

October 4, 2021

Qiyi Xie
ACON Laboratories, Inc.
5850 Oberlin Drive, #340,
San Diego, CA 92121

Device: Flowflex COVID-19 Antigen Home Test
EUA Number: EUA210494
Company: ACON Laboratories, Inc.
Indication: Qualitative detection of the nucleocapsid protein antigen from SARS-CoV-2 in anterior nasal swab specimens directly from individuals within 7 days of symptom onset or without symptoms or other epidemiological reasons to suspect COVID-19 infection. This test is authorized for non-prescription home use with self-collected anterior nasal swab specimens directly from individuals aged 14 years and older or with adult-collected anterior nasal samples directly from individuals aged 2 years or older.

Dear Qiyi Xie:

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. 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.³

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

² For ease of reference, this letter will use the term “your product” to refer to the Flowflex COVID-19 Antigen Home Test, used for the indication identified above.

³ 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).

FDA considered the totality of scientific information available in authorizing the emergency use of your product for the indication above. A summary of the performance information FDA relied upon is included in the “Flowflex COVID-19 Antigen Home Test Package Insert” Healthcare Provider instructions for use identified below.

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.⁴

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 lateral flow test intended for the qualitative detection of the nucleocapsid protein antigen from SARS-CoV-2 in anterior nasal swab specimens directly from individuals within 7 days of symptom onset or without symptoms or other epidemiological reasons to suspect COVID-19 infection. This test is authorized for non-prescription home use with self-collected anterior nasal swab specimens directly from individuals aged 14 years and older or with adult-collected anterior nasal samples directly from individuals aged 2 years or older. It does not differentiate between SARS-CoV and SARS-CoV-2.

The SARS-CoV-2 nucleocapsid protein antigen is generally detectable in anterior nasal swabs during the acute phase of infection. Positive results indicate the presence of viral antigens, but clinical correlation with past medical 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. The agent detected may not be the definite cause of disease. Individuals who test

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

positive with your product should self-isolate and consult their doctor as additional testing may be necessary and for public health reporting.

Negative results are presumptive, and confirmation with a molecular assay, if necessary for patient management may be performed. Negative results 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 an individual's recent exposures, history, and the presence of clinical signs and symptoms consistent with COVID19.

Individuals should provide all results obtained with this product to their doctor or healthcare provider for public health reporting. Doctors or healthcare providers will report all test results they receive from individuals who use the authorized product to relevant public health authorities in accordance with local, state, and federal requirements using appropriate LOINC and SNOMED codes, as defined by the Laboratory In Vitro Diagnostics (LIVD) Test Code Mapping for SARS-CoV-2 Tests provided by CDC.

Your product is performed using anterior nasal samples from individuals aged 14 years or older or adult-collected anterior nasal samples from individuals age 2 years or older. When using your product the individual unpacks all the test components, before removing the test cassette from its pouch. The extraction buffer tube is then opened and inserted into the tube holder. The swab is then removed from its packaging and the individual collects an anterior nasal swab sample by inserting the swab into the nostril firmly rubbing the swab in a circular motion around the inside wall of the nostril 5 times before repeating in the second nostril. The swab is then immediately inserted into the extraction tube and swirled for 30 seconds before rotating the swab 5 times while squeezing the tube. The swab is then removed and the tube capped with the dropper cap. The contents of the extraction vial is then mixed before four drops of the solution are applied to the sample well Test Cassette. When the anterior nasal swab specimen migrates in the test strip, SARS-CoV-2 antigens, if present in the specimen, will react with the colored anti-SARS-CoV-2 antibody-coated particles, which have been pre-coated on the test strip. The antigen-antibody complex then migrates toward the membrane by capillary action. This complex is then captured by anti-SARS-CoV-2 monoclonal antibodies immobilized at the test line region, and a red line appears on the membrane. Test results are interpreted visually after 15 minutes based on the presence or absence of visually detectable colored lines at the control line (C) and/or test line (T). Upon completion of the test and result interpretation the user should share their results with their healthcare provider.

