

ARC Pay Agreement

The parties to this ARC Pay Agreement (“Agreement”) also known as Travel Agent Service Fee Agreement are any Entity (defined as an Agent, Corporate Travel Department, Sovereign Entity, or Verified Travel Consultant) that is party to a Reporting Agreement, as is defined below, that submits to ARC using a credit, charge, or debit card (collectively “credit card”) a travel-related transaction (referred to as “ARC Pay”) on an ARC Traffic Document using carrier code 890; and the Airlines Reporting Corporation, headquartered in Arlington, Virginia (“ARC”).

The purpose of this Agreement is to address how an Entity submits and ARC processes ARC Pay transactions and to outline the rights and obligations of the parties.

Capitalized terms used, but otherwise not defined in this Agreement, will have the same meaning ascribed to them in the Agent Reporting Agreement (“ARA”), Corporate Travel Department Reporting Agreement (“CTDRA”), Sovereign Entity ARA (SEARA), Sovereign Entity CTDRA (“SECTDRA”), and VTC Program Agreement (“VTCPA”) (collectively, the ARA, CTDRA, SEARA, SECTDRA, and VTCPA are hereafter referred to as the “Reporting Agreement”).

In consideration of these statements and the mutual covenants and agreements, the parties acknowledge, understand, and agree as follows:

Part I: Scope of Agreement

1. This Agreement:

- 1.1. Becomes effective between ARC and Entity when Entity issues an ARC Pay transaction on an ARC Traffic Document using carrier code 890;
- 1.2. Governs the terms and conditions under which Entity is authorized to issue and submit an ARC Pay transaction to ARC, currently, as part of the “ARC Pay Program;” the name of which may change from time-to-time;
- 1.3. Covers all of Entity’s Locations;
- 1.4. Supersedes any and all prior agreements, unless otherwise stated in another document to which ARC and the Entity are a party; and
- 1.5. Incorporates by reference the latest version of “Instructions for ARC Pay Transactions” (“ARC Pay Instructions”) and ARC’s ARC Pay Hub (formerly ARC’s Agent’s Choice) Terms of Use.

2. Entity acknowledges and agrees:

- 2.1. To comply with all instructions contained in the ARC Pay Instructions and, when applicable, ARC’s ARC Pay Hub Terms of Use.

2.2. To not violate any local, state, or federal laws, or regulations, in the performance of its obligations defined in this Agreement, and to not impose an ARC Pay transaction that could be treated as a finance charge under the Federal Truth in Lending Act or any similar state law.

2.3. This Agreement will be construed in accordance with, and governed by, the laws of the Commonwealth of Virginia. State and Federal courts of the Commonwealth of Virginia will have personal jurisdiction over all matters arising under this Agreement. However, if both parties agree, they can have their disputes resolved by a binding decision of the Travel Agent Arbitrator (“TAA”), in accordance with the TAA’s rules and procedures. All arbitration hearings shall take place at ARC’s headquarters. This Agreement was entered into in Arlington, Virginia and all ARC Pays issued under this Agreement will be deemed to have occurred in Virginia.

2.4. When Entity uses ARC Pay, it is issuing an ARC Traffic Document. Entity must hold ARC Traffic Documents in trust for ARC until issued to Entity’s clients, or until submitted to ARC.

2.5. That ARC may, at any time and without prior notice, audit the books and records of Entity that pertain to ARC Pay transactions to determine whether Entity is in compliance with this Agreement.

2.6. That Entity will maintain a bank account for the benefit of ARC for the deposit of proceeds, to pay fees, or to reimburse ARC for losses from ARC Pay transactions that are rejected or charged back. All monies and credit card billing documents Entity collects for ARC Pay hereunder are property of ARC, and will be held in trust by Entity until satisfactorily submitted to ARC.

3. Amendments to This Agreement:

3.1. Except as otherwise provided by this Agreement, ARC may amend this Agreement, at any time, if it makes the amendments available to Entity at least 10 calendar days prior to the amendment’s effective date.

3.2. ARC may change the amount or percentage of fees charged, at any time, and will make the changes available to Entity at least 30 calendar days prior to the change’s effective date.

4. Concurrence with Future Amendments to This Agreement:

4.1. Notwithstanding paragraph 3 of this Agreement, Entity’s concurrence with future amendments to this Agreement becomes effective anytime an Entity submits to ARC an ARC Pay transaction on an ARC Traffic Document using carrier code 890.

