carriers also provide a lesser degree of competition in our TTS segment, but such providers are more direct competitors in our Werner Logistics segment. Competition for the freight we transport or manage is based primarily on service, efficiency, available capacity and, to some degree, on freight rates alone. This competition could have an adverse effect on either the number of shipments we transport or the freight rates we receive, which could limit our growth opportunities and reduce our profitability. **If we do not invest in and develop technology in a manner that meets market demands, we may be placed at a competitive disadvantage.** The seasonal **shipping** pattern generally experienced in the trucking industry may affect our periodic results during ~~traditionally~~ -- **traditional** slower shipping periods and winter months. In the trucking industry, revenues generally follow a seasonal pattern which may affect our results of operations. After the December holiday season and during the remaining winter months, our freight volumes are typically lower because some customers reduce shipment levels. Our operating expenses have historically been higher in the winter months because of cold temperatures and other adverse winter weather conditions which result in decreased fuel efficiency, increased cold weather- related maintenance costs of revenue equipment and increased insurance and claims costs. Revenue can also be affected by adverse weather conditions, holidays and the number of business days during a given period because revenue is directly related to the available working days of shippers. We depend on key customers, the loss or financial failure of which may have a material adverse effect on our operations and profitability. A significant portion of our revenue is generated from key customers. During ~~2022~~ **2023** , our largest 5, 10, 25 and 50 customers accounted for 35 %, ~~46~~ **48** %, ~~63~~ **65** %, and ~~77~~ **78** % of revenues, respectively. Our largest customer, Dollar General, accounted for ~~14~~ **10** % of ~~the~~ our total revenues in ~~2022~~ **2023** . We do not have long- term contractual relationships with many of our key One- Way Truckload customers. Most of our Dedicated customer contracts are two to five years in length and generally may be terminated by either party typically upon a notice period following the expiration of the contract' s first year. We typically renegotiate rates with our customers for these Dedicated contracts annually. We cannot provide any assurance that key customer relationships will continue at the same levels. If a key customer substantially reduced or terminated our services, it could have a material adverse effect on our business and results of operations. We review our customers' financial conditions for granting credit, monitor changes in customers' financial conditions on an ongoing basis and review individual past- due balances and collection concerns. However, a key customer' s financial failure may negatively affect our results of operations. We depend on the services of third- party capacity providers, the availability of which could affect our profitability and limit growth in our Werner Logistics segment. Our Werner Logistics segment is highly dependent on the services of third- party capacity providers, such as other truckload carriers, less- than- truckload carriers, final- mile delivery contractors, and railroads. Many of those providers face the same economic challenges as we do and therefore are actively and competitively soliciting business. These economic conditions may have an adverse effect on the availability and cost of third- party capacity. If we are unable to secure the services of these third- party capacity providers at reasonable rates, our results of operations could be adversely affected. If we cannot effectively manage the challenges associated with doing business internationally, our revenues and profitability may suffer. Our results are affected by the success of our operations in Mexico and other foreign countries in which we operate (see Note 13 in the Notes to Consolidated Financial Statements under Item 8 of Part II of this Form 10- K). We are subject to risks of doing business internationally, including fluctuations in foreign currencies, changes in the economic strength of the countries in which we do business, difficulties in enforcing contractual obligations and intellectual property rights, burdens of complying with a wide variety of international and United States export and import laws, and social, political, and economic instability. Additional risks associated with our foreign operations, including restrictive trade policies and imposition of duties, taxes, or government royalties by foreign governments, are present but have been largely mitigated by the terms of **the United States- Mexico- Canada Agreement ("** USMCA **")** for Mexico and Canada. The United States, Canada and Mexico ratified the USMCA as an overhaul and update to ~~NAFTA~~ **the North America Free Trade Agreement** , and it became effective in July 2020. We believe Werner is one of the largest U. S. based truckload carriers in terms of freight volume shipped to and from the United States and Mexico. There are risks, sometimes unforeseen, associated with international operations. The agreement