

# Distribution Plan of Verwertungsgesellschaft Bild-Kunst

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*The generic masculine is used in this text. All masculine grammatical references for persons that do not apply solely to men based on the context apply for all persons regardless of gender.*

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## General Part – Chapter 1: Definitions

### Sec.1 Rightholder

“Rightholders” within the meaning of this distribution plan are holders of rights from the work categories set out in section 2 who are in a management relationship with VG Bild-Kunst.

“Rightholders” also include publishers of still images who have been granted copyrighted rights of use by an author from the work categories set out in section 2 and who are in a management relationship with VG Bild-Kunst.

“Beneficiaries” within the meaning of this distribution plan are rightholders for whom pro rata distribution reserves have been formed in accordance with section 14.

The distribution plan distinguishes between “members” and “external rightholders”. A “member” is a rightholder who has concluded an administration agreement with VG Bild-Kunst. His successor in title is also considered a “member”. An “external rightholder” is someone who has concluded an administration agreement with a sister society of VG Bild-Kunst which has in turn granted its rights to VG Bild-Kunst under a representation agreement. An author who has granted VG Bild-Kunst rights by way of a collection mandate in the cases provided for in the distribution plan is equivalent to a member unless this conflicts with the meaning and purpose of a provision. Sentence 6 also applies for outsiders to whom contracts of VG Bild-Kunst with licensees extend on the basis of notional administration (e.g. sections 50, 51 et seq. VGG).

### Sec.2 Work and work category

1. The terms “work” and “activity” are used as defined in German copyright law.

2. Subject to future statutory regulation or a supreme court decision, products of generative artificial intelligence are not considered copyrighted works or activities.

3. For the purposes of the distribution plan, a distinction is made between the following work categories:

- The “visual arts work category” comprises copyrighted works of visual arts, including works of architecture and of applied art, as well as designs of such works, unless these are to be classified under the image work category.
- The “image work category” comprises copyrighted photographs and photographic works as well as works of illustration, design, caricature and comic images and comparable image works.

- The “film work category” comprises copyrighted cinematographic works and moving images. Cinematographic works are in turn divided into work types in accordance with the provisions of section 45.

4. If a work is reported by a rightholder in accordance with the rules of Chapter 2 of the Special Part, this must be a copyrighted work and the reporter must be its author or co-author. If fees are reported, this applies mutatis mutandis for the work, for the use of which the fee was realised. If presentations of works are reported, this applies mutatis mutandis for the works presented. In the report the rightholder must affirm that this requirement is met.

### Sec.3 Distribution line

Payouts are made within distribution lines in which the income for one or more rights and remuneration claims administered by VG Bild-Kunst is bundled on the basis of economic and administrative criteria. The distribution lines are regulated in the Special Part, chapter 1. Maximum and minimum limits can be defined in the individual distribution lines.

### Sec.4 Distribution logic

Distribution is performed either directly or collectively.

“Direct distribution” is applied if income is realised for the exploitation of a specific work or for a specific rightholder.

“Collective distribution” is always applied if direct distribution is not possible, or is only possible at disproportionate expense. The distribution model consists of general valuation and distribution rules enabling a flat-rate approximation to the share that cannot be measured individually. The extent to which the work is used and the cultural or artistic significance of the works are taken into appropriate account.

In collective distribution, a distinction is made between:

a) Usage-based collective distribution:

“Usage-based collective distribution” is based on a collection of external data, e.g. usage reports from the users of the work. This does not preclude consideration of reports of the rightholders.

b) Report-based collective distribution:

In “report-based collective distribution”, a distribution logic based on information provided by the rightholders and/or sister societies is applied.

## **Sec.5 Income and special revenue**

Within the meaning of this distribution plan, “income” refers to the revenue for the administration of rights and statutory remuneration claims according to German and foreign copyright law. By contrast, “special revenue” is all revenue of VG Bild-Kunst that is not classified as income.

### **a) Direct income – indirect income**

“Direct income” refers to that share of the income that VG Bild-Kunst itself realises through dependent and independent collection organisations and through collecting societies who essentially represent rightholders of other work categories than VG Bild-Kunst “Indirect income” is realised by VG Bild-Kunst through sister societies which essentially represent rightholders of the same work categories as VG Bild-Kunst and have concluded a representation agreement with it.

### **b) Internal income – external income**

“Internal income” refers to that proportion of the income that VG Bild-Kunst realises for its members. “External income” refers to that proportion of the income that VG Bild-Kunst realises for its external rightholders, i. e. the rightholders of other sister societies.

## **Sec.6 Receipts**

“Receipts” refer to cross-line income that VG Bild-Kunst realises in total or for a work category over a particular period of time, e. g. a financial year.

## **Sec.7 Distribution reserve**

The “distribution reserve” is all income that – regardless of when it was received – it was possible to realise in a distribution line for a particular period of time.

A “pro rata distribution reserve” is understood to mean that share of the distribution reserves that is allocated to a rightholder in accordance with section 14, who thereby becomes a beneficiary of the corresponding payout.

## **Sec.8 Administrative costs and other costs**

“Administrative costs” are the expenses that VG Bild-Kunst incurs through the administration of rights and remuneration claims. They include the expenses for its activities as an association and its pursuit of the purposes defined in section 2 of the Articles of Association, namely promoting copyright and strengthening the rights of members of VG Bild-Kunst “Other costs” are the costs that VG Bild-Kunst incurs that are not administrative costs.

## **Sec.9 Cost ratio**

The “cost ratio” is the percentage share of the income of a distribution line that is utilised in order to cover the administrative costs.

## **Sec.10 Credit and payout**

A “credit” is taken to mean the posting of the balance of the pro rata distribution reserves to the internal account of a rightholder after the deduction of administrative costs, the pro rata costs of prior instances, contributions for social and cultural purposes and any other possible deductions allowed by law. Depending on the tax circumstances, the balance can consist of multiple documents (credits and invoices). By contrast, a “payout” – depending on the context – refers either to the administrative process of calculating the entirety of documents (credits and invoices) through to payment to the rightholders, or the total of all documents (credits and invoices) that were calculated within the relevant payout. “Prior instances” within the meaning of the distribution plan are in particular understood to be (in)dependent collecting organisations and other (German and foreign) collecting societies with whom VG Bild-Kunst has concluded representation agreements.

## **Sec.11 Year of usage, financial year**

The “year of usage” is the financial year in which a right is exploited or in which the elements establishing a statutory remuneration claim arise. The “following year” is the financial year following the year of usage. The financial year is the calendar year.

## General Part – Chapter 2: Distribution Principles

### Sec.12 Subject matter, entry into force

1. This distribution plan pursuant to section 27 of the German Collecting Societies Act (Verwertungsgesellschaftengesetz, VGG) regulates the use of the revenue of VG Bild-Kunst and the calculation of the payouts to its rightholders.

2. The distribution rules for the distribution lines of collective distribution apply for the first time for income for the 2021 year of usage.

### Sec.13 Distribution system

1. The income of VG Bild-Kunst is distributed in the following distribution lines:

Direct distribution:

- Resale rights
- Visual arts/image (individual)
- Broadcasting (visual arts)
- Film (individual)
- Special distribution

Collective distribution:

- Books (authors)
- Books (publishers)
- Periodicals (authors)
- Periodicals (publishers)
- Website
- Retransmission (visual arts/image)
- Social media authors (art/image)
- Social media picture agencies
- Collective film (TV) rights

In each distribution line a distinction is made between direct and indirect income according to the source of the income, and between internal income and external income according to how the income is assigned.

2. The income realised is transferred to distribution reserves, being allocated in time to the years of usage and materially to the distribution lines for which it arises. Direct income is materially allocated to distribution lines on the basis of the regulations of the distribution plan in the version last applicable in the relevant year of usage. Indirect income is materially allocated on the basis of how it is earmarked by the sister society. The relevant period for allocation is determined by when settlement was made by those liable to pay the royalties.

3. For the case that direct or indirect income cannot be attributed to an appropriate distribution line, it is allocated

to either the next most appropriate distribution line, the special distribution pursuant to section 35 or the Stiftung Kultur and/or Stiftung Sozialwerk of VG Bild-Kunst. The Administrative Council will decide in the case of income up to EUR 100,000.00 per income source and year of usage.

4. The Administrative Council may allocate income that was received for a particular year of usage to a different year of usage or use it for social and/or cultural purposes if the costs of a payout in the appropriate period are manifestly out of proportion in financial terms to the amount of income concerned, or if the payout beneficiaries could normally only expect a minimal amount from a payout in the appropriate period (maximum EUR 1.00).

5. Individual credits will be determined in accordance with the rules of the distribution lines concerned. If potential credits of less than EUR 1.00 are stated within a payout, these amounts will not be credited to the rightholders concerned, but will instead be used to lower the administrative costs. The Executive Board may decide to allocate the amounts for a distribution to the Stiftung Kulturwerk or the Stiftung Sozialwerk.

6. Credits are paid out by being transferred to the rightholders on the payment dates. The administrative costs will be calculated in accordance with the rules of section 15. Deductions for social and cultural purposes will be made in accordance with section 16

### Sec.14 Payout

1. Pro rata distribution reserves are formed for the actual use of the works and for the presumed use of the works on the basis of statutory authorisations if these uses of the works were established in accordance with the rules of the distribution plan.

Beneficiaries of VG Bild-Kunst receive credits if it was possible to form pro rata distribution reserves for them.

2. The regulations in chapter 1 of the Special Part indicate which rightholders can receive payouts in the individual distribution lines.

3. The following also applies in respect of the rightholder groups defined in section 1:

#### 3.1 External rightholders

The proportion relative to external rightholders depends primarily by the respective representation agreement.

### 3.2 Collection mandators

No deduction for cultural or social purposes is made vis-à-vis collection mandators.

### 3.3 Outsiders

No deduction for cultural or social purposes is made vis-à-vis outsiders.

4. The proportion relative to members who assert assigned rights and/or remuneration claims is governed by the rules of this distribution plan even if deviating agreements have been made in the licensing agreement between the original rightholder and the member.

5. If payouts to rightholders cannot be made within the payout period because a rightholder cannot be ascertained or located, VG Bild-Kunst will take appropriate measures to ascertain or locate the rightholder. If it is unable to do so, VG Bild-Kunst will publish on its website three months after the payment date the information, if available, that is required in order to ascertain the rightholder.

6. In the distribution lines of report-based collective distribution, it is incumbent upon the rightholder to cooperate by making the report information available to VG Bild-Kunst in the specified report format by the reporting deadlines in accordance with the provisions of chapters 2 and 3 of the Special Part. VG Bild-Kunst will inspect the reports on a random basis. A rightholder who cannot provide evidence for their reports will not receive any credit; if this is repeated, or if particularly seriously incorrect reports are submitted, a criminal complaint will be filed and the contract will be terminated. When the reporting deadlines have passed, the distribution reserves will be split among the relevant rightholders whose correctly completed reports have been received in due form and time and who thus acquire a claim to a credit in accordance with the rules of the distribution plan. Rightholders can no longer submit reports or assert claims once the reporting deadlines have passed. Line-specific reserves will be formed for claims subsequently asserted by new members or by new sister societies who bring their claims for past periods upon concluding the contract. If the distribution is based on a licence with extended effect (ECL), measurement of the amount of the reserves will also take into account the fact that they also serve to satisfy claims of external rightholders which are not yet out of time.

7. In the distribution lines of usage-based collective distribution, VG Bild-Kunst determines the distribution-related usage of works on the basis of the regulations set out in detail in chapter 1 of the Special Part (Distribution Lines). It is incumbent upon the rightholders to report

their authorship or co-authorship of works within the normal three-year limitation period (work report), regardless of the reasonable measures that VG Bild-Kunst itself will take for this purpose. Furthermore, the rightholders may be granted the option by the relevant distribution line to verify the data determined by VG Bild-Kunst in respect of their own usage of works in order to instigate a correction (correction report). Correction reports are governed analogously by the regulations of paragraph 6. Three months after the end of the initial distribution regulated in the distribution lines in respect of the usage of works whose authorship or co-authorship is not known, VG Bild-Kunst will publish the available information on its website insofar as it can help to ascertain the rightholders.

### Sec.15 Administrative costs

1. Having due regard to the competence of the General Assembly pursuant to section 8 (5a) of the Articles of Association, on the recommendation of the Executive Board the Administrative Council will decide on the administrative costs of the individual distribution lines as provided for below. Administrative costs are applied in each distribution line.

2. Administrative costs must be justified, reasonable and verifiable in their entirety. They are composed of the overheads, the specific costs of the distribution lines and specific costs across lines.

3. The administrative costs for a financial year are generally covered by the receipts of the relevant financial year and special revenue. If insufficient receipts are collected in a financial year, recourse may be made first to non-distributable distribution reserves, and then to distribution reserves; the principle of equal treatment must be observed. Further details are regulated by the Administrative Council.

4. In the distribution lines, where the annual financial statements are normally prepared in the time between when the money is received and when it is paid out, a “standard cost ratio” and a “year-to-date cost ratio” are stated. Where necessary, different cost ratios may be stated for direct and for indirect income, observing the efficiency principle.

5. In distribution lines that state only one cost ratio, it is reviewed where necessary and adjusted to the expected requirement for the remaining financial year if appropriate on the basis of a trend forecast for receipts, line-specific costs and overheads. If the annual financial statements show differences between the cost deduction and the actual requirement in a distribution line, these increase or reduce the overheads.

6. In distribution lines that state a standard and a year-to-date cost ratio, the standard cost ratio applies if the annual financial statements are prepared between when the money is received and when it is paid out. Otherwise the year-to-date cost ratio is applied. Paragraph 4 applies for year-to-date cost ratios. Standard cost ratios are calculated after the annual financial statements have been prepared by comparing the line-specific receipts of the financial year against the line-specific total costs of the financial year. The year-to-date cost contributions already made are taken into account for the line.

7. The line-specific cost ratios are calculated taking account of the pro rata overheads, the line-specific costs and the pro rata cross-line costs.

8. Special revenue reduces the overheads. Positive interest rates reduce and negative interest rates increase the costs of the distribution line in which they arise.

9. VG Bild-Kunst is not to show a profit or loss. The Chief Executive Officer takes reasonable and appropriate corrective action in respect of the cost ratios in order to ensure compliance with this principle in the annual financial statements.

10. The current year-to-date administrative costs and the administrative costs pursuant to paragraph 5 are set out in Annex VK of the distribution plan.

