

# Distribution Plan of Verwertungsgesellschaft Bild-Kunst

as amended by resolution of the General Meeting of 5 December 2020

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## General Part – Chapter 1: Definitions

### Sec.1 Rightholder

A “rightholder” within the meaning of this distribution plan is any holder of rights who is represented by Bild-Kunst in accordance with the Articles of Association and is in an administration relationship with Bild-Kunst. The distribution plan distinguishes between “members” and “external rightholders”. A “member” is a rightholder who has concluded an administration agreement with 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 Bild-Kunst which has in turn granted its rights to Bild-Kunst under a representation agreement. An author who has granted 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.

### Sec.2 Work category

The work categories of the distribution plan are not based on a definition of what is meant by the terms “visual arts”, “image” and “film”, but instead correspond to the rights and remuneration claims that are granted to Bild-Kunst under the various administration agreements:

- Visual arts work category: Administration Agreement PG I
- Image work category: Administration Agreement PG II
- Film work category: Administration Agreement PG III

### Sec.3 Distribution line

In each work category payouts are made within distribution lines in which the income for one or more rights and remuneration claims administered by Bild-Kunst is bundled on the basis of economic and administrative criteria. Rights and remuneration claims of lesser economic significance are allocated to the existing distribution lines. The distribution lines are regulated in chapter 1 of the Special Part. The distribution plan can provide for maximum and minimum limits for payouts to individual rightholders in individual distribution lines.

### Sec.4 Distribution scheme

A “distribution scheme” is the distribution model for one or more distribution lines. The distribution schemes are regulated in chapter 2 of the Special Part. Distribution is performed either directly or collectively.

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

A “collective distribution” scheme 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:

In “usage-based collective distribution”, a distribution scheme based on an external data collection, e.g. usage reports from the users of the work, is applied.

b) Report-based collective distribution:

In “report-based collective distribution”, a distribution scheme 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. If the costs of possible prior instances are already balanced against revenue, the income consists of this balance. By contrast, “special revenue” is all revenue of Bild-Kunst that is not classified as income.

a) Direct income – indirect income

“Direct income” refers to that share of the income that Bild-Kunst itself realises through dependent and independent collection organisations and through collecting societies who essentially represent rightholders of other work categories than Bild-Kunst. “Indirect income” is realised by Bild-Kunst through sister societies which essentially represent rightholders of the same work categories as 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 Bild-Kunst realises for its members. “External income” refers to that proportion of the income that 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 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.

### Sec. 8 Administrative costs and other costs

“Administrative costs” are the expenses that 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 Bild-Kunst, insofar as the measures taken to this end benefit all rightholders of the relevant professional category of Bild-Kunst. “Other costs” are the costs that Bild-Kunst incurs that are not administrative costs. Administrative costs and other costs can be invoiced in separate documents if permitted under tax law.

### 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 Credits and payouts

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 all 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.

### Sec. 11 Year of usage

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.

## General Part – Chapter 2: Distribution Principles

### Sec. 12 Subject matter, financial year

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

2. The financial year is the calendar year.

### Sec. 13 Distribution system

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

Visual arts work category:

- Library royalty (visual arts)
- Resale rights (visual arts)
- First rights (visual arts)
- Flat-rate broadcasting rights (visual arts)
- Copying royalties analogue sources (visual arts)
- Copying royalties digital sources (visual arts)

- Press review royalties (visual arts)
- Cable retransmission (visual arts)

Image work category:

- Library royalty (image)
- Resale rights (image)
- First rights (image)
- Copying royalties analogue sources (image)
- Copying royalties digital sources (image)
- Press review royalties (image)
- Cable retransmission (image)

Film work category:

- Film individual
- Cable retransmission (film)
- Private copying royalties (film)
- Advertising film

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 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 in chapter 1 of the Special Part. Indirect income is materially allocated on the basis of how it is earmarked by the sister society.

3. The relevant period for allocation is determined by when settlement was made by those liable to pay the royalties. In the absence of any such allocation, and if it cannot be established at reasonable expense, allocation will be determined by the managing Member of the Executive Board on the basis of objective criteria.

4. In a second step, the income that has been allocated to the individual distribution lines and years of usage is transferred to distribution reserves. The administrative costs are calculated in accordance with the provisions of section 15.

5. Credits for the distribution lines are made on the respective payment dates set out in chapter 1 of the Special Part and in accordance with the distribution schemes set out therein.

6. The Administrative Council may allocate a specific payout of the collective distribution to another year of usage or social and/or cultural purposes if the costs of the payout are manifestly out of proportion in financial terms to the relevant distribution reserves.

7. If income of less than EUR 1.00 is calculated for one or more rightholders within a distribution, 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. In all cases the relevant professional group must benefit from the amounts.

8. Deductions for social and cultural purposes are made in accordance with section 16.

9. Credits are paid out by being transferred to the rightholders on the payment dates.

#### **Sec.14 Payout beneficiaries**

1. Rightholders of Bild-Kunst receive credits if distribution reserves have been formed for their rights and remuneration claims and the use of their works or their entitlement has been established in accordance with the rules of this distribution plan.

2. Credits from distribution reserves of the visual arts work category are made in accordance with paragraph 1

- to members who have concluded the administration agreement of professional group I;
- to external rightholders whose comparable rights have been granted to Bild-Kunst.

3. Credits from distribution reserves of the image work category are made in accordance with paragraph 1

- to members who have concluded the administration agreement of professional group II;
- to external rightholders whose comparable rights have been granted to Bild-Kunst.

4. Credits from distribution reserves of the film work category are made in accordance with paragraph 1

- to members who have concluded the administration agreement of professional group III;
- to external rightholders whose comparable rights have been granted to Bild-Kunst.

In the film work category separate payouts are made to film authors and film producers.

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

6. 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.

#### **Sec.15 Administrative costs**

1. 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.

2. 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.

3. The cost ratios for the distribution lines are set out in chapter 1 of the Special Part. 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.

4. 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.

5. 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.

6. 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.

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

8. 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.

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

1. For each distribution line the General Meeting will decide on the deduction rates for social and cultural purposes that are stated in chapter 1 of the Special Part. Social and cultural deductions are applied until the date on which a change decided by the General Meeting comes into effect. The current deduction rates at the time of the payout prevail, not the deduction rates at the time the income 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.

3. The funds made available through the social deduction are transferred to the Stiftung Sozialwerk of Bild-Kunst, the funds made available through the cultural deduction to the Stiftung Kulturwerk of Bild-Kunst. Chapter 1 of the Special Part indicates for each deduction the work category for which the funds are to be utilised. 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.

4. Bild-Kunst obligates the foundations to employ social and cultural contributions from a work category for rightholders of this work category. It must also be ensured that the social and cultural contributions are used for the members of Bild-Kunst and for external rightholders of such sister societies with whom this has been agreed. The cultural contributions can additionally be used for institutions, events or projects of particular cultural or cultural policy significance for a not insignificant number of members of the relevant professional lines of Bild-Kunst.

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 Meeting of Bild-Kunst, that lays down the general criteria for applications and decisions in funding guidelines.

#### **Sec.17 Payment dates**

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

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.

3. If income is received in the form of an instalment payment, a reserve can be formed for this in the same or a lesser amount on the basis of commercial requirements. This and other cases in which the formation of a reserve is appropriate are considered material reasons within the meaning of paragraph 2 sentence 1.

#### **Sec.18 Determination of the payout beneficiaries**

1. It is incumbent upon Bild-Kunst to determine the payout beneficiaries and it is incumbent upon the rightholder to provide all the information that is required for a credit and a payment.

2. In the distribution lines of direct distribution the payout beneficiaries are generally known. Should identification problems occur, Bild-Kunst will take appropriate measures to rectify these. If a payout beneficiary can still not be determined, Bild-Kunst will publish the known information on its website three months after the payment date, in particular the name of the rightholder as recorded in the billing information and where necessary the professional group and the description of the work used.

3. In the distribution lines of report-based collective distribution, it is incumbent upon the rightholder to cooperate by making the report information available to Bild-Kunst in the specified report format by the reporting deadlines in accordance with the provisions of chapter 3 of the Special Part.

Bild-Kunst will inspect the reports on a random basis. A rightholder who cannot provide evidence of his 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 and released as shown in chapter 1 of the Special Part for claims subsequently asserted by new members or by new sister societies who bring their claims for past periods upon concluding the contract.

4. In the distribution lines of usage-based collective distribution, Bild-Kunst determines the distribution-related usage of works on the basis of the data specified by the relevant distribution scheme. 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 Bild-Kunst itself will take for this purpose. Furthermore, the rightholders may be granted the option by the relevant distribution scheme to verify the data determined by Bild-Kunst in respect of their own usage of works in order to instigate a correction (correction report). Correction reports must be made available to Bild-Kunst by the reporting deadlines and using the specified report formats in accordance with the provisions of chapter 3 of the Special Part. No correction reports may be submitted once the reporting deadlines have passed. 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, Bild-Kunst will publish the

available information on its website insofar as it can help to establish the rightholders.

5. If a payment cannot be made because a rightholder has died and his heirs are not known, Bild-Kunst will take reasonable measures to determine the missing information. If this does not bring success, Bild-Kunst will publish the name of the rightholder, his professional group and any other information that might be useful for the determination of heirs three months after the payment date.

#### **Sec.19 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.

#### **Sec.20 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 Meeting 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.21 Powers of the Executive Board and Administrative Council**

1. When necessary, the Administrative Council adapts the information on sources of income provided in chapter 1 of the Special Part.
2. The Administrative Council is authorised to determine the allocation of the income to the distribution lines and to subordinate lines or categories in chapter 1 of the Special Part. 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.
3. If necessary, the Executive Board adapts the reserves reported in chapter 1 of the Special Part.
4. The Administrative Council decides in accordance with section 13 paragraph 6 whether not to perform a collective distribution for financial reasons.
5. On the recommendation of the Executive Board, the Administrative Council decides on a change in the cost ratios set out in chapter 1 of the Special Part. The same applies for a decision pursuant to section 15 paragraph 2 sentence 2.
6. 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.
7. The Executive Board and Administrative Council furthermore have all powers allocated to them in the Special Part of this distribution plan or the Articles of Association.
8. 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 Meeting. The next ordinary General Meeting will decide on the final version of the amended provisions.

## **Sec.22 Entry into force and transitional rules**

1. The distribution plan takes effect on 1 January 2017.
2. This distribution plan applies in its entirety for income realised from usage in 2017 or a subsequent year. The same applies for special revenue that is realised from the 2017 financial year.
3. This distribution plan also applies for income that is realised from 2017 for usage in 2016 or earlier years. However, the respective corresponding distribution models of

the distribution plan that applied on 31 December 2016 (“old distribution plan”) will be applied instead of the distribution schemes in chapter 2 of the Special Part. This distribution plan will apply fully to income under sections 29 and 33 for usage in 2016 that is realised from the 2017 financial year. In respect of income from private copying royalties, the Administrative Council is authorised to apportion these royalties on a product basis between distribution plans 6 and 7 where necessary. It is also authorised in distribution plan 7 to determine a flat-rate proportion for external rightholders according to product and year of usage that deviates from the resolution of the General Meeting of 11 July 2015 and to determine the corresponding distribution modalities in detail.

4. The following provisions apply for distribution reserves that exist on 31 December 2016:
  - a) The distribution models of the old distribution plan apply. This does not apply for distribution reserves for the 2016 year of usage that would have to be distributed in accordance with distribution plan 7 of the old distribution plan. For these distribution reserves, the distribution model of section 44 of this distribution plan applies instead.
  - b) Section 13 applies mutatis mutandis in respect of the distribution system, but with the exception of paragraph 1.
  - c) Section 14 applies in respect of the payout beneficiaries.
  - d) The provisions of the old distribution plan apply in respect of the administrative cost deductions and the deductions for cultural and social purposes.
  - e) Section 18 paragraphs 1 to 3 and 5 apply mutatis mutandis in respect of the determination of the payout beneficiaries. All income that under this distribution plan would have to be classified under usage-related collective distribution will be paid out in accordance with the system for report-based collective distribution.
  - f) Sections 28 and 46 VGG apply in respect of the payment dates, with the following proviso: The Chief Executive Officer will without undue delay prepare a schedule of all distribution reserves, showing the earliest possible payout dates and where appropriate the material reason for the deviation from the requirements of the VGG, and will submit this to the supervisory authority.
  - g) Section 19 paragraphs 1, 3 and 4 apply in respect of non-distributable distribution reserves.
  - h) The powers of the Administrative Council according to paragraph 3 sentences 4 and 5 apply mutatis mutandis in respect of the income from private copying royalties.



