

Section 1: 8-K (8-K)

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported):

May 7, 2019



(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

1-38494

(Commission File Number)

82-5339416

(I.R.S. Employer Identification No.)

**500 N. Akard Street
Suite 400, Dallas, Texas**

(Address of principal executive offices)

75201

(Zip Code)

Registrant's telephone number, including area code:

972.942.6500

Not Applicable

(Former name or former address, if changed since last report)

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

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

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

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class
Common Stock (\$0.01 par value)

Trading Symbol(s)
ACA

Name of each exchange on which registered
New York Stock Exchange

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

The Human Resources Committee of Arcosa, Inc. (the “Company”) has approved (i) an updated form of Restricted Stock Unit Agreement (the “RSU Agreement”), (ii) a form of Non-Employee Director Restricted Stock Unit Agreement (the “Director RSU Agreement”) and (iii) a form of Performance-Based Restricted Stock Unit Grant Agreement (the “Performance RSU Agreement”). The following is a description of the material terms and provisions of each of these agreements. The descriptions as set forth under this Item 5.02 are qualified in their entirety by reference to the terms and conditions of Exhibits 10.1, 10.2 and 10.3, respectively, which are incorporated by reference herein.

RSU Agreement

Pursuant to the RSU Agreement, each participant is eligible to vest in and receive a number of shares of Company common stock (“Shares”) equal to the number of restricted stock units (“RSUs”) granted. The RSUs will be subject to special vesting and forfeiture rules as set out in the RSU Agreement and the 2018 Stock Option and Incentive Plan (the “Plan”) and will vest according to the schedule specified in the RSU Agreement. After vesting, the Company will convert the RSUs granted into the equivalent number of Shares and shall deliver the Shares to the participant. If, prior to vesting, the participant’s employment with the Company terminates for any reason except death, disability, retirement, or termination without cause in connection with a change in control, or the participant violates the RSU Agreement, any RSUs unvested as of that date will be forfeited. In addition, if the participant violates the RSU Agreement, the participant will be required to repay the Company the Shares, or value of the Shares, previously received upon prior vesting pursuant to the RSU Agreement.

Director RSU Agreement

Pursuant to the Director RSU Agreement, and subject to the terms of the Plan, each non-employee director is eligible to vest in and receive a number of Shares equal to the number RSUs granted. The RSUs will become 100% vested upon the earliest of: (1) the first anniversary of the grant date; (2) the death of the non-employee director or termination of the non-employee director’s service due to disability; or (3) the consent of the board of directors. After vesting, the Company will convert the RSUs granted into the equivalent number of Shares and shall deliver the Shares to the non-employee director following a separation of service. If the non-employee director ceases to be a director of the Company at any time prior to the vesting of the RSUs awarded under the Director RSU Agreement for any reason other than termination of service due to disability or death, any RSUs unvested as of that date will be forfeited.

Performance RSU Agreement

Pursuant to the Performance RSU Agreement, the participant will receive between 0% and at a set percentage in excess of 100% of a target number of RSUs, which shall be determined by the Company with the purpose of serving as a performance incentive for the participant. The RSUs shall be awarded based upon the achievement of the goals and objectives set by the Company for the performance period defined by the Appendix to the Performance RSU Agreement. Some or all of the RSUs awarded shall become vested as of May 15 of the year following the end of the defined performance period, subject to the determination that the participant has achieved at least the threshold requirements set out by the Company during the performance period. After vesting, the Company will convert the RSUs granted into the applicable number of Shares based on the performance results and shall deliver such Shares to the participant. At the time of the participant’s death, disability, retirement, or termination without cause, including, but not limited to, in connection with a change in control, any RSUs are subject to special vesting rules set out by the Performance RSU Agreement. If the participant violates the provisions of the Performance RSU Agreement, all remaining unvested RSUs shall be forfeited, and the participant will be required to repay the Company the Shares, or value of the Shares, previously received pursuant to the Performance RSU Agreement.

Item 5.07 Submission of Matters to a Vote of Security Holders

On May 7, 2019, the Company held its 2019 Annual Meeting of Stockholders at which the Company’s stockholders voted on the following four proposals, and cast their votes as described below.

Proposal 1 - Election of Directors

The stockholders elected the following Class I Directors to serve a three-year term, expiring at the 2022 annual meeting of stockholders:

<u>Nominee</u>	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
Ronald J. Gafford	39,135,975	141,455	46,841	5,034,539
Douglas L. Rock	39,218,729	57,888	47,654	5,034,539
Melanie M. Trent	39,208,026	71,229	45,016	5,034,539

Proposal 2 - Advisory Vote to Approve Named Executive Officer Compensation

The stockholders approved, on an advisory basis, the compensation of the Company's named executive officers as disclosed in the proxy statement dated March 26, 2019, including the Compensation Discussion and Analysis, the compensation tables, and the narrative discussion related thereto, by the following vote:

<u>For</u>	<u>Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
38,103,539	1,121,163	99,569	5,034,539

Proposal 3 - Advisory Vote to Approve the Frequency of the Advisory Vote on Named Executive Officer Compensation

The stockholders recommended, on an advisory basis, future votes to approve named executive officer compensation on an annual basis by the following vote:

<u>Votes for Every 1 Year</u>	<u>Votes for Every 2 Years</u>	<u>Votes for Every 3 Years</u>	<u>Abstentions</u>
36,547,611	122,977	2,579,174	74,509

Consistent with the recommendations of the Company's Board of Directors and the vote of the stockholders, the Company will hold future advisory votes on executive compensation every year until the next vote on the frequency of stockholder votes on executive compensation.

Proposal 4 - Ratification of Appointment of Independent Registered Public Accounting Firm for the Year Ending December 31, 2019

The stockholders ratified the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the year ending December 31, 2019, by the following vote:

<u>For</u>	<u>Against</u>	<u>Abstentions</u>
44,194,316	94,355	70,139

Item 9.01 Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Form of Restricted Stock Unit Agreement for grants commencing 2019.
10.2	Form of Non-Employee Director Restricted Stock Unit Agreement for grants commencing 2019.
10.3	Form of Performance-Based Restricted Stock Unit Grant Agreement for grants commencing 2019.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Arcosa, Inc.

May 7, 2019

By: /s/ Bryan P. Stevenson
Name: Bryan P. Stevenson
Title: Chief Legal Officer

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

Section 2: EX-10.1 (EXHIBIT 10.1)

Exhibit 10.1

U.S. Form

ARCOSA, INC.

RESTRICTED STOCK UNIT AGREEMENT

THIS RESTRICTED STOCK UNIT AGREEMENT (the "Agreement"), by and between ARCOSA, INC. (hereinafter called the "Company") and _____ (hereinafter called, the "Grantee"), is made as of _____ (the "Date of Grant");

WITNESSETH:

WHEREAS, the Grantee complies with the requirements of eligibility for the award of Restricted Stock Units under the Arcosa, Inc. 2018 Stock Option and Incentive Plan (the "Plan"); and

WHEREAS, the Company has determined to award to the Grantee _____ Restricted Stock Units (the "Units"), subject to the terms of the Plan and conditions hereinafter set forth, as a retention incentive, to encourage a sense of proprietorship by the Grantee and to stimulate the active interest of the Grantee in promoting the development, growth, performance and financial success of the Company by affording the Grantee an opportunity to obtain an increased proprietary interest in the Company so as to assure a closer identification between the Grantee's interest and the interest of the Company;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Grant of Restricted Stock Units.