### Sec. 16 Deductions for social and cultural purposes

1. In every distribution line a deduction is made for the establishment and financing of pension and support institutions (social contribution) and a deduction for the promotion of culturally significant works and activities (cultural contribution).

The deduction rates are applied until the date on which a change decided by the General Assembly comes into effect.

The current deduction rates at the time of the payout will prevail, not the deduction rates at the time the revenue is received.

2. The social deduction and cultural deduction are each applied to the portions of the distribution reserves that accrue on internal income or on external income that is paid out to sister societies who have consented to this deduction. In the absence of any specific agreement, the consent of a sister society is implied if it makes the corresponding deductions from the payouts to members of VG Bild-Kunst.

3. The social contributions will be transferred to the Stiftung Sozialwerk of VG Bild-Kunst. The cultural contributions from

the distribution lines under section 13 will be transferred to the Stiftung Kulturwerk of VG Bild-Kunst, provided that they do not contain any revenue from statutory remuneration rights.

The Administrative Council decides whether the funding provided is allocated to the foundation capital or transferred to the foundations as reserves for purposes set out in the Articles of Association.

The foundations must draw up policies that ensure funding and support are provided in a transparent and non-discriminatory manner.

It must also be ensured that the allocation of funds is decided by an advisory board of the respective professional group, elected by the General Assembly of VG Bild-Kunst.

4. The social deductions will be allocated to the work categories as set out in the following table:

Distribution line	Allocation to work category
Resale rights	Visual arts and image work category
Visual arts/image (individual)	Visual arts and image work category
Broadcasting (visual arts)	Visual arts and image work category
Film (individual)	Film work category
Books (authors)	Visual arts and image work category
Periodicals (authors)	Visual arts and image work category
Websites	Visual arts and image work category
Retransmission (visual arts/image)	Visual arts and image work category
Collective film (TV) rights	Film work category
Special distribution	Decided by Administrative Council

The cultural deductions will be allocated to the work categories as set out in the following table:

Distribution line	Allocation to work category
Resale rights	Visual arts work category
Visual arts/images (individual)	Visual arts work category
Broadcasting (visual arts)	Visual arts work category
Film (individual)	Film work category
Books (authors)	Decided by Administrative Council
Periodicals (authors)	Decided by Administrative Council
Websites	Decided by Administrative Council
Retransmission (visual arts/ image)	Decided by Administrative Council
Collective film (TV) rights	Film work category
Special distribution	Decided by Administrative Council

VG Bild-Kunst will ensure that the social and cultural contributions are employed for authors of the work categories which are specified in the tables or determined by the Administrative Council.

5. If they contain revenue from statutory remuneration rights, VG Bild-Kunst will employ the cultural contributions from distribution lines under section 13 to fund particularly valuable cultural works and activities of its rightholders.

Sentence 1 will also apply for external rightholders of those collecting societies with whom this has been expressly agreed.

VG Bild-Kunst has policies to ensure that funding is provided in a transparent and non-discriminatory manner.

The advisory councils of Stiftung Kulturwerk will decide on the allocation of funds.

6. The current deductions for Stiftung Kultur and Stiftung Sozialwerk are set out for the individual distribution lines in section 13 (1) of Annex KuSo of the distribution plan.

### Sec.17 Payment dates

1. The payment dates for each distribution line are set out in the Special Part, chapter 1.

2. If a payment date cannot be kept for material reasons, the payment will be made as soon as the reason no longer applies. Material reasons are in particular technical or administrative problems that objectively

- prevent the preparation or implementation of a payout as a whole;
- prevent the performance of credits;
- prevent payments.

### Sec.18 Use of non-distributable distribution reserves

1. Non-distributable distribution reserves from direct distribution will be used to reduce the administrative expenses at the start of the fourth financial year after the end of the payout year.

2. Distribution reserves from usage-related collective distribution are non-distributable if they cannot be allocated to a rightholder for the final payout. In this case they are assigned pro rata to the payout beneficiaries of the corresponding year of usage and the corresponding distribution line in the proportion of their credits and paid out with the last payment for the year of usage, unless otherwise determined by special rules in the Special Part. Credits to rightholders from whom a deduction for cultural and social purposes had been made will be adjusted by these deductions for the purposes of calculation.

3. No non-distribution distribution reserves arise in report-based collective distribution.

4. Sums that cannot be paid will be used to reduce the administrative expenses at the start of the fourth financial year after the end of the year of the payment date.

5. Indirect income below EUR 5.00 of the individual distribution that can be neither distributed nor paid out at the time of payment will be transferred to the Stiftung Kulturwerk for the purpose of promoting culture, with the proviso that it is used for authors of the corresponding work category.

### Sec.19 Correction of systematic distribution errors

If it subsequently turns out that the distribution system applied for some or all distributions in an accounting period had errors, further payouts based on this system will be suspended. The General Assembly will decide on the correction of the deficient provision and on the question of whether and for what period the distributions based on the deficient provision will be reversed. The decision will be reached after balancing the costs and benefits with due consideration for fiduciary principles. The reversal is normally to comprise a period of not more than three years. Consolidation into lump sums is allowed for the purposes of reversal. This will be decided by the Administrative Council. Positive differences will be paid out to the rightholders, negative differences generally carried forward to future accounts. The principle of equal treatment must be applied and due consideration must be given to cases of hardship.

## Sec.20 Powers of the Administrative Council

1. The Administrative Council is authorised to determine the allocation of the income to the distribution lines and to subordinate lines or categories in section 21. In doing so it takes account of how the income is earmarked. Results of empirical studies are to be taken into reasonable consideration. The Administrative Council commissions empirical studies where necessary.

2. The Administrative Council is authorised on the recommendation of the Executive Board to amend the reporting deadlines and payment dates laid down in chapter 1 of the Special Part, having due consideration for the requirements of the VGG and the distribution plan.

3. The Administrative Council is authorised to make interim adjustments to the distribution plan if this becomes necessary due to new statutory regulations or a new legal position and the change cannot be made in time by the next ordinary General Assembly. The next ordinary General Assembly will decide on the final version of the amended provisions.

## Sec.21 Allocations of income to distribution lines

### 1. Resale rights

Direct income and indirect internal income for resale rights are allocated to the “resale rights” distribution line.

### 2. Visual arts/image (individual)

Direct income and indirect internal income from licence revenue or for statutory remuneration claims in the visual arts and image work categories are allocated to the “visual arts/image (individual)” distribution line to the extent that the income is received for an actual use of the work or for a specific rightholder.

### 3. Broadcasting (visual arts)

Direct income resulting from the flat-rate contracts with the public sector broadcasters for the granting of broadcasting and online rights of the visual arts work category is allocated to the “broadcasting (visual arts)” line.

### 4. Film (individual)

Direct income and indirect internal income from licence revenue or for statutory remuneration claims in the film work category are allocated to the “film (individual)” distribution line to the extent that the income is received for an actual use of the work or for a specific rightholder. The income from advertising films which VG Bild-Kunst receives from TWF on the basis of a representation agreement is also paid out in this line.

## 5. Books (authors)

The income that is to be paid out in the “books (authors)” distribution line is calculated after a deduction for GWFF and GÜFA in accordance with Annex GG. In the second step the publishers’ participation of 22.5% is deducted. This share is reduced by 1% to reflect the fact that in some cases publishers do not have to acquire exploitation rights.

Income with a publishers’ participation:

- 36% of the private copying royalty for still images for printers
- 18% of the private copying royalty for still images for scanners
- 20% of the private copying royalty for still images for multipurpose devices
- 14% of the private copying royalty for still images for hard drives
- 39% of the private copying royalty for still images for PCs
- 34% of the private copying royalty for still images for tablets
- 17% of the private copying royalty for still images for mobile phones
- 44% of the private copying royalty for still images for USB sticks and memory cards
- 28% of the private copying royalty for still images for other devices and storage media such as burners, blank discs and faxes
- 54% of the operator levy including collection of the ZFS for copying in educational institutions
- 100% of the royalty for copies dispatched to order
- 60% of the income from the library royalty which is attributable to still images
- 100% of the income for electronic reading points
- 42% of the income for learning platforms in schools which is attributable to still images
- 42% of the income for learning platforms in colleges which is attributable to still images

Income without a publishers’ participation:

- 30% of the flat-rate indirect income for the private copying of still images
- 60% of the flat-rate indirect income from the library royalty for still images
- 50% of the income from rights direct licences

## 6. Books (publishers)

The share of income that has been separated from the “books (authors)” distribution line as a publishers’ participation is allocated to the “books (publishers)” distribution line.

## 7. Periodicals (authors)

The income that is to be paid out in the “periodicals (authors)” distribution line is calculated after a deduction for GWFF and GÜFA in accordance with Annex GG. In the second step the publishers’ participation of 10% is deducted. This share is reduced by 2% to reflect the fact that in some cases publishers do not have to acquire exploitation rights.

Income with a publishers’ participation:

- 4% of the private copying royalty for still images for printers
- 20% of the private copying royalty for still images for scanners
- 19% of the private copying royalty for still images for multipurpose devices
- 21% of the private copying royalty for still images for hard drives
- 19% of the private copying royalty for still images for PCs
- 24% of the private copying royalty for still images for tablets
- 20% of the private copying royalty for still images for mobile phones
- 30% of the private copying royalty for still images for USB sticks and memory cards
- 20% of the private copying royalty for still images for other devices and storage media such as burners, blank discs and faxes
- 6% of the operator levy including collection of the ZFS for copying in educational institutions
- 40% of the income from the library royalty which is attributable to still images
- 24% of the income for learning platforms in schools which is attributable to still images
- 23% of the income for learning platforms in colleges which is attributable to still images

Income without a publishers’ participation:

- 100% of the income from press reviews and book clubs
- 30% of the flat-rate indirect income for the private copying of still images
- 40% of the flat-rate indirect income from the library royalty for still images
- 100% of the income from reproductions of press articles in schools
- 50% of the income from rights direct licences
- 100% of the income from the participation claim pursuant to section 87k UrhG.

## 8. Periodicals (publishers)

The share of income that has been separated from the “periodicals (authors)” distribution line as a publishers’ participation is allocated to the “periodicals (publishers)” distribution line.

## 9. Websites

In the first step, the income that is to be paid out in the “websites” distribution line is calculated after a deduction for GWFF and GÜFA in accordance with Annex GG. In the second step, the income shares set out below are added when calculating the income that is to be paid out in the websites line.

- 60% of the private copying royalty for still images for printers
- 62% of the private copying royalty for still images for scanners
- 61% of the private copying royalty for still images for multipurpose devices
- 65% of the private copying royalty for still images for hard drives
- 42% of the private copying royalty for still images for PCs
- 42% of the private copying royalty for still images for tablets
- 63% of the private copying royalty for still images for mobile phones
- 26% of the private copying royalty for still images for USB sticks and memory cards
- 52% of the private copying royalty for still images for other devices and storage media such as burners, blank discs and faxes
- 40% of the operator levy including collection of the ZFS for copying in educational institutions
- 35% of the income for learning platforms in schools which is attributable to still images
- 34% of the income for learning platforms in colleges which is attributable to still images
- 40% of the flat-rate indirect income for the private copying of still images

## 10. Retransmission (visual arts/image)

Direct income for retransmission is allocated to the “retransmission (visual arts/image)” distribution line in the amount of the following shares, arranged by sources of income:

- 15.5% of the income from GEMA
- 7.85% of the income from ZWF
- 1% of the income from ARGE Kabel and from ZVV

In addition, the indirect flat-rate income from retransmission for the visual arts and image work category (“still images”) is also allocated.

#### 11. Social media authors (art/image)

Direct income realised from “service providers for the sharing of online content” pursuant to sections 2 and 3 UrhDaG (social media service providers) which covers licences or remuneration claims for still images will be assigned to the “social media authors (art/image)” distribution line in accordance with the distribution resolution of the General Assembly of 30 July 2022 (Annex SMBL).

#### 12. Social media picture agencies

Direct income realised from social media service providers which covers licences for still images will be assigned to the “social media picture agencies” distribution line in accordance with the distribution resolution of the General Assembly of 30 July 2022 (Annex SMBL).

#### 13. Collective film (TV) rights

The following direct income is allocated to the “collective film (TV) rights” category:

- 37.46 % of the library royalty income (authors’ share: 92.53 %; producers’ share: 7.47 %)
- 84.5 % of the retransmission income from GEMA (authors’ share: 73.61 %; producers’ share: 26.39 %)
- 92.15 % of the income from ZWF (authors’ share: 88.5 %; producers’ share: 11.5 %)
- 99 % of the income from ARGE Kabel and from ZVV (authors’ share: 100 %)
- 20.34 % of the income for learning platforms in schools (authors’ share: 87.28 %; producers’ share: 12.72 %)

- 3.9 % of the income for learning platforms in colleges (authors’ share: 86.79 %; producers’ share: 13.21 %)
- 100 % of the income from private copying of moving images, of which for producers:
  - PCs: 1.7 %
  - Tablets: 2.71 %
  - Mobile phones: 3.8 %
  - Hard drives: 1.06 %
  - Burners: 1.08 %
  - Blank discs: 2.2 %
  - TV recording devices: 2.53 %
  - MP4 players: 1.67 %
  - USB sticks, memory cards: 1.55 %

Indirect flat-rate income for the film work category is also allocated.

The “film authors” and “film producers” payout categories are formed in the “collective film (TV) rights” distribution line. Having due regard for section 14 (4), income is attributed to these categories according to how it is earmarked.

#### 14. Special distribution

Unless otherwise regulated in the provisions relating to the distribution line concerned, income is allocated for special distribution if it is received for a financial year for which the payout of the corresponding distribution line has already taken place.

According to section 13 (3), income can be allocated for special distribution if it is not individualised and can also not be attributed to a distribution line of collective distribution.

### Special Part – Chapter 1: Distribution Lines

The regulations of this chapter flesh out the provisions of the General Part for the specific lines and take precedence over them.

#### Sec. 22 Resale rights

##### 1. Entitlement to payouts

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts and/or image work category.

##### 2. Reserves

No reserves are formed. Claims of new rightholders can only be administered from the time the rights are transferred.

##### 3. Reporting deadlines

No reporting deadlines are applicable because the actual use of the work is established when the income is received.

##### 4. Payment dates

Direct income is paid out in weeks 20 and 46, indirect internal income also in weeks 7 and 33. Payments are made

on the next date following receipt of the money, in the case of indirect internal income alternatively on the next-but-one date.

