

**Rules
on the ADR procedure
concluded with imposing a solution**

**RECAST 1
approved pursuant to
the Resolution dated 13.07.2016
of the Steering Board**

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Provisions of the procedure	Annexes
<p>General provisions</p> <p>Art. 1. The ADR Procedure concluded with imposing a solution qualifies as arbitration procedure arranged out and managed by the ADR Center, with the registered office in Bucharest, Str. Sevastopol nr. 24, District 1, and the person designated to resolve under this procedure acquires the capacity of arbitrator.</p> <p>Art. 2. The ADR Center, as standing arbitration institution, operates in keeping with the provisions of the Government Ordinance no. 38/2015 on alternative dispute resolution between consumers and traders, Directive 2013/11/EU on alternative dispute resolution for consumer disputes and amending Regulation (EC) no. 2006/2004 and Directive 2009/22/EC, the Code of Civil Proceedings in effect, and the Regulation for Organization of the Banking Alternative Dispute Resolution Center and functioning of the Steering Board.</p>	
<p>Duties</p> <p>Art. 3. <i>Compromise</i> The ADR Center arranges resolution of disputes by means of the arbitration procedure, provided the parties have reached a compromise in this respect.</p> <p>Art. 4. The choice of the parties, by compromise, to have the dispute resolved under the ADR procedure concluded with imposing a solution amounts itself to the agreement of the parties to application of these Procedural Rules.</p> <p>Art. 5. Further to the compromise executed, arbitration can be entrusted to one or more persons vested by the parties with jurisdiction over the dispute,</p>	

and to render a final and binding on them award.

Art. 6.

Arbitral tribunal

- (1) The single arbitrator, or, as applicable, the three arbitrators form, for the purpose of these rules, the arbitration tribunal.
- (2) Resolution of the dispute shall rest solely with the arbitral tribunal in observance of the independence and impartiality principles. The award render is final, binding and enforceable, pursuant to the provisions of the Code of Civil Proceedings.

Art. 7.

On the pain of nullity of the arbitral award, the parties must be afforded equal treatment, the right to defence and the right to be heard throughout the entire arbitral proceeding.

Art. 8.

Confidentiality of arbitration

- (1) The ADR Center, the arbitral tribunal, the Procedural Secretariat of the ADR Center and its entire staff have the duty to keep the arbitration confidential. The casefile is also confidential, and no external person shall have access thereto without written agreement of the parties and approval of the arbitral tribunal.
- (2) The arbitral awards may be used for statistical or information purposes, in the cooperation work with the competent authority, as provided under art. 4 letter j) of the Regulation for organization of the Banking Alternative Dispute Resolution Center and for functioning of the Steering Board, and with other ADR entities, in respect of the matters of law occurred in the dispute, without however naming the parties or the data which are liable to damage their interests.

Art. 9

The parties have the duty to exercise their procedural rights in good faith, and to work together with the arbitral tribunal for the smooth performance of the arbitration proceedings and finalization thereof in due time.

Art. 10.

Throughout the dispute, the arbitral tribunal shall attempt to resolve on the basis of an understanding of the parties.

Arbitration agreement

Art. 11

- (1) The arbitration agreement is executed in writing, on the pain of nullity.
- (2) In the arbitration proceedings, held pursuant to the Government Ordinance no. 38/2015, the arbitration agreement is concluded only in the form of a compromise, which is executed by the parties further to a failed attempt to resolve the consumer complaint directly and amicably.

Art. 12

- (1) Under such a compromise, the parties thereby agree for the dispute occurred between them to be settled by arbitration, indicating in writing, under the pain of nullity, the subject matter of the dispute and the name of the single arbitrator or the designated arbitrator(s).
- (2) The compromise can also appear further to a consumer filing an application for resolution of the dispute under arbitration and the written agreement of the trader to the consumer's applicable being resolved under arbitration proceedings.