Subject to the terms and conditions of the Plan, this Agreement and the restrictions set forth below, the Company hereby grants to the Grantee the total number of Units set forth above and hereby credits such Units to a separate account maintained on the books of the Company. Each Unit shall be subject to conversion into one Share, as herein provided.

2. Stockholder Status.

The Grantee will have no rights as a stockholder (including, without limitation, the right to vote and to receive dividends) with respect to the Units covered by this Agreement until the issuance of Shares to the Grantee (in certificated or book-entry form) upon the conversion of the Units into Shares. The Grantee, by his or her execution of this Agreement, agrees to execute any documents requested by the Company in connection with the conversion of the Units. Except as otherwise provided in Sections 4 and 9 hereof, no adjustment shall be made for dividends or other rights for which the record date is prior to the issuance of such Shares.

3. Vesting; Forfeiture.

Subject to the special vesting and forfeiture rules in this Agreement (including, without limitation the remedies set forth in Section 11 (f) below), the Units will become vested in accordance with the schedule set forth below, if, as of the date(s) specified in the schedule, the Grantee is employed by the Company on such date (the total time period of vesting referred to herein as “Vesting Period”):

Date

Units

In addition, the Units will become 100% vested on the earliest to occur of the following events, if the Grantee is employed by the Company on the date of such event:

- (i) death of the Grantee;
- (ii) termination of the Grantee's employment for Disability (as defined in the Plan); or
- (iii) the consent of the Human Resources Committee (the "Committee"), in its sole discretion, to vest the remaining unvested Units, at any time after three years from the Date of Grant.

Further, on the date of the Grantee's termination of employment for Retirement, a portion of the then unvested Units will become vested, on a pro-rated basis, based on the following calculation (x) total number of days the Grantee was employed by the Company during the Vesting Period divided by the total number of days in the Vesting Period, (y) multiplied by the aggregate number of RSUs initially subject to this Agreement, (z) less the number of RSUs then vested. For purposes of this Agreement, "Retirement" means the Grantee's voluntary termination of employment (other than by the Company or due to death or Disability), provided that at the time of the Grantee's termination of employment (i) the Grantee is at least age 55 and (ii) the sum of the Grantee's age and full years of continuous employment with the Company (and its Subsidiaries, Affiliates and any predecessor to the Company, its Subsidiaries or Affiliates) equal at least 65.

The date on which any Units become vested in accordance with this Section 3 is the "Vesting Date" for such Units, and such vested Units are referred to herein as, the "Vested Units."

Subject to Section 18 of the Plan, and except as expressly provided otherwise herein, upon a Change in Control, if the Company or buyer or successor entity to the Company in the Change in Control (i) continues or assumes this Agreement (or converts or replaces this Agreement with a new award containing substantially the same terms as this Agreement, other than terms rendered inoperative by reason of the Change in Control (a "Substitute Award")), the Units shall continue to vest in accordance with the terms of this Section 3, provided, however, if the Company, or such buyer or successor, terminates the Grantee's employment without Cause (as defined below) within 12 months of the Change in Control (a "Qualifying Termination"), the Units shall become 100% vested on the date of such Qualifying Termination; or (ii) does not continue or assume this Agreement (or convert or replace this Agreement with a Substitute Award), the unvested Units shall become 100% vested on the date of the Change in Control. For purposes of this Agreement, "Cause" means (1) the continued failure of the Grantee to satisfactorily perform the Grantee's duties with the Company or a failure of the Grantee to comply with the Company's code of conduct or written policies or procedures, or willful failure of the Grantee to follow directions of the Board or the Grantee's supervisor or manager, or any other willful act that likely will result in a materially negative effect to the Company, which, if curable, is not cured within thirty (30) days after notice thereof to the Grantee by the Company; (2) fraud, theft, misappropriation embezzlement, dishonesty or breach of fiduciary duty by the Grantee; (3) misappropriation of any corporate opportunity or otherwise obtaining personal profit from any transaction which is adverse to the interests of the Company or to the benefits of which the Company is entitled; (4) the conviction of a crime that has caused or may be reasonably expected to cause material injury to the Company or any of its Affiliates, or the conviction of a felony; or (5) the willful misconduct by the Grantee which is injurious to the Company (monetarily or otherwise), which if curable, is not cured by the Grantee within thirty (30) days after receipt by the Grantee of a written notice from the Company. Notwithstanding the foregoing, if the Grantee is a participant in the Arcosa, Inc. Change in Control Severance Plan, as may be amended from time

to time (or any successor plan thereto) (the "CIC Plan") and if the CIC Plan is in effect on the date of the Change in Control, the terms of this paragraph shall not apply, and instead, treatment of the Units on a Change in Control shall be determined in accordance with the CIC Plan.

All of the unvested Units shall be forfeited by the Grantee to the Company if, prior to vesting in accordance with this Section 3, the Grantee violates any of the provisions of Section 11 below or the Grantee's employment with the Company terminates for any reason. Upon forfeiture, all of the Grantee's rights with respect to the forfeited Units shall cease and terminate, without any further obligations on the part of the Company.

4. Dividend Equivalents.

The Company also grants to the Grantee a Dividend Equivalent Right with respect to the Units, whereby if on any date the Company shall pay any dividend or other distribution on Shares (other than a dividend in Shares), then with respect to each Unit, an amount equal to the amount of the dividend or distribution per Share shall be credited to the account of the Grantee maintained on the books of the Company (the "Dividend Equivalents"), and, subject to Section 11, shall be paid to the Grantee (in cash or Shares, in the discretion of the Committee) at the time the Vested Units related to such dividend or other distribution are converted in accordance with Section 5 below. If the underlying Units are forfeited, the Grantee shall have no right to the Dividend Equivalents related to such forfeited Units and shall forfeit such Dividend Equivalents as well.

5. Form and Timing of Payment.

Subject to the conditions hereinafter set forth and except as otherwise provided by this Section 5, upon the vesting of the Units, or as soon as practicable following vesting, but in no event later than sixty (60) days after the Vesting Date of such Units, the Company shall convert the Vested Units into the number of whole Shares equal to the number of Vested Units, and shall deliver such Shares to the Grantee or the Grantee's personal representative. Shares shall only be delivered under this Section 5 if the Grantee or the Grantee's personal representative has made appropriate arrangements with the Company in accordance with Section 27 of the Plan for applicable taxes which are required to be withheld under federal, state or local law or the tax withholding requirement has otherwise been satisfied.

Notwithstanding the foregoing, to the extent (i) any Shares to which the Grantee becomes entitled under this Agreement, or any agreement or plan referenced herein, in connection with the Grantee's termination of employment with the Company (including, without limitation, Retirement) constitutes deferred compensation subject to Section 409A of the Code; (ii) the Grantee is deemed at the time of the Grantee's separation from service to be a "specified employee" under Section 409A of the Code; and (iii) at the time of the Grantee's separation from service the Company is publicly traded (as defined in Section 409A of the Code), then such Shares (other than any delivery of Shares permitted by Section 409A of the Code to be paid or delivered within six months of the Grantee's separation from service) shall not be made until the earlier of (x) the first day of the seventh month following the Grantee's separation from service or (y) the date of the Grantee's death following such separation from service. Upon the expiration of the applicable deferral period, any Shares which would have otherwise been made during that period (whether in a single sum or in installments) in the absence of this Section 5 shall be delivered to the Grantee's or the Grantee's beneficiary in one lump sum.