permitting cross border movements for both United States and Mexican based carriers into the United States and Mexico presents additional risks in the form of potential increased competition and the potential for increased congestion on the cross **-** border lanes between countries. At the present time, immigration at the southern border has not negatively affected our operations; however, if the situation intensifies, operations could be affected. We rely on the services of key personnel, the loss of which could impact our future success. We are highly dependent on the services of key personnel, including our executive officers. Although we believe we have an experienced and highly qualified management team, the loss of the services of these key personnel could have a significant adverse impact on us and our future profitability. Difficulty in obtaining **, or increased costs of,** materials, equipment, goods, and services from our vendors and suppliers could adversely affect our business. We are dependent on our vendors and suppliers. We believe we have good vendor relationships and that we are generally able to obtain favorable pricing and other terms from vendors and suppliers. If we fail to maintain satisfactory relationships with our vendors and suppliers, or if our vendors and suppliers are unable to provide the products and materials we need or experience significant financial problems, we could experience difficulty in obtaining needed goods and services because of production interruptions, limited material availability, or other reasons. **At times,** ~~Tractor~~ **tractor** and trailer manufacturers have experienced significant shortages of semiconductor chips and other component parts and supplies, forcing many manufacturers to reduce or suspend their production, which has led to a lower supply of tractors and trailers, higher prices, and lengthened ~~trade~~ **replacement** cycles. ~~Continued~~ **Emissions and fuel efficiency regulations may impact equipment availability and pricing.** ~~shortages~~ **Shortages** of ~~these~~ **equipment,** component parts **,** and **other** supplies could have a material adverse effect on our business, financial condition, and results of operations, particularly our maintenance expense, mileage productivity, and driver retention. We use our information systems extensively for day- to- day operations, and **disruption** ~~service interruptions~~ or ~~a~~ failure of our ~~information~~ technology infrastructure or **of third- party systems or services integrated therein, or** a breach of our ~~information security~~ systems, networks or processes **, or those of any vendor that maintains or accesses our data,** could have a material adverse effect on our business. We **rely increasingly on cloud- based technology and** depend on the stability, availability and security of our information systems to manage our business. Much of our software was developed internally or by adapting purchased software applications to suit our needs. Our information systems are used for **various purposes including, without limitation, enhancing customer service,** planning **freight** loads, communicating with and dispatching drivers and other capacity providers, billing **and collecting from** customers, paying vendors and ~~providing~~ **associates, maintaining sensitive or confidential Company or third- party information or employee personal information, and generating** financial ~~reports~~ **, operational, and other information** . We rely on strategic vendors for **certain services that impact our systems and communications, such as, for example, integrated** GPS and satellite communication services **and Internet and telecommunications services. System disruption or unavailability could occur due to various events** , ~~which are integrated in~~ **including, without limitation, a power outage, a hardware or software failure, a cybersecurity threat or breach, a catastrophic occurrence, or the disruption of a vendor' s service to us. If any of** our information systems **,** ~~. If any of our~~ - **or those of our providers, become compromised or unavailable, or are taken offline in response to a threat or other event, certain** critical ~~information systems~~ **functions may be disrupted, subject to manual performance, or** fail **. Our mitigation of** ~~or become unavailable, or those~~ **these risks includes** ~~of our service providers~~ , **without limitation, using** ~~we would have to perform~~ certain ~~functions manually, which could temporarily affect our ability to efficiently manage our operations. We have~~ redundant computer hardware ~~systems~~ **, tools and protocols** to ~~reduce this risk. We also maintain~~ **monitor and respond to threats, the work of a dedicated internal cybersecurity team, incident and crisis response plans, and enterprise- wide** information security policies ~~to protect our systems~~ and **trainings** ~~data from cyber security events and threats~~ . ~~The~~ **However, the** security risks associated with information technology systems have increased in recent years because of the ~~increased~~ **evolving** sophistication, activities and **methods** ~~evolving techniques of perpetrators~~ of cyber ~~attacks~~ **attackers** . The techniques used to obtain unauthorized access, disable or degrade service or