#### **5. Administrative costs**

Deduction rates for administrative costs are set out in Annex VK.

#### **6. Deductions for cultural and social purposes**

Deduction rates for cultural and social purposes are set out in Annex KuSo.

#### **7. Transfer of rights**

The members of professional groups I and II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.4 AA PG I/II.

#### **8. Distribution logic**

This is a distribution line of direct distribution. In these cases the credits of the corresponding distribution reserves go to the identified rightholders.

### **Sec.23 Visual arts/image (individual)**

#### **1. Entitlement to payouts**

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts and/or image work category.

#### **2. Reserves**

No reserves are formed. The income is individualised.

#### **3. Reporting deadlines**

No reporting deadlines are applicable because the actual use of the work is established when the income is received.

#### **4. Payment dates**

Direct internal income is paid out in weeks 20 and 46, indirect internal income also in weeks 7 and 33. Payments are made on the next date following receipt of the money, in the case of indirect internal income alternatively on the next-but-one date.

#### **5. Administrative costs**

Deduction rates for administrative costs are set out in Annex VK.

#### **6. Deductions for cultural and social purposes**

Deduction rates for cultural and social purposes are set out in Annex KuSo.

#### **7. Transfer of rights**

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.1 AA (presentation rights)
- sec. 1 para. 1.10 AA (inclusion in collection for religious use)
- sec. 1 para. 1.11 AA (reproductions for the benefit of disabled persons)
- sec. 1 para. 1.13 AA (new types of exploitation pursuant to sec. 137 I (5) UrhG)
- sec. 1 para. 1.18 AA (online rights for illustrations in non-available media)
- sec. 1 para. 1.22 AA (broadcasting and online rights VOD and media libraries)
- sec. 1 para. 2 AA (reproduction and online rights)

The members of professional group II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.1 AA (presentation rights)
- sec. 1 para. 1.10 AA (inclusion in collection for religious use)
- sec. 1 para. 1.11 AA (reproductions for the benefit of disabled persons)
- sec. 1 para. 1.13 AA (new types of exploitation pursuant to sec. 137 I (5) UrhG)
- sec. 1 para. 1.18 AA (online rights for illustrations in non-available media)
- sec. 1 para. 1.22 AA (broadcasting and online rights VOD and media libraries)

This distribution line also covers individualised income for statutory remuneration claims to the extent that these are not itemised in the lists.

#### **8. Distribution logic**

This is a distribution line of direct distribution. In these cases the credits of the corresponding distribution reserves go to the identified rightholders.

### **Sec.24 Broadcasting (visual arts)**

#### **1. Entitlement to payouts**

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts work category.

#### **2. Reserves**

Reserves are formed for new rightholders in the amount of 10 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

### 3. Reporting deadlines

No reporting deadlines are applicable because VG Bild-Kunst researches the use itself.

### 4. Payment dates

Distribution reserves for a year of usage are paid out in the second half of September of the following year.

### 5. Administrative costs

Deduction rates for administrative costs are set out in Annex VK.

### 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in Annex KuSo.

### 7. Transfer of rights

The members of professional group I grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.3 AA (public communication of broadcasts)
- sec. 1 para. 1.22 AA (broadcasting and online rights VOD and media libraries)

### 8. Distribution logic

This is a distribution line of usage-based collective distribution. The distribution reserves for a year of usage are divided between works that are broadcast in German public-sector television programmes in this year of usage and those that are broadcast or made available to the public in the corresponding media libraries. Every use of a work is given a points score that, in the case of broadcasts in the form of a linear programme, is calculated from the parameters of duration of transmission, repeat frequency, broadcaster evaluation, additional media library use and news reporting in accordance with the following provisions. In the case of use outside a linear programme, the points score is calculated in accordance with paragraphs 8.6 and 8.7. The payout share per point corresponds to the quotient of the distribution reserve divided by the total number of allocated points for the year of usage.

#### 8.1 Duration of transmission

Every broadcast work is given one point per commenced 30 seconds of transmission. A maximum of five points is given for every work broadcast in a television item.

### 8.2 Broadcaster evaluation

The public sector television broadcasters in which the work was broadcast are rated as follows:

Broadcaster	Factor
ARD main programme, ZDF main programme	× 100
Third programmes of ARD, 3Sat, ZDFinfo, ZDFneo	× 20
Phoenix, KiKa	× 10
ARD-Alpha, Tagesschau 24, ONE	× 5

### 8.3 Repeat frequency

If an item containing a work is repeated in the linear programme, the repeat is rated like the first broadcast. However, not more than five broadcasts of the same item by the same broadcaster in the same year of usage are rated.

### 8.4 News reporting

In news reporting, the broadcasting in the linear programme of up to ten works per item is deemed justified by the purpose and hence is royalty-free under section 50 UrhG. If the number of broadcast works exceeds 10, a score will be given for works above that figure in accordance with the preceding paragraphs, with the proviso that the points total determined thereby will be allocated pro rata to all works broadcast in the item. In news reporting in the form of a book or film presentation, sentences 1 and 2 apply mutatis mutandis with the proviso that the broadcasting of up to three works is deemed royalty-free.

### 8.5 Additional reporting

If an item that contains a work is offered for retrieval in one or more media libraries in addition to being broadcast in the linear programme, the points total for the broadcasting of the work for the corresponding year of usage is increased by 20%.

### 8.6 Video item outside the linear programme

Every work that was made available to the public by a public sector broadcaster and the video item of which was not broadcast linearly in the year of usage receives 20 points per commenced 30 seconds that can be viewed in the video, but not more than 100 points per item. Video items within the meaning of this provision also include shorter forms and trailers of the item.

### 8.7 Still image outside the linear programme

Every work made available to the public as a still image by a public sector broadcaster receives a flat five points per year of usage and broadcaster.

## **Sec.25 Film (individual)**

### **1. Entitlement to payouts**

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the film work category.

### **2. Reserves**

No reserves are formed. The income is individualised.

### **3. Reporting deadlines**

No reporting deadlines are applicable because the actual use of the work is established when the income is received.

### **4. Payment dates**

Payments are made in calendar weeks 11, 24, 37 and 50. Payments are made on the next or next-but-one date after the money is received.

### **5. Administrative costs**

Deduction rates for administrative costs are set out in Annex VK.

### **6. Deductions for cultural and social purposes**

Deduction rates for cultural and social purposes are set out in Annex KuSo. There are no deductions from advertising film income as the corresponding deductions have already been made by TWF.

### **7. Transfer of rights**

The members of professional group III grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.1 AA (new types of exploitation pursuant to sec. 137 I (15) UrhG)
- sec. 1 para. 1.7 AA (reproduction of documentation for educational purposes)
- sec. 1 para. 1.8 AA (digitisation of analogue films)
- sec. 1 para. 1.9 AA (online rights, unless section 89 (2) UrhG applies)
- sec. 1 para. 1.10 AA (public film communication for non-profit-making purposes)
- sec. 1 para. 2.1 and para. 2.2 AA (foreign broadcasting rights)

This distribution line also covers individualised income for statutory remuneration claims.

### **8. Distribution logic**

This is a distribution line of direct distribution. In these cases the credits of the corresponding distribution reserves go to the identified rightholders.

If the shares of co-authors in an identified cinematographic work are not specified, the apportionment regulated in section 34 (8) sentence 4 applies. If another co-author is recognised for the relevant cinematographic work pursuant to section 44 (3.3), they are initially credited with the share recognised by the valuation committee, which is based on the shares of the standard participants. The shares of all co-authors of the relevant cinematographic work, including that of the other co-author, must then be modified so that their total is 100 %.

## **Sec.26 Books (authors)**

### **1. Entitlement to payouts**

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts and image work category.

### **2. Reserves**

Reserves are formed for new rightholders in the amount of 15% of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

### **3. Reporting deadlines**

The reporting deadline is 31 March of the following year.

### **4. Payment dates**

The income for a year of usage is paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. For all distribution reserves that can only be formed after the first payout for the relevant year of usage, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received.

### **5. Administrative costs**

Deduction rates for normal administrative costs are determined annually by the Administrative Council in accordance with the rules of sec. 15 para. 6. Deduction rates for in-year administrative costs are set out in Annex VK.

### **6. Deductions for cultural and social purposes**

Deduction rates for administrative costs are set out in Annex KuSo.

### **7. Transfer of rights**

The members of professional group I and II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.5 AA (rental and lending rights – libraries)
- sec. 1 para. 1.6 AA (private copying royalty, operator levy)
- sec. 1 para. 1.8 AA (remuneration claims covered by section 60h UrhG)
- sec. 1 para. 1.9 AA (copies dispatched to order)
- sec. 1 paras 1.14, 1.15 and 1.16 AA (copies for the purposes of illustration in teaching)
- sec. 1 para. 1.20 AA (copies in businesses)

## 8. Distribution logic

This is a distribution line of report-based collective distribution. In the “books (authors)” distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of the publication of their works in books and museum catalogues. The royalty for foreign-language publications is paid out to sister societies at a flat rate in advance. The payout of the royalty for German-language books and museum catalogues in the “books (authors)” distribution line is based on the reports of the rightholders pursuant to section 36. In the visual arts work category these are supplemented by information which VG Bild-Kunst acquires on the basis of its own licensing activities for its rightholders.

### 8.1 Foreign-language books

A 10 % share of the distribution reserves is allocated to foreign-language books and paid out to the sister societies in accordance with the assignment in [Annex FB](#).

### 8.2 German-language books

The pro rata distribution reserve of a rightholder in a payout in the “books (authors)” distribution line is calculated by dividing the individual points obtained for illustrations in reportable books and museum catalogues by the total points of all payout beneficiaries. The maximum amount of a rightholder’s share in the payout for a year of usage is 0.5 % of the available payout total.

### 8.3 Calculation of points

The rightholder receives one point for each illustration of one of their works in the visual arts or image work category in a reportable book. The points are modified by the factors “type of work”, “type of book” and “exceptional use”. If the rightholder receives the maximum amount, this will also modify their points score.

### 8.4 Type of work

Depending on the type of work, the points score for a work is rated as follows:

Type of work	Factor
Visual arts / photography / illustration / other image works	× 1
Title design	× 5
Overall graphic design	× 10

## 8.5 Type of book

The points score for a work is modified according to the type of book:

Type of book	Factor
Children’s and young adults’ book	× 1
School book	× 1
Non-fiction and reference book	× 1
Fiction, other books	× 1
Picture and art book, exhibition catalogue	× 1
Museum catalogue	× 1
Academic work	× 2

## 8.6 Use of a work without the granting of rights

The points for illustrations in a book which the publisher is allowed to use without purchasing usage rights (cf. section 21 (5) sentence 3 and (7) sentence 3) are increased by a factor of 1.29.

## Sec. 27 Books (publishers)

### 1. Entitlement to payouts

A payout is received by beneficiaries who have entered into the administration agreement for publishers.

### 2. Reserves

Reserves are formed for new rightholders in the amount of 25 % of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

### 3. Reporting deadlines

The reporting deadline is 31 March of the following year.

### 4. Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. For all distribution reserves that can only be formed after the first payout for the relevant year of usage, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received.

## 5. Administrative costs

Deduction rates for normal administrative costs are determined annually by the Administrative Council in accordance with the rules of sec. 15 para. 6. Deduction rates for in-year administrative costs are set out in Annex VK.

## 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in Annex KuSo.

## 7. Transfer of rights

VG Bild-Kunst has been granted the rights for this distribution line from its publisher members in professional groups I and II by way of a separate administration agreement.

## 8. Distribution logic

This is a distribution line of report-based collective distribution. In the “books (publishers)” distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of their book publications. The payout of the royalty is based on the reports of the rightholders pursuant to section 37.

### 8.1 Principles

The pro rata distribution reserve of a rightholder in a payout in the “books (publishers)” distribution line is calculated by dividing the individual points obtained for illustrations in books by the total points of all payout beneficiaries. The maximum amount of a rightholder’s share in the payout for a year of usage is 5% of the available payout total.

### 8.2 Calculation of points

Depending on the number of reportable works per reportable book, the rightholder receives a points score according to the table “Number of works”. These points are modified by the factor “type of book”. For foreign-language books, the “foreign-language factor” also applies. If a book is being reported both as a physically embodied book and as an e-book, points will be calculated on the basis of the physically embodied book only.

#### Number of works

Number of image works in a book	Points
1–5	1+1
6–10	2+1
11–50	10+1
51–100	20+1
More than 100	40+1

## Type of book

Type of book	Factor
Children’s and young adults’ book	× 1
School book	× 1
Non-fiction and reference book	× 1
Fiction, other books	× 1
Picture and art book, exhibition catalogue	× 2
Museum catalogue	× 2
Academic work	× 2

## Foreign-language books

Type of book	Factor
Children’s and young adults’ book	× 0.1
School book	× 1
Non-fiction and reference book	× 0.1
Fiction, other books	× 0.1
Picture and art book, exhibition catalogue	× 0.2
Museum catalogue	× 0.2
Academic works – English	× 1
Academic works – other	× 0.1

## Sec. 28 Periodicals (authors)

### 1. Entitlement to payouts

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts and image work category.

### 2. Reserves

Reserves are formed for new rightholders in the amount of 15% of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

### 3. Reporting deadlines

The reporting deadline is 31 March of the following year.

### 4. Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. For all distribution reserves that can only be formed after the first payout for the relevant year of usage, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received.

## 5. Administrative costs

Deduction rates for normal administrative costs are determined annually by the Administrative Council in accordance with the rules of sec. 15 para. 6. Deduction rates for in-year administrative costs are set out in Annex VK.

## 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in Annex KuSo.

## 7. Transfer of rights

The members of professional groups I and II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.5 AA (rental and lending rights – libraries and book clubs)
- sec. 1 para. 1.6 AA (private copying royalty, operator levy)
- sec. 1 para. 1.7 AA (press review royalties)
- sec. 1 para. 1.8 AA (remuneration claims covered by section 60h UrhG)
- sec. 1 para. 1.9 AA (copies dispatched to order)
- sec. 1 paras 1.14, 1.15 and 1.16 AA (copies for the purposes of illustration in teaching)
- sec. 1 para. 1.20 AA (copies in businesses)

## 8. Distribution logic

This is a distribution line of report-based collective distribution. In the “periodicals (authors)” distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of the publication of their works in newspapers and magazines. The royalty for foreign-language periodicals – with the exception of English-language scientific and technical journals – is paid out to sister societies at a flat rate in advance. The payout of the royalty for German-language periodicals within the meaning of section 40 (1) is based on the reports of the rightholders.

