

# NGAL11

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## GENERAL DELIVERY TERMS FOR SUBCONTRACTED SURFACE TREATMENT THROUGH HOT DIP GALVANIZING

Adopted in 2001 by the Swedish hot dip galvanizers in the association Nordic Galvanizers, in collaboration with Svensk Ytbehandlings Förening and Svensk Pulverlackteknisk Förening.

### 1. Applicability

1.1 These general delivery terms apply in conjunction with Swedish and European standard SS-EN ISO 1461, as well as SS-EN ISO 14713 parts 1 and 2 for batch hot dip galvanized objects and SS-EN ISO 10684 for external threads. Deviations from the terms must be agreed in writing in order to be valid.

### 2. Definitions

2.1 Vendor: The contracted party who performs batch hot dip galvanizing (reaction between steel and molten zinc) on behalf of the buyers or for third parties who have a contractual relationship with the buyer.

2.2 Buyer: The contractual party who is contracted for hot dip galvanizing of goods on its behalf.

2.3 Agreement: All of the parties' agreements relating to deliveries of hot dip galvanizing.

2.4 Goods: Agreed components or structures to be hot dip galvanized or have been hot dip galvanized.

2.5 Delivery: A consignment of goods delivered to the vendor at the same time. Back-ordered goods or goods otherwise indicated in writing are also included in the delivery.

2.6 Price: Remuneration for hot dip galvanizing that the buyer under the agreement shall pay to the vendor.

### 3. Product information

3.1 Information and data in product and method information, price lists and similar documents are binding only where the agreement expressly refers to these.

### 4. Drawings and descriptions

4.1 Drawings and technical documents relating to the goods, their fabrication and hot dip galvanizing, which are submitted by one party to the other, remain the submitting party's property. Received drawings, technical documents or other technical information may not without the other party's consent be used other than for the work related to the goods. They may not without the consent of the submitting party be used or copied, reproduced, submitted or otherwise be brought to the knowledge of a third party.

### 5. Requirements

5.1 The requirements of hot dip galvanizing shall be clearly specified by the buyer and shown in the agreement. Standards (apart from those specified under paragraph 1) or similar documents shall be submitted to the vendor if these are not known to be previously in his possession.

5.2 The buyer shall define the required surfaces and respective requirements that apply to the goods. Unless otherwise specified, the industry standard for coating thickness of specified surfaces shall apply.

5.3 Post-processing requirements shall be specified in accordance with the branch standard "Post-processing and repair". If no post-processing requirements are specified, the branch standard Class E2 shall apply with measures in accordance with Requirement 2, Table 2 of the standard.

5.4 If composite parts shall be mutually movable the buyer shall clearly specify this in the agreement.

### 6. Requirements of goods prior to hot dip galvanizing

6.1 The buyer is aware of the following conditions, which are of importance to hot dip galvanizing. The composition of certain steels can be such that in hot dip galvanizing they react strongly and get a thicker zinc coating as a result. Such coatings become matt and have a more or less dark grey colour. There is some risk of embrittlement of the layer.

a) The steel's composition and condition can also limit the layer thickness so that the required layer thickness cannot be achieved.

b) Sulphur-alloyed free cutting steel should not be hot dip galvanized since the reaction can be so strong that the steel is destroyed in the zinc bath.

c) The hot dip galvanizer shall, if necessary, inform the buyer about any deviations.

The buyer shall at the time of ordering specify the material's composition and condition. The buyer is also responsible for ensuring that the tolerances are sufficient for hot dip galvanizing.

6.2 Structural design, dimensions and the material of the goods, unless otherwise agreed, shall enable hot dip galvanization in accordance with the specified requirements without additional work compared to established practice for the agreed hot dip galvanizing method. If this is not the case, the buyer must be informed without delay and the procedure agreed. If this involves extra work for the vendor, he has the right, according to his own choice, to receive reasonable remuneration for this or, if the buyer's breach of contract is essential for the hot dip galvanizer, terminate the agreement regardless of whether the buyer realised or ought to have realised this. The goods' edges shall upon delivery to the vendor be free of slag and molten droplets and be burred. Maximum allowed flute depth is 0.3 mm. Changes, even small ones, from the agreed conditions regarding the construction conditions, choice of material, condition or surface contaminants of the goods, must be reported to the vendor without delay.