5. Contrary to section 29 paragraph 6, the reporting deadline for the distribution reserves of the “Copying royalties digital sources (visual arts)” line concerning usage in 2016 is 30 June 2018. The payout date regulated in section 29 paragraph 7 is also postponed to the 2018 financial year, but the regulations otherwise remain unchanged.

6. Contrary to section 33 paragraph 6, the reporting deadline for the distribution reserves of the “Copying royalties digital sources (image)” line concerning usage in 2016 is 30 June 2018. The payout date regulated in section 33 paragraph 7 is also postponed to the 2018 financial year, but the regulations otherwise remain unchanged.

## Sec. 22a Publishers’ participation (rightholding authors)

### 1. Principle

Rightholding authors of the visual arts and image work categories pursuant to section 27a VVG may give publishers who are members of Bild-Kunst a participation in their credits for the distribution lines set out in paragraph 2 in the amount of the relevant quotas defined in paragraph 3 according to the procedures described in sections 4 to 6.

### 2. Distribution lines

Participations pursuant to paragraph 1 are possible in the “library royalty”, the “copying royalty analogue sources” and the “press review royalties” distribution lines and – to 10% – in the “copying royalty digital sources” line.

### 3. Quotas

The publishers’ quota for each work category is

| For the distribution line                | in the visual arts work category | in the image work category |
|--|----------------------------------|----------------------------|
| Library royalty                          | 25 %                             | 20 %                       |
| Press reviews                            | 25 %                             | 20 %                       |
| Copying royalties, analogue sources      | 25 %                             | 20 %                       |
| Copying royalties, digital sources (10%) | 25 %                             | 20 %                       |

### 4. Credits

Credits for rightholders of the visual arts and image work categories, which are calculated in accordance with section 13 paragraphs 5 to 8, are provisional in every case and for each distribution line until it has been established whether or not the individual rightholder consents to a publishers’ participation. If he does not consent, the provisional credit becomes a final credit. If he does consent, the provisional credit less the publishers’ quota pursuant

to paragraph 3 becomes the final credit. In this case the publishers’ quota is credited to the beneficiary publisher(s).

### 5. Beneficiary publishers

If a rightholding author consents to the publishers’ participation for a distribution line, he must inform Bild-Kunst of the publisher(s) to whom the publishers’ quota is to be credited. Only publishers in whose publications image works of the rightholder have been used in the relevant year of usage may be designated.

### 6. Procedure

The Administrative Council decides on the consent procedure. The rightholding authors may be set a deadline by which to declare finally whether they consent to a publishers’ participation. Accounts to beneficiary publishers may not contain any information about the authors who consented to a publishers’ quota in their favour.

### 7. Affected years of usage

The procedure according to section 27a VVG that is regulated in paragraphs 1 to 6 applies for the 2017 up to and including 2019 years of usage. The Administrative Council may decide to extend it by a further year in each case.

## Sec. 22b Publishers’ participation (non-rightholding authors)

### 1. Principle

Non-rightholding authors have not entered into a contract with any collecting society for the administration of their statutory remuneration claims that Bild-Kunst represents in the image category. If these claims have been assigned with legal effect to a publisher or picture agency who is a member of Bild-Kunst, the publisher or agency can claim the shares mentioned in section 22a paragraphs 2 and 3.

### 2. Fictitious consent

The legally effective assignment of the statutory remuneration claims by a non-rightholding author to a publisher or picture agency will be regarded as consent to the publishers’ quota participation pursuant to section 27a VGG.

### 3. Affected years of usage

The procedure according to section 27a VVG that is regulated in paragraphs 1 and 2 applies for the 2018 and 2019 year of usage. The Administrative Council may decide to extend it by a further year in each case.

## 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. 23 Resale rights (visual arts) and resale rights (image)

#### 1. Sources of income

Bild-Kunst realises direct income through collection of the statutory royalty payments from those liable to pay the royalties in Germany. To facilitate collection, it has concluded inclusive contracts with user associations. It also realises indirect internal income from its foreign sister societies.

#### 2. Allocation of income

Income for members belonging to professional group I and for comparable external rightholders is allocated to the **resale rights (visual arts)** distribution line, income for members belonging to professional group II and for comparable external rightholders to the **resale rights (image)** distribution line.

#### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the work categories visual arts and image, depending on the distribution line.

#### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 1 (direct distribution).

#### 5. Reserves

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

#### 6. Reporting deadlines

There are no reporting deadlines because Bild-Kunst generally receives usage reports.

#### 7. 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.

#### 8. Administrative costs

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

### 9. Cultural and social deductions, resale rights

#### 9.1 For visual arts work category

Cultural deduction: from 05.12.2020: 4.00 %

– Social deduction: from 05.12.2020: 5.00 %

#### 9.2 For image work category

Cultural deduction: from 05.12.2020: 4.00 %

– Social deduction: from 05.12.2020: 1.70 %

### 10. Transfer of rights by administration agreement

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

– sec. 1 no. 1.4 AA PG I / II.

### Sec. 24 First rights (visual arts) and first rights (image)

#### 1. Sources of income

Bild-Kunst administers reproduction, distribution, broadcasting and presentation rights of the visual arts work category and presentation rights of the image work category vis-à-vis users on the basis of contracts and tariffs. Online rights of the visual arts work category are licensed for the society OLA (OnlineArt) on the basis of the OLA tariff. Likewise, online rights of the visual arts work category are granted to users on a flat-rate basis under general contractual agreements. Furthermore, Bild-Kunst grants German private sector broadcasters and film producers the rights it represents to broadcast works of art according to a tariff on a case-by-case basis, realising direct income thereby. It realises direct income from its own business. It receives indirect income through sister societies.

#### 2. Assignment of income

Individualisable income of the visual arts work category is allocated to the **first rights (visual arts)** distribution line, income of the image work category to the **first rights (image)** distribution line. Flat rate income for which there is no information on the works used or the rightholders affected is allocated to the distribution lines as follows:

- income from online rights for visual arts is allocated to the copying royalties digital sources (visual arts) line,
- income from online rights for image is allocated to the copying royalties digital sources (image) line,
- income from reproduction and distribution rights for visual arts is allocated to the copying royalties analogue sources (visual arts) line,

- income from reproduction and distribution rights for image is allocated to the copying royalties analogue sources (image) line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the work categories visual arts and image, depending on the distribution line.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 1 (direct distribution).

### 5. Reserves

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

### 6. Reporting deadlines

There are no reporting deadlines because the actual use of the work is known when the income is received.

### 7. 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.

### 8. Administrative costs

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

### 9. Cultural and social deductions, first rights

#### 9.1 For visual arts work category

- Cultural deduction: from 29.07.2017: 1.00 %
- Social deduction: from 27.07.2019: 6.00 %

#### 9.2 For image work category

- Cultural deduction: from 29.07.2017: 0.00 %
- Social deduction: from 05.12.2020: 2.00 %

### 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.1 AA (presentation rights),
- sec. 1 no. 1.12 AA (reproductions for the benefit of disabled persons),
- sec. 1 no. 1.14 AA (new types of exploitation pursuant to sec. 137 I UrhG),
- sec. 1 no. 1.19 AA (online rights for representations in out-of-print books),

- sec. 1 no. 1.23 AA (broadcasting and online rights VOD as well as media libraries),
- sec. 1 no. 2 AA (reproduction and online rights).

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

- sec. 1 no. 1.1 AA (presentation rights),
- sec. 1 no. 1.12 AA (reproductions for the benefit of disabled persons),
- sec. 1 no. 1.14 AA (new types of exploitation pursuant to sec. 137 I UrhG),
- sec. 1 no. 1.19 AA (online rights for representations in out-of-print books),
- sec. 1 no. 1.23 AA (broadcasting and online rights VOD as well as media libraries).

## Sec. 25 Library royalty (visual arts)

### 1. Sources of income

Bild-Kunst realises income from the library royalty through ZBT, income from electronic reading points through a common master agreement with VG Wort. To that extent it realises direct income. It also receives indirect income through sister societies.

### 2. Allocation of income

12.5% of the income from the library royalty is allocated to the **library royalty (visual arts)** distribution line, as is 20.5% of the income from electronic reading points.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the visual arts work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 3 (library royalty). This is a report-based collective distribution scheme.

### 5. 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.

### 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

### 7. 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). The same applies for external

income for this year of usage that is transferred to Bild-Kunst more than six months before the 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions

- Cultural deduction: from 05.12.2020: 4.25 %
- Social deduction: from 05.12.2020: 5.10 %

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.5 AA (rental and lending rights-libraries),
- sec. 1 no. 1.8 AA (electronic reading points).

## Sec.26 Library royalty (image)

### 1. Sources of income

Bild-Kunst realises income from the library royalty through ZBT, income from electronic reading points through a common master agreement with VG Wort. To that extent it realises direct income. It also receives indirect income through sister societies.

### 2. Assignment of income

48.25% of the income from the library royalty is allocated to the **library royalty (image)** distribution line, as is 79.5% of the income from electronic reading points.

### 3. Payout beneficiaries

Payout beneficiaries are rightholders of the image work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 3 (library royalty). This is a report-based collective distribution scheme.

### 5. 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.

## 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

## 7. 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 Bild-Kunst more than six months before the 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions

- Cultural deduction: from 05.12.2020: 1.70 %
- Social deduction: from 05.12.2020: 1.70 %

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.5 AA (rental and lending rights-libraries),
- sec. 1 no. 1.8 AA (electronic reading points).

## Sec.27 Flat-rate broadcasting rights (visual arts)

### 1. Sources of income

Bild-Kunst grants the German public sector television broadcasters the broadcasting and online rights to works of art it represents on a flat-rate basis, realising direct income thereby.

### 2. Allocation of income

The income resulting from the flat-rate contracts with the public sector broadcasters are allocated to the **flat-rate broadcasting rights (visual arts)** distribution line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the visual arts work category. Since Bild-Kunst has given public sector broadcasters an exemption for the usage of all works, payouts are also made to non-members in this distribution line.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 2 (broadcasting). This is a usage-related collective

distribution scheme, except that Bild-Kunst researches the usages for the public sector broadcasters.

## 5. Reserves

Reserves of 10% are formed for the usage of works of rightholders and of statutory rightholders that were not covered. The reserves 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.

## 6. Reporting deadlines

There are no reporting deadlines because Bild-Kunst researches the usage of works itself.

## 7. Payment dates

Payments are made in week 49 of the following year.

## 8. Administrative costs

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

## 9. Cultural and social deductions for visual arts work category

- Cultural deduction: from 29.07.2017: 1.00 %
- Social deduction: from 27.07.2019: 6.00 %

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.23 AA (broadcasting and online rights VOD as well as media libraries).

## Sec.28 Copying royalties analogue sources (visual arts)

### 1. Sources of income

Bild-Kunst realises direct income from private copying of the visual arts work category

- through VG Wort on a device-related basis (formerly reprography payment),
- through ZPÜ on a device and storage medium-related basis,
- through VG Wort in respect of the general operator fee and for copies dispatched to order,
- through ZFS for the schools and community colleges operator fee.

Bild-Kunst also receives indirect income through its sister societies.

In addition, the copying royalties analogue sources (visual arts) line is also allocated

- flat-rate royalties for museum catalogues pursuant to secs. 60f (1), 60e, 60h UrhG.