5. Termination of This Agreement:

5.1. Entity may submit written notice of voluntary termination of this Agreement at any time.

5.1.1. Termination will take effect 14 calendar days after receipt of notice or on the date indicated in Entity’s notice, whichever is later. However, despite termination of this Agreement,

the Entity must continue to meet all its obligations on or before the effective date of termination because those obligations will continue to exist and will remain in full force and effect. ARC will have no obligation to process ARC Pays after notice of termination of this Agreement.

5.2. ARC may terminate this Agreement with Entity, for convenience, at any time for any reason.

5.2.1. Termination, for convenience, will take effect 14 calendar days after receipt of notice or on the date indicated on ARC's notice, whichever is later. ARC will have no obligation to process ARC Pay transactions after notice of termination of this Agreement.

5.3. ARC may terminate this Agreement with Entity, for cause.

5.3.1. Termination, for cause, may take effect immediately, and without notice, if:

5.3.1.1. Entity fails to pay ARC any monies due and owing to ARC under this Agreement;

5.3.1.2. Entity defaults in the performance of any of its duties, obligations, or performance requirements under this Agreement;

5.3.1.3. ARC, in its sole discretion, determines that there is an adverse change in Entity's business or financial condition, including but not limited to, Entity becomes insolvent, a debtor in any bankruptcy proceeding, or the subject of a receivership proceeding;

5.3.1.4. ARC, in its sole discretion, determines that Entity or any of its owners, partners, officers or employees have participated in the commission or attempted commission of a fraud against ARC, a payment network, credit card company, issuer, or a card holder;

5.3.1.5. Entity is no longer a party to a Reporting Agreement, or is alleged by ARC to be in breach of a Reporting Agreement;

5.3.1.6. Entity is alleged to be in violation of any provision of this Agreement.

6. Notice to System Providers:

6.1. In its sole discretion, ARC may notify System Providers to stop or reinstate Entity's use of their system for the issuance of an ARC Pay.

Part II: Submitting ARC Pay Transactions

7. Entity Acknowledges and Agrees:

7.1. An ARC Pay is a travel-related transaction that Entity:

7.1.1. Sets independently and imposes equally and consistently with regard to the travel-related services it performs.

7.1.2. Will impose equally regardless as to whether the ARC Pay transaction is a cash or credit transaction.

7.1.3. Will not submit using the credit card of Entity, owner, or officer, or on the credit card of anyone other than the card holder or passenger, and only when the card holder has given Entity permission to use card holder's credit card for specific ARC Pays.

7.1.4. Will identify to its customer(s) it will assess an ARC Pay charge and identify the amount of the ARC Pay charge.

7.2. To issue an ARC Pay transaction, Entity must:

7.2.1. Obtain a valid approval code from the credit card company at the time the card holder acknowledged and agreed to accept the ARC Pay transaction; and

7.2.2. Provide all other information and follow all rules identified in the ARC Pay Instructions.

8. Voiding and Refunding a Submitted ARC Pay:

8.1. If ARC rejects an ARC Pay transaction, Entity agrees to void or refund the ARC Pay within 48 hours of ARC's notice of rejection.

Part III: Processing ARC Pay

9. Processing ARC Pay Transactions:

9.1. Subject to 9.2, ARC, as merchant of record on the ARC Pay transaction, agrees to process ARC Pay transactions submitted by Entity in its Sales Report in accordance with the terms and conditions of this Agreement.

9.2. Because ARC is the merchant of record, ARC may for any reason reject, void or not process any ARC Pay transaction that Entity issues.

Part IV: Fees

10. Entity Agrees to Pay the Following:

10.1. Entity authorizes ARC to deduct from Entity's designated bank account, or otherwise withhold from money due and owing the Entity by ARC by way of set off, the following:

10.1.1. On a weekly basis, a nonrefundable processing fee for each submitted ARC Pay transaction equivalent to 3.5% of the amount of the ARC Pay transaction or \$0.70, whichever is greater.

10.1.2. On a quarterly basis, a fee of \$27.99 per Entity Location that submitted an ARC Pay transaction in the previous quarter.

10.1.3. On a weekly basis, if applicable, a nonrefundable rejection or chargeback handling fee of \$25.00 per ARC Pay transaction that is rejected or charged back.