### 6.3 Cleaning prior to dipping

The goods must be free from pitting, welding slag, oils, fat, paint or other contaminants, which cannot be removed in the normal pre treatment for hot dip galvanizing.

#### 6.4 Threaded components

External threads must be undercut prior to hot dip galvanizing in accordance with the standard SS ISO 965 parts 4 and SS 3194 (UNC threads) to provide space for the zinc layer.

#### 6.5 Venting holes

The buyer is responsible for ensuring there are holes for venting and draining in structures with closed spaces. Otherwise there is a risk that penetrated liquid vaporizes, and the pressure can be so high that the object explodes. There is a risk of severe personal injury and damage to material in the event of such explosions. If there are no holes these can be made by the galvanizer after consultation with the buyer and for which there is an additional charge.

#### 7 Delivery to the vendor

7.1 The buyer is responsible for informing the galvanizer if pipes, containers or similar objects to be galvanized could have contained flammable liquids, explosive substances or suchlike.

7.2 The vendor shall immediately inform the buyer if there is any transportation damage or other defects to the goods before galvanizing.

7.3 If the buyer finds that he cannot keep to the agreed delivery time to the vendor or that the quantity of goods or the goods' condition are not consistent with what was agreed, the vendor must be informed without delay.

7.4 If delivery to the vendor does not take place at the right time, the vendor has the right to reasonably extend his delivery time taking into account the work situation in general and to receive reasonable remuneration for extra work.

7.5 The buyer shall ensure that the goods or goods containers are marked in such a way that the type, quantity and number concerned can easily be identified by the hot dip galvanizer.

7.6 Transportation to the vendor takes place at the buyer's risk and expense unless otherwise agreed.

#### 8 Execution of hot dip galvanizing

8.1 The vendor is responsible for ensuring that the goods is handled so that it is not damaged and that it is treated expertly and in accordance with the requirements as agreed.

8.2 The hot dip galvanizer uses the holes, loops etc. that are on the goods for hanging. If other holes have to be made this shall be agreed with the buyer and charged by him.

8.3 The hot dip galvanizer is not responsible for the occurrence of rust streaks, which are caused by pickling acid seeping out after hot dip galvanizing from cracks and pores in welds or gaps in e.g. lap joints.

8.4 The hot dip galvanizer is not responsible for cracks and/or deformities that arise due to inherent tensions in the object. This can occur in e.g. cold working, welding, heat treatment or when castings cool.

8.5 The hot dip galvanizer is not responsible for such material changes, which are due to the impact of the temperature during hot dip galvanizing, e.g. accelerated aging and brittleness caused by this.

8.6 If welding has taken place with electrodes, whose composition differs from the base material, the zinc coating over the weld can have a different appearance and a thickness different from the rest of the zinc coating. This can also occur in gas and laser cutting. The hot dip galvanizer is not responsible for such differences.

8.7 The hot dip galvanizer is not responsible for defects in the zinc coating if this is due to defects in the base material or fabrication, ghost lines, flaking, splitting, folds and tongues in rolled products, sand in the surface or cracks in castings, welding spatter, pores in welds or uneven surfaces after gas cutting, etc.

8.8 The hot dip galvanizer is not responsible for variations in the thickness of the zinc coating due to the composition of the steel (according to paragraph 6.1). If the steel's composition and/or condition (blasting, pitting, alloy enrichment in the surface, etc.) is such that the zinc coating becomes more than 50 % thicker than what was specified for the average coating thickness in the requested thickness class, the hot dip galvanizer has the right to charge for any additional costs.

#### 9 Inspection and testing

9.1 The hot dip galvanizer shall perform process and production monitoring as well as inspection of hot dip galvanized goods to a sufficient extent to ensure that the requirements are achieved. Final inspection is performed in accordance with the industry standard for coating thickness measurement. Destructive testing may only be performed after agreement with the buyer.

9.2 Testing in addition to that specified in paragraph 9.1 as well as documentation and traceability requirements from the buyer beyond the normal procedure of the hot dip galvanizer gives him the right to reasonable remuneration.

