'FREQUENTLY ASKED QUESTIONS' [1]

Question 1: What is the precise definition of the 'clinical validation' of 3rd phase, what exactly will be demanded, how will it be organized and what is to be covered by the allocated budget? Who is taking care of making the tests/clinical validation, the economic operator or the different partners of the consortium?

The EC-IVD will be fully in place by the end of the oncNGS project and any oncNGS solution to be used in routine diagnostics at that moment will have to fully comply with the specifications of the EC-IVD regulation.
The oncNGS consortium will request from the suppliers a clear description of how they intend to comply with this regulation when placing the oncNGS solution on the market.

Within the oncNGS PCP, the oncNGS consortium will request in the Call for Tender that the analytical and clinical performance of the developed oncNGS solution matches the requirements set within the EC-IVD. Demonstration of analytical and clinical performance is to be conducted by the suppliers.

The analytical performance of the developed oncNGS solution will need to be demonstrated fully in phase 2. With respect to 'clinical validation', the oncNGS consortium is aware that a full validation including a prospective clinical trial demonstrating clinical validation and utility is not feasible within the timeframe and budget of the PCP and would resort more on an eventual follow-up PPI.

For this, 'clinical validation' will consist of demonstrating clinical performance on specimens both at the suppliers level and at the buyers sites. More specifically, the suppliers will be asked to demonstrate clinical performance and feasibility of the oncNGS solution on a set of markers already in phase 2.
In phase 3, suppliers can complete their clinical performance and feasibility for the rest of the markers and a prospective clinical feasibility of the use of the solution will be tested at the buyers facilities using their own samples. Thus, the consortium wishes to corroborate the clinical performance of the provided oncNGS solutions only in phase 3.

Full details on which markers are expected to be tested at the respective phases will be presented in the Call for Tender. Details on the requirements for analytical and clinical performance and feasibility will be outlined in detail also in the Call for Tender.

[1] All rights reserved. This FAQ contains the questions that were currently asked and provides answers given with the information available at the given time. Questions can always be added and answers can be changed when the information that was available at the given time is no longer accurate. No legal rights may be derived from the information listed in the FAQ. This document has been drawn up with the utmost care, but no guarantees are given regarding its soundness and/or completeness. Any errors, inaccuracies or imperfections can be reported via the contact form provided on the oncNGS website (http://oncngs.eu).

Question 2: What are the partnerships options within the oncNGS PCP; is it possible to apply in a partnership or not? What does the notion 'more than 50% of R&D in EU' precisely means? How will the interaction with the oncNGS buyers at the different steps in the PCP? What about the partner matching tool?

Tenders can be submitted either individually or in consortium with other economic operators (under no circumstances it will be allowed to any natural or legal person to submit more than one bid). In agreement with the Guidance PCP procurement documents for the H2020 Programme (Version 2.1 07 January 2020), it is imperative that more than 50% of the R&D activities that are justified by the partnership are performed in EU Member States or Horizon 2020 associated countries.
Suppliers that have obtained a contract for a particular phase of the oncNGS PCP will have opportunities to interact with the oncNGS buyers (and eventually also the supporting entities) at regular intervals along the phases. These interaction moments will be clearly outlined within the Call for Tender as milestones in the process.

Questions to the oncNGS consortium can be forwarded at all time during the project through the contact facility within the oncNGS website.

A partner match page has been opened on the oncNGS website where request for partners can be announced. oncNGS secretariat will manage the online noticing of the request. If a supplier wishes to utilize this facility, please inform the oncNGS secretariat by the contact mail.

Question 3: What is the precise impact of the implementation of the EC-IVD regulation on the deployment of the oncNGS solution? How should the stipulations laid down within the EC-IVD regulation be integrated into the oncNGS PCP offers/PCP?

The EC-IVD will be fully in place by the end of the oncNGS project and any oncNGS solution to be used in routine diagnostics at that moment will have to fully comply with the specifications of the EC-IVD regulation.

The oncNGS consortium will request from the suppliers a clear description of how they intend to comply with this regulation when placing the oncNGS solution on the market.

Within the oncNGS PCP, the oncNGS consortium will request in the Call for Tender that the analytical and clinical performance of the developed oncNGS solution matches the requirements set within the EC-IVD. Or more explicit clarification of the scope of the clinical validation, we refer to Question 1 of this document.

Question 4: What are the IP rules applicable for the oncNGS solution?

The IP ownership and obligations will be set forth in detail in the Call for Tender documents and Contract Notice. In agreement with the Guidance PCP procurement documents for the H2020 Programme (Version 2.1 07 January 2020):

- the selected operators (R&D service providers) retain ownership of the intellectual property rights (IPRs) that they generate during the PCP (together with the responsibility and the costs for protecting those IPRs) and are able to use them to exploit the developed solutions beyond the procurers;
- the buyers group has the right to:
    - access results, on a royalty-free basis, for their own use
    - grant (or to require the contractors to grant) non-exclusive licences to third parties to exploit the PCP results under fair and reasonable conditions (without the right to sub-license)
    - the buyers group has the right to require the contractors to transfer ownership of the IPRs if the contractors fail to comply with their obligation to commercially exploit the results or use the results to the detriment of the public interest *(including security interests)*.