Annex 1



Anexa 1_Model
compromis_Procedu

Formation of the Arbitral Tribunal

Art. 13

- (1) The arbitral tribunal is formed of one single arbitrator or three arbitrators, as per the agreement between the parties.
- (2) Unless the parties have agreed on the number of arbitrators, the dispute is reviewed by three arbitrators, one appointed by each party, and a third one, as umpire, selected by the other two.
- (3) The parties will appoint the arbitrator and an alternate arbitrator.

Art. 14

Designation of arbitrators

- (1) Arbitrators are designated by the parties from the List of Conciliators with legal background determined by the ADR Center.
- (2) In absence of compromise, the trader is required express their agreement or disagreement to the procedure, and the single

arbitrator proposed by the other party, or to appoint their own arbitrator and alternate arbitrator, within 15 calendar off filing of the arbitration application to the Procedural Secretariat of the ADR Center and of notifying the name of the arbitrator and the alternate arbitrator, as applicable, designated by the consumer.

(3) The arbitrators thus designated by the parties chose the umpire.

Art. 15

Arbitrators are independent and impartial in performance of their duties. They are not representatives of the parties.

Art. 16

(1) The arbitrator may be objected to for causes which question their independence or impartiality. The causes for objection are laid down in the Code of Civil Proceedings for objection to judges, plus, as the case may be, in the provisions laid down in art. 14 para. (2) of the Regulation for organization of the Alternative Banking Dispute Resolution Center and functioning of the Steering Board.

(2) The arbitrator who has knowledge of any cause for objection or incompatibility he has been or become subject to, is required to inform the parties and, if applicable, the other arbitrators thereof, and refuse to receive the casefile or abstain, as applicable.

(3) Objection must be brought up within 3 business days from the date the party has learned of arbitrator nomination or, as the case may be, occurrence of the cause for objection.

(4) The objection application is examined by a Tribunal formed for this purpose of the 3 oldest conciliators with legal background from the List of Conciliators, and the next 2 as alternates who should the application be upheld, informs the Procedural Secretariat to ask the party/parties to select the new arbitrator or, as applicable, the umpire or the sole arbitrator.

(5) Such objection is ruled on within maximum 7 business days of receiving thereof from the Procedural Secretariat.

(6) The replacement procedure is identical also in case of abstention, waiver of appointment, impossibility or death, or when the respective causes occur also about an alternate arbitrator.

(7) The above provisions on objection apply also to the umpire, as this

is designated pursuant to art. 14 para. (3).

Art. 17

- (1) Within 3 business days from the date when the designation was notified, the arbitrators and the umpire, as the case may be, will fill in and sign the Declaration of Acceptance, Independence, Impartiality and Availability.
- (2) This Declaration further provides that the arbitrator or, respectively, the umpire are not is not in any of the incompatibility situations provided under art. 14 para. (2) of the Regulation for organization of the Alternative Banking Dispute Resolution Center and functioning of the Steering Board, and art. 562 of the Code of Civil Proceedings.
- (3) The original Declaration is filed to the Procedural Secretariat of the ADR Center by swift and safe means.

Art. 18

- (1) The Tribunal is deemed formed as at the date when the sole arbitrator or, respectively, the umpire accepts the assignment.
- (2) The arbitration proceedings commence on the date when the Arbitral Tribunal is formed.
- (3) None of the party may withdraw from the arbitration proceedings once the Arbitral Tribunal has been formed.

Art. 19

- (1) Unless otherwise agreed upon by the parties, the Arbitral Tribunal shall render its award within maximum 90 calendar days from its formation.
- (2) This terms stops running during the time of the following events:
 - a) ruling on the objection;
 - b) replacement of the arbitrator or umpire;
 - c) ruling on the exception of unconstitutionality;
 - d) ruling on the an ancillary application lodged with Bucharest Tribunal;
 - e) suspension of the dispute under a legal provision;