6. No Rights of Continued Service.

Nothing herein shall confer upon the Grantee any right to remain an officer or employee of the Company or one of its Subsidiaries, and nothing herein shall be construed in any manner to interfere in any way with the right of the Company or its Subsidiaries to terminate the Grantee's service at any time.

7. Interpretation of this Agreement.

The administration of the Plan has been vested in the Committee, and all questions of interpretation and application of this Agreement shall be subject to determination by a majority of the members of the Committee, which determination shall be final and binding on Grantee.

8. Subject to Plan.

The Units are granted subject to the terms and provisions of the Plan, which Plan is incorporated herein by reference. In case of any conflict between this Agreement and the Plan, the terms and provisions of the Plan shall be controlling. Capitalized terms used herein, if not defined herein, shall be as defined in the Plan.

9. Adjustment of Number of Units.

The number of Units awarded pursuant to this Agreement and the Shares to be delivered with respect to the Units shall be subject to adjustment in accordance with Section 20 of the Plan.

10. Repayment on Restatement.

Vested and unvested Units (and any Shares delivered upon conversion of the Vested Units) are subject to forfeiture in order to satisfy amounts recoverable by the Company that the Committee determines pursuant to the Policy for Repayment on Restatement of Financial Statements as may be in effect at the time of the determination, which policy is incorporated herein by reference.

11. Restrictive Covenants.

(a) Non-Disclosure; Confidential Information.

(i) During the Grantee's employment with the Company, the Company shall grant the Grantee otherwise prohibited access to the Company's Confidential Information. Throughout the Grantee's employment with the Company and thereafter: (x) the Grantee shall hold all Confidential Information in the strictest confidence, take all reasonable precautions to prevent its inadvertent disclosure to any unauthorized person, and follow all policies of the Company protecting the Confidential Information; and (y) the Grantee shall not, directly or indirectly, utilize, disclose or make available to any other person or entity, any of the Confidential Information, other than in the proper performance of the Grantee's duties. "Confidential Information" includes all trade secrets, inventions and confidential and proprietary information of the Company including, but not limited to, the following: all documents or information, in whatever form or medium, concerning or relating to any of the Company's discoveries; designs; plans; strategies; models; processes; techniques; technical improvements; development tools or techniques; modifications; formulas; patterns;

devices; data; product information; manufacturing and engineering processes, data and strategies; operations; products; services; business practices; policies; training manuals; principals; vendors and vendor lists; suppliers and supplier lists; customers and potential customers; contractual relationships; research; development; know-how; technical data; software; product construction and product specifications; project information and data; developmental or experimental work; plans for research or future products; improvements; interpretations, and analyses; database schemas or tables; infrastructure; marketing methods; finances and financial information and data; business plans; marketing and sales plans and strategies; budgets; pricing and pricing strategies; costs; customer and client lists and profiles; customer and client nonpublic personal information; business records; audits; management methods and information; reports, recommendations and conclusions; and other business information disclosed or made available to the Grantee by the Company, either directly or indirectly, in writing, orally, or by drawings or observation. "Confidential Information" does not include, and there shall be no obligation hereunder with respect to, information that (A) is generally available to the public on the Date of Grant or (B) becomes generally available to the public other than as a result of a disclosure not otherwise permissible hereunder.

(ii) If the Grantee shares Confidential Information with outside persons, other than as required to comply with applicable laws and as necessary to manage the Grantee's personal finances or in accordance with the exceptions contained in this Section 11(a), the Grantee's rights under this Agreement may be forfeited upon a determination by the Committee that the Grantee has violated this Section 11. Nothing in this Agreement prohibits the Grantee from reporting possible violations of U.S. federal or state law or regulations to any governmental agency or entity, including but not limited to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, making other disclosures that are protected under the whistleblower provisions of U.S. federal or state law or regulation, or participating in an investigation or proceeding conducted by any governmental or law enforcement agency or entity. The Grantee does not need the prior authorization of the Company to make any such reports or disclosures, and the Grantee is not required to notify the Company that the Grantee has made such reports or disclosures.

(iii) This Agreement also does not prohibit the disclosure of a trade secret (as that term is defined under applicable law) that: (A) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, where such disclosure is made solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. If the Grantee files a lawsuit for reporting a suspected violation of the law, the Grantee may disclose the trade secret to Grantee's attorney and use the trade secret in the court proceeding if the Grantee files any document containing the trade secret under seal and does not disclose the trade secret except pursuant to court order.

(b) Non-Competition. In consideration for (i) this Agreement and the Units provided herein; (ii) the Company's promise to provide Confidential Information to the Grantee, (iii) the substantial economic investment made by the Company in the Confidential Information and the goodwill of the Company, (iv)

the Company's employment of the Grantee and (v) the compensation and other benefits provided by the Company to the Grantee, to protect the Company's Confidential Information and the business goodwill of the Company, the Grantee agrees to the following restrictive covenants and the covenants set forth in Sections 11(c), (d), (e) and (f). During the Grantee's employment and for a twelve (12) month period (the "Restricted Period") subsequent to the Grantee's date of termination, the Grantee agrees he or she will not, directly or indirectly, absent the express, written consent of the CFO or the Chief Legal Officer of the Company, or either of their respective designees, become or serve as, directly or indirectly, a director, officer, employee, owner, partner, advisor, agent, or consultant with, or engage in, any business that manufactures, provides or sells infrastructure products, which includes but is not limited to, construction materials and equipment, transportation products, energy equipment, and any other products and services provided by the Company or its affiliates during the Grantee's employment ("Competing Business"), in any state, and other similar geographic territory, in which the Company or any of its affiliates operate as of the date of the Grantee's termination of employment and for which the Grantee performed services, had responsibility or received Confidential Information ("Restricted Territory"). Further, for a twelve (12) month period after the Grantee's termination of employment, the Grantee agrees not to serve as a consulting or testifying expert for any third party in any legal proceedings (including arbitration or mediation) or threatened legal proceedings involving the Company, unless called to do so by the Company or an Affiliate. The Grantee agrees to notify the CFO in writing, with a copy of such notice to the Chief Legal Officer of the Company, in the event the Grantee accepts employment of any nature with any person, business, or entity during the Restricted Period.

(c) Non-Solicitation. During the Restricted Period, other than in connection with the Grantee's duties for the Company, the Grantee shall not, and shall not use any Confidential Information to, directly or indirectly, either as a principal, manager, agent, employee, consultant, officer, director, stockholder, partner, investor or lender or in any other capacity, and whether personally or through other persons, solicit business from, interfere with, or induce to curtail or cancel any business or contracts with the Company, or attempt to solicit business with, interfere with, or induce to curtail or cancel any business or contracts with the Company, or do business with any actual or prospective customer or client of the Company with whom the Company did business or who the Company solicited within the preceding two (2) years, and who or which: (i) the Grantee contacted, called on, serviced or did business with during the Grantee's employment with the Company; (ii) the Grantee learned of as a result of the Grantee's employment with the Company; or (iii) about whom the Grantee received Confidential Information. This restriction applies only to business which is in the scope of services or products provided by the Company.