Question 5: Is price an issue for the oncNGS solution considering in the different partner countries, reimbursement of molecular diagnostics is subjected to different rulings; how is this issue going to be addressed within the oncNGS offers/PCP?

oncNGS consortium is fully aware that the reimbursement of the oncNGS solution through the local healthcare systems (HCS) may differ considerably in the different countries. Not only are the reimbursement fees for molecular diagnostics at this point in time different, also the treatments and care pathways can be different what may impact positioning of the use of the oncNGS solution in the various HCS.

It is NOT the purpose of the oncNGS PCP to provide a one-fit-all solution for the real-life implementation of the oncNGS solution in each HCS.
oncNGS PCP challenges innovative players on the market, via an open, transparent and competitive process, to develop new solutions for a technologically demanding mid- to long-term challenge that is in the public interest and requires new R&D services
However, we will request the suppliers to provide the Buyers Group a clear indication on how they foresee the placing on the market of their solution what will include to some extent a price indication. It remains at the full liberty of the suppliers how they wish to market their solution but the oncNGS buyers have clearly indicated that a sustainable local utilization of the oncNGS solution in their laboratory facilities and local analyses of the sequence data is essential.

Question 6: Does the oncNGS solution have to be compatible with (all) different NGS technology platforms?

The oncNGS solution does not limit the scope of utilization to one particular NGS technology. Considering that the aim of the oncNGS PCP is to bring innovation to all patients, NGS technology should not be a limiting factor and preference will be given to compatibility with as many technologies as within the possibilities of the PCP timeframe and budget according to the supplier's estimation. A justification for the latter will be required from the supplier and detailed in the Call for Tender.

Question 7: Will the oncNGS solution only be applied in routine diagnostics or is a broader deployment could be envisaged (basic research, clinical trials, …)

The oncNGS solution is indeed primarily aimed at being used in routine diagnostics in oncology. This does not mean that the solution should be deployable in any laboratory that wishes to perform complex NGS analysis in their laboratory. It is understood that the use of the oncNGS solution will require availability of not only suitable NGS infrastructures including IT infrastructures but also skilled personnel to perform, analyse, interpret and communicate the oncNGS results.

Nevertheless, the application of the oncNGS solution in other fields or domains can be foreseen and will be considered an asset to the oncNGS solution. One can especially think of the application of the oncNGS solution in basic research, clinical trials, and as reference for material assessment.

A concise conceptual proposal for deployment of the oncNGS solution within a broader scope (e.g. for basic research, clinical trials, …) could be considered within the business case to be presented by the supplier. However, oncNGS will not demand any "Proof of Concept" of such deployment.

Question 8: Should the oncNGS solution also cover 'Minimal Residual Disease' (MRD) detection?

MRD is indeed a very interesting component in assessing the outcome of the treatment and an essential element in follow-up of cancer therapies. It is understood by the oncNGS consortium that applying MRD detection requires a substantially different approach than screening for genomic variation aiming to diagnose the cancer or to determine prognostic and/or predictive markers for therapeutic use.

The primary aim of oncNGS as presented at the OMC webinars is to develop a tool for diagnosis, prognosis, prediction, theranostic and the agnostic use in case patients have an advanced cancer. As such, the Call for Tender will address basically these three applications.

MRD detection could be an interesting secondary use of the solution and the oncNGS consortium would certainly welcome proposals from the suppliers on how to integrate MRD with the oncNGS solution for diagnosis, prognosis, theranostic or prediction. A sound conceptual approach may thus be considered as an interesting asset. We do not expect though that within the timeframe and budget currently made available any practical aspects can be already developed as to MRD detection.

Question 9: Does the oncNGS consortium envisage a single NGS panel for all applications or could distinct panels be proposed within e.g. a single context/setup?

As indicated in the OMC webinars, the oncNGS solution is to be considered as an integrated solution. An Integrated Solution is a "result from the problem solving work process that integrates across two or more functions in a business or technology that is referred to as an enterprise to maximize financial value (e.g., sales and productions planning, etc.) as well as combined with complementary technologies such as robotics (e.g., driving, robotic surgery, etc.) to provide integrated solutions" (The Project Definition – for your project success!).

To translate this definition to our oncNGS project, we seek to develop oncNGS as covering our unmet need in assessing genetic variation in liquid biopsies from patients with an advanced solid or hematologic tumour by NGS.

Question 10: How will be the selection criteria for the oncNGS PCP? Are there any pre-defined KPIs defined in the way you will assess the economical operators answers for Phase 1, 2 and 3?