### 8.1 Foreign-language periodicals

A 10% share of the distribution reserves is allocated to foreign-language periodicals and paid out to the sister societies in accordance with the assignment in Annex FP.

### 8.2 German-language periodicals

The pro rata distribution reserve of a rightholder in a payout in the “periodicals (authors)” distribution line is calculated by dividing the individual points obtained for illustrations in the periodicals to be considered by the total points of all payout beneficiaries. The maximum amount of a rightholder’s share in the payout for a year of usage is

0.25% of the available payout total. If the rightholder receives the maximum amount, this will modify their points score.

### 8.3 Principles for the calculation of points

Points are calculated on the basis of

- the fees of the rightholders which they realise from their customers in return for granting the rights to publish their works in periodicals,
- presentations of works, if no fees have been reported for them, and
- individual illustrations in periodicals if no fees have been reported for them and they do not relate to reported presentations of works.

Details of the eligibility for reporting of fees, individual images and presentations of works are set out in sections 39, 40 and 41. If the rightholder receives the maximum amount, this will modify their points score.

### 8.4 Points for fees

Points are scored for 100% of the reported usage fees and 90% of the flat fees of the “press publishers” customer category. In addition, 50% of the reported fees of the “picture agencies” customer category also score points. One euro corresponds to one point.

For individual agencies, the Executive Board is authorised to determine separately on the basis of data from or about the relevant agencies as follows:

- a flat-rate share of the fee that reflects the quota of the German customers;
- the share of the agency fee that is attributable to the “periodicals (authors)” distribution line.

### 8.5 Points for individual images

A notional fee of EUR 20.00 is fixed for each reported individual image in periodicals. This represents a minimum royalty. One euro corresponds to one point.

The points for illustrations in a periodical which the publisher is allowed to use without purchasing usage rights (cf. section 21 (5) sentence 3 and (7) sentence 3) are increased by a factor of 1.11.

### 8.6 Points for presentations of works

For each reported presentation of works, a rightholder is credited with points that depend on the category pursuant to section 41 para. 4, as shown in the following table:

Categories A, B & D	Points
Type 1	1,000
Type 2	500
Type 3	250

Categories C & E	Points
Type 1	500
Type 2	250
Type 3	125

### 8.7 Points for art in construction

A rightholder is credited once with 4,000 points for each work of art in construction.

## Sec. 29 Periodicals (publishers)

### 1. Entitlement to payouts

A payout is received by beneficiaries who have entered into the administration agreement for publishers.

### 2. Reserves

Reserves are formed for new rightholders in the amount of 50% of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

### 3. Reporting deadlines

The reporting deadline is 31 March of the following year.

### 4. Payment dates

Distribution reserves for a year of usage are first paid out in the second half of September of the following year (first payout). Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

### 5. Administrative costs

Deduction rates for regular administrative costs are determined annually by the Administrative Council in accordance with the rules of section 15 para. 6. Deduction rates for year-to-date administrative costs are set out in Annex VK.

### 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in Annex KuSo.

## 7. Transfer of rights

VG Bild-Kunst has been granted the rights for this distribution line from its publisher members in professional groups I and II by way of a separate administration agreement.

## 8. Distribution logic

This is a distribution line of report-based collective distribution. For each distribution line, the distribution reserves for a year of usage in the “periodicals (publishers)” distribution line are distributed to the rightholders on the basis of the reports of their published periodicals. The royalty is paid out on the basis of the reports of the rightholders pursuant to section 38.

### 8.1 Principles

The pro rata distribution reserves of a rightholder in a payout in the “periodicals (authors)” distribution line is calculated by dividing the individual points obtained for the report of their periodicals by the total points of all beneficiaries.

### 8.2 Calculation of points

The individual points for a periodical are calculated by multiplying the “image intensity”, “distribution” and “interval” factors. The amount of the factors depends on the levels which are reached for the relevant periodical in the three categories as set out in the following tables.

#### Image intensity table

Levels	Points score/factor
Level 1 (low)	2.5
Level 2 (moderate)	5
Level 3 (high)	7.5
Level 4 (very high)	10

#### Distribution table

Level	Points score/factor
1	1
2	2
3	3
4	4
5	5.5
6	7
7	8.5
8	10

## Interval table

Levels	Points score
Level 1 (half-yearly)	1
Level 2 (1 × quarterly)	2
Level 3 (every 2 months)	3
Level 4 (monthly)	4
Level 5 (fortnightly)	5
Level 6 (weekly)	6
Level 7 (every working day)	8.5
Level 8 (daily)	10

## Sec.30 Websites

### 1. Entitlement to payouts

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts and image work category.

### 2. Reserves

Reserves are formed for new rightholders in the amount of 15% of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

### 3. Reporting deadlines

The reporting deadline is 31 March of the following year.

### 4. Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. For all distribution reserves that can only be formed after the first payout for the relevant year of usage, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received.

### 5. Administrative costs

Deduction rates for normal administrative costs are determined annually by the Administrative Council in accordance with the rules of sec. 15 para. 6. Deduction rates for in-year administrative costs are set out in [Annex VK](#).

### 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in [Annex KuSo](#).

## 7. Transfer of rights

The members of professional groups I and II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.6 AA (private copying royalty, operator levy)
- sec. 1 para. 1.8 AA (remuneration claims covered by section 60h UrhG)
- sec. 1 para. 1.12 AA (online rights for book illustrations in search engines)
- sec. 1 paras 1.14, 1.15 and 1.16 AA (copies for the purposes of illustration in teaching)
- sec. 1 para. 1.17 AA (online rights for scientific databases)
- sec. 1 para. 1.18 AA (online rights for illustrations in non-available media)
- sec. 1 para. 1.19 AA (participation in press publisher neighbouring rights)
- sec. 1 para. 1.20 AA (copies in businesses)

## 8. Distribution logic

This is a distribution line of report-based collective distribution. For each distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of the publication of their works on websites. The royalty for non-German websites is paid out to sister societies at a flat rate in advance. The payout of the royalty for German websites within the meaning of section 40 (2.2) is based on the reports of the rightholders.

### 8.1 Apportionment of income from German/non-German websites

Based on the results of the empirical study, the Administrative Council apportions the distribution reserves appropriately by country.

### 8.2 Non-German websites

The distribution reserves not attributable to Germany come to 19.56% In accordance with [Annex FW](#), they are assigned to the collecting societies whose areas of activity cover the respective countries, provided VG Bild-Kunst has entered into representation agreements with them. The share of a sister society benefits not only its own rightholders, but all rightholders whose works are available as copying sources on the websites of the corresponding country in the accounting period. If a sister society does not have any distribution mechanism that also takes reasonable account of the potential rightholders of VG Bild-Kunst, VG Bild-Kunst can withhold an appropriate share of the transfer amount and dispose of it in accordance with section 13 (3).

### 8.3 German websites

The pro rata distribution reserve of a rightholder in a payout in the websites distribution line is calculated by dividing the individual points obtained for illustrations on the websites to be considered by the total points of all payout beneficiaries. The maximum amount of a rightholder's share in the payout for a year of usage is 0.25% of the available payout total. If the rightholder receives the maximum amount, this will modify their points score.

### 8.4 Principles for the calculation of points

Points are calculated on the basis of

- the fees of the rightholders which they realise from their customers in return for granting the rights to publish their works on websites,
- presentations of works, if no fees have been reported for them, and
- individual illustrations on websites if no fees have been reported for them and they do not relate to reported presentations of works.

In the visual arts work category, the fees also include the net fees which VG Bild-Kunst realises through its licensing activities for its rightholders in the websites segment. Details of the eligibility for reporting of fees, individual images and presentations of works are set out in sections 39, 40 and 41.

### 8.5 Points for fees

Points are scored for 100% of the reported usage fees and 90% of the reported flat fees of the “radio and TV broadcasters, TV production companies” customer categories. In addition, 50% of each of the press, news and sports picture agencies (“picture agencies”) customer category also score points. In the “other companies” customer category, points are scored for 100% of the reported usage fees and 67% of the reported flat fees. One euro corresponds to one point.

For individual agencies, the Executive Board is authorised to determine separately on the basis of data from or about the relevant agencies as follows:

- a flat-rate share of the fee that reflects the quota of the German customers;
- the share of the agency fee that is attributable to the websites distribution line.

### 8.6 Points for individual images

A notional fee of EUR 20.00 is fixed for each reported individual image on websites. This represents a minimum royalty. One euro corresponds to one point.

### 8.7 Points for presentations of works

For each reported presentation of works, a rightholder is credited with points that depend on the category pursuant to section 41 para. 4, as shown in the following table:

Categories A, B & D	Points
Type 1	3,000
Type 2	2,000
Type 3	1,000

Categories C & E	Points
Type 1	1,500
Type 2	1,000
Type 3	500

### 8.8 Points for art in construction

A rightholder is credited once with 6,000 points for each work of art in construction.

#### Sec. 31 Retransmission (visual arts/image)

##### 1. Entitlement to payouts

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the visual arts and image work category.

##### 2. Reserves

Reserves are formed for new rightholders in the amount of 15% of a payout. These will be allocated to the distribution reserves of the current financial year at the end of the third financial year following the year of payout, if they have not been consumed.

##### 3. Reporting deadlines

The reporting deadline is 31 March of the following year.

##### 4. Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout. For all distribution reserves that can only be formed after the first payout for the relevant year of usage, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received.

##### 5. Administrative costs

Deduction rates for normal administrative costs are determined annually by the Administrative Council in accordance

with the rules of sec. 15 para. 6. Deduction rates for in-year administrative costs are set out in Annex VK.

## 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in Annex KuSo.

## 7. Transfer of rights

The members of professional groups I and II grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.2 AA (retransmission)
- sec. 1 para. 1.3 AA (public communication of broadcasts)
- sec. 1 para. 1.23 AA (direct input)

## 8. Distribution logic

This is a distribution line of report-based collective distribution. In the “retransmission (visual arts/image)” distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of the publication of their works on television. The payout of the royalty is based on the reports of the rightholders. In the visual arts work category these are supplemented by information which VG Bild-Kunst acquires on the basis of its own licensing activities for its rightholders. The pro rata distribution reserve of a beneficiary in a payout in the “retransmission (visual arts/image)” distribution line is calculated by dividing the individual points obtained for illustrations in the television programmes to be considered by the total points of all payout beneficiaries. The maximum amount of a rightholder’s share in the payout for a year of usage is 2.5% of the available payout total. If the rightholder receives the maximum amount, this will modify their points score.

### 8.1 Principles for the calculation of points

Points are calculated on the basis of

- the fees of the rightholders which they realise from their customers in return for granting the rights to publish their works on television, and
- individual images on television if no fees have been reported for them.

In the visual arts work category, the fees also include the net fees which VG Bild-Kunst realises through its licensing activities for its rightholders in the television segment. Details of the eligibility for reporting of fees and individual images are set out in sections 39 and 40. If the rightholder receives the maximum amount, this will modify their points score.

### 8.2 Points for fees

Fees of the “radio and TV broadcasters, TV production companies” customer category are considered in the “retransmission (visual arts/image)” distribution line. Points are scored for 100% of the reported usage fees and 90% of the reported flat fees. One euro corresponds to one point.

### 8.3 Points for individual images

A notional fee of EUR 50.00 is fixed for each reported individual image on television. The notional fee is to be a minimum royalty. One euro corresponds to one point.

## Sec. 32 Social media authors (art/image)

No arrangements for distributing the money in the “social media authors (art/image)” line have yet been agreed. The corresponding income will be set aside until further notice.

## Sec. 33 Social media picture agencies

### 1. Entitlement to payouts

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7.

### 2. Reserves

Reserves are formed for new rightholders and outsiders. The Council will determine the amount on the basis of an estimate of the payout volume applicable to this group. After the end of the third financial year following the payout year, the reserves are transferred to the distribution reserves of the current financial year unless they have been used up.

### 3. Reporting deadlines

The reporting deadline is 31 August of the following year.

### 4. Payment dates

Distribution reserves for a year of usage are paid out for the first time in the second half of September of the following year (first payout). Distribution reserves that are only formed after the first payout for the relevant year of usage are paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received.

### 5. Administrative costs

Deduction rates for administrative costs are set out in Annex VK.

### 6. Deductions for cultural and social purposes

There are no deductions for social and cultural purposes.

## 7. Transfer of rights

The agency members of VG Bild-Kunst grant it the rights for this distribution line under:

- section 1 of the Administration Agreement for picture agencies (rights to grant licences to online content sharing service providers pursuant to section 2 UhrD-aG).

## 8. Distribution logic

This is a distribution line of report-based collective distribution. In the „social media picture agencies“ distribution line, the distribution reserves for a year of usage are distributed to the rightholders on the basis of their annual turnover with German customers. The payout of the royalty is based on the reports of the rightholders pursuant to section 43.

### 8.1 Principles

The pro rata distribution reserve of a rightholder in a payout in the “social media picture agencies” distribution line is calculated by dividing the individual points achieved by a rightholder for sales reports in a line by the total number of points of all payout beneficiaries in the relevant line.

### 8.2 Payout lines

A payout line for “general repertoire” and a payout line for “exclusive repertoire” are formed. The latter comprises the exploitation of works from catalogues where the picture agency holds the exclusive, transferable rights of use and does not grant the image authors any ongoing participation or compensation for the exploitation of the images because they have already received a royalty as a lump sum

### 8.3 Calculation of points

The score is based on the reportable sales in euros reported by the entitled picture agencies for the relevant year of usage (calendar year) in accordance with section 43. One euro counts as one point.

## Sec.34 Collective film (TV) rights

### 1. Entitlement to payouts

A payout is received by beneficiaries who have granted rights pursuant to paragraph 7 in the film work category. Film authors participate in the income of the “film authors” payout category, film producers in the income of the “film producers” payout category.

### 2. Reserves

A reserve of 2.5% is formed within the film authors payout category in order to service late reports of new

rightholders in report-based work types. A reserve of 1% is formed in order to service work-based individual claims of other film authors in all work types. Late reports of new rightholders in usage-based work types are serviced from the usage-specific reserves.

Reserves of 5.0% of a payout are formed within the film producers payout category for new rightholders.

### 3. Reporting deadlines

In the film authors payout category, the reporting deadline for correction reports and for work reports in the report-based work types is 31 March of the following year, and for work reports in the usage-based work types 31 December of the fourth year after the year of usage. In the film producers payout category, the reporting deadline is 31 March of the following year.