(d) Non-Recruitment. During the Restricted Period, other than in connection with the Grantee's duties for the Company, the Grantee shall not, and shall not use any Confidential Information to, on behalf of the Grantee or on behalf of any other person or entity, directly or indirectly, hire, solicit, induce, recruit, engage, go into business with, or attempt to hire, solicit, induce, recruit, engage, go into business with, or encourage to leave or otherwise cease his/her employment with the Company, any individual who is an Employee or independent contractor of the Company or who was an Employee or independent contractor of the Company within the twelve (12) month period prior to the Grantee's termination of employment.

(e) Non-Disparagement. The Grantee agrees that the Company's goodwill and reputation are assets of great value to the Company which have been obtained and maintained through great costs, time

and effort. Therefore, during the Grantee's employment and after the Grantee's Separation from Service for any reason, the Grantee shall not in any way disparage, libel or defame the Company, its business or business practices, its products or services, or its stockholders, managers, officers, directors, Employees, investors or Affiliates. Nothing in this Section 11(e) is intended to interfere with the Grantee's right to engage in the conduct set forth in Section 11(a)(ii) or (iii).

(f) Remedies. By acceptance of this Agreement, the Grantee acknowledges that the geographic scope and duration of the restrictions and covenants contained in this Section 11 are fair and reasonable in light of (i) the nature and wide geographic scope of the operations of the Company's business; (ii) the Grantee's level of control over and contact with the business in the Restricted Territory; and (iii) the amount of compensation and Confidential Information that the Grantee is receiving in connection with the Grantee's employment with the Company. If the Grantee violates any of the restrictions contained in this Section 11, the Restricted Period shall be suspended and shall not run in favor of the Grantee until such time that the Grantee cures the violation to the satisfaction of the Company and the period of time in which the Grantee is in breach shall be added to the Restricted Period applicable to such covenant(s). Further, by executing this Agreement, the Grantee acknowledges that the restrictions contained in this Section 11, in view of the nature of the Company's businesses, are reasonable and necessary to protect their legitimate business interests, business goodwill and reputation, and that any violation of these restrictions would result in irreparable injury and continuing damage to the Company. Accordingly, by executing this Agreement, the Grantee acknowledges and agrees that, in the event of the Grantee's breach or threatened breach of the provisions in this Section 11, the Company shall be entitled to a temporary restraining order and injunctive relief restraining the Grantee from the commission of such breach or threatened breach, without the necessity of establishing irreparable harm or the posting of a bond, and to recover from the Grantee damages incurred by the Company as a result of the breach, as well as the Company's attorneys' fees, costs and expenses related to such breach or threatened breach. In addition, in the event the Grantee violates any of the restrictions contained in this Section 11, all benefits under this Agreement shall immediately cease, no additional Shares will be due to the Grantee pursuant to this Agreement, the Vested Units shall be forfeited, and, to the extent the Grantee has previously received Shares pursuant to this Agreement, upon written demand by the Company, the Grantee must immediately repay the Company the Shares previously received (or the value thereof as of such date, if the Shares have been sold or otherwise disposed of by the Grantee). Nothing contained in this Agreement shall be construed as prohibiting the Company from pursuing any other remedies available to it for any breach or threatened breach, including, without limitation, the recovery of money damages, attorneys' fees, and costs. The existence of any claim or cause of action by the Grantee against the Company, whether predicated on this Agreement, the Plan or otherwise, shall not constitute a defense to the enforcement by the Company of the restrictive covenants contained in this Section 11, or preclude injunctive relief.

12. Entire Agreement.

This Agreement together with the Plan supersede any and all other prior understandings, negotiations and agreements, either oral or in writing, between the parties with respect to the subject matter hereof and constitute the sole and only agreements between the parties with respect to the said subject matter, provided that if the Grantee is a participant in the CIC Plan, neither this Agreement nor the Plan shall supersede or replace the CIC Plan. The Grantee acknowledges that the Grantee is relying solely on the Grantee's own judgment in entering into this Agreement, and not on any communications, promises, or representations of

the Company or its agent, except as expressly contained in this Agreement. The Committee may amend this Agreement without the Grantee's consent provided that it concludes that such amendment is not materially adverse to the Grantee, or is permitted under Section 20 of the Plan. Except as provided by the immediately preceding sentence, no change or modification of this Agreement shall be valid or binding upon the parties unless the change or modification is in writing and signed by the parties.

13. Law Governing.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas (excluding any conflict of laws rule or principle of Texas law that might refer the governance, construction, or interpretation of this Agreement to the laws of another state).

14. Notice.

Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered only when actually received by the Company or the Grantee, as the case may be, at the addresses set forth below (or at such other addresses as they have theretofore specified by written notice delivered in accordance herewith):

- (i) Notice to the Company shall be sent by mail, return receipt requested, or by recognized overnight courier addressed and delivered as follows: Arcosa, Inc., 500 N. Akard St., Suite 400, Dallas, TX 75201, Attention: Sr. Director – Total Rewards, with a copy to Attention: Chief Legal Officer.
- (ii) Notice to the Grantee shall be sent electronically to the Grantee's Company e-mail address or, in hard copy addressed and delivered to the Grantee's address then on file with the Company.

15. Restrictions on Transfer.

The Units may not be sold, assigned transferred, pledged or otherwise disposed of or encumbered until the Units have vested, and Shares have been delivered to the Grantee in accordance with Section 5, except by will or by the laws of descent and distribution.

16. Section 409A of the Code.

The parties intend this Agreement to be exempt from or compliant with the requirements of Section 409A of the Code and agree to interpret this Agreement at all times in accordance with such intent. Without limiting the generality of the foregoing, the term "termination of employment" or any similar term under the Agreement will be interpreted to mean a "separation from service" within the meaning of Section 409A of the Code to the extent necessary to comply with Section 409A of the Code. Notwithstanding the foregoing, the Company makes no representations, warranties, or guarantees regarding the tax treatment of this Agreement under Section 409A of the Code or otherwise, and has advised the Grantee to obtain his or her own tax advisor regarding this Agreement.

17. Acceptance.

The grant of the Units under this Agreement is subject to and conditioned upon the Grantee's electronic acceptance of the terms hereof.

* * * * *

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer, and the Grantee, to evidence his or her consent and approval of all the terms hereof, has duly executed this Agreement, as of the Date of Grant.

ARCOSA, INC.

By: _____
Name: _____
Title: _____

GRANTEE

Signature Page to Restricted Stock Unit Agreement

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

Section 3: EX-10.2 (EXHIBIT 10.2)

Exhibit 10.2

ARCOSA, INC.

**NON-EMPLOYEE DIRECTOR
RESTRICTED STOCK UNIT AGREEMENT**

THIS NON-EMPLOYEE DIRECTOR RESTRICTED STOCK UNIT AGREEMENT (the "Agreement"), by and between ARCOSA, INC. (hereinafter called the "Company") and ____ (hereinafter called, the "Director"), is made as of ____ (the "Date of Grant");

WHEREAS, the Company has established the Arcosa, Inc. 2018 Stock Option and Incentive Plan (the "Plan"), and which Plan is made a part hereof;

WHEREAS, the Board of Directors of the Company has determined that the Director be granted Restricted Stock Units subject to the terms of the Plan and the terms stated below, as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Grant of Restricted Stock Units.

Subject to the terms and conditions of the Plan, this Agreement and the restrictions set forth below, the Company hereby grants to the Director ____ Restricted Stock Units (the "Units"), and hereby credits such Units to a separate account maintained on the books of the Company. Each Unit shall be subject to conversion into one Share, as herein provided.