In the Call for Tender, the selection and the awarding criteria that will be applied to finally assign a contract to a particular bidder will be clearly outlined. Different levels of criteria apply to each phase but in essence for all steps exclusion, selection and award criteria will be outlined. For each criteria Key Performance Indicators have been defined by the Buyers Group, which will be described in detail in the Call for tender.

Question 11: Can all type of industry apply?

Experience in the field of the object of the contract will need to be demonstrated. The tenderer has to comply to certain selection criteria that will be asked in the tender documents. In the PIN there was given an indication of the CPV-codes that are applicable on this tender.

Question 12: What can be covered by the budgets attributed to each phase? Will the budget e.g. allow also to purchase library prep equipment and sequencers?

All the buyers in charge of running a clinical performance have already their own sequencing platforms. By the way it is considered relevant to remember that oncNGS PCP is an R&D service contract. The definition of services means that the value of the total amount of products covered by the contract must be less than 50 % of the total value of the PCP, from Phase 1 to Phase 3.
In case the Bidder considers that a specific equipment is needed to provide oncNGS R&D services, it will need to justify it accordingly in its technical offer and enter the relevant biding unit price in its financial offer.
In agreement with the Guidance PCP procurement documents for the H2020 Programme (Version 2.1 07 January 2020), the total value of products offered in phase 1 respectively phase 2 must be less than 50 % of the value of the phase 1 respectively phase 2 contract and the total value of products offered in phase 3 must be so that the total value of products offered in all phases (1,2 and 3) is less than 50% of the total value of the PCP framework agreement.

Question 13: How will research and development be performed at the buyers' sites? Will all run in parallel similar tests or will each of them focus on a given application area or technology based application? It is assumed that different institutes have different sequencing platforms today and may have access to different type of tumour samples.

All buyers in charge of running a clinical performance, independently of their sequencing platforms, commit to test the prospective feasibility of the at least one of the solutions using their own samples.

The number of samples as well as quantitative and qualitative criteria that will be considered in the evaluation will be included in the Call for Tender. Of note, solution provider will have to provide input on the analytical performance in Phase 2.

The suppliers will be required to install their oncNGS prototypes at the oncNGS pilot sites, provide all consumables for the wetlab analysis and operationalize the IT analytical and reporting tool at the oncNGS pilot site. Bidders financial offer will include binding unit prices for all foreseeable items for the duration of the whole PCP (from Phase 1 to Phase 3).
Samples, personnel and sequencer equipment to handle the workflow will be provided by the oncNGS pilot sites. Permissions to install the oncNGS solution locally at the buyers 'site will be taken on by the oncNGS pilot sites.

Question 14: Please precise the notice "Research as a service" within a pre-commercial procurement

In agreement with the Guidance PCP procurement documents for the H2020 Programme (Version 2.1 07 January 2020), oncNGS is a pre-commercial procurement (PCP).
PCP means that public procurers challenge innovative players on the market, via an open, transparent and competitive process, to develop new solutions for a technologically demanding mid- to long-term challenge that is in the public interest and requires new R&D services.
PCP is explained in the PCP communication COM/2007/799 and the associated staff working document SEC/2007/1668. The R&D services can cover research and development activities ranging from solution exploration and design, to prototyping, right through to the original development of a limited set of 'first' products or services in the form of a test series. Original development of a first product or service may include limited production or supply in order to incorporate the results of field-testing and demonstrate that the product or service is suitable for production or supply in quantity to acceptable quality standards. R&D does not include quantity production or supply to establish the commercial viability or to recover R&D costs.[2] It also excludes commercial development activities such as incremental adaptations or routine or periodic changes to existing products, services, production lines, processes or other operations in progress, even if such changes may constitute improvements.

Question 15: How many targets and samples are we talking about in terms of number of markers/SNPs or targeted capture? Have the targets for predictive, prognostic & diagnostic outcomes already been defined by the partners in this consortium, or is this to be defined by this research program? Any clarity if the solution sought is for DNA or for DNA & RNA both ? Non coding RNA and Epigenetic markers? Should the participated solutions cover all of the possible types of mutation (SNV, Del/Ins, fusions and CNV)? The tender refers to primer optimization – does this mean there is a preference for an amplicon or capture-based approach to the solution?

The oncNGS consortium has listed a minimal set of targets to be covered in the oncNGS solution. The complete list will be disclosed in the Call for tender but aims at covering > 300 markers in solid cancers, while about 100 targets are envisaged for lymphoma.

[2] See also Article XV(1)(e) WTO GPA 1994 and the Article XIII(1)(f) of the revised WTO GPA 2014.

The solution should be able to analyse DNA and/or RNA and implicate the use of NGS analysis as the key technology .