### 4. Payment dates

The income for a year of usage and for the film authors payout category is paid out for the first time in the second half of September of the following year for all distribution reserves formed until then and all rightholders whose contributions to works have been identified by then (first payout). This also applies for external income for this year of usage that is transferred to VG Bild-Kunst more than six months before the first payout.

For all distribution reserves that can only be formed after the first payout for the relevant year of usage, and/or arise for rightholders whose contributions to the usage-based work types can only be identified after the first payout, the income is paid out in weeks 13 or 39 of the following years, whichever follows the date the money is received or the identification is made.

The last payment for income that is received in the year of usage or the following year is made in the 13th week of the fifth year after the year of usage. The last payment of income that is received later is made in the 13th week of the fourth year after the year the money is received.

The income for the film producers payout category is paid out for the first time in the second half of September of the following year for all distribution reserves formed until then. Distribution reserves for the same year of usage that are formed following the first payout will be paid out in week 13 or 39 of the following years, whichever follows the date the money is received.

### 5. Administrative costs

Deduction rates for normal administrative costs are determined annually by the Administrative Council in accordance with the rules of sec. 15 para. 6. Deduction rates for in-year administrative costs are set out in Annex VK.

## 6. Deductions for cultural and social purposes

Deduction rates for cultural and social purposes are set out in Annex KuSo.

## 7. Transfer of rights

The members of professional group III grant VG Bild-Kunst the rights for this distribution line under

- sec. 1 para. 1.2 AA (public communication of broadcasts)
- sec. 1 para. 1.3 AA (rental and lending rights – libraries)
- sec. 1 para. 1.4 AA (school radio)
- sec. 1 para. 1.5 AA (private copying)
- sec. 1 para. 1.6 AA (cable retransmission)
- sec. 1 para. 1.11 AA (reproductions for the benefit of disabled persons)
- sec. 1 para. 1.12 AA (electronic reading points)
- sec. 1 para. 1.13 AA (intranet in schools and colleges)
- sec. 1 para. 1.16 AA (direct input)

## 8. Distribution logic

This is a distribution line of report-based and usage-based collective distribution. The distribution reserves for a year of usage are distributed to the rightholders if they demonstrate claims to billable cinematographic works that have been broadcast by a billable TV broadcaster.

The payouts are made separately for distribution reserves that have been allocated to the “film authors” and “film producers” payout categories. The distribution reserves in the film authors category are further subdivided into the following payout lines:

Film (authors) payout category	Payout line
95% direction, camera and editing	66.0% direction
	19.5% camera
	14.5% editing
5% set and costume design	56.7% sets, architecture
	43.3% costume design

The rightholder’s share of the payout for a cinematographic work corresponds to the total of the points attributable to this work in the year of usage relative to

- (for film authors) the total points of all cinematographic works eligible for payout in the respective distribution line;
- (for film producers) the total points of all cinematographic works eligible for payout in the distribution category.

The entirety of the cinematographic works eligible for payout is

- in the case of film authors, composed of the billable cinematographic works from work types of usage-based distribution and the billable, reported cinematographic works of work types of report-based distribution;
- in the case of film producers, the billable, reported cinematographic works.

### 8.1 Billable TV broadcasters

A TV broadcaster that broadcasts in Germany is billable if it was able to achieve a share of the total German market of at least 0.3% in the first 10 months of the year of usage and its broadcaster value (paragraph 8.4b) modified by the cultur factor (paragraph 8.4c) reached at least “5” in the year of usage. The market share is determined on the basis of the data of AGF/GfK television research or a comparable source. A broadcaster is also billable if it has no market share, but other factors enable comparability. Teleshopping channels are not included in the payout. The valuation committee of professional group III will authorise the list of billable TV broadcasters for a year of usage by 31 December of the year of usage. As soon as this is done, VG Bild-Kunst will publish the list on its website.

### 8.2 Determination of billable cinematographic works

VG Bild-Kunst determines all billable cinematographic works that have been broadcast by the billable broadcasters on a proprietary station on the basis of the data of PPS Presse-Programm Service GmbH or a data source of equal reliability. The payouts of cinematographic works that are part of magazine shows pursuant to section 45 (14) are not determined, but can be billed if they are reported.

### 8.3 Determination of work types

All billable cinematographic works are divided into the following categories of work type:

No.	Work type	Distinguishing feature	Classification
1	Feature film, television film, TV movie, serial, cinema short		Usage-based billing
2a	Animation and cartoon film over 30 minutes	The shares for camera work, editing, set and costume design are allocated to rightholders of animation films in accordance with paragraph 8.7.	Usage-based billing
2b	Animation and cartoon film up to 30 minutes	The shares for camera work, editing, set and costume design are allocated to rightholders of animation films in accordance with paragraph 8.7.	Report-based billing
3	Live-action animated film	In live-action/animated films the shares for set and costume design go to the creator of the figures/objects, in filmed puppet shows the creator of the puppet.	Usage-based billing
4	Filmed stage production		Report-based billing
5	Musical broadcast	The individual film items are each longer than three minutes and in total make up at least 25% of the total length.	Report-based billing
6	Mini series		Usage-based billing
7a	Fictional series at least 40 minutes long		Usage-based billing
7b	Fictional series at least 20 minutes long		Report-based billing
7c	Fictional series up to 20 minutes		Report-based billing
8	Soap opera, sitcom, telenovela (daily, weekly)		Report-based billing
9a	Documentary film/documentary film series from running length 50 minutes		Report-based billing in distribution category film producers; usage-based billing in distribution category film authors.
9b	Documentary film/documentary film series from running length 40 minutes		Report-based billing
9c	Documentary film/documentary film series from running length 25 minutes		Report-based billing
9d	Documentary film/documentary film series from running length 15 minutes		Report-based billing
9e	Documentary film, documentary film series, magazine items under running length 15 minutes		Report-based billing
10	Docu-soap (daily, weekly)		Report-based billing
11	TV recording (set and costume design only, against evidence)	A film of these categories will be allocated to work types 4 or 5 if the rightholder provides the appropriate evidence by the deadline for correction.	Report-based billing
12	Live transmission (set and costume design only, against evidence)		

The office determines the work type of films of usage-based work types for which no reports are received by the closing date for reports. Where there is serious dispute or doubt, the valuation committee of professional group III is asked to make a final ruling.

In the “film producers” payout category, all cinematographic works are subject to report-based billing. Where film producers report cinematographic works of work types 1, 2, 3, 6, 7 and 8, VG Bild-Kunst brings possible payout claims to VGF, the amount of which is governed by the VGF distribution plan. Settlement with the film producers is made via VG Bild-Kunst.

#### 8.4 Calculation of the points per payout beneficiary

The points value of a cinematographic work is obtained by adding together the points for each broadcast of the film work by a billable broadcaster in the year of usage. The points for a broadcast are calculated by multiplying the time factor, the broadcaster value, the culture factor and the work factor.

a) The **time factor** is the length of the broadcast of the cinematographic work rounded down to whole minutes. The time factor for films which are broadcast for between 3 and 15 minutes and are not animated or cartoon films are calculated using the following formula:

$$d \times \frac{\left(\frac{d}{3}\right)^2}{25}$$

where “d” is the length of the broadcast rounded down to whole minutes. For scripted film works that form part of a magazine show, the durations of the broadcasts are added together.

b) The **broadcaster value** is ten times the average annual market share of a billable broadcaster in the year of usage. However, for each broadcaster not more than two broadcasts of the same work in any period of 48 hours, not more than three broadcasts in any period of seven days, not more than four broadcasts in any period of 30 days and not more than six broadcasts in the whole year of usage will be valued. The valuation committee of professional group III will decide on the broadcaster values of the billable broadcasters by 31 December of the year of usage, in particular the broadcaster values of broadcasters for which no measured market share exists but which are comparable to other broadcasters with a proven market share.

c) Broadcasters receive a **culture factor** if they predominantly broadcast programmes providing culture, education and information (cultural programmes). The valuation committee of professional group III prepares a catalogue of criteria and determines the cultural factors for billable broadcasters by 31 January of the following year. The cultural factors are determined on the basis of data about the shares of the cultural programmes per broadcaster from programme analyses. The cultural factor is multiplied by the broadcaster value. It has a value between “1” and “5”.

d) Depending on the **work type**, a cinematographic work is given the following work factor:

Work Type	Description	Work factor
Work type 1	Feature film, television film, TV movie, serial, cinema short	Factor 1.00 Factor 1.50 (with cinema analysis)
Work type 2a	Animation & cartoon film over 30 minutes	Factor 1.00 Factor 1.50 (with cinema analysis)
Work type 2b	Animation & cartoon film up to 30 minutes	Factor 0.60
Work type 3	Live-action animated film	Factor 1.00 Factor 1.50 (with cinema analysis)
Work type 4	Filmed stage production	Factor 0.50
Work type 5	Musical broadcast	Factor 0.10
Work type 6	Mini series	Factor 1.00
Work type 7a	Fictional series at least 40 minutes	Factor 0.60
Work type 7b	Fictional series at least 20 minutes	Factor 0.40
Work type 7c	Fictional series up to 20 minutes	Factor 0.25
Work type 8	Soap opera, sitcom, telenovela (daily, weekly)	Factor 0.25
Work type 9a	Documentary film, documentary film series, at least 50 minutes	Factor 1.00 Factor 1.50 (with cinema analysis)
Work type 9b	Documentary film, documentary film series, at least 40 minutes	Factor 1.00 Factor 1.50 (with cinema analysis)
Work type 9c	Documentary film, documentary film series, at least 25 minutes	Factor 0.60
Work type 9d	Documentary film, documentary film series, at least 15 minutes	Factor 0.25
Work type 9e	Documentary film / series, magazine items under 15 minutes	Factor 0.25
Work type 10	Docu-soap (daily, weekly)	Factor 0.25
Work type 11	TV recording (only set and costume design against evidence)	Factor 0.10
Work type 12	Live broadcast (only set and costume design against evidence)	Factor 0.10

A cinema analysis of a cinematographic work within the meaning of the distribution plan exists if this arises from the pertinent data of the FFA and SPIO.

### 8.5 Special rule for other film authors

If the co-authorship of another film author is recognised pursuant to section 44 (3.3), the other co-author is allocated a 2% share of the payout total attributable to the film author mentioned in section 44 (3.1) of the relevant cinematographic work. Payouts to other film authors are serviced from the reserves formed for these cases. No deduction is made for cultural and social purposes.

### 8.6 Release of reserves

All reserves according to paragraph 2 will be released at the time of the last payout in accordance with paragraph 4 in such a way that they benefit the rightholders of the payout category and payout line in which they arose. The reserves will be credited to the credit recipients considered in this category or line for the relevant year of usage in the proportion of their credits.

### 8.7 Distinctive features of animated films as a work type

In work types 2a and 2b of the film authors payout category, the following rightholders receive the shares of the camera, editing, set and costume design payout lines:

Payout line	Participation
Camera (18.525%)	Animation director 64.8% Lead character designer 17.6% Key background designer 17.6%
Editing (13.775%)	Storyboarder 100%
Set design, architecture, costume design (5%)	Concept Artist 100%

### 8.8 Valuation committee of professional group III

A valuation committee will be established, to be composed as follows: a director, a film author from camera and from editing, an author from set/costume design, an author of animation films, and a producer. The General Assembly confirms the members and deputy members of the committee on the proposal of the meeting of professional group III. The business of the committee is managed by the Chief Executive Officer of VG Bild-Kunst together with the honorary board member of professional group III.

The valuation committee of professional group III decides on the following groups of cases by majority of votes:

- in case of doubt about the existence of claims to cinematographic works within the meaning of section 2 (6) UrhG;
- in case of doubt about the percentage apportionment of claims of several authors of the same professional line to the same cinematographic work;

- the question of co-authorship of possible other film authors pursuant to section 44 (3.3);
- in those cases in which it has been given authority in this distribution scheme;
- in the event of doubt about the definition of the work type of a cinematographic work.

At the request of a member of the Administrative Council, the decisions of the valuation committee will require confirmation of the Administrative Council.

## Sec.35 Special distribution

### 1. Entitlement to payouts

A payout is received by beneficiaries who participated in the payout underlying the special distribution (basic payout) or who subsequently received a payout instead of or in addition to the basic payout. A participation in the basic payout presupposes that a credit has been created. Credits which were not payable pursuant to section 18 (4) are not considered.

### 2. Reserves

The Chief Executive Officer decides whether reserves are to be formed in accordance with the basic payout rules.

### 3. Reporting deadlines

No reporting deadlines are applicable because the payout beneficiaries have already been ascertained.

### 4. Payment dates

Payments are made in calendar weeks 11, 24, 37 and 50. Payments are made on the next or next-but-one date after the money is received.

### 5. Administrative costs

The current rates for the basic payout are applied as deduction rates for administrative costs.

### 6. Deductions for cultural and social purposes

The current rates for the basic payout are applied as deduction rates for cultural and social purposes.

### 7. Transfer of rights

The transfer of rights is governed by the basic payout.

### 8. Distribution logic

This is a distribution line of direct distribution. With the special distribution, the payout beneficiaries receive a proportional supplement on their share of the basic payout.

If the distribution reserves of the special distribution can, on the merits, be assigned to a particular distribution line

and particular year of usage for which the payouts have already been completed, the data of this completed payout are applied as the basic payout.

Where necessary, the data of the basic payout are adjusted to the conditions of the special distribution. As an example, certain rightholders who are not entitled to participate in the special distribution are removed from the

database or other rightholders who have since come on board are added to the database.

If the basic payout cannot be determined as described above, the General Assembly, on the proposal of the Administrative Council, will decide on the distribution logic of the special distribution.

## Special Part – Chapter 2: Report content

### Sec. 36 Reports of books (authors)

Rightholders of the “books (authors)” distribution line (sec. 26) can report illustrations of their works as defined in sec. 2 in books in accordance with this section. Books within the meaning of these regulations also include museum catalogues.

#### 1. Reportable books

To be considered in the payout, books must meet the following criteria:

**1.1** Books must be embodied in physical form. E-books can only be reported if they meet the requirements set out in 1.4. Signed and numbered art books and portfolio works cannot be reported if they are originals and not bookstore editions.

**1.2** Books embodied in physical form must have appeared in a minimum print run of 250 copies.

**1.3** Books without an ISBN can only be considered if a customer copy and proof of the print run according to paragraph 1.2 are provided. In the case of exhibition catalogues and museum catalogues, the transmission of a copy of the cover sheet and the imprint in place of the customer copy is sufficient in addition to proof of the print run.