## 2. Allocation of income

The device and storage medium-related income from VG Wort and ZPÜ and the income from ZFS are allocated to the line as follows:

| Copying royalties analogue sources (visual arts) |  |
|--|--|
| Printers   | 50.2% analogue sources, of which 20.6% for visual arts |
| Fax machines                                     | 67.5% analogue sources, of which 20.6% for visual arts |
| Scanners   | 100% analogue sources, of which 20.6% for visual arts  |
| Multipurpose devices                             | 59.4% analogue sources, of which 20.6% for visual arts |
| Burners and blanks                               | 48.2% analogue sources, of which 20.6% for visual arts |
| Hard drives                                      | 44.7% analogue sources, of which 20.6% for visual arts |
| PCs  | 44.7% analogue sources, of which 20.6% for visual arts |
| Tablets  | 44.7% analogue sources, of which 20.6% for visual arts |
| Mobile phones                                    | 20.0% analogue sources, of which 20.6% for visual arts |
| USB and memory drives                            | 48.2% analogue sources, of which 20.6% for visual arts |
| ZFS  | 88.0% analogue sources, of which 33.0% for visual arts |

The income from the operator fee and copies dispatched to order are treated as income from multipurpose devices. 100% of the flat-rate income for museum catalogues is allocated to the copying royalties analogue sources (visual arts) line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the visual arts work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 4 (private copying visual arts / image, analogue). This is a report-based collective distribution scheme.

### 5. 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.

## 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

## 7. 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 Bild-Kunst more than six months before the 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions for visual arts work category

- Cultural deduction: from 05.12.2020: 4.25 %
- Social deduction: from 05.12.2020: 5.10 %

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.6 AA (private copying royalties, operator fee),
- sec. 1 no. 1.8 AA (royalty claim under UrhWissG),
- sec. 1 no. 1.10 AA (copies dispatched to order),
- sec. 1 no. 1.15, 1.16 und 1.17 AA (copies for the purposes of illustration in teaching),
- sec. 1 no. 1.21 AA (copies in businesses).

## Sec.29 Copying royalties digital sources (visual arts)

### 1. Sources of income

Bild-Kunst realises direct income from private copying of the visual arts work category

- through VG Wort on a device-related basis (formerly reprography payment),
- through ZPÜ on a device and storage medium-related basis,
- through VG Wort in respect of the general operator fee and for copies dispatched to order,
- through ZFS for the schools and community colleges operator fee.

Bild-Kunst also receives indirect income through its sister societies.

The copying royalties digital sources (visual arts) line is also allocated

- income transferred by ZBT from intranets in schools,
- income generated by itself from intranets in colleges,
- flat-rate income generated by itself for online rights of the visual arts work category.

### 2. Allocation of income

The device and storage medium-related income from VG Wort and ZPÜ and the income from ZFS are allocated to the line as follows:

| Copying royalties digital sources (visual arts) |   |
|---|---|
| Printers  | 49.8% digital sources, of which 11.2% for visual arts |
| Fax machines                                    | 32.5% digital sources, of which 11.2% for visual arts |
| Multipurpose devices                            | 40.6% digital sources, of which 11.2% for visual arts |
| Burners and blanks                              | 51.8% digital sources, of which 11.2% for visual arts |
| Hard drives                                     | 55.3% digital sources, of which 11.2% for visual arts |
| PCs   | 55.3% digital sources, of which 11.2% for visual arts |
| Tablets   | 55.3% digital sources, of which 11.2% for visual arts |
| Mobile phones                                   | 80.0% digital sources, of which 11.2% for visual arts |
| USB and memory drives                           | 51.8% digital sources, of which 11.2% for visual arts |
| ZFS   | 12.0% digital sources, of which 33.0% for visual arts |

The income from operator fees is treated like the income from multipurpose devices. Flat-rate income for online rights is allocated to the **copying royalties digital sources (visual arts)** line. 78.18% of the income from intranets in schools and 96.25% of the income from intranets in colleges is allocated to the visual arts and image work categories. 22.1% of each is allocated to the **copying royalties digital sources (visual arts)** line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the visual arts work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 5 (private copying visual arts / image, digital). This is a report-based collective distribution scheme.

## 5. 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.

## 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

## 7. 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 Bild-Kunst more than six months before the 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions for visual arts work category

- Cultural deduction: from 05.12.2020: 4.25%
- Social deduction: from 05.12.2020: 5.10%

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.6 AA (private copying royalties, operator fee),
- sec. 1 no. 1.8 AA (intranet in schools and colleges),
- sec. 1 no. 1.9 AA (retro-digitisation),
- sec. 1 no. 1.13 AA (online rights for book illustrations in search engines),
- sec. 1 no. 1.15, 1.16 und 1.17 AA (copies for the purposes of illustration in teaching),
- sec. 1 no. 1.18 AA (online rights for scientific databases),
- sec. 1 no. 1.20 AA (participation in press publisher neighbouring rights),
- sec. 1 no. 1.21 AA (copies in businesses).

## Sec.30 Press review royalties (visual arts)

### 1. Sources of income

VG Wort collects the royalties for print press reviews on behalf of Bild-Kunst. Bild-Kunst generates income for

electronic press reviews itself on the basis of contracts with users. Income for book club rental is realised on the basis of a joint inclusive agreement between VG Wort and Bild-Kunst on the one side and the user association on the other. In all cases the income is direct income.

### 2. Allocation of income

20% of the income is allocated to the **press review royalties (visual arts)** distribution line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the visual arts work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 6 (press reviews). This is a report-based collective distribution scheme.

### 5. 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.

### 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

### 7. 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. Distribution reserves for the same year of usage that are formed subsequently will be paid out in week 13 or 39, whichever follows the date the money is received.

### 8. Administrative costs

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

### 9. Cultural and social deductions for visual arts work category

- Cultural deduction: from 29.07.2017: 6.00%
- Social deduction: from 27.07.2019: 6.00%

### 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.5 AA (rental and lending rights-book clubs),
- sec. 1 no. 1.7 AA (press review royalties).

## Sec.31 Cable retransmission (visual arts)

### 1. Sources of income

Bild-Kunst receives direct income from the cable retransmission of visual arts through GEMA, ZWF, ZVV and ARGE Kabel. It also receives indirect income from sister societies.

### 2. Allocation of income

15.5% of the income received through GEMA is allocated to the visual arts and image work categories. 7.85% of the income received through ZWF and 1% of the income received through both ZVV and ARGE Kabel is allocated to those categories.

30% of the joint income for the visual arts and image work categories, is allocated to the **cable retransmission (visual arts)** distribution line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the visual arts work category.

### 4. Distribution scheme

Payouts are made as a proportional supplement to the payouts in the **flat-rate broadcasting rights (visual arts)** line on an accrual basis.

### 5. Reserves

Reserves of 15% are formed for the usage of works of rightholders and of statutory rightholders that were not covered. The reserves 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.

### 6. Reporting deadlines

No special reports are required because distribution follows the distribution of the income for the broadcasting rights.

### 7. Payment dates

Payments are made simultaneously with the payments for the **flat-rate broadcasting rights (visual arts)** line.

### 8. Administrative costs

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

### 9. Cultural and social deductions for visual arts work category

- Cultural deduction: from 29.07.2017: 6.00%
- Social deduction: from 27.07.2019: 6.00%

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.2 AA (cable retransmission rights),
- sec. 1 no. 1.3 AA (public communication of broadcasts).

## Sec.32 Copying royalties analogue sources (image)

### 1. Sources of income

Bild-Kunst realises direct income from private copying of the image work category

- through VG Wort on a device-related basis (formerly reprography payment),
- through ZPÜ on a device and storage medium-related basis,
- through VG Wort in respect of the general operator fee and for copies dispatched to order,
- through ZFS for the schools and community colleges operator fee.

Bild-Kunst also receives indirect income through its sister societies.

### 2. Allocation of income

The income from VG Wort, ZPÜ and ZFS is allocated to the lines as follows:

| Copying royalties analogue sources (image) |  |
|--|--|
| Printers                                   | 50.2% analogue sources, of which 79.4% for image |
| Fax machines                               | 67.5% analogue sources, of which 79.4% for image |
| Scanners                                   | 100% analogue sources, of which 79.4% for image  |
| Multipurpose devices                       | 59.4% analogue sources, of which 79.4% for image |
| Burners and blanks                         | 48.2% analogue sources, of which 79.4% for image |
| Hard drives                                | 44.7% analogue sources, of which 79.4% for image |
| PCs  | 44.7% analogue sources, of which 79.4% for image |
| Tablets                                    | 44.7% analogue sources, of which 79.4% for image |
| Mobile phones                              | 20.0% analogue sources, of which 79.4% for image |
| USB and memory drives                      | 48.2% analogue sources, of which 79.4% for image |
| ZFS  | 88.0% analogue sources, of which 67.0% for image |



The income from the operator fee and copies dispatched to order are treated as income from multipurpose devices. Income from rights-direct licences that VG Wort passes on to Bild-Kunst is allocated to the line in its entirety.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the image work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 4 (private copying, analogue). This is a report-based collective distribution scheme.

### 5. 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.

### 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

### 7. 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 Bild-Kunst more than six months before the 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.

### 8. Administrative costs

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

### 9. Cultural and social deductions for image work category

- Cultural deduction: from 05.12.2020: 1.70%
- Social deduction: from 05.12.2020: 1.70%

### 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.6 AA (private copying royalties, operator fee),
- sec. 1 no. 1.10 AA (copies dispatched to order),
- sec. 1 no. 1.15, 1.16 und 1.17 AA (copies for the purposes of illustration in teaching),

- sec. 1 no. 1.21 AA (copies in businesses).

## Sec. 33 Copying royalties digital sources (image)

### 1. Sources of income

Bild-Kunst realises direct income from private copying of the image work category

- through VG Wort on a device-related basis (formerly reprography payment),
- through ZPÜ on a device and storage medium-related basis,
- through VG Wort in respect of the general operator fee and for copies dispatched to order,
- through ZFS for the schools and community colleges operator fee.

Bild-Kunst also receives indirect income through its sister societies.

The copying royalties digital sources (image) line is also assigned

- income transferred by ZBT from intranets in schools,
- income generated by itself from intranets in colleges.

### 2. Allocation of income

The income from VG Wort, ZPÜ and ZFS is allocated to the lines as follows:

| Copying royalties digital sources (image) |   |
|---|---|
| Printers                                  | 49.8% digital sources, of which 88.8% for image |
| Fax machines                              | 32.5% digital sources, of which 88.8% for image |
| Multipurpose devices                      | 40.6% digital sources, of which 88.8% for image |
| Burners and blanks                        | 51.8% digital sources, of which 88.8% for image |
| Hard drives                               | 55.3% digital sources, of which 88.8% for image |
| PCs                                       | 55.3% digital sources, of which 88.8% for image |
| Tablets                                   | 55.3% digital sources, of which 88.8% for image |
| Mobile phones                             | 80.0% digital sources, of which 88.8% for image |
| USB and memory drives                     | 51.8% digital sources, of which 88.8% for image |
| ZFS                                       | 12.0% digital sources, of which 67.0% for image |

The income from operator fees is treated like the income from multipurpose devices. 78.18% of the income from intranets in schools and 96.25% of the income from intranets in colleges is allocated to the work categories

visual arts and image. 77.9% of each is allocated to the **copying royalties digital sources (image)** line.

### 3. Payout beneficiaries

Payout beneficiaries are rightholders of the work category image.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 5 (private copying, digital). This is a report-based collective distribution scheme.

### 5. 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.

### 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

### 7. 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 Bild-Kunst more than six months before the 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.

### 8. Administrative costs

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

### 9. Cultural and social deductions for image work category

- Cultural deduction: from 05.12.2020: 1.70%
- Social deduction: from 05.12.2020: 1.70%

### 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.6 AA (private copying royalties, operator fee),
- sec. 1 no. 1.8 AA (intranet in schools and colleges),
- sec. 1 no. 1.9 AA (retro-digitisation),
- sec. 1 no. 1.13 AA (online rights for book illustrations in search engines),

- sec. 1 no. 1.15, 1.16 und 1.17 AA (copies for the purposes of illustration in teaching),
- sec. 1 no. 1.18 AA (online rights for scientific databases),
- sec. 1 no. 1.20 AA (participation in press publisher neighbouring rights),
- sec. 1 no. 1.21 AA (copies in businesses).

## Sec. 34 Press review royalties (image)

### 1. Sources of income

VG Wort collects the royalties for print press reviews on behalf of Bild-Kunst. Bild-Kunst generates income for electronic press reviews itself on the basis of contracts with users. Income for book club rental is realised on the basis of a joint inclusive agreement between VG Wort and Bild-Kunst on the one side and the user association on the other. In all cases the income is direct income.