There has been no restriction set as to the type of markers to be assessed. It is important though that sufficient evidence or clear justification for inclusion of a particular marker in the oncNGS solution is available.

OncNGS does not restrict to any particular NGS technology nor approach. It is however to be kept in consideration that oncNGS aims to be deployable at large in a sustainable way. A concise description of how the suppliers envisage such deployment within the Healthcare systems in the buyers' countries will be requested.

Question 16: Will the bids have to cover the complete workflows from pre-analytics through library preparation, gene panels, sequencing, bioinformatics to patient? Do we have to set up the consortium or, for example, if we are BioIT company, can we have the view of the wetlab part and proposed our solution? Will the tender contain several lots for different parts of the workflow or will each bidder (or bidding communities) have to cover the whole workflow? Will this kind of information be disclosed during the OMC phase?

As indicated at the OMC webinars, oncNGS aims to produce a fully integrated solution to the buyers' needs. For this, the buyers are convinced that all steps from analyte till final report need to be integrated in a single workflow by a single application. Thus, the complete workflows from pre-analytics through library preparation, gene panels, sequencing, bioinformatics to report for the clinician is to be considered as a whole.

Suppliers which cover only part of the oncNGS solution e.g. only the wetlab, and wish to bid for the oncNGS tender will need to complement their expertise to cover the full workflow envisaged by the oncNGS solution. (A partner match page has been opened on the oncNGS website where request for partners can be announced. oncNGS secretariat will manage the online noticing of the request. If a supplier wishes to utilize this facility, please inform the oncNGS secretariat by the contact mail.)

All details on the requirements set for the oncNGS PCP at the different phases will be outlined in the Call for tender.

Question 17: How does OncNGS relate to the other European initiatives?

The oncNGS PCP is an independently financed Horizon 2020 project and concise information on the general call can be found on the Cordis website. NGS diagnostics in 21st century oncology: the best, for all, at all times | oncNGS Project | H2020 | CORDIS | European Commission (europa.eu)

It is clear though that the final goal of the oncNGS PCP is to deliver a tool to the hospitals that brings a highly valuable innovation to patients with advanced cancer. All along the development of the oncNGS solution, it will be possible though within any legal constraints and upon agreement by all parties, to seek synergies with other initiatives that may be launched within the many future programs by the European Commission (e.g. Europe's Beating Cancer plan, the Mission on Cancer, the 1+MillionGenomes project, the European Health Data Space initiatives, …).

Question 18: Can UK suppliers bid either alone or in a partnership?

The EU-UK withdrawal agreement from February 2020 dealt with the position of UK entities in ongoing funding programmes from the 2014-2020 MFF period (like Horizon 2020). The Brexit deal from end 2021 addressed the position of UK entities in new funding programmes from the 2021-2027 period (like Horizon Europe). The Brexit deal did not change the position of UK entities in ongoing funding programmes from the 2014-2020 MFF period (like Horizon 2020), as this was already agreed in the EU-UK withdrawal agreement.

So, yes, as long as projects are running under the Horizon 2020 programme, these projects have to keep referring to the February 2020 EU-UK withdrawal agreement. UK suppliers can bid and their R&D activities can account for the more than 50% obligatory R&D activities within the EU.

Question 19: In the oncNGS Request for tender, the following requirements are listed, amongst many others:

- SUST.03 - oncNGS solution SHALL be deployable locally and interfaced with existing local tools to avoid sample and data transfer, which could infringe on privacy issues
- SUST.04 - OncNGS SHALL provide with an upgradable technology. Being upgradable the inclusion of: Bio IT tools
- BIOINFOR.SUST.MAINT.01 - OncNGS solution bioinformatics pipeline SHALL be executed with minimal computational requirement as measured by required RAM and CPUs

It is questioned whether complying with all three requirements is possible without considering cloud services or 'heavy infrastructures in the lab'.

We are fully aware that full local deployment of the complete oncNGS solution requires major investment as to IT infrastructure and logistics. We consider though that such option should be made available by the oncNGS supplier, well understood that the investments for operationalizing the local deployment is the burden of the buyer. When locally deployed, the oncNGS supplier should optimize the required RAM/CPU to fully operationalize the oncNGS solution in as much as possible though.

In addition, as correctly pointed out, if buyers do not wish to make the investment for locally installing the full oncNGS solution, a cloud service can be foreseen and the oncNGS supplier has to prove how such analysis can be performed in a secure way matching all required levels of data protection, privacy and security.

Thus, SUST.03 does not exclude cloud services nor does BIOINFOR.SUST.MAINT.01 exclude that IT investments could be major. It is demanded however that a full local deployment is possible.

As to SUST.04, we also recognize that Bio IT tools are most easily upgradable trough a cloud service and can understand that for several buyers this option could suffice. However, the buyers wish in addition that locally developed algorithms and obtained results can be combined/integrated in the oncNGS Bio Tools in a secured way. It is one of the challenges the oncNGS consortium wishes to put forward to the suppliers. The consortium welcomes the suppliers to propose options for such secure combination and integration.