**1.4** E-books can only be reported if the book appears solely as an e-book and has an ISBN. An e-book must have a sold print run of at least 200 copies. Proof of this must be provided.

**1.5** Books without text (with the exception of the title, imprint, blurb, etc.) are considered to be in German within the meaning of the distribution plan if the rightholder demonstrates that at least 1,000 copies had been sold in Germany.

**1.6** Card kits, blank books, brochures, leaflets, photo albums, instruction manuals, voucher books, calendars, colouring books, notebooks and notepads, postcard books, programme and event booklets, prospectuses, games, pocket calendars, telephone books and mail-order and

advertising catalogues are in particular not books within the meaning of the distribution plan.

**1.7** Books must have appeared in German. The languages of autochthonous minorities recognised in Germany are treated as equivalent to German. Publications in English can also be reported in the academic work category. Textbooks for foreign language teaching which are officially licensed for public schools in Germany can likewise be reported.

#### 2. Type of book

It is essential that the type of book is indicated:

Type of book
Children’s and young adults’ book
Non-fiction and reference book
Fiction, other book
School book
Academic book
Picture and art book, exhibition catalogue
Museum catalogue

A non-fiction or reference book is classed as an academic work if it has a footnote system.

Museum catalogues are catalogues which a museum publishes in connection with an exhibition or as documentation of its holdings. Exhibition catalogues are catalogues which are published by other exhibition venues, e.g. galleries and art clubs.

#### 3. Editions

Books are reportable for the year of usage of their first edition and the four following years. They can also be reported for the year of their reissue and the four following years. In contrast to reprints, reissues are characterised in that the content and/or design of the book has changed substantially compared with the previous issue. In the case of

first issues with an ISBN, a reissue is only recognised if it has been given a new ISBN.

#### 4. Reportable works

Rightholders report the illustrations of their works as defined in sec. 2 in books in the following categories:

Category	Description
1	Visual arts, photography, illustration, other image works
2	Title design
3	Overall graphic design

In the case that a work of visual arts is depicted, both the photographer and the artist can report their respective work. Where illustrations in museum catalogues are reported, a distinction is made between the exhibit and the illustration of the exhibit.

Not more than 200 works will be considered per book and rightholder.

Illustrations of an academic and technical nature by self-illustrators in academic books, non-fiction and reference books are not reportable, as their royalties are administered by VG Wort. Self-illustrators are authors who illustrate their own text with works or photographs they themselves have created.

#### 5. Use of a work without the granting of rights

The use of works which were used without rights being granted to the publisher because the publisher was able to appeal to a statutory limitation (e.g. the right to quote) can only be reported in the written report process with the submission of documentary evidence.

#### Sec.37 Reports of books (publishers)

Rightholders of the “books (publishers)” distribution line (sec. 27) can report illustrations of image works as defined in sec. 2 in books in accordance with this section. Books within the meaning of these regulations also include museum catalogues.

##### 1. Reportable books

To be considered in the payout, books must meet the following criteria:

**1.1** Books must be embodied in physical form. E-books can only be reported if they meet the requirements set out in 1.4. Signed and numbered art books and portfolio works cannot be reported if they are originals and not bookstore editions.

**1.2** Books embodied in physical form must have appeared in a minimum print run of 250 copies.

**1.3** Books without an ISBN can only be considered if a customer copy and proof of the print run according to paragraph 1.2 are provided. In the case of exhibition catalogues and museum catalogues, the transmission of a copy of the cover sheet and the imprint in place of the customer copy is sufficient in addition to proof of the print run.

**1.4** E-books can only be reported if the book appears solely as an e-book and has an ISBN. An e-book must have a sold print run of at least 200 copies. Proof of this must be provided.

**1.5** Card kits, blank books, brochures, leaflets, photo albums, instruction manuals, voucher books, calendars, colouring books, notebooks and notepads, postcard books, programme and event booklets, prospectuses, games, pocket calendars, telephone books and mail-order and advertising catalogues are in particular not books within the meaning of the distribution plan.

##### 2. Type of book

It is essential that the type of book is indicated:

Type of book
Children’s and young adults’ book
Non-fiction and reference book
Fiction, other book
School book
Academic book
Picture and art book, exhibition catalogue
Museum catalogue

A non-fiction or reference book is classed as an academic work if it has a footnote system.

Museum catalogues are catalogues which a museum publishes in connection with an exhibition or as documentation of its holdings.

Exhibition catalogues are catalogues which are published by other exhibition venues, e.g. galleries and art clubs.

##### 3. Language version

Books in German or in a language of the autochthonous minorities recognised in Germany can be reported in accordance with paragraph 1. Books without text (with the exception of the title, imprint, blurb, etc.) are considered to be in German within the meaning of the distribution plan if the rightholder demonstrates that at least 1,000 copies had been sold in Germany.

For foreign-language books, the following regulations also apply:

**3.1** Foreign-language children's and young adult books cannot be reported.

**3.2** Foreign-language textbooks can be reported if they are officially licensed for public schools in Germany.

**3.3** Foreign-language picture and art books, museum catalogues, fiction, non-fiction and reference books can be reported if they have (also) been produced for the German market.

**3.4** Paragraph 3.3 also applies for academic works, with the proviso that English-language academic works are reported separately.

#### **4. Editions**

Books are reportable for the year of usage of their first edition and for the year of usage of their reissue. In contrast to reprints, reissues are characterised in that the content and/or design of the book has changed substantially compared with the previous issue. In the case of first issues with an ISBN, a reissue is only recognised if it has been given a new ISBN.

#### **5. Reportable works**

A publisher can only report an image represented in a book and reportable under section 2 if it has acquired the corresponding exploitation rights. In particular, image works which were used without a licence on the basis of a statutory limitation and image works in the public domain cannot be reported.

Illustrations of an academic and technical nature by self-illustrators in academic books, non-fiction and reference books are not reportable, as their royalties are administered by VG Wort. Self-illustrators are authors who illustrate their own text with works or photographs they themselves have created.

A maximum of 200 works per book will be considered.

### **Sec. 38 Reports of periodicals (publishers)**

Rightholders of the "periodicals (publishers)" distribution line (sec. 29) can report periodicals in accordance with this section.

#### **1. Reportable periodicals**

##### **1.1 Definition of periodicals**

Periodicals within the meaning of this distribution plan are printed works within the meaning of national press laws that appear periodically, i.e. newspapers, magazines and other printed works appearing on a permanent, regular

or irregular basis and at an interval of no more than six months. No distinction is made between the print issue of a periodic printed work in the above sense and the corresponding e-paper. An e-paper is understood to be the digital version of a press title that is identical in content and layout to its printed counterpart.

Special issues and inserts which belong to a parent object – a newspaper or magazine – and supplements and special publications which do not relate directly to any existing title and are typically distributed by a press publisher in order to investigate market potential, for instance, are not included.

Digital published products with content edited by journalists that are published continuously or periodically are also considered periodicals within the meaning of this distribution plan if their distribution is measured by the IVW total within the meaning of paragraph 3.

##### **1.2 Reportable periodicals**

– ISSN or ZDB-ID

The existence of an identification number is a requirement for the eligibility for reporting of a periodical within the meaning of paragraph 1.1. For a reportable periodical, the ISSN (print) or ZDB-ID of the magazine catalogue of the German National Library of the periodic printed work is indicated.

– Minimum print run

Periodicals must reach a minimum annual print run of 10,000 units in order to be eligible for reporting.

– Self-illustrations

Academic periodicals and technical periodicals cannot be reported to VG Bild-Kunst if the illustrations they contain originate overwhelmingly from the text authors. These cases involve what are known as self-illustrators, whose rights are managed by VG Wort.

– ISBN

If a publication has an ISBN, it can only be reported in the "books (publishers)" distribution line.

## 2. Image intensity

2.1 The image intensity of a periodical is primarily measured by its genre category as set out in the following table. It is essential that the genre is reported.

Genre	Image intensity
<ul style="list-style-type: none"> <li>· Pan-regional newspapers, every working day</li> <li>· Regional and local newspapers</li> </ul>	<b>Level 1</b> (up to 25 image pages)
<ul style="list-style-type: none"> <li>· Weekly newspapers</li> <li>· Women's magazines, weekly</li> <li>· Parents' magazines</li> <li>· Youth magazines</li> <li>· Children's magazines</li> <li>· Lifestyle</li> <li>· Sports newspapers</li> <li>· Audio / video / cinema</li> <li>· Nature</li> <li>· Business press</li> </ul>	<b>Level 2</b> (26 to 50 image pages)
<ul style="list-style-type: none"> <li>· Topical magazines (politics/society)</li> <li>· Women's magazines, fortnightly</li> <li>· TV listings magazines</li> <li>· Food and drink</li> <li>· Knowledge magazines</li> <li>· Travel magazines</li> <li>· Motor press</li> </ul>	<b>Level 3</b> (51 to 75 image pages)
<ul style="list-style-type: none"> <li>· Women's magazines, monthly</li> <li>· House and garden</li> </ul>	<b>Level 4</b> (from 76 image pages)
<ul style="list-style-type: none"> <li>· Other periodicals</li> </ul>	<b>Level 1</b> (up to 25 image pages)

The assignment of the categories to the levels of image intensity is based on random sampling. The average image intensity for the various categories was determined.

2.2 A publisher can request that a different image intensity level be stated for a particular periodical. Evidence must be provided that the image intensity of a higher level is achieved in at least three successive issues of the period printed work. In the case of periodicals appearing half-yearly or quarterly, the analysis of a single issue will suffice. The analysed issues must be enclosed with the application.

A change of classification applies from the year of usage in which the application is made.

For the establishment of the image pages of an issue, the image intensity per page – including the cover and advertising – is determined and then added together to form a total “image pages”. For the image intensity per page, the ratio of image to remainder (text and white space) on the surface area of the page is determined, but only those illustrations which are to be classified as a work within the meaning of section 2 are counted. The ratio of image to remainder is measured in four groups: up to 25%, up to 50%, up to 75% and up to 100%. The image intensity of

the corresponding page then corresponds to ¼ page, ½ page, ¾ page or one page.

As soon as VG Bild-Kunst analyses the image intensity per category again, and if the results of the analysis lead to an adjustment of the distribution plan, all periodicals will initially be classified according to their category again. Applications for a higher classification must then be re-submitted.

## 3. Distribution

The distribution of a periodical is primarily measured by its “IVW total – publishing digital / print” for a year of usage (calendar year). Alternatively, the sold print run (inc. e-paper) of the periodical can be reported. The reference point for the key indicators is always Germany.

IVW total or sold print run	Level
>10k < 25k	1
25k < 50k	2
50k < 100k	3
100k < 200k	4
200k < 400k	5
400k < 650k	6
650k < 1 million	7
> 1 million	8

## 4. Publication frequency

It is essential that the publication frequency is reported.

Publication frequency	Level
Daily	8
Every working day	7
Weekly	6
Fortnightly	5
Monthly	4
Every 2 months	3
1 × quarterly	2
Half-yearly	1

## Sec. 39 Reports of fees

Rightholders of the “periodicals (authors)” (sec. 28), “websites” (sec. 30) and “retransmission (visual arts/image)” (sec. 31) distribution lines can report fees (cf. sec. 2 para. 4 sentence 2) for the use of their works in accordance with this section.

### 1. Reportable fees

Usage and flat fees excluding the VAT share (“fees”) which are stated in fee invoices can be reported. Usage fees

within the meaning of the distribution plan are royalties for the granting of copyright usage rights to rightholders' own works for use in periodicals, on websites and on television. Flat fees within the meaning of the distribution plan are fees that are shown as a single amount without distinction which covers both usage rights and work performed and which may also contain non-reportable income. The share of the usage rights must be not less than 50%. Where invoices show usage fees, fees for work and any other items separately, only the usage fees can be reported. Travel expenses, material costs, pensions, interest income, donations, insurance benefits, general social security benefits, cultural subsidies and pure fees for work cannot be reported.

## 2. Customer categories

Rightholders report their fees in the following customer categories. These must be assigned appropriately. In case of doubt, the more specific category has priority:

- Press publishers
- Radio and TV broadcasters and TV production companies
- Other companies and non-commercial organisations, advertising agencies and stock picture agencies
- Picture agencies (press, news, sports picture agencies)

The customer or its prevailing branch that issued the order must have its official or business address in Germany. Fees of book publishers for the licensing of works in books cannot be reported because such usage is considered included in the book reports.

## 3. Assignment to years of usage

The assignment to years of usage is determined by the date of the invoice, not the date payment is received.

## 4. Self-illustrators

Self-illustrators are authors who illustrate their own text in the “academic publications” and “non-fiction and reference publications” segments with works or photographs they themselves have created that are of an academic or technical nature.

Fees of self-illustrators of the image work category of the publications set out in sentence 1 cannot be reported; self-illustrators of such publications report their texts and images to VG Wort, which manages their royalties.

## 5. Fees of picture agencies

Fees of agencies (picture agencies, advertising agencies, web agencies) can be reported if the fee is clearly related to usage of the works of the reporter on German

websites and/or in German-language periodicals distributed in Germany. In derogation from this, the entire fee of an agency can be reported if and to the extent that the Executive Board has made use of its powers under section 28 (8.4) and section 30 (8.5) to determine flat rate quotas for the relevant agencies.

## 6. Evidence of fees

Where a reported net fee sum for a year of usage in all customer categories exceeds EUR 24,000, the total amount must be confirmed by a tax consultant or public accountant. As an alternative to this confirmation, digitised copies of all fee invoices can be submitted to VG Bild-Kunst. Evidence is always required for flat fees of workers who are similar to employees or who are employed for the duration of a production in television. This can be used to make distinctions between usage fees and other fee components. In the case of recognition, only the usage fee share scores points.

## 7. Salaries

Salaried photographers of German press companies (e.g. newspaper and magazine publishers), German news agencies and German press picture agencies (e.g. dpa Deutsche Presse-Agentur, the German branch of Agence France-Presse, Evangelischer Pressedienst, Katholische Nachrichten-Agentur, Reuters or sid Sport-Informationen-Dienst) can report their gross annual salaries in the year of usage instead of fees. To ensure comparability with fees, a flat rate discount of 35% is applied.

The member must present their employment contract once and a confirmation from the employer – or comparable confirmation – each year stating whether the member used up to 25%, up to 50%, up to 75% or for 100% of their working time in the year of usage for the creation of works of photography that were intended for use in periodicals or on websites. The salary will be credited by this factor.

