

July 2, 2020

Mary Ann Fiechtner  
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Becton, Dickinson and Company  
BD Integrated Diagnostic Solutions – Point of Care  
10865 Road to the Cure, Suite 200  
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Device: BD Veritor System for Rapid Detection of SARS-CoV-2

Company: Becton, Dickinson and Company (BD)

Indication: Qualitative detection of SARS-CoV-2 nucleocapsid antigens in nasal swabs from individuals who are suspected of COVID-19 by their healthcare provider within the first five days of the onset of symptoms. Emergency use of this test is limited to authorized laboratories using the BD Veritor Plus Analyzer Instrument.

Authorized Laboratories: Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet the requirements to perform high, moderate, or waived complexity tests. This test is authorized for use at the Point of Care (POC), i.e., in patient care settings operating under a CLIA Certificate of Waiver, Certificate of Compliance, or Certificate of Accreditation.

Dear Ms. Fiechtner:

This letter is in response to your<sup>1</sup> request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of your product,<sup>2</sup> pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. §360bbb-3).

On February 4, 2020, pursuant to Section 564(b)(1)(C) of the Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad, and that involves the virus that causes COVID-19. Pursuant to Section 564 of the Act, and on the basis of such determination, the Secretary of HHS then declared that circumstances exist justifying the authorization of emergency use of in

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<sup>1</sup> For ease of reference, this letter will use the term “you” and related terms to refer to Becton, Dickinson and Company.

<sup>2</sup> For ease of reference, this letter will use the term “your product” to refer to the BD Veritor System for Rapid Detection of SARS-CoV-2 used for the indication identified above.

vitro diagnostics for detection and/or diagnosis of the virus that causes COVID-19 subject to the terms of any authorization issued under Section 564(a) of the Act.<sup>3</sup>

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the Act are met, I am authorizing the emergency use of your product, described in the Scope of Authorization of this letter (Section II), subject to the terms of this authorization.

## **I. Criteria for Issuance of Authorization**

I have concluded that the emergency use of your product meets the criteria for issuance of an authorization under Section 564(c) of the Act, because I have concluded that:

1. The SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus;
2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that your product may be effective in diagnosing COVID-19, and that the known and potential benefits of your product when used for diagnosing COVID-19, outweigh the known and potential risks of your product; and
3. There is no adequate, approved, and available alternative to the emergency use of your product.<sup>4</sup>

## **II. Scope of Authorization**

I have concluded, pursuant to Section 564(d)(1) of the Act, that the scope of this authorization is limited to the indication above.

### **Authorized Product Details**

Your product is a chromatographic digital immunoassay that is used with the BD Veritor Plus Analyzer Instrument intended for the direct and qualitative detection of SARS-CoV-2 nucleocapsid antigens in nasal swabs from individuals who are suspected of COVID-19 by their healthcare provider within the first five days of the onset of symptoms. The SARS-CoV-2 nucleocapsid protein antigen is generally detectable in upper respiratory samples during the acute phase of infection. Positive results indicate the presence of SARS-CoV-2 nucleocapsid protein antigen, but clinical correlation with patient history and other diagnostic information is necessary to determine infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. Negative results should be treated as presumptive, do not rule out SARS-CoV-2 infection and should not be used as the sole basis for treatment or patient management decisions, including infection control decisions. Negative results should be considered in the context of a patient's recent exposures, history and the presence of clinical signs and symptoms

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<sup>3</sup> U.S. Department of Health and Human Services, *Determination of a Public Health Emergency and Declaration that Circumstances Exist Justifying Authorizations Pursuant to Section 564(b) of the Federal Food, Drug, and Cosmetic Act*, 21 U.S.C. § 360bbb-3. 85 FR 7316 (February 7, 2020).

<sup>4</sup> No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the Act.

consistent with COVID-19, and confirmed with a molecular assay, if necessary, for patient management.

Testing of nasal swab specimens using your product run on the BD Veritor Plus Analyzer Instrument as outlined in the “BD Veritor System for Rapid Detection of SARS-CoV-2” instructions for use, is limited to laboratories certified under CLIA that meet the requirements to perform high, moderate, or waived complexity tests during the COVID-19 emergency. This test is authorized for use at the Point of Care (POC), i.e., in patient care settings operating under a CLIA Certificate of Waiver, Certificate of Compliance, or Certificate of Accreditation.

To use your product, the nasal swab specimen is directly placed in the extraction reagent tube, during which time virus particles present in the specimen are disrupted, exposing internal viral nucleoproteins. After processing the swab in the extraction reagent, the specimen is added to the BD Veritor System test device. SARS-CoV-2 antigens present in the specimen then bind to antibodies conjugated to detector particles in the test strip. The antigen-conjugate complexes migrate across the test strip to the reaction area and are captured by a line of antibodies bound on the membrane. Test results of the BD Veritor System test device are read using the BD Veritor Plus Analyzer Instrument, or other authorized instrument, when the 15-minute assay development time is complete. A positive result is determined by the BD Veritor Plus Analyzer when antigen-conjugate is deposited at the Test “T” position and the Control “C” position on the assay device.