The *Flowflex* COVID-19 Antigen Home Test kit includes the following materials or other authorized materials: Test Cassettes, Disposable Nasal Swabs, Extraction Buffer Tubes, Tube Holder, and Package Insert.

Your product includes an internal control test line (“C”) that must generate the expected result for a test to be considered valid, as outlined in the “*Flowflex* COVID-19 Antigen Home Test Package Insert” and the “*Flowflex* COVID-19 Antigen Home Test Package Insert for Healthcare Providers.”

The labeling entitled “*Flowflex* COVID-19 Antigen Home Test Package Insert for Healthcare

Providers” instructions for use, the “Flowflex COVID-19 Antigen Home Test Package Insert” lay user instructions for use, and the “Flowflex COVID-19 Antigen Home Test” box labels (available at <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas>), and the following fact sheet pertaining to the emergency use, is required to be made available as set forth in the Conditions of Authorization (Section IV), and are collectively referred to as “authorized labeling”:

- Fact Sheet for Healthcare Professionals⁵: ACON Laboratories, Inc. - Flowflex COVID-19 Antigen Home Test

The above described product, with the authorized labeling as set forth in the Conditions of Authorization (Section IV) is authorized to be distributed and used 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) of the Act described above and the Secretary of HHS’s corresponding declaration under Section 564(b)(1) of the Act, 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

⁵ Note that the information typically found in a Fact Sheet for Individuals is contained in the authorized “Flowflex COVID-19 Antigen Home Test Package Insert” lay user instructions for use, that will be available to end users as set forth in the Conditions of Authorization (Section IV).

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:

ACON Laboratories, Inc. (You) and Authorized Distributor(s)⁶

- A. Your product must comply with the following labeling requirements: the intended use statement in 21 CFR 809.10(a)(2), (b)(2); adequate directions for use in 21 U.S.C. 352(f) and 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) must make available the *Flowflex* COVID-19 Antigen Home Test Package Insert” lay user instructions for use in the shipped kit using the “*Flowflex* COVID-19 Antigen Home Test” box labels and make these two documents electronically available on your website.
- C. You and authorized distributor(s) must maintain records of customer complaint files and report to FDA any significant complaints about usability or deviations from the established performance characteristics of which you and authorized distributor(s) become aware.
- D. You and authorized distributor(s) must inform relevant public health authorities of this EUA, including the terms and conditions herein, and any updates made to your product and/or the authorized labeling.
- E. Through a process of inventory control, you and authorized distributor(s) must maintain records of the locations (e.g., pharmacies, doctor’s offices, etc.) to which your product is distributed and the number of tests distributed to each location.
- F. You and authorized distributor(s) must collect information on the performance of your product and have a process in place to track adverse events, including any occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the product of which you become aware and report any such events to FDA in accordance with 21 CFR Part 803. Serious adverse events, especially unexpected biosafety concerns, should immediately be reported to the Division of Microbiology (DMD)/Office of Health Technology 7 (OHT7)-Office of In Vitro Diagnostics and Radiological Health (OIR)/Office of Product Evaluation and

⁶ “Authorized Distributor(s)” are identified by you, ACON Laboratories, Inc., in your EUA submission as an entity allowed to distribute your product.

Quality (OPEQ)/Center for Devices and Radiological Health (CDRH) (via email: CDRH-EUAREporting@fda.hhs.gov).

- 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.
- H. You and authorized distributor(s) using your product must 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.

ACON Laboratories, Inc. (You)