### 2. Allocation of income

80% of the income is allocated to the **press review royalties (image)** distribution line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the image work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 6 (press reviews). This is a report-based collective distribution scheme.

### 5. 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.

### 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

### 7. 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 Bild-Kunst more than six months before the 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions for image work category

- Cultural deduction: from 05.12.2020: 2.00%
- Social deduction: from 05.12.2020: 2.00%

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.5 AA (rental and lending rights-book clubs),
- sec. 1 no. 1.7 AA (press review royalties).

## Sec.35 Cable retransmission (image)

### 1. Sources of income

Bild-Kunst receives direct income from the cable retransmission of images through GEMA, ZWF, ZVV and ARGE Kabel. It also receives indirect income from sister societies.

### 2. Allocation of income

15.5% of the income received through GEMA is allocated to the visual arts and image work categories. 7.85% of the income received through ZWF and 1% of the income received through both ZVV and ARGE Kabel is allocated to those categories.

Of the joint income for the work categories visual arts and image, 70% is allocated to the **cable retransmission (image)** distribution line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the image work category.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 7 (cable retransmission (image)). This is a report-based collective distribution scheme.

### 5. 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.

### 6. Reporting deadlines

The reporting deadline is 30 June of the following year.

## 7. 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 Bild-Kunst more than six months before the 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions for image work category

- Cultural deduction: from 05.12.2020: 2.00%
- Social deduction: from 05.12.2020: 2.00%

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1.2 AA (cable retransmission rights),
- sec. 1 no. 1.3 AA (public communication of broadcasts).

## Sec.36 Film (individual)

### 1. Sources of income

Bild-Kunst realises direct, individualised income for the rightholders of the cinematographic work category through the remuneration claim under section 137 I UrhG. It receives indirect, individualised income from sister societies, e.g. for cable retransmission or private copying.

### 2. Allocation of income

This individually allocated income is allocated to the **film (individual)** distribution line.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the cinematographic work category (film authors and film producers).

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 1 (direct distribution).

### 5. Reserves

No reserves are formed. The income is individualised.

## 6. Reporting deadlines

There are no reporting deadlines because the actual use of the work is known when the income is received.

## 7. Payment dates

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

## 8. Administrative costs

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

## 9. Cultural and social deductions for film work category

- Cultural deduction: from 05.12.2020: 2.00%
- Social deduction: from 05.12.2020: 2.00%

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 1 AA (new types of exploitation pursuant to sec. 137 I UrhG),
- sec. 1 no. 7 AA (reproduction of documentation for educational purposes),
- sec. 1 no. 8 and 14 AA (broadcasting rights, foreign),
- sec. 1 no. 9 AA (digitisation of analogue films),
- sec. 1 no. 10 AA (online rights, if not section 89 (11) UrhG),
- sec. 1 no. 11 AA (public film communication for non-profitmaking purposes).

## Sec.37 Cable retransmission (film)

### 1. Sources of income

Bild-Kunst receives direct income from the cable retransmission of film through GEMA, ZWF, ARGE Kabel, ZBT, ZVV and its own collection. It also receives indirect income from sister societies.

### 2.1 Allocation of income

The **cable retransmission (film)** line is allocated

- 84.5% of the GEMA income,
- 92.15% of the ZWF income,
- 99% of the ARGE Kabel income,
- 39.25% of the ZBT income for library royalties and 21.81% of its income for intranet in schools,
- 99% of the ZVV income,
- 3.75% of the income for intranets in colleges.

Indirect income from sister societies is allocated to the **cable retransmission (film)** distribution line if it is received

for income sources other than private copying and library royalties and as a lump sum.

Income that is received in the year of usage or the following year is allocated to the usage of the work in the year of usage. Income for the years of usage that is not received until after the following year can be allocated to the Stiftung Kulturwerk or Stiftung Sozialwerk of Bild-Kunst if distribution in the relevant period would incur disproportionate expense. The decision is taken by the Executive Board with the consent of the chairperson of the professional group. The Administrative Council will be informed of the corresponding decisions in the next meeting.

### 2.2 Formation of payout categories

The "film authors" and "film producers" payout categories are formed in the **cable retransmission (film)** distribution line. Subject to the accounts being earmarked for other purposes, 73.6% of the the income from both GEMA and ZWF is allocated to the film authors category and 26.4% to the film producers category. 100% of the income from ARGE Kabel is allocated to the film authors category.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of 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.

### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 8 (cable retransmission (film)). The distribution reserves of the film authors payout category are distributed partly according to the usage-based collected distribution system and partly according to the report-based collective distribution system. The distribution reserves of the film producers payout category are distributed solely according to the report-based collective distribution system.

### 5. 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% of a payout are formed within the film producers payout category for new rightholders.

All reserves 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.

## 6. 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 30 June 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 30 June of the following year.

## 7. 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 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.

## 8. Administrative costs

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

## 9. Cultural and social deductions for film work category

- Cultural deduction: from 05.12.2020: 2.00 %
- Social deduction: from 05.12.2020: 2.00 %

## 10. Transfer of rights by administration agreement

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

- sec. 1 no. 2 AA (public communication of broadcasts),
- sec. 1 no. 6 AA (cable retransmission rights).

## Sec. 38 Private copying royalties (film)

### 1. Sources of income

For the film work category, Bild-Kunst receives indirect income from sister societies as well as direct income

- through ZPÜ from private copying royalties,
- through ZBT for the library royalties.

### 2.1 Allocation of income

The **private copying royalties (film)** line is allocated

- 100 % of the income from ZPÜ, with the exception of income for advertising films,
- 39.25 % of the income from library royalties.

Indirect income from sister societies is allocated to the **private copying royalties (film)** distribution line if it is received as a lump sum and relates to private copying or library royalties.

Income that is received in the year of usage or the following year is allocated to the usage of the work in the year of usage. Income for the year of usage that is not received until after the following year can be allocated to the Stiftung Kulturwerk or Stiftung Sozialwerk of Bild-Kunst if distribution in the relevant period would incur disproportionate expense. The decision is taken by the Executive Board with the consent of the chairperson professional group. The Administrative Council will be informed of the corresponding decisions in the next meeting.

### 2.2 Formation of payout categories

The "film authors" and "film producers" payout categories are formed in the **private copying royalties (film)** distribution line. Income is allocated to these categories as earmarked.

### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the film work category. Film authors participate in the income of the film authors payout category. Film producers participate in the film producers payout category. Where film producers represent the rights to feature films or series, any payout claims are made through VGF, the amount depending on the distribution plan of VGF.

#### 4. Distribution scheme

Payouts are made in accordance with distribution scheme 9 (private copying (film)). The distribution reserves of the film authors payout category are distributed partly according to the usage-based collected distribution system and partly according to the report-based collective distribution system. The distribution reserves of the film producers payout category are distributed solely according to the report-based collective distribution system.

#### 5. 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% of a payout are formed within the film producers payout category for new rightholders.

All reserves 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.

#### 6. 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 30 June 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 30 June of the following year.

#### 7. 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 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.

#### 8. Administrative costs

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

#### 9. Cultural and social deductions for film work category

- Cultural deduction: from 05.12.2020: 1.80%
- Social deduction: from 05.12.2020: 1.80%

#### 10. Transfer of rights by administration agreement

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

- sec. 1 no. 3 AA (rental and lending rights-video stores),
- sec. 1 no. 4 AA (school radio),
- sec. 1 no. 5 AA (private copying),
- sec. 1 no. 12 AA (reproductions for the benefit of disabled persons),
- sec. 1 no. 13 AA (electronic reading points),
- sec. 1 no. 15 AA (intranet in schools and colleges).

### Sec.39 Advertising films

#### 1. Sources of income

Bild-Kunst does not receive any flat-rate income for advertising films. ZPÜ transfers the income to the collecting society TWF. Bild-Kunst receives individualised income from TWF for its rightholders on the basis of a representation agreement. This is indirect income. Where Bild-Kunst in the past received and distributed flat-rate income for advertising films from ZPÜ, it will now forward this to TWF on the basis of its representation agreement with TWF.

#### 2. Allocation of income

The individually allocated income is allocated to the **film (individual)** distribution line.

#### 3. Payout beneficiaries

The payout beneficiaries are rightholders of the film work category (film authors).

#### 4. Distribution scheme

The distribution plan of the collecting society TWF is applied.

#### 5. Reserves

No reserves are formed. The income is individualised.

#### 6. Reporting deadlines

The reporting deadlines and procedures used by the collecting society TWF apply. Bild-Kunst will inform its right-holders of the film work category of these deadlines and procedures regularly.

There are no separate reporting deadlines, because the actual use of the work is known when the income is received by Bild-Kunst.

#### 7. Payment dates

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

#### 8. Administrative costs

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

#### 9. Cultural and social deductions for film work category

No deductions are made because deductions have already been made by TWF.

#### 10. Transfer of rights by administration agreement

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

- sec. 1 no. 5 AA (private copying, advertising),
- sec. 1 no. 6 AA (cable retransmission, advertising).

### Special Part – Chapter 2: Distribution Schemes

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

#### Sec. 40 Distribution scheme 1 – "Direct distribution"

1. In cases of direct distribution, credits of the corresponding distribution reserves are made to the identified rightholders or to the rightholders of the identified works.
2. If the shares of co-authors in an identified cinematographic work are not specified, the apportionment regulated in paragraph 1 of sections 47 and 48 applies. If another co-author is recognised for the relevant cinematographic work pursuant to section 49 paragraph 2, he is initially credited with the share recognised by the valuation committee, which is based on the shares of the standard participants mentioned in paragraph 1 of sections 47 and 48. 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. 41 Distribution scheme 2 – "Broadcasting"

##### 1. Basis of distribution

The distribution reserves for a year of usage are apportioned on the basis of the broadcasts established for this year in which works are used in German public sector television programmes or 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 linear programme is calculated from the parameters of the duration of the broadcast, the repeat frequency, the broadcaster rating, additional media library use and news reporting in accordance with the following provisions. In the case of usage outside the linear programme, the points score is calculated in accordance with paragraphs 7 and 8. 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.

##### 2. Duration of broadcast

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.

##### 3. 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   |
| Alpha, Tagesschau 24, ONE                      | × 5    |

#### 4. Repeat frequency

If an item containing a work is repeatedly broadcast 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.

#### 5. News reporting

In news reporting on an exhibition, the broadcasting in the linear programme of up to ten works per item is deemed justified by the purpose and hence 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 broadcast of up to three works is deemed royalty-free.

#### 6. Additional reporting

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

#### 7. Video item outside the linear programme

Every work which has been made available to the public through a public sector broadcaster and the video item of which had not been broadcast linearly in the year of usage is given 20 points per commenced 30 seconds in which it can be seen in the video, but not more than 100 points per item. A video item within the meaning of this clause also includes light abridgements and trailers of the item.

#### 8. Still image outside the linear programme

Every work which has been made available to the public as a still image through a public sector broadcaster is given a flat five points per year of usage and broadcaster.

### Sec.42 Distribution scheme 3 – “Library royalties”

#### 1. Basis of 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 in books. The remuneration for foreign-language publications that are offered by libraries in Germany is paid out to sister societies at a flat rate in advance. The payout of the remuneration for German-language books in the “library royalty (image)”

distribution line is based on the reports of the rightholders. In the “copying royalties (visual arts)” distribution line, payouts are based firstly on the payout information of Bild-Kunst in the “first rights (visual arts)” distribution line, supplemented with reports of the rightholders. Secondly, royalties in this line that arise for catalogues and news reporting are distributed in a lump sum in the form of an “art exhibition copying royalty”.

#### 2. Foreign-language publications

In each distribution line 10% of the distribution reserves are allocated to the foreign-language publications. A publication is classed as foreign language if its text is not compiled in German. Publications whose text is compiled both in German and in one or more other languages count as German-language publications.

#### 3. Distribution for foreign-language publications

In the “library royalty (image)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies that represent rightholders of the image work category based on pertinent criteria. The Administrative Council is authorised to reach the decision on apportionment.

