

March 23, 2020

Barbara Stevens,
Regulatory Affairs
Mesa Biotech Inc.
6190 Cornerstone Court, Suite 220,
San Diego, CA 92121 US

Device: Accula SARS-Cov-2 Test
Company: Mesa Biotech Inc.
Indication: Qualitative, visual detection of nucleic acid from the SARS-CoV-2 in throat swab and nasal swab specimens combined, collected from patients suspected of COVID-19 by their healthcare provider. Emergency use of this test is limited to authorized laboratories and other authorized testing locations using the Accula Dock or Silaris Dock.

Authorized Laboratories and Other Authorized Testing Locations:

Authorized laboratories - laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high and moderate complexity tests.

Other Authorized Testing Locations - patient care settings using the Accula Dock or Silaris Dock.

Dear Ms. Stevens:

This letter is in response to your¹ request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of your product,² 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-19.³

¹ For ease of reference, this letter will use the term “you” and related terms to refer to the Mesa Biotech Inc.

² For ease of reference, this letter will use the term “your product” to refer to the Accula SARS-Cov-2 Test used for the indication identified above.

³ On February 11, 2020, the virus tentatively named 2019-nCoV was formally designated as Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). Also on February 11, 2020, the disease caused by SARS-CoV-2 was formally designated as Coronavirus Disease 2019 (COVID-19). This document uses the updated names.

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 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.⁴

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 Section 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.⁵

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

Qualitative, visual detection of nucleic acid from the SARS-CoV-2 in throat swab and nasal swab specimens combined,⁶ collected from patients suspected of COVID-19 by their healthcare provider. The SARS-CoV-2 nucleic acid is generally detectable in throat and nasal swab specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 nucleic acid; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses.

Testing of combined throat swab and nasal swab specimens using your product run on the Accula Dock and Silaris Dock, as outlined in the “Accula SARS-Cov-2 Test Instructions for Use

⁴ 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. February 4, 2020.

⁵ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the Act.

⁶ Both swabs will be collected from the patient and combined in one tube for testing.

- For Use with the Accula Dock”, “Accula SARS-Cov-2 Test Instructions for Use - For Use with the Silaris Dock” and the associated Quick Reference Instructions for the Accula Dock and Silaris Dock, is authorized to be used in laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high and moderate complexity tests and authorized to be distributed and used in patient care settings outside of the clinical laboratory environment.

Your products Test Cassette, when used with the applicable authorized systems automates all aspects of nucleic acid testing including lysis of the virus, reverse transcription of viral RNA to cDNA, nucleic acid amplification, and detection of the SARS-CoV-2 targeted sequences. The test results then are interpreted by the visualization of Blue Test Lines on the detection strip in the Test Cassette. The Accula SARS-Cov-2 Test includes the following materials or other authorized materials: SARS-CoV-2 Test Cassette, SARS-CoV-2 Buffer, Transfer Pipette, Sterile Swabs, SARS-CoV-2 High Positive Control swab, SARS-CoV-2 Low Positive Control swab, and SARS-CoV-2 Negative Control swab.

Your product also includes in the Test Cassette the following controls, or other authorized controls, that are processed along with the patient samples when tested with your product. The controls listed below must generate expected results in order for a test to be considered valid, as outlined in the Instructions for Use:

- Internal Positive Control (labeled ‘C’ on the Test Cassette) - non-infectious RNA bacteriophage in the Test Cassette and is used as the positive process control to verify assay steps (RNA extraction, reverse transcription, amplification and detection) were executed properly
- Negative Control (labeled ‘NC’ on the Test Cassette) - non-SARS-CoV-2 nucleic acid probe is used as a negative control for false positive results due to nonspecific binding

Your product also comes with external positive (high and low) and negative control swabs, or other authorized controls, to be run as outlined in both sets of Instructions for Use, described below.

