

Canadian eBook National Class Action Settlement
Distribution Protocol

Definitions

1. Except where specifically modified in this Distribution Protocol, the definitions contained in the Canadian eBook Class Action National Settlement made as of November 14, 2018 between the Plaintiffs and Apple, as amended by the Amending Agreement made as of May 25, 2020, apply in this Distribution Protocol.

2. For the purposes of this Distribution Protocol:
 - (a) **Active iTunes Account** means an account that (i) was used by a Settlement Class Member to purchase an Eligible eBook(s) from Apple, (ii) was used within the one-year period immediately preceding the Apple Updated Data Pull, and (iii) has not been shut down and remains available to receive a credit as of the date the Credit Distribution occurs;

 - (b) **Active Kobo Account** means an account that (i) was used by a Settlement Class Member to purchase an Eligible eBook(s) from Kobo, and (ii) was used within the one-year period immediately preceding July 27, 2022 and (iii) has not been shut down and remains available to receive a credit as of the date the Credit Distribution occurs;

 - (c) **Alternate Distribution** has the meaning set out in paragraph 30 of this Distribution Protocol;

 - (d) **Apple Updated Data Pull** means an updated version of the Apple Data to reflect an updated list of Active iTunes Accounts that is current to the date of the Apple Updated Data Pull;

 - (e) **Approved Claims** means Claims made in the Claims Process by Settlement Class Members who purchased 12 Eligible eBooks or more through:
 - (i) an account with Google, Amazon or Sony; and/or
 - (ii) an Inactive iTunes Account that has an Invalid Email Address or an Inactive Kobo Account that has an Invalid Email Address,that are approved by the Claims Administrator;

- (f) **Claim** means an electronic claim made in accordance with the Claims Process to be developed in accordance with the provisions of this Distribution Protocol;
- (g) **Claims Commencement Date** is February 15, 2023, or such later date as the Parties, in consultation with the Claims Administrator, may agree;
- (h) **Claims Deadline** is the date that is ninety (90) days after the Claims Commencement Date;
- (i) **Claims Process** means the claims process to be developed by the Claims Administrator in accordance with the provisions of this Distribution Protocol;
- (j) **Credit Distribution** has the meaning set out in paragraph 25 of this Distribution Protocol;
- (k) **Direct Distribution** has the meaning set out in paragraph 28 of this Distribution Protocol;
- (l) **eBook Monetary Benefit Denominator** means:
 - (i) the total number of Eligible eBooks purchased, as reported to the Claims Administrator in the Apple Data and/or Kobo Data, in respect of Settlement Class Members who purchased Eligible eBooks using an Active iTunes Account and/or an Active Kobo Account; plus
 - (ii) the total number of Eligible eBooks purchased, as reported to the Claims Administrator in the Apple Data and/or Kobo Data, in respect of Settlement Class Members who purchased 12 Eligible eBooks or more using an Inactive iTunes Account that has a Valid Email Address and/or an Inactive Kobo Account that has a Valid Email Address; plus
 - (iii) the total number of Eligible eBooks that were purchased through an Inactive iTunes Account that has an Invalid Email Address and/or an Inactive Kobo Account that has an Invalid Email Address that are Approved Claims; plus
 - (iv) the total number of Eligible eBooks that were purchased through an account with Google, Amazon and/or Sony that are Approved Claims;
- (m) **eBook Monetary Benefit** means the Total Net Settlement Amount divided by the eBook Monetary Benefit Denominator;
- (n) **Inactive iTunes Account** means an account used by a Settlement Class Member to purchase an Eligible eBook from Apple that either (i) was not used within the one-year period immediately preceding the Updated Apple Data Pull or (ii) has been

shut down or is otherwise unavailable to receive a credit as of the date the Credit Distribution occurs;