At the request of VG Bild-Kunst the member must provide evidence that a proportion of 100 works corresponding to the percentage working time appeared in print periodicals and a similar proportion of 200 works was published on websites.

## Sec. 40 Reports of individual images

Rightholders of the “periodicals (authors)” (sec. 28), “websites” (sec. 30) and “retransmission (visual arts/image)” (sec. 31) distribution lines can report individual images as defined in sec. 2 used in periodicals, on websites and on television in accordance with this section.

## 1. Individual images in periodicals

### 1.1 Definition of periodicals

Periodicals within the meaning of this distribution plan are defined as follows:

- **Periodic printed works** within the meaning of national press laws, i. e. newspapers, magazines and other printed works appearing continually on a regular or irregular basis and at an interval of no more than six months. They include special issues and inserts which belong to a parent object – a newspaper or magazine – unless they have their own ISBN. They also include supplements and special publications which do not relate directly to any existing title and are typically distributed by a press publisher in order to investigate market potential, for instance.

No distinction is made between the print issue of a periodic printed work in the above sense and the corresponding e-paper. An e-paper is understood to be the digital version of a press title that is identical in content and layout to its printed counterpart.

- **Digital publishing products** with content edited by journalists that are published periodically.

Special issues and inserts of a newspaper or magazine can only be reported as a book if they have their own ISBN.

### 1.2 Reportable periodicals

A requirement for the eligibility for reporting of a periodical within the meaning of paragraph 1.1 is the existence of an identification number. In the case of periodic printed works, either the ISSN (print) must be indicated or the ZDB-ID of the magazine catalogues of the German National Library. In the case of digital publishing products, the ISSN (online) is indicated. If there is no such number, the ISSN (print) or the ZDB-ID of the corresponding print products can be indicated. If there is no corresponding print product, the report is based on documentary evidence (screenshot of the start page of the digital publishing product).

Print and online issues of the same periodical are reported separately. If a publication has an ISSN and an ISBN, it can only be reported in the “books (authors)” distribution line.

### 1.3 Reportable individual images

Individual images can be reported if they appeared in the year of usage to be billed in a reportable German periodic printed work which is distributed in Germany. The languages of autochthonous minorities recognised in Germany are treated as equivalent to German.

Individual images in printed English-language scientific and technical journals can also be reported, provided they are listed in the journal database (ZDB) with at least two locations in Germany where there is the possibility of interlibrary lending. Deposit copies and gifts will not be considered. The ZDB ID of the catalogue of journals of the German National Library must be indicated.

Individual images can likewise be reported if they appeared in a reportable digital publishing product in the year of usage to be billed, provided that the requirements for reporting set out in paragraphs 2.1 to 2.3 are met. However, an individual image must have appeared for at least one month. In these cases evidence of the duration of appearance must be given to VG Bild-Kunst on request.

Individual images of self-illustrators of the image work category that are of an academic or technical nature and are used in academic publications and in non-fiction and reference works cannot be reported because their royalties are administered by VG Wort. Self-illustrators are authors who illustrate their own text with works or photographs they themselves have created.

Individual images in periodicals which are used there in connection with a presentation of works cannot be reported if the rightholder simultaneously reports the corresponding presentation of works.

### 1.4 Use of a work without the granting of rights

The use of works which were used without rights being granted to the publisher because the publisher was able to appeal to a statutory limitation (e.g. the right to quote) can only be reported in the written report process with the submission of documentary evidence.

### 1.5 Maximum limit

In total, a rightholder can report no more than 200 individual images in all digital publishing products in each year of usage.

## 2. Individual images on websites

### 2.1 Reportable individual images

An individual image can only be reported once per domain. It must have a resolution that makes it possible to identify the copyright-related image features on the screen and in a printout.

### 2.2 Reportable websites

Individual images can only be reported if they are placed on a German website. A website counts as German if it has the top-level domain “.de”; it likewise counts as German if a generic top-level domain was used and the site content is (also) provided in German for a public in Germany. The

languages of autochthonous minorities recognised in Germany are treated as equivalent to German. Screenshots can be demanded as evidence for reports of individual images on websites behind paywalls or on websites with comparable access restrictions.

### 2.3 Duration of placement

Single images can be reported if they are placed on a German website for six or more months in the year of usage to be billed. If illustrations of works of an author are regularly shown on a website, but the works shown and their quantity can vary within a half-year, the average number of illustrations of their works published simultaneously can be reported as individual images.

### 2.4 Exclusion

Individual images on websites which are used there in connection with a presentation of works cannot be reported if the rightholder simultaneously reports the corresponding presentation of works. Individual images in digital publishing products within the meaning of paragraph 1.1 are only considered in the “periodicals” distribution line.

### 2.5 Maximum limit

In total, a rightholder can report no more than 200 individual images on all websites in each year of usage.

### 3. Individual images on television

Individual images can be reported if, in the year of usage to be billed, they were broadcast by a TV station available on German cable TV whose average share of the whole German market was at least 1%.

## Sec. 41 Reports of presentations of works

Rightholders of the “periodicals (authors)” (section 28) and “websites” (section 30) distribution lines can report presentations of works (cf. sec. 2 para. 4 sentence 3) for the use of their works in periodicals and on websites in accordance with this section, regardless of the work category to which they belong.

### 1. Definition of presentation of works

A presentation of works within the meaning of the distribution plan is a display of one or more works of one or more rightholders that is typically

- available to the public,
- organised by a third party on a regular basis and
- advertised to the public in Germany,

whereby these typical features may be more or less pronounced in the individual case if, in an overall consideration, the display appears capable of giving cause for

private copying to a not insignificant extent. Cases of doubt will be decided by the valuation committee of professional groups I and II. Displays on multiple days and at multiple locations that are grouped together as multiple parts of a programme or repetitions of the same theme close together in time count as one presentation of works within the meaning of the distribution plan.

### 2. Period of use

The presentation of a work can be reported for the usage year in which it began.

Permanent exhibitions within the meaning of the distribution plan are location-based presentations of works that are installed in perpetuity with the aim of being permanently presented to the public at the same location.

In addition to the year they opened, permanent exhibitions can also be reported in the usage year in which a work of the reporter is used to advertise the exhibition. Evidence of this must be provided.

### 3. Location of the presentation of works

Presentations of works can be reported if they take place on German sovereign territory or are organised by a Goethe Institut or by the Institut für Auslandsbeziehungen (ifa).

### 4. Type of presentation of works

Rightholders report presentations of their works in the following categories:

- Number of presenters:

Category:	Description
1. Individual presentation	Presentation of works of not more than two artists
2. Small group presentation	Presentation of works of three to and including 10 artists
3. Large group presentation	Presentation of works of 11 or more artists

- Type of presentation:

Category	Examples
A: Classic exhibition venues	Exhibition in a museum, gallery (including at art shows) or art club
B: Other exhibition venues	Exhibition in a venue that cannot be considered in category A or C
C: Atypical exhibition venues	Presentation in office premises, medical practices, banks, bars, DIY stores, libraries, bookshops, cafés, discos, retail stores, hotels, restaurants, shop windows, ships, schools, club premises

D: Works of art in the public space and art in construction	Event marking the opening / handover of the work of art
E: Presentations of works not spatially fixed	Performances, participatory projects, artistic interventions, artistic walks, street art, internet art, virtual exhibitions

## 5. Evidence and applications

Evidence must be submitted for each report of the presentation of works.

The evidence comprises details concerning all requirements of paragraphs 1, 2 and 3 and the number of presenters in the case of presentations of categories 1 and 2.

It will be assumed that presentations of works of category C do not meet the requirements of paragraph 1. The reporter can submit an application for their presentation to be considered to the valuation committee of PG I and II within the reporting period. The application must contain all the information required as evidence and be sufficient to rebut the assumption.

## 6. Maximum limit

Not more than 12 presentations of works can be reported in each year of usage.

## 7. Art in construction

An artwork in construction can be reported even if there is no presentation according to paragraph 1. Art in construction means that the work has been commissioned for permanent placement in certain premises or a certain venue. Suitable evidence, e.g. a record of delivery, must be provided with the report. The premises or venue must be on German sovereign territory. The purchase of existing works and their placement in premises or a venue does not make them art in construction. Similarly, art in construction within the meaning of the distribution plan does not exist if the order comes from a third party in a personal relationship with the rightholder (courtesy order) or if the artwork is placed on a property of the rightholder or of a third party in a personal relationship with them, regardless of whether the rightholder owns or is in possession of the relevant property.

## 8. Valuation committee of PG I and II

A valuation committee of professional groups I and II whose members are the same as the members of the Administrative Council of professional groups I and II will be formed. The business of the committee is managed by the Chief Executive Officer of VG Bild-Kunst together with the honorary board members of professional groups I and II. The valuation committee decides on contentious issues by majority of votes.

## Sec. 42 Reports of social media authors

No arrangements for the „reports of social media authors (art/image)“ have yet been agreed.

## Sec. 43 Reports of social media picture agencies

Rightholders of the “social media picture agencies” distribution line (section 33) can report sales which they achieve on the basis of the use by customers in Germany of the image repertoire they represent in accordance with these clauses.

### 1. Principles of eligibility for reporting

Sales revenue according to section 277 (1) HGB for the licensing of still image works and photographs („still image material“) which was realised with customers in Germany can be reported. Only the sales which have been posted for a particular year of usage can be reported for that year of usage. In accordance with section 11, a year of usage is always a calendar year. German customers within the meaning of this regulation are invoice recipients with an address in Germany.

Other sales of the year of usage that do not arise from the licensing of usage rights in still image material, e.g. sales for image processing, rights clearance and download fees (“services”) and sales with moving images, are not eligible for reporting. Sales based on works that are no longer capable of being copyrighted and sales realised from the brokering of AI products are also not eligible for reporting.

It does not matter whether the exploited works come from image authors which the rightholder has themselves obtained under contract or which have been provided by the partner agencies as long as the sales result from the exploitation activity of the rightholder.

### 2. Assignment of the reports

In the reports the rightholder distinguishes between sales for the general repertoire and sales for the exclusive repertoire according to section 33 (8.2).

### 3. Evidence of sales

The claimed sales eligible for reporting for a year of usage must be confirmed to VG Bild-Kunst by a tax consultant or auditor. In derogation of section 46 (3) sentence 2, this evidence can be submitted by not later than 15 September of the following year.

### 4. Confidentiality

The reports of the rightholders constitute sensitive market data and will therefore be treated in confidence by VG Bild-Kunst. They will be used internally for distribution purposes only. If the reports become the subject of a

notification by VG Bild-Kunst to the supervisory authority, VG Bild-Kunst will advise that the data are confidential.

## 5. Audit by VG Bild-Kunst

VG Bild-Kunst will have the correct use of reports for calculation of the payouts to the rightholders confirmed by an auditor of its choice and make a copy of this confirmation available on the request of a rightholder and/or BVPA.

### Sec. 44 Reports of film (TV)

Rightholders of the “collective film (TV) rights” distribution line (sec. 34) can report their participation in cinematographic works in accordance with this section.

#### 1. Billable cinematographic works

**1.1** A cinematographic work is billable if it has a minimum length of three minutes. In the case of animated and cartoon films, the minimum length is one minute. US productions and advertising films cannot be report. Participants in US productions report their participation to GWFF, participants in advertising films to TWF.

**1.2** Film authors of billable cinematographic works must assign their cinematographic works to one of the following types of work:

Work Type	Description
Work type 1	Feature film, television film, TV movie, serial, cinema short
Work type 2	Animation & cartoon film
Work type 3	Live-action animated film
Work type 4	Filmed stage production
Work type 5	Musical broadcast
Work type 6	Mini series
Work type 7	Fictional series
Work type 8	Soap opera, sitcom, telenovela (daily, weekly)
Work type 9	Documentary film / documentary film series
Work type 10	Docu-soap (daily, weekly)
Work type 11	TV recording
Work type 12	Live broadcast

Cinematographic works of types 11 and 12 can only be reported by set or costume designers with the appropriate evidence. If the total of cinematographic works included in cinematographic works of type 5 makes up at least 25% of the transmission length, claims for direction, camera and editing can also be reported.

**1.3** Film producers of billable cinematographic works must assign these to work types 1 to 10 of the table in paragraph 1.2.

**1.4** The types of work are explained in sec. 45. Where there is serious dispute or doubt, the valuation committee of professional group III is asked to make a final ruling.

#### 2. Reportable broadcast

A cinematographic work can be reported for a particular year of usage if it has been broadcast in that year of usage by a TV station that can be billed according to sec. 34 (8.1). In the first half of December VG Bild-Kunst publishes on its website a list of billable TV stations of the current year.

#### 3. Own participation

**3.1** When reporting a cinematographic work, a rightholder film author must indicate which of the following roles they performed in the production of the film:

- Director
- Camera operator
- Editor
- Set designer, film architect
- Costume designer

The following activities can be indicated in work type 2:

- Director
- Storyboarder
- Concept artist
- Animation director
- Lead character designer
- Key background designer

Film authors of the director, camera operator and editor payout lines report their entitlement in cinematographic works in the report-based work types. The same applies for concept artists, animation directors, lead character designers and key background designers. VG Bild-Kunst will research their entitlement in usage-based work types having due consideration for the efficiency principle. Film authors of the set design/architecture and costume design payout lines report their entitlement in all work types. The same applies for storyboard rightholders in work type 2. A participation in a cinematographic work can only be asserted if the requirements for co-authorship are met.

**3.2** Rightholder film producers must report their entitlement to a cinematographic work. VG Bild-Kunst requires an indemnity declaration from the film producers as constitutive evidence prior to any payout. When reporting a cinematographic work, a film producer must indicate whether they worked as a freelance producer, contracted producer or co-producer. In the last case their share and the other co-producers must also be reported.

**3.3** Co-authors of billable cinematographic works of work types 1, 2, 3, 6 and 9, the last from a length of 40 minutes, who performed roles other than those set out

in paragraph 2.1 can claim a participation in the relevant cinematographic work on a case-by-case basis if they provide evidence of their co-authorship to VG Bild-Kunst. The same applies for cinematographic works of the work types not set out in sentence 1 if the income for the relevant work is expected to be comparable in economic terms. Evidence is provided in accordance with the procedure regulated in the “Film co-authors” guideline. The Administrative Council is authorised to determine and to vary the requirements of form and content for the recognition of co-authorship and the detailed procedural rules in this guideline. It may make the processing of a request dependent upon the payment of a reasonable service charge per case. This must be refunded if the claim is recognised.