Question 20: How will the scoring of the bids for oncNGS be performed? What are the main drivers of your scoring decision, is it cost or actionability?

The Evaluation of the tenders will be done in agreement with Section 6.6, the Annex 5 Awarding Criteria and Annex 6 Scoring Model for the Price of the Call for Tender.

As can be observed in the matrix, both cost and actionability are important but while actionability/coverage is estimated more important at the early stage and then is decreasing, price follows the reverse trajectory. This reflects the pathway from research to (commercial) deployment.

Question 21: Is it acceptable in the context of this PCP to use, within one single workflow, several panels to better address the question of cost vs content; routine diagnostics testing vs Clinical Trial/Translational Research for instance? In your definition of gene content are you looking at routine actionability or exploratory (clinical trials)? In hot spots genes are you looking at a full coverage of the gene or just the hot spots?

The oncNGS PCP aims at developing an integrated solution for predictive, prognostic and diagnostic analysis in liquid biopsies of solid tumours (including appropriate haematological indications) based on NGS technology. It is thus perfectly possible to develop 'tailored' panels to specific needs applying the overall standardized workflow of the oncNGS solution (sample, NGS, bioinformatics, interpretation & reporting). However we do request that suppliers develop the panels described in the Call for Tender (Pan-cancer oncNGS LB panel (=Panel 1) & Hemato/Lymphoma oncNGS LB panel (= Panel 2)). It is up to the supplier to decide whether to include the full coding sequence or just hotspots.

As to the scope of the panels, we have listed the required biomarkers that the buyers identified as important – these markers are considered important for p and could be used predictive, prognostic and diagnostic analysis and are primarily focused to routine actionability notwithstanding the opportunity for exploratory use.(e.g. clinical trials)

The nature of the variations to be covered for each of the biomarkers, or combination of biomarkers, is open to the suppliers to decide what should be included but should be justifiable by scientific argumentation – both omitting or adding decision elements.

Question 22: Does English annotations meet the criteria or multilingual is necessary?

English annotations meet the criteria.

Question 23: Does the solution need to be for DNA and RNA, or can it be for DNA only?

The solution need to cover both, DNA and RNA.

Question 24: In the tender document, two different TAT (turnaround time) are mentioned, one being 48h and one being < 7 days. Which one applies?

TAT of 48h is the one requested at wetlab level (from Nucleic acid to NGS sequencing). We mention that we strive to a TAT of <7days for a total workflow, from available samples to reporting.

Question 25: Is it mandatory to address all Must Have Criteria in awarding criteria, or do we just get some "penalties" in the scoring if not (fully) addressed?

All Must Have criteria are required to be addressed in the tender. In principle any must have criterion failing to be addressed leads the tender not to meeting the minimal requirements and in principle to be excluded.

Question 26: What happens if the overall Technical Feasibility scores sum less than the Min Points set in the Scoring Table?

The Technical Excellence score results summing up the scores achieved in all its subcriteria (from 1 to 11). The Technical Feasibility results summing up the Technical Excellence score and the Development plan score. In case the Technical Feasibility is not meeting the Min Points, the tender will be excluded.

Question 27 (1): Is IVDR certification a requirement? - If yes, what is the exact expected CE-IVD scope:

- **Is it for the restricted scope (Core priority level I biomarkers & Core level II biomarkers) or,**
- **all the genes considered as level I priority & level II Priority? (large panel)?**

The certification is not a requirement, but the proposed solution has to be CE IVD compliant.

Both would be necessary.

Question 28: If a large panel is expected, who should perform the clinical validation for that scope?

In principle, it is the supplier who has to perform the clinical validation.

Question 29: Will IVDR certification be a requirement for the commercialisation success? - If yes, by when should the products be IVD compliant and certified?

The panels will be used in R&D scope too but to be fully exploitable an IVDR certification is necessary, yes.

As soon as possible.

Question 30: Can the proposed solution be accepted even if IVDR certification is not planned to be obtained?

In principle yes, but this is not preferred as the solution is aimed for routine diagnostics reimbursed by the HCS – which will not be allowed in due time anymore without IVDR certificate.

Question 31 (1): Processing of Personal Data (7.5 Call For Tender & 19 Framework Agreement), can you please clarify/ specify the processing conditions (purposes, measures implemented, use of subcontractors, transfers, etc.) for the performance of the project?

In preparation of the 'Technical, analytical and clinical performance validation of the oncNGS solution with clinical samples in Supplier's sites and real clinical settings', taking place during Phase 3, specific provisions regarding the governing of the protection of data and of data concerning health will be provided to ensure compliancy with the European General Data Protection Regulation (GDPR) and with any other law and regulation applicable locally at the pilot sites.