- (o) **Inactive Kobo Account** means an account used by a Settlement Class Member to purchase an Eligible eBook from Kobo that either (i) was not used in the one-year period immediately preceding July 27, 2022 or (ii) has been shut down or is otherwise unavailable to receive a credit as of the date the Credit Distribution occurs;
 - (p) **Invalid Email Address(es)** means an email address recorded in the Apple Data or Kobo Data that bounced back any Notices sent by the Claims Administrator;
 - (q) **Kobo Data** means a unique identifier and e-mail addresses of the Settlement Class Members who purchased Eligible eBooks from Kobo, the total number of Eligible eBooks purchased by each such Settlement Class Member from Kobo, and information as to which of these Settlement Class Members has an Active Kobo Account;
 - (r) **Quebec Settlement Class** means all persons in Quebec who purchased Eligible eBooks, except Excluded Persons, Persons who are in the National Settlement Class, and Persons who validly opt out of the Quebec Settlement Class; and
 - (s) **Valid Email Address(es)** means an email address recorded in the Apple Data or Kobo Data that did not bounce back any Notices sent by the Claims Administrator.
3. For the purposes of this Distribution Protocol, Eligible eBook does not include PRH Excluded eBooks.

General Principles of the Distribution

- 4. The Total Net Settlement Amount recovered in the Canadian Proceedings shall be distributed to Settlement Class Members or for their benefit in accordance with the rules established by this court-approved Distribution Protocol and with the provisions of any orders that may hereafter be made by the Approval Courts.
- 5. The distribution in respect of the Quebec Settlement Class will be subject to the application of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*, chapter F-3.2.0.1.1, r. 2 (the "**Regulation**").
- 6. As a result of the unavailability of data concerning certain Settlement Class Members and their purchases of Eligible eBooks, and the corresponding impact such unavailability of

data has on the costs of settlement distribution, there shall be differing entitlements to compensation under this Distribution Protocol as follows:

- (a) Settlement Class Members who purchased any Eligible eBooks through an Active iTunes Account or an Active Kobo Account will be entitled to a Credit Distribution without the necessity of filing a Claim in the Claims Process;
 - (b) Settlement Class Members who (i) purchased 12 Eligible eBooks or more through an Inactive iTunes Account or an Inactive Kobo Account; and (ii) have a Valid Email Address in connection with such account, will be entitled to a Direct Distribution without the necessity of filing a Claim in the Claims Process;
 - (c) Settlement Class Members who (i) purchased 12 Eligible eBooks or more through an account with Google, Amazon or Sony; or (ii) purchased 12 Eligible eBooks or more through an Inactive iTunes Account that has an Invalid Email Address or an Inactive Kobo Account that has an Invalid Email Address, will be required to file a Claim in the Claims Process that is approved by the Claims Administrator in order to be entitled to an Alternative Distribution;
 - (d) Settlement Class Members who: (i) do not have an Active iTunes Account or an Active Kobo Account; and (ii) did not purchase 12 Eligible eBooks or more through an account with Apple, Kobo, Google, Amazon or Sony, will not be entitled to any compensation.
7. That portion of the Total Net Settlement Amount that is not paid directly to Settlement Class Members in accordance with the provisions of this Distribution Protocol, after deduction of the costs provided for in paragraph 29, shall be paid for the indirect benefit of Settlement Class Members not entitled to direct compensation or Settlement Class Members entitled to compensation to whom direct compensation could not be provided under paragraphs 25, 28 or 30, *cy près* to such recipient(s) as are approved by the Approval Courts, once the portion payable to the Fonds d'aide aux actions collectives on said remainder is attributed as per the Regulation.

Eligible eBooks purchased through an Active iTunes Account or an Active Kobo Account

8. Compensation shall be payable to those Settlement Class Members who purchased Eligible eBooks through an Active iTunes Account or an Active Kobo Account, as the case may be, without the necessity of their submitting a Claim through the Claims Process.

9. These Settlement Class Members will be entitled to be paid compensation by Credit Distribution based upon the number of Eligible eBooks recorded in their purchase history in the Apple Data or Kobo Data, as the case may be.
10. There shall be no minimum number of Eligible eBooks purchased for the Individual Monetary Benefit to be paid by Credit Distribution to a Settlement Class Member's Active iTunes Account or their Active Kobo Account, as the case may be.