2. Vesting; Forfeiture.

The Units will become vested as follows: 100% of the Units on the first anniversary of the Date of Grant, or if earlier (i) upon death of the Director, (ii) upon the termination of the Director's service for Disability (as defined in the Plan), or (iii) with the consent of the Board, in its sole discretion (such vested Units being referred to herein as, the "Vested Units"). Subject to Section 18 of the Plan, upon a Change in Control (as defined in the Plan), the vesting of the unvested Units shall not be accelerated, but rather the Units shall continue to vest in accordance with the schedule set forth above. All of the unvested Units shall be forfeited by the Director to the Company if, prior to vesting in accordance with this Section 3, the Director ceases to be a director of the Company (or otherwise terminates service with the Company) for any reason, which termination shall be evidenced by written notice from the Company or from the Director. Upon forfeiture, all of the Director's rights with respect to the forfeited Units shall cease and terminate, without any further obligations on the part of the Company.

3. Stockholder Status.

The Director will have no rights as a stockholder (including, without limitation, the right to vote and to receive dividends) with respect to the Units covered by this Agreement until the issuance of Shares to the Director (in certificated or book-entry form) upon the conversion of the Units into Shares. The Director, by his or her execution of this Agreement, agrees to execute any documents requested by the Company in connection with the conversion of the Units. Except as otherwise provided in Sections 4 and 7 hereof, no adjustment shall be made for dividends or other rights for which the record date is prior to the issuance of such Shares.

4. Dividend Equivalents.

The Company also grants to the Director a Dividend Equivalent Right with respect to the Units, whereby if on any date the Company shall pay any dividend or other distribution on Shares (other than a dividend in Shares), then with respect to each Unit, an amount equal to the amount of the dividend or distribution per Share shall be credited to the account of the Director maintained on the books of the Company (the "Dividend Equivalents"), and shall be paid to the Director (in cash or Shares, in the discretion of the Human Resources Committee (the "Committee")) at the time Vested Units are converted in accordance with Section 5 below. If the underlying Units are forfeited, the Director shall have no right to the Dividend Equivalents related to such forfeited Units and shall forfeit such Dividend Equivalents as well.

5. Form and Timing of Payment.

Subject to the conditions hereinafter set forth, on or within sixty (60) days of the date of the Director's "separation from service" (within the meaning of Section 409A of the Code), the Company shall convert the Vested Units into the number of whole Shares equal to the number of Vested Units, and shall deliver such Shares (plus any Dividend Equivalents credited to the Director) to the Director or the Director's personal representative.

6. No Rights of Continued Service.

Neither the Plan nor this Agreement nor any provisions under either shall be construed to confer upon the Director any right to remain a director of the Company, and nothing herein shall be construed in any manner to interfere in any way with the right of the Company to terminate the Director's service at any time.

7. Adjustment of Number of Restricted Shares.

The number of Units awarded pursuant to this Agreement and the Shares to be delivered with respect to the Units shall be subject to adjustment in accordance with Section 20 of the Plan.

8. Interpretation of this Agreement.

The administration of the Plan has been vested in the Committee, and all questions of interpretation and application of this Agreement shall be subject to determination by a majority of the members of the Committee, which determination shall be final and binding on the Director.

9. Subject to Plan.

The Units are granted subject to the terms and provisions of the Plan, which Plan is incorporated herein by reference. In case of any conflict between this Agreement and the Plan, the terms and provisions of the Plan shall be controlling. Capitalized terms used herein, if not defined herein, shall be as defined in the Plan.

10. Entire Agreement.

This Agreement together with the Plan supersede any and all other prior understandings, negotiations and agreements, either oral or in writing, between the parties with respect to the subject matter hereof and constitute the sole and only agreements between the parties with respect to the said subject matter. The Director acknowledges that the Director is relying solely on the Director's own judgment in entering into this Agreement, and not on any communications, promises, or representations of the Company or its agent, except as expressly contained in this Agreement. The Committee may amend this Agreement without the Director's consent provided that it concludes that such amendment is not materially adverse to the Director, or is permitted under Section 20 of the Plan. Except as provided by the immediately preceding sentence, no change or modification of this Agreement shall be valid or binding upon the parties unless the change or modification is in writing and signed by the parties.

11. Law Governing.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas (excluding any conflict of laws rule or principle of Texas law that might refer the governance, construction, or interpretation of this Agreement to the laws of another state).

12. Notice.

Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered only when actually received by the Company or the Director, as the case may be, at the addresses set forth below (or at such other addresses as they have theretofore specified by written notice delivered in accordance herewith):

- (i) Notice to the Company shall be sent electronically to _____ or in hard copy addressed and delivered as follows: Arcosa, Inc., 500 N. Akard St., Suite 400, Dallas, TX 75201, Attention: Sr. Director – Total Rewards, with a copy to Attention: Chief Legal Officer.

(ii) Notice to the Director shall be sent electronically to the Director's Company e-mail address or, in hard copy addressed and delivered to the Director's address then on file with the Company.

13. Code Section 409A.

The parties intend this Agreement to be exempt from or compliant with the requirements of Section 409A of the Code and agree to interpret this Agreement at all times in accordance with such intent. Notwithstanding the foregoing, the Company makes no representations, warranties, or guarantees regarding the tax treatment of this Agreement under Section 409A of the Code or otherwise, and has advised the Director to obtain his or her own tax advisor regarding this Agreement.

14. Tax Requirements.

The Director shall be liable for any and all taxes arising out of this Agreement, the conversion of the Units or otherwise hereunder.

15. Acceptance.

The grant of the Units (and Dividend Equivalent Right) under this Agreement is subject to and conditioned upon the Director's electronic acceptance of the terms hereof.

* * * * *

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer, and the Director, to evidence his or her consent and approval of all the terms hereof, has duly executed this Agreement, as of the Date of Grant.

ARCOSA, INC.

By: _____
Name: _____
Title: _____

GRANTEE

Name: _____

**Signature Page to
Non-Employee Director Restricted Stock Unit Grant Agreement**

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

Section 4: EX-10.3 (EXHIBIT 10.3)

Exhibit 10.3

U.S. Form

**ARCOSA, INC.
PERFORMANCE-BASED RESTRICTED STOCK UNIT
GRANT AGREEMENT
PERFORMANCE PERIOD 20XX-20XY**

THIS PERFORMANCE-BASED RESTRICTED STOCK UNIT GRANT AGREEMENT (the "Agreement"), is made by and between ARCOSA, INC. (hereinafter called, the "Company") and _____ (hereinafter called, the "Grantee"), is made as of ____ (the "Date of Grant"); the performance period for this award is the three-year period from January 1, 20XX through December 31, 20XY (the "Performance Period").

WITNESSETH:

WHEREAS, the Grantee complies with the requirements of eligibility for the award of performance-based Restricted Stock Units under the Arcosa, Inc. 2018 Stock Option and Incentive Plan (the "Plan"); and

WHEREAS, the Company has determined to grant to the Grantee an award of performance-based Restricted Stock Units, denominated in Shares of the Company, so that one Restricted Stock Unit is valued as one Share, subject to the terms and conditions hereinafter set forth, as a performance incentive affording the Grantee an opportunity to obtain an increased proprietary interest in the Company, thereby promoting a closer nexus between the Grantee's interest and the interests of the Company, and to stimulate the Grantee's enthusiastic participation in the development, growth, performance, and financial success of the Company;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Grant of Performance-Based Restricted Stock Units.