The above described product, when labeled consistently with the labeling authorized by FDA, entitled “Accula SARS-Cov-2 Test” Instructions for Use and “Accula SARS-Cov-2 Test Quick Reference Guide” (available at <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations>), which may be revised in consultation with, and with concurrence of, the Division of Microbiology Devices (DMD)/Office of Health Technology 7 Office of In Vitro Diagnostics and Radiological Health (OHT7-OIR)/Office of Product Evaluation and Quality (OPEQ)/Center for Devices and Radiological Health (CDRH), 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.

Your product is authorized to be accompanied by 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: Accula SARS-Cov-2 Test

- Fact Sheet for Patients: Accula SARS-Cov-2 Test

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 authorized product, when used for the qualitative detection of SARS-CoV-2 and used consistently 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 for the indication above, when used consistently 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.

This EUA will cease to be effective when the HHS declaration that circumstances exist to justify the EUA is terminated under Section 564(b)(2) of the Act or when the EUA is revoked under Section 564(g) of the Act.

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.

IV. Conditions of Authorization

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

Mesa Biotech Inc. (You) and Authorized Distributor(s)⁷

⁷ “Authorized Distributor(s)” are identified by you, Mesa Biotech Inc., in your EUA submission as an entity allowed to distribute your device to authorized laboratories, and to patient care settings that use the Accula Dock or the

- 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)); any 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 and patient care settings. You may request changes to the authorized labeling. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- C. You and authorized distributor(s) will provide to authorized laboratories and patient care settings the Fact Sheet for Healthcare Providers and the authorized Fact Sheet for Patients. You may request changes to the authorized Fact Sheets. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- D. You and authorized distributor(s) will make available on your website(s) the Fact Sheet for Healthcare Providers and the Fact Sheet for Patients.
- E. You and authorized distributor(s) will inform relevant public health authorities, authorized laboratories and patient care settings of this EUA, including the terms and conditions herein, and any updates made to your product, authorized labeling and authorized Fact Sheets.
- F. Through a process of inventory control, you and authorized distributor(s) will maintain records of the authorized laboratories and patient care settings to which they distribute the test and number of tests they distribute.
- G. 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 and false negative results and significant deviations from the established performance characteristics of the product of which you become aware.
- H. 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.

Mesa Biotech Inc. (You)

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

- J. You will provide its 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).
- K. 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.
- L. 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.
- M. 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.
- N. You may request the addition and/or substitution of primers or probes for use with your product. Such requests will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- O. 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.
- P. You may request the addition 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.
- Q. You will evaluate the analytical limit of detection and assess traceability⁸ of your product with any FDA-recommended reference material(s). After submission to FDA and DMD/OHT7-OIR/CDRH's review of and concurrence with the data, You will update its labeling to reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- R. You will track adverse events, including any occurrence of false results and report to FDA under 21 CFR Part 803.

Authorized Laboratories and Patient Care Settings

- S. Authorized laboratories and patient care settings using your product will include with result reports of your product, all authorized Fact Sheets. Under exigent circumstances,

⁸ Traceability refers to tracing analytical sensitivity/reactivity back to an FDA-recommended reference material.

other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.

- T. Authorized laboratories and patient care settings using your product will use your product as outlined in the Instructions for Use. 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.
- U. Authorized laboratories and patient care settings that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- V. Authorized laboratories and patient care settings using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- W. Authorized laboratories and patient care settings 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) and You (via email: info@mesabiotech.com) 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.
- X. 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.

Mesa Biotech Inc. (You), Authorized Distributors and Authorized Laboratories and Patient Care Settings

- Y. You, authorized distributors, and authorized laboratories and patient care settings 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 Advertising and Promotion

- Z. All advertising and promotional descriptive printed matter relating to the use of your product shall be consistent with the Fact Sheets and authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.
- AA. All advertising and promotional descriptive printed matter 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 nucleic acid 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 diagnostic tests 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.

No advertising or promotional descriptive printed matter 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.

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 diagnostic tests 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,

RADM Denise M. Hinton
Chief Scientist
Food and Drug Administration

Enclosures