sabotage systems change frequently, may be difficult to detect **,** ~~for a long time~~ and often are not recognized until launched against a target ~~. As a result~~ , **and** we may be unable **or fail** to anticipate **them** ~~these techniques~~ or to implement adequate preventative measures. ~~A failure~~ **We may incur costs** in **responding to a specific event. Fortifying** ~~or~~ **our** ~~breach of our information technology security~~ systems **after** ~~, or those of our third- party service providers, as~~ a ~~result of cyber~~ **cybersecurity event may be cost prohibitive. Our investments in cybersecurity may not be successful against an** ~~attacks~~ - **attack** ~~or unauthorized network access could disrupt our~~ - **or malicious action** ~~business, result in the disclosure or misuse of confidential or proprietary information, increase our costs and / or cause losses and reputational damage~~ . ~~In addition, recently, there has also been heightened regulatory and enforcement focus on data protection in the U. S., and failure~~ **Failure** to comply with applicable U. S. **and international privacy or** data protection regulations or other data protection standards **, on which there is heightened focus,** may expose us to litigation, fines, sanctions **,** or other penalties **. The risks described herein could create reputational harm or financial liability; disrupt our business and / or impact our customers; result in the loss** , **disclosure or misuse of operational, confidential or proprietary information; or increase our costs, any of** which could harm our reputation and adversely impact our business, results of operations **,** and financial condition. A public health crisis, such as an epidemic, pandemic, or similar outbreak, has had, and may continue to have an adverse impact on our business, as well as the operations of our customers and suppliers. The COVID- 19 pandemic resulted in a slowdown of economic activity and a disruption in supply chains during 2020 and 2021. Our business is sensitive to changes in overall economic conditions that impact customer shipping volumes, industry freight demand and industry truck capacity. Such conditions may also impact the financial condition of our customers, resulting in a greater risk of bad debt losses, and that of our suppliers, which may affect the availability or pricing of needed goods and services. Although we took numerous actions to lessen the adverse impact of the COVID- 19 pandemic, our future results could be further impacted by the disruptive effects of a future pandemic or outbreak, including but not limited to adverse effects on freight volumes and pricing and availability of qualified personnel. Such outbreaks could affect our operations and business continuity if a significant number of our essential employees, overall or in a key location, are quarantined from contraction of or exposure to the disease or if future governmental orders prevent our employees or critical suppliers (including individuals that have not received mandated vaccinations) from working. Our compliance with mandates could lead to employee absences, resignations, labor disputes, or work stoppages. The degree of disruption is difficult to predict because of many factors, including the uncertainty surrounding the magnitude and duration of an outbreak, governmental actions that may be imposed, as well as the rate of economic recovery after an outbreak subsides. The unpredictable nature and uncertainty of a public health crisis could also magnify other risk factors disclosed above and makes it impractical to identify all potential risks. Risks Related to ~~Laws and~~ **Legal,** ~~Regulations~~ - **Regulatory and Environmental, Social and Governance (" ESG ") Matters** We operate in a highly regulated industry. ~~Changes in existing~~ **Compliance with changing transportation, emission, fuel efficiency or other** regulations **,** or violations of existing or future regulations **,** could adversely affect our operations and profitability. We are regulated by DOT and its agency, FMCSA, in the United States and similar governmental transportation agencies in **certain U. S. states and in** foreign countries in which we operate ~~. We are also regulated by agencies in certain U. S. states~~ . These regulatory agencies have the authority to govern transportation- related activities, such as safety, authorization to conduct motor carrier operations and other matters **. The EPA and CARB subject us to emissions and fuel efficiency regulations, and additional regulations by these and other agencies may occur** . The Regulations subsection in Item 1 of Part I of this Form 10- K describes several proposed and ~~pending~~ **final** regulations that may have a significant effect on our operations including our productivity, driver recruitment and retention **,** and capital expenditures **for tractors, trailers, and other equipment necessary to comply with such regulations** . **We** ~~Our operations~~ are subject to ~~applicable environmental laws and regulations, the violation of which could result in substantial fines or penalties. In addition to direct regulation by DOT, FMCSA, EPA and other federal, state, and local agencies, we are subject to applicable~~ environmental laws and regulations dealing with the handling of hazardous