Subject to the terms and conditions of the Plan, this Agreement, and the restrictions set forth below, the Company hereby grants to the Grantee (this "Performance Unit Grant") a target award of _____ Restricted Stock Units (the "Target Award"); provided that the actual number of Restricted Stock Units that are granted and may be vested under this Agreement may range from 0% to up to ___% of the Target Award, based upon the achievement of the goals and objectives during the Performance Period, as set forth on the attached Appendix (such actual number of Restricted Stock Units vested is referred to herein as, the "Vested Performance Units"). Each Vested Performance Unit shall be converted into one Share of the Company, in accordance with and subject to the terms and conditions of the Plan and this Agreement.

2. Stockholder Status.

The Grantee will have no rights as a stockholder (including, without limitation, the right to vote and to receive dividends) with respect to any Restricted Stock Units covered by this Agreement until the issuance of Shares to the Grantee (in certificated or book-entry form) upon the conversion of the Vested Performance Units into Shares. The Grantee, by his or her execution of this Agreement, agrees to execute any documents requested by the Company in connection with the conversion of Vested Performance Units. Except as otherwise provided in Section 8 hereof, no adjustment shall be made for dividends or other rights for which the record date is prior to the issuance of such Shares.

3. Vesting; Forfeiture.

Subject to the special vesting and forfeiture rules in this Agreement (including, without limitation, the remedies set forth in Section 10 (f) below) and subject to certain restrictions and conditions set forth in the Plan, the Restricted Stock Units shall become vested (*i.e.*, become Vested Performance Units) effective as of May 15, 20XZ (the “Vesting Date”), subject to determination by the Human Resources Committee of the Board of Directors (the “Committee”) of the achievement of the requirements/targets set forth on the Appendix attached to this Agreement as of the end of the Performance Period, which Appendix is by this reference made a part hereof.

In addition, the following special rules shall apply:

- (i) In the event of the death of the Grantee or the termination of the Grantee’s employment for Disability (as defined in the Plan) prior to the Vesting Date, the performance goals set forth on the attached Appendix shall be assumed to have been met at the target level on the date of such death or termination of employment for Disability, and the Grantee (or the Grantee’s personal representative) shall become vested in Vested Performance Units on such date (the “Death/Disability Vesting Date”) in an amount equal to the Target Performance Units multiplied by a fraction, the numerator of which is the number of days from the Date of Grant to the date of death or termination of employment for Disability, and the denominator of which is the number of days in the full Performance Period;
- (ii) Subject to Section 18 of the Plan, and except as expressly otherwise provided herein, in the event a Change in Control (as defined in the Plan) occurs, and (A) the Company or buyer or successor to the Company in such Change in Control continues or assumes this Agreement (or converts or replaces this Agreement with a new award containing substantially the same terms as this Agreement, other than terms rendered inoperative by reason of the Change in Control (a “Substitute Award”)), the Target Award shall be converted into Time-Based Restricted Stock Units at the greater of target or actual performance, as determined by the Human Resources Committee, calculated as of the date of such Change in Control (the “Change in Control Date”) and shall vest on the Vesting Date (or, if earlier, in accordance with the terms of Section 3(i) or (iii)), provided, however, if the Company, or such buyer or successor, terminates the Grantee’s employment without Cause (as defined below) within 12 months of the Change in Control (a “Qualifying Termination”), the Time-Based Restricted Stock Units shall become 100% vested on the date of such Qualifying Termination; or (B) the Company or buyer or successor to the Company in such Change in Control does not continue or assume this Agreement (or convert or replace this Agreement with a Substitute Award), the Grantee shall become 100% vested in the Target Award on the Change in Control Date in an amount based on the greater of target or actual performance, as determined by the Human Resources Committee, calculated as of the Change in Control Date (the “CIC Vesting Date”). Notwithstanding the foregoing, if the Grantee is a participant in the Arcosa, Inc. Change in Control Severance Plan, as may be amended from time to time (or any successor plan thereto) (the “CIC Plan”) and the CIC Plan is in effect on the Change in Control Date, the terms of this Section 3(ii) shall not apply, and instead, treatment of the Target Award on a Change in Control shall be determined in accordance with the CIC Plan.
- (iii) Subject to item (iv) below, in the event of the Grantee’s termination of employment without Cause (as defined below) or for Retirement (as defined below) prior to the Vesting Date,

this Performance Unit Grant shall not be immediately forfeited and the Grantee shall become vested in Vested Performance Units on the Vesting Date, based on the level of achievement of the performance goals set forth on the attached Appendix at the end of the Performance Period as determined by the Committee, multiplied by a fraction, the numerator of which is the number of days from the Date of Grant to the date of termination without Cause or Retirement, as applicable, and the denominator of which is the number of days in the full Performance Period. For purposes of this Agreement,

- (A) “Cause” means (1) the continued failure of the Grantee to satisfactorily perform the Grantee’s duties with the Company or a failure of the Grantee to comply with the Company’s code of conduct or written policies or procedures, or willful failure of the Grantee to follow directions of the Board or the Grantee’s supervisor or manager, or any other willful act that likely will result in a materially negative effect to the Company, which, if curable, is not cured within thirty (30) days after notice thereof to the Grantee by the Company; (2) fraud, theft, misappropriation embezzlement, dishonesty or breach of fiduciary duty by the Grantee; (3) misappropriation of any corporate opportunity or otherwise obtaining personal profit from any transaction which is adverse to the interests of the Company or to the benefits of which the Company is entitled; (4) the conviction of a crime that has caused or may be reasonably expected to cause material injury to the Company or any of its Affiliates, or the conviction of a felony; or (5) the willful misconduct by the Grantee which is injurious to the Company (monetarily or otherwise), which if curable, is not cured by the Grantee within thirty (30) days after receipt by the Grantee of a written notice from the Company.
 - (B) “Retirement” shall mean the Grantee’s voluntary termination of employment (other than by the Company or due to death or Disability), provided that at the time of the Grantee’s termination of employment (1) the Grantee is at least age 55 and (2) the sum of the Grantee’s age and full years of continuous employment with the Company (and its Subsidiaries, Affiliates and any predecessor to the Company, its Subsidiaries or Affiliates) equal at least 65.
- (iv) The Grantee shall forfeit all of the unvested Restricted Stock Units to the Company, if, prior to vesting in accordance with this Section 3, the Grantee violates any of the provisions of Section 10 below, the Grantee’s employment with the Company terminates for any reason, or the Committee determines prior to the Vesting Date that such Restricted Stock Units shall not vest because one or more of the requirements/targets set forth in Appendix A have not been achieved. Upon forfeiture, all of the Grantee’s rights with respect to the forfeited Restricted Stock Units shall cease and terminate, without any further obligations on the part of the Company.