Annex 2



Anexa 2_Declaratie
acceptare & indepei

<p>f) performance of an expert assessment ordered by the Arbitral Tribunal.</p> <p>Art. 20</p> <p>(1) The parties may agree on extension of the term during the dispute, in writing or by means of a declaration documented in the hearing report.</p> <p>(2) The Arbitral Tribunal may order, term of the particulars of the dispute, to extend the term by up to 90 calendar days.</p> <p>(3) Such extension is decided under a grounded hearing report, with provision of information to the parties.</p> <p>(4) The term is automatically extended by 90 calendar days in the event the consumer dies or is declared subject civilly incapacitated, or the business of the trader is suspended/terminated.</p> <p>Art. 21</p> <p>(1) The venue of arbitration is the registered office of the ADR Center, Str. Sevastopol, nr. 24, sector 1, Bucharest</p> <p>(2) Should the parties file a reasoned application with the Tribunal to have the arbitration meetings held elsewhere, the Arbitral Tribunal may permit it.</p>	
<p>Preliminary Procedure</p> <p>Art. 22</p> <p>The application filed by consumer to the ADR Center for resolution of the dispute, hereinafter referred to as the arbitration application, shall contain:</p> <p>a) name, first name, domicile, residence or, as the case may be, address for service of the consumer;</p> <p>b) personal identification number (CNP);</p> <p>c) e-mail address, phone number, fax number or similar, if any. In the event the consumer's domicile or habitual residence is abroad, they will also indicate an address for service in Romania where all</p>	

the communications regarding the dispute in question are to be served, if any.

- d) if applicable, the name and capacity of the consumer's representative in the arbitral proceedings; should such representative be a lawyer, the name and place of business thereof will be also indicated;
- e) name, address and all identification data of the trade, including e-mail, if known;
- f) subject matter and amount of the claims and, as the case may be, the method employed to have these determined;
- g) the reasons in fact and in law in support of each claim, indicating the evidence requested in support thereof;
- h) objectives of the expert assessment and those of the proposed expert-advisor, and questions for cross-examination of the traders, if applicable;
- i) signature of the consumer-claimant.

Art. 23

The arbitration application shall have enclosed copies of the documents the consumer intends to use, a copy of the compromise, if any, and proof of having attempted to directly and amicably settle the dispute with the trader.

Art. 24

Where the consumer's domicile or residence is abroad, they are required to submit the documents drawn up in the foreign language selected for the proceedings together with translations thereof into Romanian.

Art. 25

The arbitration application and the documents can be filed on-line or on paper. Filing can be in person (to the registered office of the ABDRC) or, as applicable, by mail with acknowledgment of receipt.

Art. 26

(1) The arbitration application is registered by care of the Procedural Secretariat of the ADR Center.

(2) The filing date of the arbitration application shall be the date when

<p>this is registered with the Procedural Secretariat of the ADR Center, whether filed directly or online, and if mailed as registered letter, this shall be the date indicated in the stamp of the sending postal office affixed on the envelope.</p> <p>(3) Where the arbitration application does not contain all the requested information, and the arbitrators and alternate arbitrators are not designed either in the application or in the enclosed compromise, the Procedural Secretariat of the ADR Center shall inform forthwith the consumer thereof asking them to have these supplemented within not more than 3 business days from the notice date.</p> <p>(4) The arbitration application, together with the accompanying documents, are sent to the trader by the Procedural Secretariat of the ADR Center, together with a request for the trader to submit, within 15 calendar days of receiving, the following:</p> <ul style="list-style-type: none"> a) agreement to resolution of the dispute under the arbitration proceedings, unless such agreement has already been issued in a separate document executed with the consumer; b) agreement to the sole arbitrator chosen by the consumer or, as applicable, the name of the arbitrator and the alternate arbitrator designated; c) the statement of defence, pursuant to the requirements in art. 28. <p>(5) Failure of the trader to formally agree to commencement of the arbitration proceedings shall close the case.</p> <p>(6) In the event the consumer discontinues the arbitration proceedings or waives the very right claimed before formation of the Arbitral Tribunal, the proceedings are closed with documentation of such discontinuation or waiver in the casefile.</p>	
<p>Statement of Defence</p> <p>Art. 27</p> <p>(1) The Statement of Defence shall contain:</p> <ul style="list-style-type: none"> a) agreement to resolution of the dispute under the arbitration proceedings, unless such agreement has already been issued in a separate document executed with the consumer or in a separate document; 	

- b) name of the arbitrator and alternate arbitrator selected by the trader, and, respectively, the agreement to the sole arbitrator selected by the consumer, as applicable;
- c) exclusions applicable to the consumer's application;
- d) the reply to the consumer's application providing reasons in fact and in law;
- e) evidence proposed in defence, indicating the objectives of the expert assessment and the name of the proposed expert-advisor, if any.

