

Aanbesteding	Delivery and maintenance of a Digital Asset Management and Preservation System (DAMPS)
Aanbestedende Dienst:	Koninklijke Bibliotheek
Referentie:	20190523

Omschrijving:

The delivery of a system (or potentially a combination of systems) for the permanent retention and preservation of, and access to, the digital heritage for which KB is responsible, meeting our (non-mandatory) requirements to the maximum possible extent.

Toelichting:

Nr:

Categorie Bestek/beschrijvend document

Betreft Tendering Guidelines page 13 section 2.2 and ARBIT sections 12.7 and 73.2

6

Vraag

We note that per section 2.2 point 2 of the Tendering Guidelines, the scope of the contract includes full maintenance and support of the system including major releases. ARBIT sections 12.7 and 73.2 stipulate Corrective Maintenance for at least three years for the release that was accepted by the Contracting Authority. For tenderers with an active roadmap and providing releases every year, can the Contracting Authority please confirm that in lieu of ARBIT sections 12.7 and 73.2 Corrective Maintenance shall be provided for the supplier's current release and the immediately previous version of the system generally released to its licensees?

Antwoord

Vrijgegeven: 27-06-2019

See answer question 21

Nr:

Categorie Bestek/beschrijvend document

Betreft Technical design

7

Vraag

It would be helpful if you could extend the word limit of the Technical design described in Annex 9 to allow us for avoiding additional annexes as far as possible (7000 W would be sufficient).

Antwoord

Vrijgegeven: 27-06-2019

Agreed, It is allowed to answer the 'Technical design' in max. 7000 words.

Nr:

Categorie Contractvoorwaarden

Betreft ARBIT 6&7

8

Vraag

Articles 6 & 7, Not relevant

Antwoord

Vrijgegeven: 27-06-2019

Articles 6 and 7 will be deleted.

Nr:

Categorie Contractvoorwaarden

Betreft ARBIT 8.1a

- 9 **Vraag**
Not relevant given that we are delivering a standard product not a customised one.
Antwoord **Vrijgegeven:** 27-06-2019
Article 8.1a will be deleted.
- Nr:**
- 10 **Categorie** Contractvoorwaarden
Betreft ARBIT 8.4
Vraag
Rejected as all copyright will remain with Counterparty given it's a standard product.
Antwoord **Vrijgegeven:** 27-06-2019
Article 8.4 will be deleted.
- Nr:**
- 11 **Categorie** Contractvoorwaarden
Betreft ARBIT 12.7
Vraag
We only support the prior two versions of the product which is likely to be 2 years.
Antwoord **Vrijgegeven:** 27-06-2019
See answer question 21
- Nr:**
- 12 **Categorie** Contractvoorwaarden
Betreft ARBIT 26.3
Vraag
Limitation of liability should not exceed ONE times the Fee not FOUR.
Antwoord **Vrijgegeven:** 27-06-2019
Agreed, the text of Article 26.3 then becomes as follows:

The liability referred to in Article 26.1 for damage other than that referred to in Article 26.2 is limited to an amount not exceeding once the amount of the fee per event. Related events are considered as one event.
- Nr:**
- 13 **Categorie** Contractvoorwaarden
Betreft ARBIT 30.6
Vraag
Can not accept termination for convenience, without a termination Fee.
Antwoord **Vrijgegeven:** 27-06-2019

The KB has decided the following on the basis of this question.

- Article 30.1 ARBIT will be deleted.
- Article 30.6 ARBIT, the phrase 'Without prejudice to the provisions laid down in the Contract or in the Terms and Conditions, the Contracting Authority may terminate a Contract by registered letter, where applicable with immediate effect' will be deleted. The following text will replace this;

'The Client has the right to terminate the Contract with immediate effect if the Contractor fails to fulfill any obligation under the Contract, or fails to do so properly or in time and even after a written notice of default, the inaccurate / improper / late performance is continued.'

The full text of Article 30.6 is then as follows:

The Client has the right to terminate the Contract with immediate effect if the Contractor fails to fulfill any obligation under the Contract, or fails to do so properly or in time and even after a written notice of default, the inaccurate / improper / late performance is continued. In such an event, the account between the Contracting Authority and the Contractor will be settled on the basis of articles 30.7 to 30.9. This method of settling accounts will never result in the Contracting Authority owing the Counterparty more than the Fee or the as yet unpaid part thereof due to its termination of the Contract. The Contracting Authority is not obliged to indemnify the Contractor in any way other than that specified in articles 30.7 to 30.9 for the consequences of terminating the Contract.

Nr:

Categorie Contractvoorwaarden

Betreft ARBIT 41

14

Vraag

Not relevant to an off-the-shelf product. Request deletion.

Antwoord

Vrijgegeven: 27-06-2019

Article 41 will be deleted.

Nr:

Categorie Contractvoorwaarden

Betreft ARBIT 43.1

15

Vraag

We are not selling a perpetual license only a subscription, language needs adjusting.

Antwoord

Vrijgegeven: 27-06-2019

Article 43.1 will be deleted.

Nr:

Categorie Contractvoorwaarden

Betreft ARBIT 44(a)

16

Vraag

Language needs adjusting since no software is error free.

Antwoord

Vrijgegeven: 27-06-2019

The intention / meaning of this article is not to exclude all 'errors' that may be in the software. The purpose of this Article is that the supplier will in this Contract not use 'kill switch' technology to (remotely) disable the use of the system.

Nr:

Categorie Contractvoorwaarden

Betreft ARBIT 46.2

17

Vraag

Needs to be appended with "for the remainder of the subscription period."

Antwoord

Vrijgegeven: 27-06-2019

The sentence 'for the remainder of the subscription period' will be added to Article 46.2.

- Nr:**
- Categorie** Contractvoorwaarden
Betreft ARBIT 73.2
- 18 **Vraag**
As per 12.7 we only support the prior two versions of the product which is likely to be 2 years not 3.
Antwoord **Vrijgegeven:** 27-06-2019
Article 73.2 will be deleted
- Nr:**
- Categorie** Contractvoorwaarden
Betreft ARBIT 76.1
- 19 **Vraag**
We have a standard Service level across all customers and do not permit termination for failure to meet a service level. We can discuss resolution if there is consistent breach of service level.
Antwoord **Vrijgegeven:** 27-06-2019
Article 76.1 ARBIT, the phrase 'The Contract may in any event be cancelled in the event of repeated failures to achieve the Service Levels.' will be deleted.
- Nr:**
- Categorie** Contractvoorwaarden
Betreft ARBIT 82
- 20 **Vraag**
Customers do have a say on innovation of the product, but it is not mandatory for us to comply. Language will need adjusting.
Antwoord **Vrijgegeven:** 27-06-2019
Article 82 ARBIT, the phrase 'If the Contracting Authority so wishes, Software Maintenance will also include Innovative Maintenance' will be deleted.
- Nr:**
- Categorie** Contractvoorwaarden
Betreft ARBIT 48.4
- 21 **Vraag**
We train customers how to install new versions of products and do not have an obligation to provide staff to complete each new upgrade.
Antwoord **Vrijgegeven:** 27-06-2019
The KB assumes that you mean Article 84.4 instead of 48.4.
This determination will not be part of the agreement, the Tenderer can ignore this.