4. Form and Timing of Payment.

Subject to the provisions of the Plan and this Agreement, upon the vesting of Restricted Stock Units in accordance with Section 3 above (on the Vesting Date, the Death/Disability Vesting Date, or the CIC Vesting Date, as applicable), or as soon as practicable following such vesting, but in no event later than sixty (60) days after the Vesting Date, the Death/Disability Vesting Date, or the CIC Vesting Date, as applicable, the Company shall convert the Vested Performance Units into (i) the number of whole Shares equal to the number of Vested Performance Units, (ii) a cash payment equal to the aggregate Fair Market Value of the

Shares which otherwise would have been delivered at the time of conversion in lieu of delivering such Shares, or (iii) a combination of (i) and (ii) above, and shall deliver such Shares and/or cash to the Grantee or the Grantee's personal representative. Shares and/or cash shall only be delivered under this Section 4 if the Grantee or the Grantee's personal representative has made appropriate arrangements with the Company in accordance with Section 27 of the Plan for applicable taxes which are required to be withheld under federal, state or local law or the tax withholding requirement has otherwise been satisfied.

5. No Rights of Continued Service.

Nothing herein shall confer upon the Grantee any right to remain an officer or employee of the Company or one of its Subsidiaries, and nothing herein shall be construed in any manner to interfere in any way with the right of the Company or its Subsidiaries to terminate the Grantee's service at any time.

6. Interpretation of this Agreement.

The administration of the Plan has been vested in the Committee, and all questions of interpretation and application of this Performance Unit Grant shall be subject to determination by a majority of the members of the Committee, which determination shall be final and binding on Grantee.

7. Subject to Plan.

This Performance Unit Grant (including any Target Award (and any Vested Performance Units), as well as any Shares payable with respect thereto) is granted subject to the terms and provisions of the Plan, which Plan is incorporated herein by reference. In case of any conflict between this Agreement and the Plan, the terms and provisions of the Plan shall be controlling. Capitalized terms used herein, if not defined herein, shall be as defined in the Plan.

8. Adjustment of Number of Units.

The number of Restricted Stock Units awarded pursuant to this Agreement and the Shares to be delivered with respect to the Restricted Stock Units shall be subject to adjustment in accordance with Section 20 of the Plan.

9. Repayment on Restatement.

Vested and unvested Restricted Stock Units (and any Shares delivered upon conversion of Vested Performance Units) are subject to forfeiture in order to satisfy amounts recoverable by the Company that the Committee determines pursuant to the Policy for Repayment on Restatement of Financial Statements as may be in effect at the time of the determination, which policy is incorporated herein by reference.

10. Restrictive Covenants.

(a) Non-Disclosure; Confidential Information.

(i) During the Grantee's employment with the Company, the Company shall grant the Grantee otherwise prohibited access to the Company's Confidential Information. Throughout the Grantee's employment with the Company and thereafter: (x) the Grantee shall hold all Confidential Information in the strictest confidence, take all reasonable precautions to prevent its inadvertent disclosure to any unauthorized person, and follow all policies of the Company protecting the

Confidential Information; and (y) the Grantee shall not, directly or indirectly, utilize, disclose or make available to any other person or entity, any of the Confidential Information, other than in the proper performance of the Grantee's duties. "Confidential Information" includes all trade secrets, inventions and confidential and proprietary information of the Company including, but not limited to, the following: all documents or information, in whatever form or medium, concerning or relating to any of the Company's discoveries; designs; plans; strategies; models; processes; techniques; technical improvements; development tools or techniques; modifications; formulas; patterns; devices; data; product information; manufacturing and engineering processes, data and strategies; operations; products; services; business practices; policies; training manuals; principals; vendors and vendor lists; suppliers and supplier lists; customers and potential customers; contractual relationships; research; development; know-how; technical data; software; product construction and product specifications; project information and data; developmental or experimental work; plans for research or future products; improvements; interpretations, and analyses; database schemas or tables; infrastructure; marketing methods; finances and financial information and data; business plans; marketing and sales plans and strategies; budgets; pricing and pricing strategies; costs; customer and client lists and profiles; customer and client nonpublic personal information; business records; audits; management methods and information; reports, recommendations and conclusions; and other business information disclosed or made available to the Grantee by the Company, either directly or indirectly, in writing, orally, or by drawings or observation. "Confidential Information" does not include, and there shall be no obligation hereunder with respect to, information that (A) is generally available to the public on the Date of Grant or (B) becomes generally available to the public other than as a result of a disclosure not otherwise permissible hereunder.

(ii) If the Grantee shares Confidential Information with outside persons, other than as required to comply with applicable laws and as necessary to manage the Grantee's personal finances or in accordance with the exceptions contained in this Section 10(a), the Grantee's rights under this Agreement may be forfeited upon a determination by the Committee that the Grantee has violated this Section 10. Nothing in this Agreement prohibits the Grantee from reporting possible violations of U.S. federal or state law or regulations to any governmental agency or entity, including but not limited to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General, making other disclosures that are protected under the whistleblower provisions of U.S. federal or state law or regulation, or participating in an investigation or proceeding conducted by any governmental or law enforcement agency or entity. The Grantee does not need the prior authorization of the Company to make any such reports or disclosures, and the Grantee is not required to notify the Company that the Grantee has made such reports or disclosures.

(iii) This Agreement also does not prohibit the disclosure of a trade secret (as that term is defined under applicable law) that: (A) is made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney, where such disclosure is made solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. If the Grantee files a lawsuit for reporting a suspected violation of the law, the Grantee may disclose the trade secret to Grantee's attorney and use the trade secret in the court proceeding if the Grantee files any document containing the trade secret under seal and does not disclose the trade secret except pursuant to court order.

(b) Non-Competition. In consideration for (i) this Agreement and the Restricted Stock Units provided herein; (ii) the Company's promise to provide Confidential Information to the Grantee, (iii) the

substantial economic investment made by the Company in the Confidential Information and the goodwill of the Company, (iv) the Company's employment of the Grantee and (v) the compensation and other benefits provided by the Company to the Grantee, to protect the Company's Confidential Information and the business goodwill of the Company, the Grantee agrees to the following restrictive covenants and the covenants set forth in Sections 10(c), (d), (e) and (f). During the Grantee's employment and for a twelve (12) month period (the "Restricted Period") subsequent to the Grantee's date of termination, the Grantee agrees he or she will not, directly or indirectly, absent the express, written consent of the CFO or the Chief Legal Officer of the Company, or either of their respective designees, become or serve as, directly or indirectly, a director, officer, employee, owner, partner, advisor, agent, or consultant with, or engage in, any business that manufactures, provides or sells infrastructure products, which includes but is not limited to, construction materials and equipment, transportation products, energy equipment, and any other products and services provided by the Company or its affiliates during the Grantee's employment ("Competing Business"), in any state, and other similar geographic territory, in which the Company or any of its affiliates operate as of the date of the Grantee's termination of employment and for which the Grantee performed services, had responsibility or received Confidential Information ("Restricted Territory"). Further, for a twelve (12) month period after the Grantee's termination of employment, the Grantee agrees not to serve as a consulting or testifying expert for any third party in any legal proceedings (including arbitration or mediation) or threatened legal proceedings involving the Company, unless called to do so by the Company or an Affiliate. The Grantee agrees to notify the CFO in writing, with a copy of such notice to the Chief Legal Officer of the Company, in the event the Grantee accepts employment of any nature with any person, business, or entity during the Restricted Period.