9.3 The hot dip galvanizer has the right to allow others to perform the hot dip galvanizing provided that the hot dip galvanizer can supervise such work and that other regulations in this agreement are complied with.

#### 10 Delivery to the buyer

10.1 If the parties have agreed on delivery taking place within a certain time period this runs from when the goods and all documentation have reached the hot dip galvanizer.

10.2 If the hot dip galvanizer finds that he cannot keep to the agreed delivery time he shall as soon as possible inform the buyer about this and specify the new delivery time.

10.3 If delivery is delayed due to the circumstances specified in paragraph 14.1 or due to any act or negligence by the buyer, the delivery time shall be extended as far as can be considered reasonable taking into account all the circumstances of the case. This applies irrespective of whether the cause of the delay occurs before or after the expiry of the agreed delivery time.

10.4 If the hot dip galvanizer does not deliver the goods at the agreed time and the delay is due to the hot dip galvanizer, the buyer has the right to a penalty from the date when the delivery should have taken place.

The penalty shall, for each entire week the delay lasts, comprise 0.5% of the part of the agreed price which refers to the part of the goods which cannot be used as intended as a result of the delay. The penalty shall not exceed 7.5 % of this calculation basis.

The penalty becomes due for payment upon written demand from the buyer, however no earlier than when all the goods are delivered or at the time of termination below. The buyer loses his right to a penalty if he has not, no later than within six months from when delivery should have taken place, presented a claim concerning this.

10.5 If the buyer is entitled to a penalty under paragraph 10.4, and the goods have still not been delivered, the buyer has the right through written communication to demand delivery within a final reasonable period of time, which may not be shorter than one week.

If the vendor for any reason, other than that for which the buyer is responsible, fails to deliver within the period, the buyer has the right through written communication to the vendor to terminate the agreement in respect of that part of the goods which has not been put to its intended use.

The buyer also has in such a termination the right to compensation for the damages he has suffered due to the

vendor's delay to the extent that the damages do not exceed the maximum penalty the buyer may demand under paragraph 10.4. The compensation for damages shall not be able to exceed 7.5 % of the mentioned basis for calculation.

Apart from a penalty under paragraph 10.4 and damages under this paragraph, each claim from the buyer for reason of the vendor's delay is excluded. This limitation of the vendor's liability does not however apply if he is guilty of gross negligence.

10.6 The hot dip galvanizer shall pack and deliver the goods in the same manner as they were delivered by the buyer unless otherwise agreed. The buyer shall provide the packaging material when such is required.

10.7 Transportation from the hot dip galvanizer takes place at the buyer's risk and expense.

10.8 If the buyer does not collect or receive the goods on the agreed date, he is still obliged to make payment as if the goods were delivered. If a delivery date has not been agreed on then the date when the goods are ready for delivery is treated as the delivery date. The hot dip galvanizer shall then store the goods at the buyer's risk and expense and upon request by the buyer also insure the goods.

### 11 Payment

11.1 Payment shall reach the hot dip galvanizer within thirty days from the invoice date.

11.2 If the buyer does not pay at the right time the hot dip galvanizer has the right to retain the buyer's goods until full payment has been made, including any costs arising and a penalty interest on arrears (bank rate + 8 percentage units) paid from the due date. The buyer's goods which have not been collected may be sold provided that:

- a) the assignment has been completed or the agreement has ceased to apply
- b) the buyer thereafter has requested to collect the goods and in the request has informed that the goods may otherwise be sold after a certain time, at least three months from the request, and
- c) the time that was specified in the request has expired.

If the hot dip galvanizer has a claim against the buyer for his work on the goods or for storage of the goods, it shall be shown on the request what amount should be paid. Any surplus on the sale, after deduction for the hot dip galvanizer's claim against the buyer, shall be reported to the buyer.

### 12 Liability for defects

12.1 The vendor is only liable for defects that appear within three months from the date when the goods were delivered.

12.2 The buyer shall in writing to the vendor make a complaint about the defect without reasonable maintenance after the defect appeared and in any case no later than one week after the expiry of the liability period. The complaint shall contain a description of how the defect manifested itself.