(2) The trader shall further indicate also its identification data, unless such has been correctly and completely indicated by the claimant in the dispute arbitration application.

(3) The Statement of Defence and the enclosed supporting documents are submitted to the Procedural Secretariat of the ADR Center and to the consumer.

(4) The Procedural Secretariat of the ADR Center shall forward the Statement of Defence and the documents submitted by the trader to the consumer, and inform the latter of the possibility to reply to the Statement of Defence before the first hearing.

Art. 28

(1) The first hearing is scheduled so that the subpoena reaches the parties at least 5 business days before the date set for the hearing.

(2) Where the parties have agreed to electronic service of proceedings, the subpoena is deemed received by the parties in the first business day after the day when the Procedural Secretariat sent the message containing the subpoena.

Art. 29

(1) Service of proceedings and documents submitted by the parties or, as applicable, expert reports and subpoenas and arbitral awards is arranged by the Procedural Secretariat of the ADR Center via the electronic means indicated by the parties or as registered letter with acknowledgement of receipt, when one of the parties failed to agree to receiving the above by electronic means.

(2) Any other communication with the parties is permitted to the

<p>Procedural Secretariat of the ADR Center in connection with the casefile via any swift means of communication (registered letter with acknowledgment of receipt, express mail, electronic mail, telegram, telex, fax, phone) documenting in the casefile the date and time of such communication.</p> <p>Art. 30 The documents sent to the parties are deemed served also if the recipient thereof refused the receipt or did not retrieve them from the postal office, despite the proof of notice.</p> <p>Art. 31 (1) Before or during arbitration, the Arbitral Tribunal may be asked, and may decide to permit precautionary measures or provisional measures in respect of the subject matter of the dispute, or to ascertain certain factual circumstances, pursuant to the provisions of the Code of Civil Proceedings. (2) If the party opposes to enforcement of the respective measures ordered, such permission rests with the Bucharest Tribunal, pursuant to art. 585 para. (4) of the Code of Civil Proceedings.</p> <p>Art. 32 (1) The parties may be assisted or represented, if they wish, by a lawyer or, as the case may be, a legal adviser before the Arbitral Tribunal or, for consumers, by a third party and/or a representative of a consumer association. (2) The power of attorney issued to a lawyer or a legal adviser, or to a third party or a representative, as the case may be, of a consumer association, for representation before the Arbitral Tribunal is deemed given for all the steps of proceedings due to be performed in the arbitration proceedings. (3) The lawyer's fee is borne by the employing party, even if such party is the consumer.</p>	
<p>Arbitration Proceedings</p> <p>Art. 33 (1) The first hearing is that when the parties, having been be duly subpoenaed, can make submissions.</p>	

- (2) In the first hearing, the parties have the duty to inform the Arbitral Tribunal of any objections they might have to formation and jurisdiction of the Arbitral Tribunal, whether they have previously agreed or not to come to terms, request application of the equity law, or have filed additional claims, written submissions or documents.

Art. 34

- (1) The Arbitral Tribunal reviews fulfilment of the arbitration conditions laid down in the Regulation for organization of the Alternative Banking Dispute Resolution Center and functioning of the Steering Board, as well as its own jurisdiction to rule on the dispute.
- (2) Once formed, the Arbitral Tribunal decides on the admissibility, arbitration and jurisdiction conditions, and rules under a hearing report which can only be set aside through an action for annulment lodged against the arbitral award, pursuant to the provisions of the Code of Civil Proceedings.
- (3) The Arbitral Tribunal may refuse to examine the dispute if this falls into one of the situations provided under art. 18 para. (3) of the Regulation for organization of the Alternative Banking Dispute Resolution Center and functioning of the Steering Board.