Question 31 (2): Processing of Personal Data (7.5 Call For Tender & 19 Framework Agreement), can you please confirm that the consent requirements are only applicable to suppliers when data collected are belonging to supplier's Staff members?

Confirmed.

Question 32: Liability (23 Framework Agreement): does a liability cap amounting the total value of the concerned Specific Contract could be agreed?

No.

Question 33 (1): Access rights - Fair and Reasonable Conditions (13.3.3. & 13.3.10. Framework Agreement): We understand that in some cases licenses could be granted under Fair & Reasonable Conditions. However, the corresponding definition contemplates the "royalty free option" as one of the possible fair & reasonable condition. Could you please confirm our understanding?

The Background and Sideground has to be shared royalty free as stated in article 13.3.1 of the Framework Agreement, regarding the execution of the Framework Agreement, which includes the execution of the Specific Contracts.

After the execution of the Framework Agreement, there is the possibility that some IPR's of Background and/or Sideground can be given under Fair and Reasonable Conditions, which can be subject of negotiation between Parties and/or third parties.

Regarding the Results article 13.3.2 applies.

Question 33 (2): If yes, we understand that such Fair & Reasonable Conditions would be negotiated in good faith between the Parties.

Yes.

Question 33 (3): When such Fair & Reasonable Conditions would be negotiated? Under the Specific Contract?

It is possible under the duration of the Framework Agreement and even after cf. article 3.5 of the Framework Agreement.

Question 33 (4): What if the Parties don't reach an agreement on such Fair & Reasonable Conditions?

In that case a juridical procedure could be initiated based on article 29 of the Framework Agreement.

Question 34: Access rights – Results (13.3.4. Framework Agreement). We understand that Buyers could request from Supplier to "grant to third parties non-exclusive and non-sublicensable licenses to use and commercially or non-commercially exploit the Results". Could you please clarify such request? Why should Supplier grant such license to Third Parties to commercially exploit the Results?"

This is only regarding the Results, not regarding any former IPR. For example to elaborate further R&D if necessary (and to make it possible that the developed product can be commercialized). Fair and reasonable conditions apply.

Question 35: Publicity (15.2.2. Framework Agreement) - We would request to add at the end of the provision "or regulatory requirement"

Falls under the scope of "legitimate business interests".

Question 36: Related to page 69 of the "922614_Call for Tender Document", it is mentioned target price per kit of 500-1500€ :

1. As price per kit, do you intend the gene panel and reagents, keeping out the analysis and data storage?
2. Price per kit is a general term, as kits usually include several reactions. Is 500-1500€ intended as price/sample?

The 500-1500 € is intended price per sample and this price includes all the steps covered by the oncNGS solution from analyte to report. Data storage is not included and is to covered by the buyer.

Questions 37 (1): FOXO1 is in the hemat 51 panel but not in the MUST have pan Cancer panel. is this correct?

FOXO 1 gene is NICE TO HAVE in the Cancer panel

Questions 37 (2): P53 must stay in both MUST HAVE and NICE to Have or there is a typo in the "nice to have" where P53 appear together with BP1 gene?

P53 gene is MUST HAVE (both, Hemato and pan Cancer panel)

Questions 37 (2): RAF1 must stay in both MUST HAVE and NICE to have gene or should be removed from the "nice to have" or viceversa?

RAF1 gene is NICE TO HAVE (both, Hemato and pan Cancer panel)

Question 38: In the tender document it is mentioned that:

- "wetlab block of the oncNGS solution strives to have a high grade of automatization with a turn-around-time of 48h (= 2 working days)"
- "OncNGS solution SHALL enable the use of vendor neutral consumables (e.g. plastic tubes, reagents), for vendor neutral commercial solution"

Could you please clarify what you mean by vendor neutral commercial solution with regards to automation?

The Consortium prefers that any consumables such as plastic tubes, reagents can be purchased from different brands, not from a single vendor.

Question 39 (1): Section 15.2 of the Framework Contract provides that members of the Buyer's group may publish summaries of R&D results etc and that before publishing this information the member shall consult the Supplier in order to avoid harm to legitimate business interests. How far in advance of the publication will the Supplier be notified and how can the Supplier ensure that IP rights are not jeopardized?

This depends of the specific situation, but it is possible that the publication of specific summaries can be postponed or information of the publication can be removed when this implies that IP rights would be jeopardized. The Buyers Group will therefore consult the Supplier. Nevertheless the other provisions regarding the distribution of the results and confidentiality (see Article 12 of the Framework Agreement) have to be taken into account.

Question 39 (2): Does the Supplier have the ability to defer the publication until a patent application has been submitted?

Yes respecting the standard terms for patenting.

Question 40: Section 7.6 of the Call for Tender Document provides that Supplier must indicate information which should not be disclosed because of its confidentiality or commercial sensitivity. Are Suppliers required to provide Buyers with information relating to commercial relationships or licenses with third parties which may be confidential?