In the “library royalty (visual arts)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies as a lump sum in the proportion of their internal income from the licensing of visual arts reproduction rights as reported to CISAC. The last published figures prior to the payout are considered in each case.

#### 4. German-language publications

The distribution reserves for German-language publications in the “library royalty (image)” distribution line are allocated on the basis of the information reported by the rightholders on books. In the “library royalty (visual arts)” distribution line, the distribution reserves for German-language publications are apportioned 87.5% for publications and 12.5% for the art exhibition copying royalty pursuant to section 43 paragraph 8.

#### 5. Picture / book distribution

##### 5.1 Reportable books

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

a) Books must have appeared in a minimum print run of 250 copies. Books that are produced by print-on-demand processes and books that are self-published must have had verifiable sales of 200 copies.



b) Books without an ISBN can only be considered if a customer copy and proof of the print run are provided. In the case of exhibition catalogues, the transmission of a copy of the cover sheet and the imprint is sufficient in place of the customer copy.

c) Books are reportable for the year of usage of their first edition and the four following years. To distinguish them from reprints of existing editions, new editions are counted as first editions within the meaning of sentence 1 if the content and / or design of the book have been more than insignificantly changed compared with the previous edition.

d) Books must have appeared in German or, in the “Science” category, also in English. 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.

e) Signed and numbered art books and portfolio works cannot be reported.

f) E-books cannot be reported at present because no income is realised for them.

g) Card kits, blank books, brochures, instruction manuals, voucher books, colouring books, notebooks and notepads, postcard books, programme and event booklets, prospectuses, pocket calendars, telephone books and mail-order and advertising catalogues are not books within the meaning of the “library royalties” distribution scheme.

## 5.2 Reportable works

Reportable works are determined on the basis of the reports of the rightholders. Illustrations of a scientific or technical nature by self-illustrators (authors who create text and the associated picture works) in academic, non-fiction and reference books are not reportable since their royalties are administered by VG Wort.

## 5.3 Lending frequency

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

| Type of book                              | Factor |
|---|--------|
| Children’s and young adults’ books        | × 9    |
| Non-fiction and reference book            | × 5    |
| Fiction, picture & art books, other books | × 5    |
| School books                              | × 3    |
| Academic works                            | × 0,2  |

An academic work is given the factor 5 if it is held in general public libraries. A non-fiction or reference book is classed as an academic work if it has a footnote system.

## 5.4 Work factor

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

| Type of book                                    | Factor |
|---|--------|
| Photography / illustration / other picture work | × 1    |
| Title design                                    | × 5    |
| Overall graphic design                          | × 10   |

## 5.5 Number of works per book

A maximum of 200 works per book and rightholder is considered.

## 5.6 Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage is 0.5% of the available distribution total.

## 6. Visual arts / publications distribution

The distribution reserves for the lending of books in the “library royalty (visual arts)” distribution line will be paid out to the rightholders per year of usage in the proportion of their eligible credits in the “first rights (visual arts)” distribution line. Representations of works in books for which a licence would have been possible, but was not applied for on the rightholder’s instruction, are also included.

### 6.1 Eligible credits

Credits for the relevant year of usage and for the licensing of representations in books are eligible for consideration. 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.

### 6.2 Supplementary reports (visual arts)

In cases where the reproduction and distribution of a work of art could have been licensed by Bild-Kunst, but was not – e.g. on the basis of the “Non-commercial exploitation” guideline – the rightholder reports the relevant publications and the representations of his works that they contain to Bild-Kunst. In the case of self-published books, a report is possible if the requirements for reportable books (see paragraph 5.1 Picture / book distribution, Reportable books) are met. A fictitious licensing agreement that considers the parameters of circulation and number of representations is taken into account. The Administrative Council is authorised to establish and vary such a fictitious tariff. It is to be based on the pertinent tariffs of Bild-Kunst,

but considerably simplify the calculation work of the Bild-Kunst office.

## **Sec. 43 Distribution scheme 4 – “Private copying (visual arts / image), analogue”**

### **1. Basis of 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 in printed publications. The royalties for works in foreign-language publications that are used in Germany as a source of copies are paid out to sister societies as a lump sum in advance. Royalties for works in German-language publications in the “copying royalties analogue sources (image)” distribution line are paid out based on the reports of the rightholders. In the “copying royalties analogue sources (visual arts)” distribution line, payouts are based firstly on the payout information of Bild-Kunst in the “first rights (visual arts)” distribution line, supplemented with reports of the rightholders. Secondly, royalties in this line that arise for catalogues and news reporting are distributed in a lump sum in the form of an “art exhibition copying royalty”.

### **2. Foreign-language publications**

In each distribution line 10% of the distribution reserves are allocated to the foreign-language publications.

A publication is classed as foreign language if its text is not compiled in German. Publications whose text is compiled both in German and in one or more other languages count as German-language publications.

### **3. Distribution for foreign-language publications**

In the “copying royalties analogue sources (image)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies that represent rightholders of the image work category based on pertinent criteria. The Administrative Council is authorised to reach the decision on apportionment.

In the “copying royalties analogue sources (visual arts)” distribution line, the distribution reserves allocated to foreign-language publications are paid out to the sister societies as a lump sum in the proportion of their internal income from the licensing of visual arts reproduction rights as reported to CISAC. It is always the last published figures prior to the payout that are taken into account.

### **4. German-language publications**

In the “copying royalties analogue sources (image)” distribution line, the distribution reserves for German-language publications are apportioned 60% for books and 40% for

periodicals. In the “copying royalties analogue sources (visual arts)” distribution line, the apportionment is 80% for publications and 20% for copies in connection with exhibitions (“art exhibition copying royalty”). 100% of the flat-rate income for museum catalogues is allocated to the copying royalties (art presentations).

### **5. Picture / book distribution**

The distribution reserves for photocopying from books in the “copying royalties analogue sources (image)” distribution line per year of usage are divided into the “photography” and “illustration / design” categories and distributed to the corresponding rightholders on the basis of the publication of their works in books. In the case of reportable books, each reportable work is given a points score of “one” that is modified by the parameters of copying frequency and work factor in accordance with the following provisions. The payout share arising for a reportable work corresponds to its individual points score relative to the total points of the payout in the corresponding line.

#### **5.1 Payout lines**

The “photography” category is allocated a 63.5% share, the “illustration / design / other picture works” category a 36.5% share

#### **5.2 Reportable books**

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

a) Books must be in physical form. E-books cannot be reported in this line. Likewise, signed and numbered art books and portfolio works cannot be reported.

b) Books must have appeared in a minimum print run of 250 copies. Books that are produced by print-on-demand processes and books that are self-published must have had verifiable sales of 200 copies.

c) Books without an ISBN can only be considered if a customer copy and proof of the print run are provided. In the case of exhibition catalogues, the transmission of a copy of the cover sheet and the imprint is sufficient in place of the customer copy.

d) 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.

e) Books are reportable for the year of usage of their first edition and the four following years. To distinguish them from reprints of existing editions, new editions are counted as first editions within the meaning of sentence 1 if the

content and/or design of the book have been more than insignificantly changed compared with the previous edition.

f) Card kits, blank books, brochures, instruction manuals, voucher books, colouring books, notebooks and notepads, postcard books, programme and event booklets, prospectuses, pocket calendars, telephone books and mail-order and advertising catalogues are not books within the meaning of the “private copying analogue” distribution scheme.

g) Books must have appeared in German or, in the “Science” category, also in English.

### 5.3 Reportable works

Reportable works are determined on the basis of the reports of the rightholders. Illustrations of a scientific or technical nature by self-illustrators (authors who create text and the associated picture works) in academic, non-fiction and reference books are not reportable since their royalty is administered by VG Wort.

### 5.4 Frequency of copying

To take the frequency of copying into account, the points score is modified as follows, depending on the type of book:

| Type of book                              | Factor |
|---|--------|
| Children’s and young adults’ books        | × 1    |
| School books                              | × 3    |
| Non-fiction and reference book            | × 10   |
| Fiction, picture & art books, other books | × 10   |
| Academic works                            | × 20   |

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

### 5.5 Work factor

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

| Type of work                                    | Factor |
|---|--------|
| Photography / illustration / other picture work | × 1    |
| Title design                                    | × 5    |
| Overall graphic design                          | × 10   |

### 5.6 Number of works per book

A maximum of 200 works per book and rightholder is considered.

### 5.7 Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage is 0.5% of the available distribution total.

## 6. Picture / periodical distribution

The distribution reserves for photocopying from German-language periodicals in the “copying royalties analogue sources (image)” distribution line per year of usage are divided into the “photography” and “illustration / design / other picture works” categories and distributed to the corresponding rightholders on the basis of the publication of their works in German-language periodicals that are sold in Germany. The fees that the rightholders realise for the publication of their works in periodicals, modified by scoring factors, are used as the basis. The share of the payout that a rightholder is entitled to corresponds to the total of his billing-relevant fees realised in the year of usage, modified in accordance with the following rules, relative to the total sum of all fees determined in this way.

### 6.1 Payout lines

The “photography” work category is allocated a 55.7% share, the “illustration / design / other picture works” work category a 44.3% share. Payouts to the respective rightholders are made separately for each category.

### 6.2 Reportable fees

Reportable fees are determined on the basis of the reports of the rightholders. Section 44 paragraphs 3.3 and 3.4 apply. The maximum share of a rightholder in the payout for a year of usage and a work category is 0.5% of the available distribution total.

## 7. Visual arts / publications distribution

The distribution reserves for photocopying from publications (books, periodicals) in the “copying royalty analogue sources (visual arts)” distribution line per year of usage are paid out to the rightholders in the proportion of their eligible credits in the “first rights (visual arts)” distribution line. In addition, representations of works in publications that could have been licensed, but were not, can also be reported.

### 7.1 Eligible credits

Credits for the relevant year of usage and for the licensing of representations in books and periodicals are eligible for consideration. 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.

## 7.2 Supplementary notifications (visual arts)

In cases where the reproduction and distribution of a work of art could have been licensed by Bild-Kunst, but was not – e.g. on the basis of the “Non-commercial exploitation” guideline – the rightholder reports the relevant publications and the representations of his works that they contain to Bild-Kunst. In the case of self-published books, a report is possible if the requirements for reportable books (see paragraph 5.2 Picture/book distribution, Reportable books) are met. A fictitious licensing agreement that considers the parameters of circulation and number of representations is taken into account. The Administrative Council is authorised to establish and vary such a fictitious tariff. It is to be based on the pertinent tariffs of Bild-Kunst, but considerably simplify the calculation work of the Bild-Kunst office.

## 8. Visual arts / copying royalty (art exhibitions) distribution

The distribution reserves for the photocopying of representations of visual arts in connection with their exhibition (“art exhibition copying royalty”) in the “copying royalty analogue sources (visual arts)” distribution line are paid out to the rightholders per year of usage on the basis of the presentation of their works in exhibitions and other forms of event and presentation. Reportable exhibitions are each given a points score that is modified by the parameters of number of artists and catalogue. The share of the payout attributable to a reportable domestic or foreign exhibition corresponds to the proportion of its individual points score relative to the total points of the payout for domestic or foreign exhibitions within the art exhibition copying royalty. Flat-rate income for museum catalogues is treated separately.

### 8.1 Definition of art exhibition

An exhibition of art within the meaning of the distribution plan is generally a presentation for the viewing of one or more works of a visual artist that is typically

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

These typical features may be more or less marked in the individual case if, in an overall consideration, the presentation for viewing appears capable of giving cause for private copying to a not insignificant extent.

Presentations for viewing 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 art exhibition within the

meaning of the distribution plan. The following examples give indicators for such a classification:

a) Art exhibitions within the meaning of the distribution plan are generally **presentations of works of visual art** in museums, art clubs, galleries or community institutions. Permanent exhibitions and collections can usually only be reported in the first year of their presentation or the inclusion of a work, because afterwards there is not sufficient advertising to the public.

b) **Artworks in the public space and art in construction** that is on view to the public can be reported once when the artwork is opened/delivered at an event previously advertised. Evidence of this event must be enclosed with the report.

c) **Performances, participatory projects and video art** are generally considered art exhibitions within the meaning of the distribution plan if a third party offers a public venue for them and advertises them to the public.

d) **Artistic interventions, artistic walks, street art and spontaneous performances** can be considered art exhibitions within the meaning of the distribution plan if they take place before an unusually large public. Evidence of the public must be enclosed with the report.

e) **Internet art** can be considered if it is sufficiently advertised to the public in Germany. Evidence of the advertising to the public must be enclosed with the report.