10.1.4. On a monthly basis, if applicable, a nonrefundable handling fee of \$100.00 per ARC Pay transaction that is rejected or charged back due to an invalid authorization code, as identified by the bank.

10.1.5. On a periodic basis, if applicable, a nonrefundable fee that is equivalent to a fee that was levied on ARC by a third party.

10.1.6. Where applicable, an amount equal to the outstanding total owed by Entity for any unpaid fees or chargebacks.

Part V: Liability, Responsibility, and Payment for ARC Pay Losses

11. Liability for ARC Pay:

11.1. Entity agrees that under this Agreement, Entity remains solely liable for any liability ARC incurs as the merchant of record for an ARC Pay transaction issued by Entity, since the ARC Pay is solely between Entity and the card holder.

11.2. Entity agrees that if an ARC Pay transaction is rejected or charged back to ARC or otherwise not paid by any payment network, credit card company, issuer, or bank for any reason, Entity will be liable for and will reimburse ARC for any losses it incurs due to such nonpayment and will reimburse ARC for such losses upon ARC's demand.

11.3. Entity authorizes ARC to deduct from Entity's designated bank account, or withhold from money due and owing to the Entity by ARC, by way of setoff, the amount of the ARC Pay transaction that was rejected or charged back to ARC.

11.4. Entity authorizes ARC, when in its sole discretion, deems it necessary to withhold Entity's weekly ARC disbursement where it appears to ARC that there may be or has been fraudulent conduct on the part of Agent, which may result in chargebacks as a result of the potential fraudulent activity-- the withholding will not exceed 1 year.

12. Dealing with the Card Holder:

12.1. Entity agrees to deal and communicate directly with the card holder to resolve any claims or complaints about the nature or quality of services purchased from Entity.

12.2. Entity agrees to deal and communicate directly with the card holder to resolve any sales that are rejected or charged back to ARC.

Part VI: General Provisions

13. Entity will indemnify and hold harmless ARC; and ARC officers, agents, and employees, from all responsibility and liability for any damage, expense, or loss to any person, entity, or thing caused by or arising from any negligent act, omission, or misrepresentation of Entity, or Entity's representatives, agents, or employees relating directly or indirectly to the performance of the duties and obligations of Entity under this Agreement.

14. Entity must not disclose to, or otherwise give any third party any card holder information, including but not limited to, credit card numbers or a card holder's personal information, except when the disclosure is necessary for Entity to perform its obligations under this Agreement.

15. Entity and ARC, in collecting, processing, and transmitting any card holder information, including but not limited to, credit card numbers and personal data, must treat such data, whether in hard copy or electronic form, in a secure and confidential manner, disclosing it to only those entities that they are lawfully bound to do so, and shall be compliant with the Payment Card Industry Data Security Standard (PCI-DSS) (https://www.pcisecuritystandards.org/security_standards/). Entity must provide notice to card holders that their personal data will be disclosed to ARC for purposes of processing a ARC Pay.

16. Any notice provided under this Agreement will be considered given as of the mailing date of the notice. Notices can be given to Entity's home office address, MyARC Primary Administrator, and/or Operational Email Address, or if to ARC, to ARCPay@arccorp.com.

17. ARC's LIABILITY, IF ANY, ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED \$500.00 PER OCCURRENCE. ARC SHALL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES.

18. Entity agrees to reimburse ARC for expenses and reasonable attorney's fees incurred by ARC in connection with ARC enforcing or defending any terms and conditions of this Agreement.

19. This Agreement cannot be assigned to any third party by Entity without the prior written consent of ARC. ARC can assign this Agreement without Entity's prior consent, written, or otherwise.

20. A waiver by either party of any breach or default by either party will not be construed as a waiver of any other breach or default whether or not similar and whether or not occurring before or after the subject breach.
21. If any provision of this Agreement is held invalid in a court of law or equity, the remaining provisions will remain in full force and effect and will be construed as if the invalid provisions were not included in this Agreement.
22. ARC and its wholly-owned subsidiary, Settlement Plan Management, Inc. (SPMI) may from time to time receive funds from credit card companies and/or credit card acquiring banks and/or travel agents pursuant to this Agreement, and ARC agrees, on behalf of itself and SPMI, that ARC and/or SPMI shall manage such funds (less any fees due and payable from time to time to ARC and/or SPMI) during the term of this Agreement.