During the tender phase, in agreement with the CfT, in case Tenderers are required to provide the Lead Procurer with information relating to commercial relationship or licenses with the third parties and that are confidential, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity.

During the contract execution, in agreement with the Framework Agreement, in case Suppliers are required to provide the Lead Procurer with information relating to commercial relationship or licenses with the third parties and that are confidential, the Parties shall keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed. This applies during the implementation of the Framework Agreement and Specific Contracts and up to four (4) years their end. In Article 12 of the Framework Agreement it is specified in what cases the confidentiality obligations cease to apply.

Question 41: Section 3.6.3 of the Call for Tender Document and Section 13.1 of the Framework Contract provide that a list of pre-existing rights should be provided to the Buyers Group. Does this require the disclosure of unpublished patent applications?

Any information that is important for the Buyers in assessing the aptness of the elements of the offer is to be provided including the business case, IP situation, IVD vision, unpublished patents, research papers, … Any of those info that the Supplier considers confidential can be transferred labelled 'Confidential' and will be handled in such manner by the buyers.

Question 42: Page 11 of the Call for Tender Document provides that the tendered price must contain a financial compensation for keeping the IPR ownership. Please clarify the meaning of this provision. Does this mean that the tender offer should reflect a reduced price in exchange for IP ownership? Is this financial compensation part of the original tender or is it negotiated subsequent to beginning the project?

The PCP communication COM/2007/799 specifies that "In pre-commercial procurement the public purchaser chooses not to reserve the R&D results exclusively for its own use . (…), pre-commercial procurement is an approach to procuring R&D services which involves risk-benefit sharing and does not constitute State aid".

Consequently, in pre-commercial procurement:

- the public purchaser does not reserve all the results and benefits of the development (including Intellectual Property Rights or IPRs) exclusively for its own use,
- the public purchaser shares with a company participating in the pre-commercial procurement the risks-benefits according to market conditions
- any R&D benefit shared by the public purchaser should be compensated by the company to the public purchaser at market price. This can be done through, for example, a price reduction compared to exclusive development cost that reflects the market value of the benefits received and the risks assumed by the company

As explained in the form F the Tenderer is required to provide for each cost element (personnel, materials and equipment, subcontracting and other costs) and for each Phase the Virtual Price (price that they would have quoted if all Intellectual Property Rights, including the ownership of results under the PCP, would be retained by the Buyers Group and the Suppliers would not have the possibility to exploit the results) and the Actual Price (price, which includes a financial compensation (i.e. a discount) taking into account the fact that the Suppliers keep ownership of the IPR of their solutions and can commercially exploit the results).

Please read carefully Section 2 of Form F for further clarification.

Question 43: Section 13.3.4 of the Framework Contract provides that the Supplier shall, upon request by any member of the Buyers Group and within a reasonable time period specified in the said request, grant to third parties non-exclusive and non-sub-licensable licenses to use and commercially or non-commercially exploit the Results (and any Background or Sideground which may be necessary for the use or exploitation of the Results) under Fair and Reasonable Conditions. Does this section require Suppliers to grant licenses to their competitors upon request of a Buyer's Group member?

In principle the Buyers Group would not do that. But it is not excluded that it could be a specific case. But again, the license has to be granted under "Fair and Reasonable Conditions" whereby the specific circumstances can be taken into account. Please note as well that other provisions, such as for example the confidentiality clauses, apply.

Question 44: Section 3.6.1 of the Call for Tender Document states that the Buyers Group can grant (or to require the Suppliers to grant) non-exclusive licences to third parties to exploit the results under Fair and Reasonable Conditions (without the right to sub-license). Does this section allow the Buyers Group to grant licenses to Supplier's competitors?

See the answer on Question 43.

Question 45: Section 3.6.1 of the Call for Tender Document states that the Buyers Group has the right to require the Suppliers to transfer ownership of the IPRs if the Suppliers fail to comply with their obligation to commercially exploit the results (see below) or use the results to the detriment of the public interest

(including security interests). How does the Buyers Group assess whether Suppliers have sufficiently complied with their obligation to commercially exploit the results?

"Fail to comply with their obligation to commercially exploit the results" means not meeting any of the criteria that the Buyers have put forward for the oncNGS solution including respecting the price, scope, quality and availability on the market. But also when a Supplier does not complies with their own business and commercialization plan as provided in the Tender.

Question 46: What is included in Results? Do Results include only the gene content or do they include any technology developed in the course of the project?

See definition of Result in the Framework Agreement.