Cases of doubt will be decided by the valuation committee of PG I.

### 8.2 Reportable art exhibitions

An art exhibition is reportable if it belongs to one of the following lines:

- Line A comprises art exhibitions that are held in foreign exhibition venues, are known to the general public in Germany and are held on a conclusive list.
- Line B comprises German art exhibitions.

### 8.3 Foreign exhibition venues

The total share for foreign exhibition venues (line A) is determined by the Administrative Council on the basis of suitable data, to be collected by Bild-Kunst where appropriate. These exhibition venues are held on a conclusive list to be updated regularly that is determined by the valuation committee of professional group I and adapted as required. Where art is exhibited in these exhibition venues, advertising to the public in Germany is assumed.

#### 8.4 Rating factors

A rightholder receives the following points score for a reported art exhibition, depending on the number of visual artists whose works are presented for viewing in the art exhibition:

- Group exhibitions with more than 10 artists: 1 point
- Group exhibitions with three to 10 artists: 2 points
- Individual exhibitions (1 to 2 artists): 3 points

Where a catalogue exists, the points score of the corresponding art exhibition is increased by 25% (to 1.25 points, 2.5 points or 3.75 points).

#### 8.5 Bonus for museum catalogues

Flat-rate income for museum catalogues is split among the rightholders who have reported a catalogue. This is done in accordance with the basic weighting factors of paragraph 8.4 (1, 2 or 3 points).

#### 8.6 Maximum amounts

The number of reportable art exhibitions per year of usage is limited to twelve in line B.

#### 8.7 Valuation committee of PG I

A valuation committee will be formed for professional group I, the members of which will be made up of the same people as members of the Administrative Council of professional group I. The business of the committee is managed by the Chief Executive Officer of Bild-Kunst together with the honorary board member of professional group I. The valuation committee of professional group I decides on the following groups of cases by majority of votes:

- a) cases in which the Chief Executive Officer doubts whether a presentation for viewing of one or more works constitutes an art exhibition within the meaning of paragraph 8.1;
- b) the preparation of the list of foreign exhibition venues pursuant to paragraph 8.3.

### Sec.44 Distribution scheme 5 – “Private copying (visual arts / image), digital”

#### 1. Basis of distribution

In each distribution line and for each year of usage the distribution reserves for private duplication from digital sources are allocated to the rightholders on the basis of supplements or reports. For the “copying royalties digital sources (visual arts)” distribution line, the distribution is made as a proportional addition to other payouts. The distribution reserves for the “copying royalty digital sources

(image)” distribution line are initially apportioned by country on the basis of empirical studies. The shares for countries other than Germany are paid out to the corresponding sister societies as a lump sum on the basis of empirical studies. Bild-Kunst pays out the share for Germany in two lines for works on the basis of fee and single-image reports.

#### 2. Visual arts distribution

Five payout lines are formed, the proportions of which are determined empirically and set by the Administrative Council. The distribution reserves applicable to payout lines A to D are allocated to other payouts in the appropriate period and distributed there as an addition. Section 13 paragraph 6 applies for the distribution of the additional amount.

##### 2.1 Payout lines

The various internet and social media sites that serve as digital copying sources are allocated to the following five payout lines:

##### Line A – websites of

- museums
- art clubs
- exhibition buildings
- online press
- art blogs
- galleries with an exhibition programme
- authors’/producers’ galleries

##### Line B – websites of

- art dealers
- auction houses
- galleries without an exhibition programme

##### Line C – websites of

- broadcasters

##### Line D – websites of

- companies, local authorities, associations, clubs

##### Line E – websites of

- artists

#### 2.2 Allocation

The distribution reserves of line A are allocated to the art exhibition copying royalty (section 43 paragraph 8).

Half of the distribution reserves of line B are allocated to the resale rights payout (sections 40, 23), the other half to the payout for visual arts reproduction rights (sections 40, 24). In the allocation for the resale rights payout,

sister societies that essentially represent artists who do not have any claim to resale rights in Germany receive a reasonable flat-rate share in advance that is determined by the Administrative Council.

The distribution reserves of line C are allocated to the broadcasting rights payout (section 41).

The distribution reserves of line D are distributed to Bild-Kunst and its sister societies on the basis of a key that corresponds to their revenue from OLA income. It is generally the income for the previous year that is applied; if this cannot be determined, the Chief Executive Officer decides on the basis of the available information. The distribution reserves attributable to Bild-Kunst are assigned to the payout for online rights (sections 40, 24); for the 2016 and 2017 years of usage, however, they will be assigned to Stiftung Kulturwerk (professional group I).

The distribution reserves of line E concern the web presences of artists which can serve as a digital copying source. A web presence consists of one or more websites and/or social media pages operated by the rightholder themselves or by a third party acting for them. The distribution reserves are apportioned into a share for German web presences and a share for foreign web presences. The apportionment is made by the Administrative Council on the basis of the results of empirical studies. The share for German web presences is distributed equally to the rightholders who have reported their own German web presence during the year of usage. The share for foreign web presences is allocated appropriately to the countries by the Administrative Council on the basis of the results of empirical studies. In the second step these country shares are then allocated to the collecting societies whose areas of activity cover the respective countries, if Bild-Kunst has reached representation agreements with them.

### 3. Image distribution

Distribution is based on the copying of the works of the rightholders from “websites”. The other digital sources – “e-books”, “social media”, “apps”, “gaming” and “digital offline data media” are not considered at present.

The following 14 website lines will be formed. The amount of copying they are responsible for will be determined empirically and they may be adjusted by the Administrative Council:

- Line 1: Media companies
- Line 2: Information services, wikis, directories
- Line 3: E-commerce dealers, online shops
- Line 4: Providers of auctions, small ads, classified ads
- Line 5: Web communities
- Line 6: Online banks

- Line 7: E-mail portals
- Line 8: Other companies
- Line 9: Education providers (e.g. universities, schools, educational institutions)
- Line 10: Authorities (e.g. government offices, ministries, administrations)
- Line 11: Cultural institutions (e.g. museums, theatres)
- Line 12: Churches and charitable institutions
- Line 13: Clubs, associations and parties
- Line 14: Private websites

For each line the empirical study determines how the source pages are apportioned by country.

#### 3.1 Apportionment to collecting societies

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

b) The share of the distribution reserves arising for Germany will be paid out by Bild-Kunst in accordance with the regulations of the following sections (Germany share).

c) Based on the country apportionment, the Administrative Council allocates the other distribution reserves to the collecting societies whose sphere of activity covers the respective countries, provided that Bild-Kunst has concluded representation agreements with them.

d) 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 Bild-Kunst, Bild-Kunst can withhold an appropriate share of the transfer amount and make it available to the Stiftung Kulturwerk of PG II. If the sums are considerable, the Administrative Council can, having regard to the principle of economy, decide to implement a report-based special payout that takes reasonable account of the foreign element.

e) Shares for countries in which no sister society exists will be held back for a period of three years after the end of the year in which the distribution reserve was formed. Paragraph d) sentences 2 and 3 apply *mutatis mutandis*. Bild-Kunst is, where possible, to conclude a representation agreement with a suitable organisation within that period. When the time limit expires the Administrative Council will decide on the use of the reserves.

#### 3.2 Payout of the Germany share by work categories

The Germany share will be split into the “photography” and “illustration / design / other picture works” categories.

The Administrative Council will determine their shares on the basis of the results of the empirical study and they will be paid out separately. Rightholders of the image work category can participate in both payouts. For each work category, either fees pursuant to paragraph 3.3 or single images pursuant to paragraph 3.4 can be reported. In both cases the report of a proprietary web presence according to paragraph 3.5 will lead to a flat-rate supplement. Each reporting rightholder receives that share of each payout that corresponds to the ratio of his reports to the total reports.

### 3.3 Fee reports

a) Fees must be eligible for reporting according to paragraph b) and be assigned to one of the client categories listed under paragraph c), which in turn governs the assignment to the distribution lines and the weighting factors to be applied. Paragraphs d) and e) also apply for the client categories of agencies.

b) Fees that are itemised in fee invoices can be reported if the client has its official or business address or the prevailing branch that issued the order in Germany. Fees that comprise at least half the copyright remuneration for the use of one or more works of the reporting rightholder that belong to the image work category can be reported. Salaries, pensions, interest income, donations, insurance benefits, general social security benefits and pure fees for

work cannot be reported, nor can fees of book publishers for the use of works in books. The reporter must properly apportion fees that concern works from more than one work category to the work categories. Salaries can be reported from the 2018 year of usage subject to the requirements of paragraph h). Net fees (excluding the VAT share) will be reported. The assignment to years of usage is determined by the invoice date. Fees for illustrations of a scientific or technical nature by self-illustrators (authors who create the text and associated picture works) in “academic publications” and “non-fiction and reference works” cannot be reported because their royalties are administered by VG Wort.

c) The reporter allocates each fee invoice properly to one of the following client categories. In case of doubt the more specific category has precedence. The Chief Executive Officer has the right to correct obvious errors in classification himself. The reported fees will be apportioned to the “copying royalties analogue sources (image)”, “copying royalties digital sources (image)” and “cable retransmission (image)” distribution lines on the basis of their assignment to a client category according to the following table and then multiplied by the corresponding weighting factor. The Administrative Council is authorised to determine and to modify the apportionment to distribution lines.

| Client category                                    | Apportionment to category lines | Weighting factor photo | Weighting factor illustration / design |
|--|---------------------------------|------------------------|--|
| Press publishers with print runs over 300,000      | Sec. 32: 50%                    | × 1.25                 | × 1.25                                 |
|  | Sec. 33: 50%                    | × 1.20                 | × 1.00                                 |
| Press publishers with print runs under 300,000     | Sec. 32: 50%                    | × 1.00                 | × 1.00                                 |
|  | Sec. 33: 50%                    | × 1.20                 | × 1.00                                 |
| Radio & TV broadcasters and institutions           | Sec. 32: 20%                    | × 1.25                 | × 1.25                                 |
|  | Sec. 33: 50%                    | × 1.20                 | × 1.00                                 |
|  | Sec. 35: 30%                    | × 1.00                 | × 1.00                                 |
| Other media companies                              | Sec. 32: 30%                    | × 0.75                 | × 0.75                                 |
|  | Sec. 33: 70%                    | × 1.20                 | × 1.00                                 |
| Operators of web-based information services, wikis | Sec. 33: 100%                   | × 1.00                 | × 1.00                                 |
| E-commerce dealers, online shops                   | Sec. 33: 100%                   | × 0.80                 | × 1.00                                 |
| Operators of web communities                       | Sec. 33: 100%                   | × 1.00                 | × 1.00                                 |
| Operators of email portals                         | Sec. 33: 100%                   | × 1.00                 | × 1.00                                 |
| Operators of web auctions, small ads               | Sec. 33: 100%                   | × 0.80                 | × 1.00                                 |
|  | Sec. 32: 10%                    | × 0.25                 | × 0.25                                 |
| Online banks                                       | Sec. 33: 90%                    | × 1.00                 | × 1.00                                 |
|  | Sec. 32: 40%                    | × 0.25                 | × 0.25                                 |
| Other companies outside the media sector           | Sec. 33: 60%                    | × 1.00                 | × 1.00                                 |

| Client category  | Apportionment to category lines | Weighting factor photo | Weighting factor illustration / design |
|--|---------------------------------|------------------------|--|
| Universities, schools, other educational institutions        | Sec. 32: 70%                    | × 0.25                 | × 0.25                                 |
|  | Sec. 33: 30%                    | × 1.00                 | × 1.00                                 |
| Authorities, government offices, ministries, administrations | Sec. 32: 60%                    | × 0.50                 | × 0.50                                 |
|  | Sec. 33: 40%                    | × 1.00                 | × 1.00                                 |
| Cultural institutions and establishments                     | Sec. 32: 50%                    | × 0.75                 | × 0.75                                 |
|  | Sec. 33: 50%                    | × 1.20                 | × 1.00                                 |
| Churches and charitable institutions                         | Sec. 32: 80%                    | × 0.75                 | × 0.75                                 |
|  | Sec. 33: 20%                    | × 1.20                 | × 1.00                                 |
| Clubs, associations, parties                                 | Sec. 32: 40%                    | × 0.25                 | × 0.25                                 |
|  | Sec. 33: 60%                    | × 1.20                 | × 1.00                                 |
| Operators of private websites                                | Sec. 33: 100%                   | × 1.00                 | × 1.00                                 |
| Stock picture agencies                                       | Sec. 32: 40%                    | × 0.75                 | × 0.75                                 |
|  | Sec. 33: 60%                    | × 1.00                 | × 1.00                                 |
| News agencies  | Sec. 32: 40%                    | × 1.25                 | × 1.25                                 |
|  | Sec. 33: 60%                    | × 1.20                 | × 1.00                                 |
| Press photo agencies   | Sec. 32: 40%                    | × 1.25                 | × 1.25                                 |
|  | Sec. 33: 60%                    | × 1.20                 | × 1.00                                 |
| Sports photo agencies  | Sec. 32: 40%                    | × 1.25                 | × 1.25                                 |
|  | Sec. 33: 60%                    | × 1.20                 | × 1.00                                 |
| Advertising agencies   | Sec. 32: 40%                    | × 0.05                 | × 0.05                                 |
|  | Sec. 33: 60%                    | × 1.00                 | × 1.00                                 |
| Web agencies   | Sec. 32: 10%                    | × 1.00                 | × 1.00                                 |
|  | Sec. 33: 90%                    | × 1.00                 | × 1.00                                 |

d) 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.