The BD Veritor System for Rapid Detection of SARS-CoV-2 test includes the following materials or other authorized materials: BD Veritor System Test Devices, Extraction Reagent, Specimen sampling swabs, SARS-CoV-2 (+) Control Swab, and SARS-CoV-2 (–) Control Swab.

Your product requires the following control materials, or other authorized control materials, that are processed in the same way as the specimens and are run as outlined in the Instructions for Use:

- SARS-CoV-2 (+) Control Swab - swab is coated with non-infectious recombinant SARS antigens. The positive control is used to monitor for failures of test cassette reagents and reaction conditions.
- SARS-CoV-2 (–) Control Swab - swab is dried with buffer solution and preservative, in the same formulation as the positive control without the signal protein.

Your product also requires the use of additional authorized materials and authorized ancillary reagents that are not included with your product and are described in the Instructions for Use.

The above described product, is authorized to be accompanied with labeling entitled “BD Veritor System for Rapid Detection of SARS-CoV-2” instructions for use including the “Quick Reference Instructions for BD Veritor SARS-CoV-2 Use of BD Veritor System for Rapid Detection of SARS-CoV-2 with the BD Veritor Plus Analyzer” (available at <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/vitro-diagnostics-euas>), and the following product-specific information pertaining to the emergency use, which is required to be made available to healthcare providers and patients:

- Fact Sheet for Healthcare Providers: BD Veritor System for Rapid Detection of SARS-CoV-2
- Fact Sheet for Patients: BD Veritor System for Rapid Detection of SARS-CoV-2

The above described product, when accompanied by the instructions for use, quick reference instructions (identified above) and the two Fact Sheets (collectively referred to as “authorized labeling”) is authorized to be distributed to and used by authorized laboratories under this EUA, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

I have concluded, pursuant to Section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of your product, when used consistent with the Scope of Authorization of this letter (Section II), outweigh the known and potential risks of your product.

I have concluded, pursuant to Section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that your product may be effective in diagnosing COVID-19, when used consistent with the Scope of Authorization of this letter (Section II), pursuant to Section 564(c)(2)(A) of the Act.

FDA has reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, and concludes that your product (as described in the Scope of Authorization of this letter (Section II)) meets the criteria set forth in Section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of your product under this EUA must be consistent with, and may not exceed, the terms of this letter, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section IV). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under Section 564(b)(1)(C) described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1), your product is authorized for the indication above.

### **III. Waiver of Certain Requirements**

I am waiving the following requirements for your product during the duration of this EUA:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR Part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of your product, but excluding Subpart H (Acceptance Activities, 21 CFR 820.80 and 21 CFR 820.86), Subpart I (Nonconforming Product, 21 CFR 820.90), and Subpart O (Statistical Techniques, 21 CFR 820.250).

### **IV. Conditions of Authorization**

Pursuant to Section 564(e) of the Act, I am establishing the following conditions on this

authorization:

**Becton, Dickinson and Company (You) and Authorized Distributor(s)<sup>5</sup>**

- A. Your product must comply with the following labeling requirements under FDA regulations: the intended use statement (21 CFR 809.10(a)(2), (b)(2)); adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5), (7), and (8)); appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4); and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).
- B. You and authorized distributor(s) will make your product available with the authorized labeling to authorized laboratories. You may request changes to the authorized labeling. Such requests will be made in consultation with, and require concurrence of, Division of Microbiology (DMD)/Office of Health Technology 7 (OHT7)-Office of In Vitro Diagnostics and Radiological Health (OIR)/Office of Product Evaluation and Quality (OPEQ)/Center for Devices and Radiological Health (CDRH).
- C. You and authorized distributor(s) will make available on your website(s) the Fact Sheet for Healthcare Providers and the Fact Sheet for Patients.
- D. You and authorized distributor(s) will inform authorized laboratories and relevant public health authorities of this EUA, including the terms and conditions herein, and any updates made to your product and authorized labeling.
- E. Through a process of inventory control, you and authorized distributor(s) will maintain records of the authorized laboratories to which they distribute the test and number of tests they distribute.
- F. You and authorized distributor(s) will collect information on the performance of your product. You will report to FDA any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the product of which you become aware.
- G. You and authorized distributor(s) are authorized to make available additional information relating to the emergency use of your product that is consistent with, and does not exceed, the terms of this letter of authorization.

**Becton, Dickinson and Company (You)**

- H. You will notify FDA of any authorized distributor(s) of your product, including the name, address, and phone number of any authorized distributor(s).

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<sup>5</sup> “Authorized Distributor(s)” are identified by you, Becton, Dickinson and Company, in your EUA submission as an entity allowed to distribute your device.