Question 47: Page 71 of the Call for Tender Document provides that Tenderers need to clarify what strategies they intend to employ to allow for inclusion of the desired genes into their proposed multi-gene panels, while respecting or gaining lawful access to third party patent rights that may exist on the evaluation of such individual genes, gene combinations (such as, for example, EP2438197B1 of Myriad Genetics, Inc., and EP3301446B1 of Caris MPI), and genotype-based companion diagnostics. Does this obligate Tenderers to provide Buyers with potentially privileged or confidential information regarding their positions on third party IP rights?

Any information that is important for the Buyers in assessing the aptness of the elements of the offer is to be provided including the business case, IP situation, IVD vision, unpublished patents, research papers, … Any of those info that the Supplier considers confidential can be transferred labelled 'Confidential' and will be handled in such manner by the buyers.

Question 48: Page 71 of the Call for Tender Document provides that Tenderers need to comment on how their proposed technological solutions and sequencing methodologies (including those relating to the individual steps involved in the process, such as library preparation and barcoding, NGS sequencing, and data analysis) respect or enjoy lawful access to third party patent rights, especially when used for the purpose of commercial in vitro genetic diagnostics. Does this obligate Tenderers to provide Buyers with potentially privileged or confidential information regarding their positions on third party IP rights?

Any information that is important for the Buyers in assessing the aptness of the elements of the offer is to be provided including the business case, IP situation, IVD vision, unpublished patents, research papers, … Any of that information that the Supplier considers confidential can be transferred labelled 'Confidential' and will be handled in such manner by the buyers.

Question 49: Section 15.1.2 of the Framework Contract provides that the Supplier shall inform the Lead Procurer sixty (60) days in advance of any (written or oral) publication or any other type of communication (in any media or form) relating to the services or results. Does this require Suppliers to notify the Lead Procurer 60 days in advance of the publication of a patent application relating to the Results?

Yes.

Question 50: Can an interchangeable cloud based solution with the guarantee that the data stays in the European union be accepted? Can a cloud based solution be accepted with the guarantee that the data stays in the European union and compliance to FHIR/HL7 technologies.

We have already pointed out that if buyers do not wish to make the investment for locally installing the full oncNGS solution, a cloud service can be foreseen and the oncNGS supplier has to prove how such analysis can be performed in a secure way matching all required levels of data protection, privacy and security.

As already said, we also recognize that Bio IT tools are most easily upgradable trough a cloud service and can understand that for several buyers this option could suffice. However, the buyers wish in addition that locally developed algorithms and obtained results can be combined/integrated in the oncNGS Bio Tools in a secured way. It is one of the challenges the oncNGS consortium wishes to put forward to the suppliers. The consortium welcomes the suppliers to propose options for such secure combination and integration, not a priori excluding cloud solutions.

Question 51: Is it necessary to have one rationale protocol that can be run on one unique automatized protocol or may different technologies be applied in the oncNGS solution?

It is perfectly possible to integrate the obtained outputs from multiple steps (e.g. library preparation) into a single approach for sequencing part and downstream analysis. It is up to the economical operators to keep the protocol as simple as possible and limit manipulation steps and time as much as possible.

Question 52: Is it the aim of the buyers to apply the oncNGS solution in their inhouse workflows?

The buyers wish the market to develop a solution for them on comprehensive cancer profiling as outlined in the tender. All buyers are indeed interested to apply this technology in their premises for their routine diagnostic testing and research.

Question 53: You mention in the tender document the following: *"CLINICAL WORKFLOW.01 - oncNGS solution SHALL be versatile and scalable, e.g. a variable number of test samples will be accommodated in a single run (ideally from a single MUST HAVE sample to full chip occupacy), maintaining consumable cost per sample low and similar, and preventing undue waste of reagents and resources in case of low-*

throughput runs." How can cost remain consistently equal and low irrespective of the number of samples processed thinking of the ILMN sequencing platform?

For the sake of clarity, in the CfT, the mentioned MUST HAVE requirement description is as follows: "CLINICAL WORKFLOW.01 - oncNGS solution SHALL be versatile and scalable, e.g. a variable number of test samples will be accommodated in a single run (ideally from a single sample to full chip occupacy), maintaining consumable cost per sample low and similar, and preventing undue waste of reagents and resources in case of low-throughput runs".

The buyers recognize the complexity in addressing the required versatility and scalability and enabling the testing of a variable number of samples within a single run (to the extreme only one sample in a run) maintaining consumable cost per sample low and similar, and preventing undue waste of reagents and resources in case of low-throughput runs. It is however the strong opinion of the Buyers that such option would greatly benefit the outreach and use of the oncNGS technology within the different diagnostics labs, especially those who support healthcare facilities with moderate to low number of cases.

For this, the tender stipulates that ideally the solution would be allowing to run a single sample on a particular chip, while safeguarding that not all reagents foreseen for the whole chip are being consumed by this run. If e.g. such partitioning would be possible, the overall cost of the chip would not be affected.

Bidders are reminded to address all MUST HAVE requirements together with the Sustainability requirements aligning their business plan and strategy with Buyers business case.