Art. 35

- (1) The meeting is opened by the sole arbitrator or, respectively, the umpire who gives the floor to the arbitration proceedings assistant to roll-call the parties and present the case.
- (2) The sole arbitrator or, respectively, the umpire chairs the arbitration meeting.
- (3) The arbitration meeting is not opened for public.
- (4) The parties may attend the debates on the dispute in person and/or by representatives, and may be assisted, if they choose so and as applicable, by lawyers, legal advisers, other advisers or interpreters, or by representatives designated pursuant to art. 32 of these Rules.

Art. 36

When the parties, having been duly subpoenaed, failed to ask the Arbitral Tribunal under an application received by this Tribunal the latest the day of the debate, to defer discussion of the dispute grounded reasons, the Tribunal shall proceed with the debate on the case.

Art. 37

At the request of the parties, the Arbitral Tribunal may agree that certain steps of the proceedings, except for the debate on the substance of the case, take place by email or exchange of documents on paper;

Art. 38

- (1) Any of the parties may request in writing for the settlement of the dispute to take place under default proceedings.
- (2) The Arbitral Tribunal may defer ruling of the dispute whenever they find that presence of the parties in the debates is necessary, with subpoena thereof.

Art. 39

The exceptions regarding existence or validity of the compromise, formation of the Arbitral Tribunal, the lack of jurisdiction, obsolescence, as well as any other proceedings incidents must be brought up, subject to prescription, in the Statement of Defence or by the latest the first hearing. The exceptions of public order nature may be raised at any time during the arbitration proceedings.

Art. 40

The exception of unconstitutionality may be raised by any of the parties or ex-officio by the Arbitral Tribunal, in accordance with the provisions of Law no. 47/1992 on organization and functioning of the Constitutional Court of Romania. The Arbitral Tribunal rules under a hearing report.

Art. 41

- (1) Each of the parties is required to support their underlying submissions of the claims and defence in the dispute.
- (2) The Arbitral Tribunal may permit, in accordance with the law, submission of evidence further to the request of parties, but only if such evidence has been requested in the arbitration application or the Statement of Defence, or if the need for production of such evidence has emerged from the debates.
- (3) Evidence is assessed by the arbitrators according to their judgment.

Art. 42

Any irregularity of the proceedings is only overlooked if the party has not claimed it in the first arbitration hearing after the respective irregularity and before making any submissions.

Art. 43

- (1) The arbitration debates are documented in the hearing report which contains any reasoned order of Arbitral Tribunal.
- (2) This hearing report is signed off by the arbitrators, the umpire and the arbitration proceedings assistant.

Art. 44

- (1) The parties are entitled to learn of the content of the hearing reports and any document in the casefile.
- (2) Further to the request of the parties or ex-officio, the Arbitral Tribunal may proceed to correcting the clerical errors or completing the omissions found in the hearing reports under another hearing report.

Art. 45

Should the normal course of the dispute be prevented out of the consumer's fault, and the latter fail to perform their obligations within 5 calendar days since their notice in this respect, the dispute is reviewed on the basis of the documents and information submitted by the consumer by that time.

Arbitral Award

Art. 46

The decisions made in the course of the proceedings are called hearing reports, and the arbitral award which addresses the substance of the case is called sentence.

Art. 47

- (1) The arbitration proceedings conclude with rendering of an arbitral award.
- (2) In the event the trader admits to some of the consumer's claims, further to the request of the first, the Arbitral Tribunal shall render a partial sentence to the extent of such admission.

Art. 48

The Arbitral Tribunal resolves the dispute on the grounds of the contract between the parties and the applicable rules of law, considering, when applicable, the commercial practices and the general law principles, or applying, further to the request of the parties, the equity law.

Art. 49

- (1) As soon as the Arbitral Tribunal finds that all the circumstances of the case have been sufficiently explained, and after having heard the parties and received the verbal or written submissions thereof, it shall close the debates and proceed to ruling and drawing up the hearing report in chambers, with participation of all of its members.
- (2) Ruling and rendering of the award may be deferred by not more than 7 calendar days.