Eligible eBooks purchased through an Inactive iTunes Account that has a Valid Email Address or an Inactive Kobo Account that has a Valid Email Address

11. Compensation shall be payable to those Settlement Class Members who purchased 12 Eligible eBooks or more through an Inactive iTunes Account that has a Valid Email Address or an Inactive Kobo Account that has a Valid Email Address, as the case may be, without the necessity of submitting a Claim through the Claims Process.
12. These Settlement Class Members will be entitled to be paid compensation by Direct Distribution based upon the number of Eligible eBooks recorded in their purchase history in the Apple Data or Kobo Data, as the case may be.

Eligible eBooks purchased through an Account with Google, Amazon or Sony or through an Inactive iTunes Account that has an Invalid Email Address or an Inactive Kobo Account that has an Invalid Email Address

13. Compensation shall be payable to those Settlement Class Members who purchased 12 Eligible eBooks or more through:
 - (a) an account with Google, Amazon or Sony; and/or
 - (b) an Inactive iTunes Account that has an Invalid Email Address or an Inactive Kobo Account that has an Invalid Email Address,upon submission of a Claim through the Claims Process prior to the Claims Deadline that is approved by the Claims Administrator.
14. Settlement Class Members described in paragraph 13 must submit a completed Claim online together with a satisfactory proof of purchase as specified below to the Claims

Administrator prior to the Claims Deadline in order to claim for a benefit under this Distribution Protocol.

15. Settlement Class Members described in paragraph 13 will be compensated by Alternate Distribution based upon the number of Eligible eBooks purchased as established by their Approved Claim.
16. Each Settlement Class Member submitting a Claim in the Claims Process will be required to support their Claim by providing a declaration under penalty of perjury.
17. Settlement Class Members submitting a Claim for the purchase of 12 or more Eligible eBooks but fewer than 30, will not be required to provide documentation, other than the declaration described in paragraph 16, as proof of purchase to support their Claim. The Claims Administrator shall approve such Claims submitted prior to the Claims Deadline without requiring further documentation provided the requisite declaration under penalty of perjury is provided, unless there is reasonable cause to suspect that the Claim is fraudulent or otherwise improper. Such Claims will be subject to spot audits as one measure of fraud prevention.
18. Except as provided in paragraph 20, Settlement Class Members submitting a Claim for 30 or more Eligible eBooks will be required to support their Claim by providing, in addition to the declaration described in paragraph 16, one of the following as proof of purchase:
 - (a) account(s) purchase history;
 - (b) electronic invoices for purchases received by email or otherwise; or
 - (c) such other proof of purchase as shall be satisfactory to the Claims Administrator.

The Claims Administrator shall approve such Claims submitted prior to the Claims Deadline without requiring further documentary support, unless it has reasonable cause to suspect that such Claim is fraudulent or otherwise improper.

19. In the event that a Claim or proof of purchase provided in accordance with paragraph 18 is determined to be deficient, the Claims Administrator shall send notice by email to the Settlement Class Member at the contact information included on the Claim, clearly informing the Settlement Class Member of the deficiency and what must be done to cure any deficiency. The Claimant shall have twenty (20) days from the date the notice of deficiency is sent to them to address the deficiency with a new submission to the Claims Administrator. The submissions are complete upon mailing or emailing. The Claims Administrator shall make a final determination on all revised submissions received in accordance with this paragraph within twenty (20) days after receiving the revised submission.
20. Settlement Class Members with Inactive iTunes Accounts that have Invalid Email Addresses or Inactive Kobo Accounts that have Invalid Email Addresses submitting a Claim for 30 or more Eligible eBooks may rely upon their purchase history recorded in the Apple Data or Kobo Data as proof of purchase, provided they can identify their account to the satisfaction of the Claims Administrator, failing which the proof required in paragraph 18 shall apply to their Claim. The Claims Administrator shall approve such Claims submitted prior to the Claims Deadline without requiring further documentary support, unless it has reasonable cause to suspect that such Claim is fraudulent or otherwise improper.
21. The Claims Administrator's decisions in respect of Claims will be final and binding and not subject to any right of appeal.