materials, aboveground and underground fuel storage tanks, **and** discharge and retention of **stormwater** ~~storm- water, and emissions from our vehicles~~ . We operate in industrial areas, where truck terminals and other industrial activities are located and where groundwater or other forms of environmental contamination have occurred. Our operations involve the risks of fuel spillage or seepage, environmental damage and hazardous waste disposal, among others. We also maintain bulk fuel storage at some of our facilities. If we are involved in a spill or other accident involving hazardous substances, or if we are found to be in violation of applicable laws or regulations, it could have a material adverse effect on our business and operating results. If we fail to comply with applicable ~~environmental~~ regulations, we could be subject to substantial fines or penalties and to civil and criminal liability. ~~Tractors and trailers used in our daily operations have been affected by regulatory changes related to air emissions and fuel efficiency, and may be adversely~~

~~affected in the future by new regulatory actions.~~ Increasing scrutiny from investors and other stakeholders regarding ~~environmental, social, and governance ("~~ ESG ~~")~~ related matters may have a negative impact on our business. Companies across all industries are facing increasing scrutiny from investors and other stakeholders related to ESG matters, including practices and disclosures related to environmental stewardship, social responsibility, and diversity, equity and inclusion. Organizations that provide information to investors **and other stakeholders** on corporate governance and related matters have developed ratings processes for evaluating companies on their approach to ESG matters. Such ratings are used by some investors to inform their investment and **proxy statement** voting decisions. Unfavorable ESG ratings may lead to negative ~~investor~~ sentiment toward us **by investors or other stakeholders** , which could have a negative impact on our **revenues,** stock price and ~~our~~ access to and costs of capital. We have developed certain initiatives and goals relating to ESG matters. Our ability to successfully execute these initiatives and accurately report our progress presents numerous operational, financial, legal, reputational and other risks, many of which are outside our control, and all of which could have a material negative impact on our business. Additionally, the implementation of these initiatives imposes additional costs on us. If our ESG initiatives and goals do not meet the expectations of our investors or other stakeholders, which continue to evolve, then our reputation, our ability to attract or retain employees, and our attractiveness as an investment ~~and~~ **or** business partner could be negatively impacted. Similarly, our failure, or perceived failure, to pursue or fulfill our goals, targets and objectives or to satisfy various reporting standards in a timely manner, or at all, could also have similar negative impacts and expose us to government enforcement actions and private litigation. Risks Related to Financial Matters Our earnings could be reduced by increases in the number of insurance claims, cost per claim, costs of insurance premiums ~~or~~ **,** availability of insurance coverage **, or a significant uninsured liability. We are subject to claims and litigation risks regarding a variety of issues, including without limitation, over- the- road accidents and contractual, labor and employment, environmental, regulatory, workers' compensation, and data privacy matters** . We are self- insured for a significant portion of liability resulting from bodily injury, property damage, cargo and associate workers' compensation and health benefit claims. This is supplemented by premium- based insurance coverage with insurance carriers above our self- insurance level for each **such** type of coverage. To the extent we experience a significant increase in the number of claims, cost per claim (including costs resulting from large verdicts) or insurance premium costs for coverage in excess of our retention and deductible amounts, **or if we incur a significant liability for which we do not have coverage,** our operating results would be negatively affected. Although we believe our aggregate insurance limits should be sufficient to cover reasonably expected claims, it is possible that the amount of one or more claims could exceed our aggregate coverage limits. In addition, the transportation industry has recently experienced significant increases in premiums for insurance coverage above self- insurance levels. Healthcare legislation and inflationary cost increases could also have a negative effect on our results. Decreased demand for our used revenue equipment could result in lower unit sales and resale values. We are sensitive to changes in used equipment prices and demand **for our** ~~, especially with respect to~~ tractors **and trailers** . We have been in the business of selling our **used** company- owned ~~trucks~~ **equipment** since 1992, when we formed our wholly- owned subsidiary Werner Fleet Sales. Reduced demand for used equipment could result in a lower volume of sales or lower sales prices, either of which could negatively affect our proceeds from sales of assets.