e) In derogation from the basic rules for agencies pursuant to paragraph d), the Chief Executive Officer is authorised to determine for individual agencies on the basis of data from or about the agency:

- a flat-rate share of the fee that reflects the quota of the German customers;
- an individual apportionment to sections 32 and 33;
- individual weighting factors for the share arising for section 33 on the basis of information on the customer composition of the agency and the factors set out in paragraph c).

f) If the reported net fee total of both payout lines for a year of usage in all client categories before any supplements according to paragraph c) and / or paragraph 3.5 exceeds EUR 30,000.00, a list of the fee totals per client must be submitted with the report. The total must be confirmed by a tax adviser or auditor. As an alternative to this

confirmation, digitised copies of all fee invoices can be submitted to Bild-Kunst.

g) A fictitious fee determined by the Administrative Council for usage free of charge can be allocated to a rightholder who reports fees. The Administrative Council likewise determines the flat-rate apportionment of the fictitious fee to the “copying royalties analogue sources (image)” and “copying royalties digital sources (image)” distribution lines.

h) Photographers employed by German press companies (e.g. newspapers and magazine publishers), German news agencies and German press photo agencies (e.g. dpa Deutsche Presse-Agentur, the German branch of Agence-France-Press, the Evangelische Pressedienst, the Katholische Nachrichten-Agentur, Reuters or sid Sport-Informations-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 their employer – or a comparable confirmation – annually stating whether up to 25%, up to 50%, up to 75% or up to 100% of the working time of



the member in the year of usage was spent in the creation of photographic works that were to be used in periodicals or on websites. The salary will be credited at this factor.

On the request of Bild-Kunst, the member must provide evidence that a proportion corresponding to the activity quota of 100 works appeared in print periodicals and a same proportion of 200 works was published on websites in the year of usage.

### 3.4 Single-image fees

a) Rightholders have the option of reporting single images rather than fees. If both fees and single images are reported for a work category, only the fee reports are weighted. The Administrative Council determines fictitious fees for each work of the work types listed below:

| Type of work                  | Fictitious fee per single image |
|-------------------------------|---------------------------------|
| Photography                   | EUR 15.00                       |
| Illustration                  | EUR 20.00                       |
| Caricature / comic book image | EUR 20.00                       |
| Print design, web design      | EUR 20.00                       |
| Logo                          | EUR 20.00                       |
| Infographic                   | EUR 20.00                       |

The fictitious fees are to be a minimum royalty. The fictitious fee for an image work, for instance, is to be fixed below the average fee that photographers realise in the journalism industry. Fictitious fees for works of other work types are to be towards the bottom end of what is customary on the market.

b) 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. 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. Single images on websites behind paywalls or on websites with comparable access restrictions cannot be reported. A single 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. A rightholder can report not more than 200 single images on websites in total per year of usage. The fictitious fee according to paragraph a) will be credited to the “copying royalties digital sources (image)” distribution line without a weighting factor being applied.

c) Single images can likewise be reported if they have appeared in the billable year of usage in a German-language newspaper or magazine (periodical) that is distributed in Germany. Single images of self-illustrators (authors who create the text and associated picture works) in “academic

publications” and “non-fiction and reference works” cannot be reported because their royalties are administrated by VG Wort. The fictitious fee according to paragraph a) will be credited to the “copying royalties analogue sources (image)” distribution line without a weighting factor being applied.

### 3.5 Proprietary web presence

For a proprietary web presence, a rightholder receives a flat-rate supplement in the form of a fictitious fee total determined by the Administrative Council. A proprietary web presence consists of one or more web pages operated by the rightholder himself or a third party. The fictitious fee is allocated to the “copying royalties digital sources (image)” distribution line.

### 3.6 Transitional arrangement

For the 2016 and 2017 years of usage, there will be no apportionment of fees to distribution lines in accordance with paragraph 3.3.c. Instead the fees will be allocated in their entirety to the “copying royalties digital sources (image)” distribution line. If rightholders receive a fee for granting the reproduction right and the online right, they can report it twice in the “private copying (image), analogue” and “private copying (image), digital” distribution schemes.

### 3.7 Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage and a work category is 0.2% of the available distribution total.

## Sec. 45 Distribution scheme 6 – “Press review”

### 1. Basis of distribution

The distribution reserves of the “press review royalties (visual arts)” distribution line for a year of usage are allocated to the relevant art exhibition copying royalty pursuant to section 43 paragraph 8.

The distribution reserves of the “press review royalties (image)” distribution line for a year of usage are apportioned to the “photography” and “illustration / design / other picture works” categories and distributed to the corresponding rightholders on the basis of the publication of their works in German-language periodicals distributed in Germany. The fees that the rightholders realise for the publication of their works in periodicals, modified by weighting factors, are used as the basis. The share of the payout that a rightholder is entitled to corresponds to the total of his billing-relevant fees realised in the year of usage, modified in accordance with the following rules, relative to the total sum of all fees determined in this way.

## 2. Payout lines

The “photography” category is allocated a 83.75% share, the “illustration / design / other picture works” category a 16.25% share. Payouts to the respective rightholders are made separately for each category.

## 3. Reportable fees

Reportable fees are determined on the basis of the reports of the rightholders. Reports for the 2018 year of usage or later are made in accordance with the regulations of section 44 paragraphs 3.3 and 3.4. Section 44 as amended by the distribution plan of 29.07.2017 applies for reports up to and including the 2017 year of usage.

### Sec. 46 Distribution scheme 7 – “Cable retransmission (image)”

#### 1. Basis of distribution

The distribution reserves for a year of usage are distributed to the rightholders on the basis of the transmission of their works in television programmes that are retransmitted in Germany. The fee that a rightholder receives for the transmission of his work in a TV item is used as the basis. The rightholder’s share of the payout corresponds to the total of his billing-relevant fees realised in the year of usage relative to the total of all billing-relevant fees.

#### 2. Apportionment in the cable retransmission (image) line

The distribution reserves are apportioned as follows into a share for photographic works and a share for other works of the image work category:

- Photographic works: 85.75%
- Other works: 14.25%

The fees are apportioned into those for photographic works and those for other works of the image work category. The fees are calculated separately for each area.

#### 3. Reportable fees

Reportable fees are determined on the basis of the reports of the rightholders. Only net fees for the granting of rights of use can be reported. Fees for work will not be considered. The time of allocation is determined by the invoice date.

Section 44 paragraph 3.3.f applies mutatis mutandis.

#### 4. Reportable single images

Rightholders are at liberty to report single images instead of fees. If both fees and single images are reported for a work category, only the fee reports will be weighted. The fictitious fee for a single image of any work category is

EUR 50.00. Single images must have been broadcast on a TV station which can be received in the German cable network, the average coverage of which throughout German in the year of usage must be at least 1%.

## 5. Maximum amount

The maximum amount of a rightholder’s share in the payout for a year of usage is 5% of the available distribution total per distribution line.

### Sec. 47 Distribution scheme 8 – “Cable retransmission (film)”

#### 1. Basis of 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:

| Category:                         | Payout line              |
|-----------------------------------|--------------------------|
| 95% direction, camera and editing | 66% 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.

Film producers must report their entitlement to a cinematographic work. Bild-Kunst requires an indemnity declaration from the film producers as constitutive evidence prior to any payout. Film authors of the direction, camera and editing distribution lines report their entitlement to cinematographic works in the reportable work types. Bild-Kunst will research their entitlement in usage-based work types having due consideration for the efficiency principle. Film authors of the sets / architecture and costume

design distribution lines report their entitlement in all work types.

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.

## 2. 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 year of usage and its broadcaster value (paragraph 5.2) modified by the culture factor (paragraph 5.3) was at least “5” in the year of usage. The market share is determined on the basis of the data of AGF / GfK television research. 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 15 January of the following year. As soon as this is done, Bild-Kunst will publish the list on its website.

## 3. Billable cinematographic works

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 49 paragraph 1.14 are not determined, but can be billed if they are reported. Cinematographic works with a duration of less than three minutes are not billable. For animations and cartoon films the minimum duration is one minute. US productions are also not billable.

## 4. Work types and their allocation to distribution categories

All billable cinematographic works are divided into the following 19 work types:

| No. | Work types  | Special feature  | Classification   |
|-----|---|--|--|
| 1   | Feature film, television film, TV movie, serial, cinema short |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>   |
| 2a  | Animation and cartoon film over 30 minutes                    | The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work. | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>   |
| 2b  | Animation and cartoon film up to 30 minutes                   | The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work. | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>  |
| 3   | Live-action animated film                                     | In live-action animated films, the author of the figures / objects receives the shares for set and costume design.                 | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>   |
| 4   | Filmed stage production                                       | In filmed puppet shows, the creator of the puppets receives the shares for both production and costume design.                     | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category; of which likewise report-based billing</li> </ul> |
| 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.                | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Payout category film authors; of which likewise report-based billing</li> </ul> |
| 6   | Mini series   |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>   |
| 7a  | Fictional series from running length 40 minutes               |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>   |
| 7b  | Fictional series from running length 20 minutes               |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>  |
| 7c  | Fictional series up to 20 minutes                             |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>  |
| 8   | Soap opera, sitcom, telenovela (daily, weekly)                |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>   |

| No. | Work types  | Special feature   | Classification  |
|-----|---|---|---|
| 9a  | Documentary film / documentary film series from running length 50 minutes                 |   | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category, of which usage-based billing</li> </ul>  |
| 9b  | Documentary film / documentary film series from running length 40 minutes                 |   | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category, of which usage-based billing</li> </ul>  |
| 9c  | Documentary film / documentary film series from running length 25 minutes                 |   | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul> |
| 9d  | Documentary film / documentary film series from running length 15 minutes                 |   | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul> |
| 9e  | Documentary film, documentary film series, magazine items under running length 15 minutes |   | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul> |
| 10  | Docu-soap (daily, weekly)   |   | <ul style="list-style-type: none"> <li>· Film producers payout category of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul> |
| 11  | TV recording (only set and costume design against evidence)                               | A film of these categories will be allocated to work categories 4 or 5 if the rightholder provides the appropriate evidence by the deadline for correction. | <ul style="list-style-type: none"> <li>· Film authors payout category only / set and costume design line</li> <li>· Report-based billing</li> </ul>                                     |
| 12  | Live transmission (only set and costume design against evidence)                          | A film of these categories will be allocated to work categories 4 or 5 if the rightholder provides the appropriate evidence by the deadline for correction. | <ul style="list-style-type: none"> <li>· Film authors payout category only / set and costume design line</li> <li>· Report-based billing</li> </ul>                                     |

The work types are defined in annex 1 of the film distribution scheme. 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.