- I. You will provide authorized distributor(s) with a copy of this EUA and communicate to authorized distributor(s) any subsequent amendments that might be made to this EUA and its authorized accompanying materials (e.g., Fact Sheets).
- J. You may request to make available additional authorized labeling specific to an authorized distributor. Such additional labeling may use another name for the product, but otherwise must be consistent with the authorized labeling, and not exceed the terms of authorization of this letter. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- K. You will comply with the following requirements under FDA regulations: Subpart H (Acceptance Activities, 21 CFR 820.80 and 21 CFR 820.86), Subpart I (Nonconforming Product, 21 CFR 820.90), and Subpart O (Statistical Techniques, 21 CFR 820.250).
- L. You must have lot release procedures and the lot release procedures, including the study design and statistical power, must ensure that the tests released for distribution have the clinical and analytical performance claimed in the authorized labeling.
- M. If requested by FDA, you must submit lot release procedures to FDA, including sampling protocols, testing protocols, and acceptance criteria, that you use to release lots of your product for distribution in the U.S. If such lot release procedures are requested by FDA, you must provide it within 48 hours of the request.
- N. You may request changes to the Scope of Authorization (Section II in this letter) of your product. Such requests will be made in consultation with DMD/OHT7-OIR/OPEQ/CDRH, and require concurrence of, Office of Counterterrorism and Emerging Threats (OCET)/Office of the Chief Scientist (OCS)/Office of the Commissioner (OC) and DMD/OHT7-OIR/OPEQ/CDRH.
- O. You may request the addition of other instruments and associated software for use with your product. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- P. You may request the addition of other specimen types for use with your product. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- Q. You may request the substitution for or changes to the authorized materials used in the detection process of SARS-CoV-2 for use with your product. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- R. You may request the addition and/or substitution of control materials for use with your product. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- S. You may request the addition and/or substitution of other ancillary reagents and

materials for use with your product. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.

- T. You will evaluate the analytical limit of detection and assess traceability<sup>6</sup> of your product with any FDA-recommended reference material(s). After submission to FDA and DMD/OHT7-OIR/OPEQ/CDRH's review of and concurrence with the data, You will update labeling to reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- U. You will complete the agreed upon study to evaluate microbial interference, endogenous/exogenous interfering substances, and specimen stability within 4 months of the date of this letter (unless otherwise agreed to with DMD/OHT7-OIR/OPEQ/CDRH). After submission to FDA and DMD/OHT7-OIR/OPEQ/CDRH's review of and concurrence with the data, you will update labeling to reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- V. You will complete the agreed upon real-time stability study for your product and notify DMD/OHT7-OIR/OPEQ/CDRH of the testing results at 30 day intervals until completion of the study. After submission to FDA of the study data and DMD/OHT7-OIR/OPEQ/CDRH's review of and concurrence with the data, you will update your product labeling to reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- W. You will track adverse events, including any occurrence of false results and report to FDA under 21 CFR Part 803.

#### **Authorized Laboratories**

- X. Authorized laboratories using your product will include with test result reports, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- Y. Authorized laboratories using your product will use your product as outlined in the authorized labeling. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- Z. Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.

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<sup>6</sup> Traceability refers to tracing analytical sensitivity/reactivity back to an FDA-recommended reference material.

AA. Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.

BB. Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and you (BD Customer Support Services at 800.638.8663 - in the U.S.) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product of which they become aware.

CC. All operators using your product must be appropriately trained in performing and interpreting the results of your product, use appropriate personal protective equipment when handling this kit, and use your product in accordance with the authorized labeling.

**Becton, Dickinson and Company (You), Authorized Distributors and Authorized Laboratories**

DD. You, authorized distributors, and authorized laboratories using your product will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

**Conditions Related to Printed Materials, Advertising and Promotion**

EE. All descriptive printed matter, including advertising and promotional materials, relating to the use of your product shall be consistent with the authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.

FF. No descriptive printed matter, including advertising or promotional materials, relating to the use of your product may represent or suggest that this test is safe or effective for the detection of SARS-CoV-2.

GG. All descriptive printed matter, including advertising and promotional materials, relating to the use of your product shall clearly and conspicuously state that:

- This test has not been FDA cleared or approved;
- This test has been authorized by FDA under an EUA for use by authorized laboratories;
- This test has been authorized only for the detection of proteins from SARS-CoV-2, not for any other viruses or pathogens; and,
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for



detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

The emergency use of your product as described in this letter of authorization must comply with the conditions and all other terms of this authorization.

**V. Duration of Authorization**

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of in vitro diagnostics for detection and/or diagnosis of COVID-19 is terminated under Section 564(b)(2) of the Act or the EUA is revoked under Section 564(g) of the Act.

Sincerely,

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RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration

Enclosure  
Technical correction: July 15, 2020