(c) Non-Solicitation. During the Restricted Period, other than in connection with the Grantee's duties for the Company, the Grantee shall not, and shall not use any Confidential Information to, directly or indirectly, either as a principal, manager, agent, employee, consultant, officer, director, stockholder, partner, investor or lender or in any other capacity, and whether personally or through other persons, solicit business from, interfere with, or induce to curtail or cancel any business or contracts with the Company, or attempt to solicit business with, interfere with, or induce to curtail or cancel any business or contracts with the Company, or do business with any actual or prospective customer or client of the Company with whom the Company did business or who the Company solicited within the preceding two (2) years, and who or which: (i) the Grantee contacted, called on, serviced or did business with during the Grantee's employment with the Company; (ii) the Grantee learned of as a result of the Grantee's employment with the Company; or (iii) about whom the Grantee received Confidential Information. This restriction applies only to business which is in the scope of services or products provided by the Company.

(d) Non-Recruitment. During the Restricted Period, other than in connection with the Grantee's duties for the Company, the Grantee shall not, and shall not use any Confidential Information to, on behalf of the Grantee or on behalf of any other person or entity, directly or indirectly, hire, solicit, induce, recruit, engage, go into business with, or attempt to hire, solicit, induce, recruit, engage, go into business with, or encourage to leave or otherwise cease his/her employment with the Company, any individual who is an Employee or independent contractor of the Company or who was an Employee or independent contractor of the Company within the twelve (12) month period prior to the Grantee's termination of employment.

(e) Non-Disparagement. The Grantee agrees that the Company's goodwill and reputation are assets of great value to the Company which have been obtained and maintained through great costs, time and effort. Therefore, during the Grantee's employment and after the Grantee's Separation from Service for any reason, the Grantee shall not in any way disparage, libel or defame the Company, its business or business practices, its products or services, or its stockholders, managers, officers, directors, Employees, investors or

Affiliates. Nothing in this Section 10(e) is intended to interfere with the Grantee's right to engage in the conduct set forth in Section 10(a)(ii) or (iii).

(f) Remedies. By acceptance of this Agreement, the Grantee acknowledges that the geographic scope and duration of the restrictions and covenants contained in this Section 10 are fair and reasonable in light of (i) the nature and wide geographic scope of the operations of the Company's business; (ii) the Grantee's level of control over and contact with the business in the Restricted Territory; and (iii) the amount of compensation and Confidential Information that the Grantee is receiving in connection with the Grantee's employment with the Company. If the Grantee violates any of the restrictions contained in this Section 10, the Restricted Period shall be suspended and shall not run in favor of the Grantee until such time that the Grantee cures the violation to the satisfaction of the Company and the period of time in which the Grantee is in breach shall be added to the Restricted Period applicable to such covenant(s). Further, by executing this Agreement, the Grantee acknowledges that the restrictions contained in this Section 10, in view of the nature of the Company's businesses, are reasonable and necessary to protect their legitimate business interests, business goodwill and reputation, and that any violation of these restrictions would result in irreparable injury and continuing damage to the Company. Accordingly, by executing this Agreement, the Grantee acknowledges and agrees that, in the event of the Grantee's breach or threatened breach of the provisions in this Section 10, the Company shall be entitled to a temporary restraining order and injunctive relief restraining the Grantee from the commission of such breach or threatened breach, without the necessity of establishing irreparable harm or the posting of a bond, and to recover from the Grantee damages incurred by the Company as a result of the breach, as well as the Company's attorneys' fees, costs and expenses related to such breach or threatened breach. In addition, in the event the Grantee violates any of the restrictions contained in this Section 10, all benefits under this Agreement shall immediately cease, no additional Shares will be due to the Grantee pursuant to this Agreement, the Vested Units shall be forfeited, and, to the extent the Grantee has previously received Shares pursuant to this Agreement, upon written demand by the Company, the Grantee must immediately repay the Company the Shares previously received (or the value thereof as of such date, if the Shares have been sold or otherwise disposed of by the Grantee). Nothing contained in this Agreement shall be construed as prohibiting the Company from pursuing any other remedies available to it for any breach or threatened breach, including, without limitation, the recovery of money damages, attorneys' fees, and costs. The existence of any claim or cause of action by the Grantee against the Company, whether predicated on this Agreement, the Plan or otherwise, shall not constitute a defense to the enforcement by the Company of the restrictive covenants contained in this Section 10, or preclude injunctive relief.

11. Entire Agreement.

This Agreement together with the Plan supersede any and all other prior understandings, negotiations and agreements, either oral or in writing, between the parties with respect to the subject matter hereof and constitute the sole and only agreements between the parties with respect to the said subject matter, provided that if the Grantee is a participant in the CIC Plan, neither this Agreement nor the Plan shall supersede or replace the CIC Plan. The Grantee acknowledges that the Grantee is relying solely on the Grantee's own judgment in entering into this Agreement, and not on any communications, promises, or representations of the Company or its agent, except as expressly contained in this Agreement. The Committee may amend this Agreement without the Grantee's consent provided that it concludes that such amendment is not materially adverse to the Grantee, or is permitted under Section 20 of the Plan. Except as provided by the immediately preceding sentence, no change or modification of this Agreement shall be valid or binding upon the parties unless the change or modification is in writing and signed by the parties.

12. Law Governing.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas (excluding any conflict of laws rule or principle of Texas law that might refer the governance, construction, or interpretation of this Agreement to the laws of another state).

13. Notice.

Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered only when actually received by the Company or the Grantee, as the case may be, at the addresses set forth below (or at such other addresses as they have theretofore specified by written notice delivered in accordance herewith):

- (i) Notice to the Company shall be sent by mail, return receipt requested, or by recognized overnight courier, addressed and delivered as follows: Arcosa, Inc., 500 N. Akard St., Suite 400, Dallas, TX 75201, Attention: Sr. Director – Total Rewards, with a copy to Attention: Chief Legal Officer.
- (ii) Notice to the Grantee shall be sent electronically to the Grantee’s Company e-mail address or, in hard copy addressed and delivered to the Grantee’s address then on file with the Company.

14. Restrictions on Transfer.

The Restricted Stock Units may not be sold, assigned transferred, pledged or otherwise disposed of or encumbered until the Restricted Stock Units have vested, and Shares have been delivered to the Grantee in accordance with Section 4, except by will or by the laws of descent and distribution.

15. Section 409A of the Code.

The parties intend this Agreement to be exempt from or compliant with the requirements of Section 409A of the Code and agree to interpret this Agreement at all times in accordance with such intent. Without limiting the generality of the foregoing, the term “termination of employment” or any similar term under the Agreement will be interpreted to mean a “separation from service” within the meaning of Section 409A of the Code to the extent necessary to comply with Section 409A of the Code. Notwithstanding the foregoing, the Company makes no representations, warranties, or guarantees regarding the tax treatment of this Agreement under Section 409A of the Code or otherwise, and has advised the Grantee to obtain his or her own tax advisor regarding this Agreement.

16. Acceptance.

The grant of the Restricted Stock Units under this Agreement is subject to and conditioned upon the Grantee’s electronic acceptance of the terms hereof.

* * * * *

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized officer, and the Grantee, to evidence his or her consent and approval of all the terms hereof, has duly executed this Agreement, as of the Date of Grant.

ARCOSA, INC.

By: _____
Name: _____
Title: _____

GRANTEE

**Signature Page to
Performance-Based Restricted Stock Unit Grant Agreement**

APPENDIX

PERFORMANCE LEVEL AND METRICS

Performance Period: January 1, 20XX – December 31, 20XY

**Appendix to
Performance-Based Restricted Stock Unit Grant Agreement**

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