## 5. 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 (paragraph 5.1), the broadcaster value (paragraph 5.2), the culture factor (paragraph 5.3) and the work factor (paragraph 5.4).

### 5.1 Time factor

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:

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

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.

### 5.2 Broadcaster value

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 4 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 15 January of the following year, 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.

### 5.3 Culture factor

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 15 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”.

### 5.4 Work factor

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

| Type of work | Description  | Work factor                                       |
|--------------|--|---|
| Work type 1  | Feature film, television film, TV movie, serial, cinema short  | Factor 1.00<br>Factor 1.50 (with cinema analysis) |
| Work type 2a | Animation & cartoon film over 30 minutes                       | Factor 1.00<br>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<br>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<br>Factor 1.50 (with cinema analysis) |
| Work type 9b | Documentary film, documentary film series, at least 40 minutes | Factor 1.00<br>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.

### 6. Special rule for other film authors

Co-authors of billable film works of work types 1, 2a, 2b, 3, 6, 9a and 9b that are not covered by the payout lines of paragraph 1 can claim an entitlement on a case-by-case basis if they provide evidence of their co-authorship to Bild-Kunst pursuant to section 49 annex 2. The same applies for cinematographic works of other work types if the income for the relevant work is expected to be comparable in economic terms.

If the co-authorship is recognised, the other co-author is allocated the share determined by the valuation committee from the reserves for the recognised cinematographic

work formed for such cases. This share is based on the shares of the standard participants mentioned in paragraph 1 of sections 47 and 48. For the cinematographic work overall, the points score corresponding to 1.6 times the points score of the direction payout category is applied as the assessment basis for the purposes of the payout to the other film author.

### 7. Treatment of non-distributable distribution reserves

Non-distributable distribution reserves can arise in the film author payout categories. The reserves of a payout line pursuant to paragraph 1 are allocated pro rata to the credit recipients considered for the relevant year of usage in this line in the proportion of their credits to the last payout.

## 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 and a producer. The General Meeting 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 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 paragraph 1, no. 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 47 paragraph 6,
- 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.48 Distribution scheme 9 – “Private copying (film)”

#### 1. Basis of 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:

| Category                          | Payout line              |
|-----------------------------------|--------------------------|
| 95% direction, camera and editing | 66% 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.

Film producers must report their entitlement to a cinematographic work. Bild-Kunst requires an indemnity declaration from the film producers as constitutive evidence prior to any payout. Film authors of the direction, camera and editing distribution lines report their entitlement to cinematographic works in the reportable work types. Bild-Kunst will research their entitlement in usage-based work types having due consideration for the efficiency principle. Film authors of the sets / architecture and costume design distribution lines report their entitlement in all work types.

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.

#### 2. 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 year of usage and its broadcaster value (paragraph 5.2) modified by the culture factor (paragraph 5.3) was at least “5” in the year of usage. The market share is determined on the basis of the data of AGF / GfK television research.

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 15 January of the following year. As soon as this is done, Bild-Kunst will publish the list on its website.

#### 3. Billable cinematographic works

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 49 paragraph 1.14 are not determined, but can be billed if they are reported. Cinematographic works with a duration of less than three minutes are not billable. For animations

and cartoon films the minimum duration is one minute. US productions are also not billable.

#### 4. Work types and their allocation to distribution categories

All billable cinematographic works are divided into the following 19 work types:

| No. | Work types   | Special feature  | Classification  |
|-----|--|--|---|
| 1   | <b>Feature film, television film, TV movie, serial, cinema short</b>                             |  | <ul style="list-style-type: none"> <li>· Payout category film authors only</li> <li>· Usage-based billing</li> </ul>  |
| 2a  | <b>Animation and cartoon film over 30 minutes</b>  | The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work. | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>  |
| 2b  | <b>Animation and cartoon film up to 30 minutes</b>   | The shares for camera, editing, set and costume design will be allocated to the rightholder who performed the graphic design work. | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>   |
| 3   | <b>Live-action animated film</b>   | In live-action animated films, the author of the figures / objects receives the shares for set and costume design.                 | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>  |
| 4   | <b>Filmed production</b>   | In filmed puppet shows, the creator of the puppets receives the shares for both production and costume design.                     | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which likewise report-based billing</li> </ul> |
| 5   | <b>Musical transmission</b>  | The individual film items are each longer than three minutes and in total make up at least 25% of the total length.                | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which likewise report-based billing</li> </ul> |
| 6   | <b>Mini series</b>   |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>  |
| 7a  | <b>Fictional series from running length 40 minutes</b>   |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Usage-based billing</li> </ul>  |
| 7b  | <b>Fictional series from running length 20 minutes</b>   |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>   |
| 7c  | <b>Fictional series up to 20 minutes</b>   |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>   |
| 8   | <b>Soap opera, sitcom, telenovela (daily, weekly)</b>  |  | <ul style="list-style-type: none"> <li>· Film authors payout category only</li> <li>· Report-based billing</li> </ul>   |
| 9a  | <b>Documentary film / documentary film series from running length 50 minutes</b>                 |  | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which usage-based billing</li> </ul>           |
| 9b  | <b>Documentary film / documentary film series from running length 40 minutes</b>                 |  | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which usage-based billing</li> </ul>           |
| 9c  | <b>Documentary film / documentary film series from running length 25 minutes</b>                 |  | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul>          |
| 9d  | <b>Documentary film / documentary film series from running length 15 minutes</b>                 |  | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul>          |
| 9e  | <b>Documentary film, documentary film series, magazine items under running length 15 minutes</b> |  | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul>          |

| No. | Work types   | Special feature   | Classification   |
|-----|--|---|--|
| 10  | Docu-soap (daily, weekly)  |   | <ul style="list-style-type: none"> <li>· Film producers payout category; of which report-based billing</li> <li>· Film authors payout category; of which report-based billing</li> </ul> |
| 11  | TV recording (only set and costume design against evidence)      | A film of these categories will be allocated to work categories 4 or 5 if the rightholder provides the appropriate evidence by the deadline for correction reports. | <ul style="list-style-type: none"> <li>· Film authors payout category only / set and costume design line</li> <li>· Report-based billing</li> </ul>                                      |
| 12  | Live transmission (only set and costume design against evidence) |   |  |

The work types are defined in annex 1 of the film distribution scheme. 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.

### 5. 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 (paragraph 5.1), the broadcaster value (paragraph 5.2), the culture factor (paragraph 5.3) and the work factor (paragraph 5.4).

#### 5.1 Time factor

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.

#### 5.2 Broadcaster value

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 15 January of the following year, 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.

#### 5.3 Culture factor

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 15 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”.

#### 5.4 Work factor

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

| Type of work | Description   | Work factor                                       |
|--------------|---|---|
| Work type 1  | Feature film, television film, TV movie, serial, cinema short | Factor 1.00<br>Factor 1.50 (with cinema analysis) |
| Work type 2a | Animation & cartoon film over 30 minutes                      | Factor 1.00<br>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<br>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<br>Factor 1.50 (with cinema analysis) |
| Work type 9b | Documentary film, documentary film series, at least 40 minutes | Factor 1.00<br>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.

## 6. Special rule for other film authors

Co-authors of billable cinematographic works of work types 1, 2a, 2b, 3, 6, 9a and 9b that are not covered by the payout lines of paragraph 1 can claim an entitlement on a case-by-case basis if they provide evidence of their co-authorship to Bild-Kunst pursuant to section 49 paragraph 2. The same applies for cinematographic works of other work types if the income for the relevant work is expected to be comparable in economic terms.

If the co-authorship is recognised, the other co-author is allocated the share determined by the valuation committee from the reserves for the recognised cinematographic work formed for such cases. This share is based on the shares of the standard participants mentioned in paragraph 1 of sections 47 and 48. For the cinematographic work overall, the points score corresponding to 1.6 times the points score of the direction payout category is applied as the assessment basis for the purposes of the payout to the other film author.

## 7. Treatment of non-distributable distribution reserves

Non-distributable distribution reserves can arise in the film author payout categories. The reserves of a payout line pursuant to paragraph 1 are allocated pro rata to the credit recipients considered for the relevant year of usage in this line in the proportion of their credits to the last payout.

## 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 and costume design and

a producer. The General Meeting 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 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 no. 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 47 paragraph 6;
- 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.49 Annexes to distribution schemes 1, 8 and 9

### 1. Annex 1 to distribution schemes 8 and 9

The typical work types are described as follows:

#### 1.1 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 “Tartort” 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.

## 1.2 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 cartoon films are usually computer-animated. The way and manner of the visual presentation in the form of drawn material have not changed (Example: modern episodes of “Die Sendung mit der Maus”).

## 1.3 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”.

## 1.4 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.

## 1.5 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.

## 1.6 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”).

## 1.7 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.

## 1.8 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.

### 1.9 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”).

### 1.10 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.

### 1.11 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.

### 1.12 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.

### 1.13 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.

### 1.14 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”).

## 2. Annex 2 to distribution schemes 1, 8 and 9

Co-authors of billable cinematographic works that are not covered by the payout lines of paragraph 1 of sections 47 and 48 can provide evidence of their co-authorship solely in accordance with the procedure regulated in the “Film co-author” guideline. In the event of recognition, the procedure also regulates the amount of the share in the particular case. There is no deduction for cultural and social purposes.

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:

- a) 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.
- b) Threshold of originality:
  - Above the level of mere craftsmanship.
  - Activity makes a significant contribution to the narration of the cinematographic work, exerting a perceptible, stand-alone influence on the film experience.

## Special Part – Chapter 3: Reporting Procedure

The Administrative Council is authorised to formulate the rules for the reporting procedure in detail.

### Sec.50 Principles

#### 1. Scope of application

The reporting procedure regulated in this chapter applies for the distribution schemes of report-based collective distribution pursuant to section 18 paragraph 3 and for the work and correction reports within the scope of usage-based collective distribution pursuant to section 18 paragraph 4. 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 requirements of the distribution schemes of the distribution plan (Special Part chapter 2) and is fleshed out by the report form (section 51 paragraph 3) and alternatively, where applicable, the online report portal (section 52). In some cases the distribution schemes specify that particular evidence must be provided with the report content (constitutive evidence). In addition, 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 Bild-Kunst by the reporting deadlines; the constitutive evidence must be submitted within not more than two weeks after the reporting deadline. Incomplete reports are treated as equivalent to missing reports.

#### 4. Reporting procedure

Bild-Kunst uses the written reporting procedure (section 51). In some areas an online reporting procedure (section 52) is also offered. Verbal or telephone reports are not permitted.

### Sec.51 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 Bild-Kunst.

#### 2. Addresses

Reports must be submitted to the offices of Bild-Kunst either in Bonn at Weberstraße 61, 53113 Bonn, or in Berlin at Köthener Straße 44, 10963 Berlin. The available fax numbers and email addresses are shown on the Bild-Kunst website.

#### 3. Report format

Report content must conform to the current published report form specified by Bild-Kunst. The report form contains the specific information to be reported and is arranged in a layout that simplifies data entry. The individual report forms can be found on the 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 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 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 Bild-Kunst in the original.

### Sec.52 Online reporting procedure

#### 1. Availability

For some areas report content can be submitted online via an electronic report portal, if 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. Bild-Kunst will post a message on its website if there are faults in the report portal.

## 3. Deadline

In the online reporting procedure, the time the reports including the constitutive evidence are received determines whether they are received in time. The online reporting procedure, if offered, is available for a particular period of time until the reporting deadline. If there is a technical fault at 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. 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, Bild-Kunst does not receive a report.

## 4. Constitutive evidence

If a report is sent via the online 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 Bild-Kunst in the original.

### Sec. 53 Verification of reports

#### 1. Performance of checks

Bild-Kunst will check the reports if there is a concrete suspicion that the information is incorrect. It also carries out regular checks based on random samples.

#### 2. Control evidence

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. The regulations of section 52 apply to the procedure.

#### 3. Inspections

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 Bild-Kunst sees. If this is

not successful, no credits are made based on the reports and any payouts already distributed are 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. 54 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 51).