Determination of Individual Monetary Benefits

22. At such time as may reasonably be directed by the Claims Administrator in order to best facilitate the distribution of the Individual Monetary Benefit in accordance with this Distribution Protocol, Apple shall provide the Updated Apple Data Pull to the Claims Administrator. The Claims Administrator shall provide Apple with at least ninety (90) days advance notice of the date on which it wishes Apple to conduct the Updated Data Pull.

23. Following the Claims Deadline and the provision of the Updated Apple Data Pull to the Claims Administrator, the Claims Administrator shall calculate the Individual Monetary Benefit payable in accordance with this Distribution Protocol.

Credit Distribution

24. As soon as reasonably possible after the Claims Administrator has calculated the Individual Monetary Benefits payable in accordance with this Distribution Protocol, the Claims Administrator shall pay to Apple and Kobo, an amount representing the total amount of Individual Monetary Benefits payable to those Settlement Class Members who have Active iTunes Accounts or Active Kobo Accounts, as the case may be. At the same time, the Claims Administrator shall provide Apple and Kobo a list setting out the amounts of the Individual Monetary Benefit payable to each Settlement Class Member who has an Active iTunes Account or an Active Kobo Account, as the case may be.
25. Within thirty (30) days of the Claims Administrator providing the amount and the list described in paragraph 24, Apple and Kobo shall provide to each Settlement Class Member who has an Active iTunes Account or an Active Kobo Account, a credit in the amount of that Settlement Class Member's Individual Monetary Benefit into their Active Account.
26. Apple and Kobo shall not charge or otherwise be entitled to any fees in connection with the deposit of such credits into a Settlement Class Member's Active Account.
27. To the extent that Apple or Kobo cannot for any reason provide the credit to any Settlement Class Members in accordance with paragraph 25, they shall return to the Claims Administrator the aggregate amount of Individual Monetary Benefits payable to those Settlement Class Members to whom such credit could not be provided and they shall become part of the monies to be distributed cy près as provided for by this Distribution Protocol.

Direct Distribution

28. Within thirty (30) days of the Claims Administrator determining the Individual Monetary Benefits payable in accordance with this Distribution Protocol, the Claims Administrator shall pay the Individual Monetary Benefits to those Settlement Class Members who have an Inactive iTunes Account that has a Valid Email Address or an Inactive Kobo Account that has a Valid Email Address and who purchased 12 Eligible eBooks or more through an Inactive iTunes Account or an Inactive Kobo Account, as the case may be, directly by electronic transfer to their Valid Email Address recorded in the Apple Data or Kobo Data.
29. To the extent that the Claims Administrator cannot for any reason provide the electronic transfer to any Settlement Class Members in accordance with paragraph 28, the aggregate amount of such Individual Monetary Benefits remaining after deduction of transfer fees on returned, voided or expired electronic payments payable to those Settlement Class Members to whom such electronic transfer could not be provided shall become part of the monies to be distributed cy près as provided for by this Distribution Protocol.

Alternate Distribution

30. Within thirty (30) days of the Claims Administrator determining the Individual Monetary Benefits payable in accordance with this Distribution Protocol, the Claims Administrator shall pay the Individual Monetary Benefits to those Settlement Class Members with Approved Claims directly by cheque to the mailing address provided in the Claims Process.
31. To the extent that the Claims Administrator cannot for any reason provide the cheque to any Settlement Class Members in accordance with paragraph 30, the aggregate amount of Individual Monetary Benefits payable to those Settlement Class Members to whom such cheque could not be provided shall become part of the monies to be distributed cy près as provided for by this Distribution Protocol.

Residual Discretion for the Management of the Distribution Protocol

32. The Parties may, in consultation with the Claims Administrator, modify the time lines or deadlines in this Distribution Protocol, during the Claims Process to enhance the efficacy of the Claims Process if they consider it is necessary and reasonable for the fair administration of the Distribution Protocol.

33. Notwithstanding the foregoing, if at any time during or following the Claims Process and/or the calculation of Individual Monetary Benefits in accordance with this Distribution Protocol, the Parties have concerns that the Claims Process and/or Distribution Protocol has produced an unintended result on the whole or to any segment of the Settlement Class Members, they may move to the Approval Courts for further directions with respect to the distribution of the Total Net Settlement Amount.