- I. You must notify FDA of any authorized distributor(s) of your product, including the name, address, and phone number of any authorized distributor(s).
- J. You must provide authorized distributor(s) with a copy of this EUA and communicate to authorized distributor(s) any subsequent revisions that might be made to this EUA and its authorized accompanying materials, including the authorized labeling.
- K. You must make the authorized “Flowflex COVID-19 Antigen Home Test Package Insert for Healthcare Providers” instructions for use and the “Fact Sheet for Healthcare Professionals” electronically available on your website. Additionally, you must provide the opportunity to request a copy of the “Flowflex COVID-19 Antigen Home Test Package Insert for Healthcare Providers” instructions for use and “Fact Sheet for Healthcare Professionals” in paper form, and after such request, promptly provide the requested labeling at no additional cost.
- L. You may request changes to this EUA for your product, including to the Scope of Authorization (Section II in this letter) or to the authorized labeling, including requests 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 shall not exceed the terms of authorization of this letter. Any request for changes to this EUA should be submitted to DMD/OHT7-OIR/OPEQ/CDRH and require appropriate authorization from FDA prior to implementation.
- M. You must comply with the following requirements pursuant to FDA regulations: 21 CFR 820 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).
- N. You must have lot release procedures and the lot release procedures, including the study design and statistical power, must ensure that the product released for distribution meet the clinical and analytical performance claimed in the authorized labeling.

- O. If requested by FDA, you must submit your 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 them within 48 hours of the request.
- P. You must evaluate the analytical limit of detection and assess traceability⁷ of your product with any FDA-recommended reference material(s). After submission to and concurrence with the data by FDA, you will update your labeling to reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- Q. You must develop a mobile phone application or website to further facilitate results reporting by the individual using your product, and submit to FDA such application or website within 2 months of the date of this letter (unless otherwise agreed to with DMD/OHT7-OIR/OPEQ/CDRH). After submission of the mobile phone application or website to, and review of and concurrence with the developed mobile phone application or website by FDA, you must update the authorized labeling. Such labeling updates will be made in consultation with, and require concurrence of, FDA.
- R. You must evaluate the clinical performance of your product in additional asymptomatic individuals in an FDA agreed upon post authorization clinical evaluation study within 6 months of the date of this letter (unless otherwise agreed to with DMD/OHT7-OIR/OPEQ/CDRH). After submission to and concurrence with the data by FDA, you must update the authorized labeling to reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- S. You must further develop your video instructions for end users and submit to FDA within 4 months of the date of this letter (unless otherwise agreed to with DMD/OHT7-OIR/OPEQ/CDRH), prior to making the video instructions available for use. After submission of the video instructions and review of and concurrence with the developed video instructions by FDA, you must update the authorized labeling. Such labeling updates will be made in consultation with, and require concurrence of, FDA.
- T. You must complete the agreed upon real-time stability study for your product and notify DMD/OHT7-OIR/OPEQ/CDRH of the testing results as they become available until completion of the study. After submission of the study data, and review and concurrence with the data by FDA, you must update your product labeling accordingly. Such labeling updates must be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- U. You must submit your product for any FDA-recommended independent evaluation to confirm the performance characteristics of your test, if requested by FDA. After submission to and concurrence with the data by FDA, you will update your labeling to

⁷ Traceability refers to tracing analytical sensitivity/reactivity back to an FDA-recommended reference material.

reflect the additional testing. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.

- V. You must evaluate the impact of SARS-CoV-2 viral mutations on your product's performance. Such evaluations must occur on an ongoing basis and must include any additional data analysis that is requested by FDA in response to any performance concerns you or FDA identify during routine evaluation. Additionally, if requested by FDA, you must submit records of these evaluations for FDA review within 48 hours of the request. If your evaluation identifies viral mutations that affect the stated expected performance of your device, you must notify FDA immediately.
- W. If requested by FDA, you must update your labeling within 7 calendar days to include any additional labeling risk mitigations identified by FDA, such as those related to the impact of viral mutations on test performance. Such updates will be made in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.

Conditions Related to Printed Materials, Advertising and Promotion

- X. All descriptive printed matter, 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 meet the requirements set forth in section 502(a), (q)(1), and (r) of the Act, as applicable, and FDA implementing regulations.
- Y. No descriptive printed matter, 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.
- Z. All descriptive printed matter, advertising, and promotional materials relating to the use of your product shall clearly and conspicuously state that:
- This product has not been FDA cleared or approved; but has been authorized by FDA under an EUA;
 - This product has been authorized only for the detection of proteins from SARS- CoV-2, not for any other viruses or pathogens; and,
 - This product 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 Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or authorization is 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,

RADM Denise M. Hinton
Chief Scientist
Food and Drug Administration

Enclosure