Art. 50

If, while ruling on the case, the Arbitral Tribunal finds that additional clarifications are required for rendering the award, it shall issue a hearing report ordering reinstatement of the dispute, and setting the date of a hearing for additional debates, with subpoenaing of the parties.

Art. 51

- (1) Forthwith after ruling and rendering of the solution, the sole arbitrator or, respectively, the umpire, draws up the operative part of the sentence which is signed off by all the members of the Arbitral Tribunal.
- (2) Should there be any separate opinion, this is documented under signature in that operative part.

Art. 52

When the Arbitral Tribunal is formed of three arbitrators, the award is rendered, unless unanimous, with the majority of the votes. The arbitrator who was of a different opinion shall draw up, provide reasons and sign off a separate opinion.

Art. 53

The arbitral award is drawn up in writing and shall include:

- a) formation of the Arbitral Tribunal, name of arbitration proceedings assistant, venue and date when the sentence was rendered;
- b) names, domicile or registered office of the parties, their identification data, as well as the names of the representatives of the parties, as applicable, and the capacity thereof;
- c) indication of the underlying compromise of the arbitration;

- d) subject matter of the disputes, submissions of the parties, and evidence produced;
- e) reasons in fact and in law supporting the solution;
- f) operative part of the sentence;
- g) signatures of all arbitrators, as well as signature of the arbitration proceedings assistant.

Art. 54

- (1) The clerical or omissions as regards the names, capacity and submissions of the parties, as well as any other clerical errors in the arbitral award may be corrected ex-officio or further to the request of any party made within 5 calendar days of receiving the respective arbitral award.
- (2) The Arbitral Tribunal rules forthwith on the request under a hearing report which is enclosed to the sentence. The parties will only be subpoenaed if the Arbitral Tribunal finds they must provide additional explanations.
- (3) Whenever necessary, any of the parties may ask the Arbitral Tribunal which rendered the award to have the meaning, scope and application of the operative part thereof further clarified. Such request must be filed within 5 calendar days of receiving the sentence.
- (4) The Arbitral Tribunal rules forthwith on such request in a hearing report issued with subpoenaing of the parties.

Art. 55

- (1) If the Arbitral Tribunal failed to rule on a head of claim, exception or incidental claim in the award rendered, any of the parties may ask for the respective award to be completed. Such request must be filed within 5 calendar days of receiving the award.
- (2) The Arbitral Tribunal rules forthwith on such request in a hearing report issued with subpoenaing of the parties.

Art. 56

- (1) The arbitral award is drawn up, signed off and submitted in original to the Procedural Secretariat within not more than 14 calendar days of rendering thereof.

(2) The arbitration proceedings assistant who attended the arbitration meetings is required duty to have the award served to the parties within one business day form the date when this was submitted to the Procedural Secretariat.

(3) The arbitral award is mandatorily served as registered letter with acknowledgment of receipt, and is effective as of the service date.

Art. 57

The arbitral award is final and binding and has effects of a final court judgment. It is either carried out willingly or forcedly executed, pursuant to the Code of Civil Proceedings.

Art. 58

The arbitral award may only be set aside through an action for annulment lodged with Bucharest Court of Appeal for the reasons laid down under art. 608 of the Code of Civil Proceedings.

Art. 59

(1) The international disputes are applied, in addition to these procedural rules, also the provisions of the Code of Civil Proceedings, as well as those of the applicable international conventions Romania is a party to.

(2) The debates on the disputes before the Arbitral Tribunal may take place in the foreign language or the international language agreed under a compromise or a subsequent understanding.

(3) The parties may participate in the debates assisted by an interpreter, in case they do not speak the language of the proceedings.

Final Provisions

Art. 60

The casefile is kept in the premises of the ADR Center, pursuant to the provisions of art. 619 para. (9) of the Code of Civil Proceedings.

Art. 61

These procedural rules are supplemented with the relevant provisions of the Code of Civil Proceedings, 4th and 7th Books - Title 4.

Art. 62

- (1)** These rules of procedures were approved in the meeting of the Steering Board of 13.07.2016 and come into force on 10.08.2016.
- (2)** Annexes no. 1 and 2 are integral parts of these Procedural Rules.