For evidence, the following criteria for determining co-authorship of a cinematographic work must be met independently of each other:

- Personal, freely provided intellectual creation: distinct conceptualisation of the activity independently of instructions of the director or another participant or within a broad framework that allows a variety of stand-alone configurations.
- Threshold of originality: above the level of mere craftsmanship, the activity makes a significant contribution to the narration of the cinematographic work, exerting a perceptible, stand-alone influence on the film experience.

## Sec. 45 Film (TV) work types

The types of cinematographic work introduced in sections 34 and 45 are typically defined as follows:

### 1. Feature film

**Feature films** are fictional narrative formats with a running time generally of at least 79 minutes (filling the evening). They are made independently by one or more (cinema) producers and usually co-financed by institutions that subsidise film-making. Broadcasters acquire the licence to broadcast from producers or lenders. Often the broadcasters are co-production partners. Dramaturgically they are generally characterised by – highly heterogeneous – linear narrative styles. Normally they are produced, recorded and filmed with a camera.

**Television dramas / TV movies** are fictional narrative formats with a running length generally of 88–89 minutes. They are made on behalf of or internally by broadcasters and supported by the editorial team of a broadcaster. These also include formats of classic series such as “Tatort” and similar that are likewise made in a 90-minute format and, while demonstrating continuity by a constant main cast list, are separate filmed narratives. Dramaturgically

they are generally characterised by a linear narrative style. Normally they are produced, recorded and filmed with a camera.

**Cinema shorts** are a short, fictional narrative format that is originally shot as a short – often in film schools – and has found a place in the cinema as a supporting film. The running length is usually no longer than 15 minutes. Dramaturgically they are generally characterised by a linear narrative style. Normally they are produced, recorded and filmed with a camera.

### 2. Animation & cartoon film

A **cartoon film** is a film that has been animated/drawn/painted/modelled, whether by analogue or digital means. It used to consist of many drawings, usually hand-made, that were filmed in quick succession, giving the viewer the impression that they were moving images. (Examples: “Benjamin Blümchen”, “Lauras Stern”). Today animation films are usually produced digitally. With animation films, the following particular roles normally participate in the payouts:

**Storyboarder** – The storyboarder creates the visual script. This is the first (creative) form of the poses, expressions, camera movements, image composition and sequence of shots.

**Concept artist** – The concept artist drafts the fundamental ideas (style, mood, light, background). This is a first visual arrangement of figures and scenes in form, colour and feel. It serves as references for the downstream stages of the artwork. The art director can also be involved here if they engage in the work of the concept artist.

**Lead character designer** – The lead character designer determines the appearance and expression of the characters and draws up expression sheets, gesture sheets and model sheets to that end.

**Key background designer** – This is the creative arrangement of the backgrounds.

**Animation director** – The animation director drafts the animation that determines the play. Their task is to arrange the choreography and the rhythm of the animation film. Character animation makes a considerable visual contribution to the film.

### 3. Live-action animated film

A **live-action animated film** is a film in which real objects/figures are animated with movement and modelled, usually by analogue means. It is frequently also called a puppet animation. Here puppets are adjusted between every image and individual pictures are taken. The technique is also called stop-motion. Marionette films, in which the puppet-master acts in real time or can even be seen in

shot, are not considered live-action animated films. Modern examples of live-action animated films are “Shaun the Sheep” and “Pingu”.

#### 4. Serial

A **serial** (also called “two-parter” or “three-parter”) is a complete, self-contained fictional story in multiple parts for broadcasting on television because the subject matter would be too extensive for a single TV movie. (Example: “Der Fall Barschel”; “Generation War”). In theory, however, all parts could be viewed one after the other, in which case it could be described as a single, very long feature film.

#### 5. Mini-series

**Mini-series** are a fictional narrative format with a running length of 30, 45 or 60 minutes. They are made on behalf of or internally by broadcasters and supported by the editorial team of a broadcaster. The films are not self-contained, or only to a limited extent, and tell their story over multiple episodes, so that viewers cannot easily skip individual episodes, i.e. dramaturgically they are generally characterised by a horizontal narrative style. Normally they are produced, recorded and filmed with a camera.

#### 6. Fictional series

The **fictional series** format usually means the classic, early evening series with a permanent main cast list and individual fixed locations (e.g. a police station). Dramaturgically they are generally characterised by a linear narrative style and self-contained episodes. Fictional series are filmed in individual “seasons”, i.e. in groups of typically eight to 25 episodes, and presented to the viewing public on an ongoing basis, usually weekly. In terms of content the individual episodes normally do not have any continuity of action, so that viewers can easily skip individual episodes. (Examples: “Forsthaus Falkenau”, “Der Bergdoktor”).

#### 7. Soap opera, sitcom, telenovela

A **soap opera** is a serial entertainment format on television that is broadcast in a particular rhythm, usually daily or weekly. Soap opera refers to shorter, afternoon/early evening series with a constant main cast and fixed narrative locations, almost exclusively shot on permanent studio sets. Dramaturgically they are generally characterised by a parallel, linear narrative style and self-contained episodes. They differ from fictional series by the few shot sequences per take, almost identical settings in every episode and low fees. (Example: “Gute Zeiten, Schlechte Zeiten”).

They are generally shot and filmed with multiple, usually permanently installed cameras, under permanently

installed lighting and with very long takes, with the cameras unable to respond to the actors.

#### 8. Documentary film

The **documentary or non-fiction film** interprets physical phenomena and events of the present or historic world using film equipment in a large bandwidth of creative forms. The compression and structuring of the reality are usually executed without the use of actors.

In addition to the long documentary film as the “supreme discipline” of the non-fiction film, many other forms of documentary programming also exist, such as documentation, the magazine item, the feature, reportage, etc.

#### 9. Docu-soap

**Docu-soaps** are like soap operas in terms of the frequency of broadcasting and the production costs. They, too, are an entertainment format. In docu-soaps, however, it is not usually genuine actors who are in front of the camera, but people from “real life”. This, at any rate, is the impression given to viewers. Usually storylines of different protagonists are run in parallel (Examples: “Goodbye Deutschland”, “Super-Nanny”).

#### 10. Filmed stage production

**Filmed stage productions** are recordings of theatre or opera pieces that are staged specially for the camera. Such a filmed recording thus focuses on a staged production (theatre, opera). The play is not simply “filmed”, but instead individual takes by the stage actors are recorded and edited in order to create a particular dramaturgical effect. A “pure recording” exists if, for instance, an existing production is simply filmed, or recorded, using a multi-camera system.

#### 11. Musical broadcast

**Musical broadcasts** are staged recordings of a musical interpretation or performance. A musical broadcast is generally a live performance, even if it is broadcast at a later point in time. A “pure recording”, however, exists if, for instance, only the singer(s) or musicians of an orchestra are recorded or filmed using a multi-camera system. The addition of prologues or breaks is not sufficient on its own to establish a stage production. Normally they are recorded and filmed with multiple cameras.

Musical broadcasts are relevant in the distribution plan in respect of intros (short items) that can constitute short cinematographic works. Other broadcasts which do not consist of a non-reportable framework format and reportable intros are likewise billed in this work category.

## 12. TV recording

**TV recordings** are co-edited or specially made TV formats in which performances, competitions or the like are presented. Frequently, extensive (studio) sets are built in order to emphasise the presentation. Normally they are recorded with multiple cameras.

## 13. Live broadcast

**Live broadcasts** are broadcasts that record major (usually sporting, or musical) events. Frequently, extensive (studio)

sets are built in order to emphasise the presentation. Normally they are recorded with multiple cameras.

## 14. Magazine show

Programmes that do not in themselves constitute an independent film work, but in which various independent, generally shorter items are broadcast, are known as “**magazine shows**”. Magazine shows are broadcast in a variety of genres, e.g. politics (example: “Panorama”), culture (“Aspekte”), consumer advice (“Gesundheitsmagazin Praxis”), comedy (“Ladykracher”) or children’s TV (“Die Sendung mit der Maus”).

## Special Part – Chapter 3: Reporting Procedure

### Sec.46 Principles

#### 1. Scope of application

The reporting procedure regulated in this chapter applies for the distribution lines of report-based collective distribution pursuant to section 14 (6) and for the work and correction reports within the scope of usage-based collective distribution pursuant to section 14 (7). Which type of collective distribution is applied depends on the pertinent distribution lines (Special Part chapter 1).

#### 2. Object of the reports

The reports serve to provide information and evidence. The information to be reported (report content) is based on the regulations of the report content (Special Part chapter 2) and is fleshed out by the report form (section 47 (3)) and alternatively, where applicable, the electronic report portal (section 48). In some cases the regulations on the report content specify that particular evidence must be provided with the report content (constitutive evidence). In addition, VG Bild-Kunst may demand suitable evidence for the purposes of its regular checks of the accuracy of reports (control evidence).

#### 3. Reporting deadlines

The reporting deadlines are set out in the rules for the individual distribution lines in chapter 1 of the Special Part. The report content must reach VG Bild-Kunst by the reporting deadlines; the constitutive evidence pursuant to section 39 (4) by not later than 30 June of that year. Incomplete reports will not be considered.

#### 4. Reporting procedure

VG Bild-Kunst uses the written reporting procedure (section 47). In some areas an online reporting procedure (section 48) is also offered. Verbal or telephone reports are not

permitted. Only the electronic reporting procedure is applied for the distribution lines of publishers (sections 27, 29).

#### 5. Administrative Council

The Administrative Council is authorised to determine the further details of the reporting procedure.

### Sec.47 Written reporting procedure

#### 1. Methods

Report content and constitutive evidence can be submitted in the written procedure. This includes dispatch by post, sending a fax, sending an email or otherwise delivering the documents to the offices of VG Bild-Kunst.

#### 2. Addresses

Reports must be submitted to the offices of VG Bild-Kunst in Bonn at Weberstraße 61, 53113 Bonn. The available fax numbers and email addresses are shown on the VG Bild-Kunst website.

#### 3. Report format

Report content must conform to the current published report form specified by VG Bild-Kunst. The report form contains the specific information to be reported and is arranged in a layout that simplifies data entry. Report forms can be found on the VG Bild-Kunst website or requested from the office. For reports submitted by email, the completed report form must be scanned in and sent in a standard format.

#### 4. Deadline

In the written reporting procedure, the time the reports including the constitutive evidence are received by the

office determines whether they are received in time. The following provisions apply:

- **Physical dispatch:** The documents must be in the letterbox of the VG Bild-Kunst office in Bonn by 24.00 hours on the day the time limit expires. The date of the postmark is irrelevant.
- **Dispatch by email:** The email must be in the electronic mailbox of VG Bild-Kunst by not later than 24.00 hours on the day the time limit expires.
- **Dispatch by fax:** The fax must be in the print tray of the fax machine by not later than 24.00 hours on the day the time limit expires.

The reporter bears the transmission risk.

## 5. Constitutive evidence

In the case of a written report, necessary constitutive evidence must be submitted at the same time as the report content. Please refer to the options set out in paragraph 1. Customer copies must be given to VG Bild-Kunst in the original. In the case of exhibition and museum catalogues, a copy of the cover sheet and the imprint is sufficient.

## Sec. 48 Electronic reporting procedure

### 1. Availability

For some areas report content can be submitted online via an electronic report portal, if VG Bild-Kunst offers the relevant reporting options in its report portal. There is no legal right to use an online reporting procedure.

### 2. Technical faults

The reporter bears the risk of technical faults in the report portal and the risk of his own technical access requirements not being met. VG Bild-Kunst will post a message on its website if there are faults in the report portal.

### 3. Deadline

In the electronic reporting procedure, the time the reports including the constitutive evidence are received determines whether they are received in time. The electronic reporting procedure, if offered, is available for a particular period of time until the reporting deadline. This ends at 12.00 midnight on the day the deadline expires. If there is a technical fault at VG Bild-Kunst on the day the deadline expires, the time limit will be extended until the end of the day after the day the fault is rectified. VG Bild-Kunst will post a message about this on its website.

The report process is only complete if the member receives a corresponding on-screen confirmation. If the member cancels the report process beforehand, VG Bild-Kunst does not receive a report.

## 4. Constitutive evidence

If a report is sent via the electronic portal, necessary constitutive evidence must be submitted at the same time or very soon thereafter. It can be given to the office optionally by post, fax or electronically as an email attachment in a standard file format. Customer copies must be given to VG Bild-Kunst in the original. In the case of exhibition and museum catalogues, a copy of the cover sheet and the imprint is sufficient.

## 5. Special rules for publishers

Use of the electronic reporting procedure for reports in the “books (publishers)” (section 27) and “periodicals (publishers)” (section 29) distribution lines is mandatory if VG Bild-Kunst offers such a procedure. Furthermore, publishers can be offered separate electronic reporting options that take account of requirements for the transmission of large volumes of data. In this case the regulations of the previous paragraphs apply *mutatis mutandis*.

## Sec. 49 Verification of reports

### 1. Performance of checks

VG Bild-Kunst will check the reports if there are concrete grounds to suspect that the information is incorrect and in the case of reports of non-copyrighted works or of fees not realised on the basis of a work. It also carries out regular checks based on random samples.

### 2. Control evidence

VG Bild-Kunst contacts the member who is to be checked in writing and asks him to substantiate the report content by submitting suitable and appropriate control evidence. It sets a time limit of at least three and not more than six weeks. In justified exceptional cases the time limit can be extended once, but the request must be received before the time limit expires.

### 3. Inspections

VG Bild-Kunst inspects the control evidence that is submitted. If the result is positive, the member is informed accordingly. If the result is negative, the member is given an opportunity to clarify the problems that VG Bild-Kunst sees. At this stage the office can present the case to a valuation committee as it sees fit. If positive clarification is not obtained, no credits will be made based on the reports and any payouts already distributed will be claimed back.

### 4. Further consequences

The Articles of Association set out the legal consequences of erroneous reports that are submitted knowingly, while the consequences in terms of administration are set out in

the Administration Agreement. In the event of a repetition, or if the incorrect report is particularly serious, a criminal complaint will be filed.

#### **Sec. 50 Special rules for new members**

New members have the option of submitting reports for years of usage that have not yet become out of time and for which the standard reporting deadline has already passed or will pass in less than three months. The reporting deadline for these late reports is three months from the date the Administration Agreement is concluded. Late reports are submitted in the written reporting procedure (section 47).