If the buyer does not make a complaint about the defect within the time limit specified here, he loses the right to make any claim in respect of the defect.

12.3 The vendor is not liable for those defects that depended on the buyer's basis.

12.4 The vendor's liability only applies to those defects that occur under the working conditions foreseen in the agreement and in the proper use of the goods. Consequently, liability does not cover improper handling, finishing that damaged the finish or incorrect storage after the goods have been delivered by the vendor.

12.5 In the case of remedied goods the vendor has the same responsibility as for the original goods. The contract period is calculated from the time the remedial measure is completed.

12.6 If the buyer makes a complaint, and he cannot show that it is likely that there is some defect that the vendor is responsible for, the vendor has the right to compensation for the work and the costs that the complaint caused him.

12.7 Transportation of the goods complained about to and from the vendor shall take place at the buyer's risk and expense unless otherwise agreed.

12.8 If the vendor does not remedy the defect caused by him within a reasonable time, the buyer has the right to give him a final deadline for remedying it. If the vendor does not remedy the defect within the time limit the buyer has the right according to his own choice to

- a) have the work carried out at the vendor's risk and expense, provided that the buyer at the time proceeds with good judgement, or
- b) demand a reduction in price of no more than 15 % of the agreed price.

The defect is substantial the buyer instead has the right to terminate the contract by a written notice to the seller. Upon termination of the contract the buyer is entitled compensation for damages he has suffered, although no more than 15% of the agreed price.

12.9 Except for what is prescribed in paragraphs 12.1 – 12.8 the vendor is not liable for defects. The vendor is not obliged due to a defect in the goods to pay any compensation to the buyer for loss of production, lost profits or other direct or indirect damages. This limitation of the vendor's liability does not however apply if he is guilty of gross negligence.

12.10 The vendor's liability for damages is limited in each case, and regardless of the degree of negligence, to the agreed price for the hot dip galvanizing of the goods complained about plus transportation costs.

### 13 Liability for damage caused by hot dip galvanizing

(Product liability)

13.1 The vendor shall not be liable for damage that the goods cause due to the hot dip galvanizing

- a) to real or personal property if the damage occurs when the goods are in possession of the buyer, or
- b) to products produced by the buyer or to products in which the buyer's products form a part of, or to real or personal property which these products cause because of the goods, or
- c) to persons, provided it cannot be shown that the damage was caused through negligence by the vendor or someone he is responsible for.

The vendor is not liable under any circumstances for loss of production, lost profits, consequential financial damages or other indirect damages.

If the vendor becomes liable to a third party for damage or losses that the goods have caused, the buyer shall hold the vendor harmless to the same extent that the vendor's liability is limited in accordance with the above sentence.

The above limitations of the vendor's liability shall not apply if he is guilty of gross negligence.

The vendor and the buyer are liable to prosecution in court or an arbitration tribunal dealing with claims for compensation against either of them if the claim is based on damage or loss allegedly caused by the delivered service/product. The mutual relationship between the vendor and buyer shall however always be determined in accordance with the rules in paragraph 15.1 below.

### 14 Grounds for release

(Force majeure)

14.1 The following circumstances constitute grounds for release if they lead to the fulfilment of the agreement being hindered or becoming unreasonably onerous: Industrial

disputes, fire, war or unforeseen military conscription, requisition, confiscation, currency restrictions, insurrection or riot, shortage of transport or goods, power shortage or delay of goods from a sub supplier which are caused by such grounds for release.

14.2 It is incumbent on the party who wishes to claim grounds for release to immediately notify in writing the other party of its emergence as well as its termination. If the grounds for release hinder the buyer, he shall compensate the vendor for the expenses the latter incurs to secure and protect the goods.

14.3 If the agreement's fulfilment is delayed by more than six months of the grounds for release stated in paragraph 14.1, each party, without restrictions of what is otherwise applicable under these provisions, shall have the right to terminate the agreement by giving written notification to the other party.

#### **15 Disputes**

15.1 Any dispute arising from the agreement and everything related to it shall in the first instance be settled by the district court where the vendor has his domicile. The dispute shall be settled in accordance with the law in the vendor's country.