



March 16, 2020

Katerina Capkova  
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Dear Ms. Capkova:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the Hologic, Inc. (Hologic) Panther Fusion SARS-CoV-2 test for the qualitative detection of nucleic acid from SARS-CoV-2 isolated and purified from nasopharyngeal (NP) and oropharyngeal (OP) swab specimens obtained from individuals who meet COVID-19 clinical and/or epidemiological criteria, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. §360bbb-3). The Panther Fusion SARS-CoV-2 is for use only under EUA in United States (U.S.) laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests.<sup>1</sup>

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.<sup>2</sup> 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.<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 the Panther Fusion SARS-CoV-2 test (as described in the scope Section of this letter (Section II)) in individuals who meet COVID-19 clinical and/or epidemiological criteria for the detection of SARS-CoV-2 by authorized laboratories, subject to the terms of this authorization.

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<sup>1</sup> For ease of reference, this letter will refer to, “United States (U.S.) laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests” as “authorized laboratories.”

<sup>2</sup> 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.

<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*. February 4, 2020.

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

I have concluded that the emergency use of the Panther Fusion SARS-CoV-2 test in individuals who meet COVID-19 clinical and/or epidemiological criteria for testing 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 the Panther Fusion SARS-CoV-2 test may be effective in diagnosing COVID-19, and that the known and potential benefits of the Panther Fusion SARS-CoV-2 test, when used for diagnosing COVID-19, outweigh the known and potential risks of such product; and
3. There is no adequate, approved, and available alternative to the emergency use of the Panther Fusion SARS-CoV-2 test for diagnosing COVID-19.<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 use of the authorized Panther Fusion SARS-CoV-2 test by authorized laboratories for the qualitative detection of SARS-CoV-2 in individuals who meet COVID-19 clinical and/or epidemiological criteria .

### **The Authorized Panther Fusion SARS-CoV-2 test**

The Panther Fusion SARS-CoV-2 is a qualitative test for the detection of nucleic acid from SARS-CoV-2 isolated and purified from NP and OP swab specimens obtained from individuals who meet COVID-19 clinical and/or epidemiological criteria. The SARS-CoV-2 nucleic acid is generally detectable in NP and OP 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.

The Panther Fusion SARS-CoV-2 assay is performed on the Panther Fusion System, or other authorized instrument, which is an integrated nucleic acid testing system that fully automates all steps necessary to perform various Panther Fusion assays from sample processing through amplification, detection, and data reduction. The assay incorporates an internal control, or other authorized control materials, to monitor nucleic acid capture, amplification, and detection, as well as operator or instrument error.

The Panther Fusion SARS-CoV-2 assay includes the following materials or other authorized materials: Panther Fusion Open Access RNA/DNA Enzyme Cartridges 96 Tests, Panther Fusion Internal Control-S 960 Tests, Panther Fusion SARS-CoV-2 Assay Controls, Panther Fusion

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

Extraction Reagent-S 960 Tests, Panther Fusion Elution Buffer 2400 Tests, Panther Fusion SARS-CoV-2 Assay PPR Solution, Panther Fusion Oil 1920 Tests, Aptima Oil Reagent. The Panther Fusion SARS-CoV-2 test also requires the use of additional authorized materials and authorized ancillary reagents that are not included with the test and are described in the authorized Panther Fusion SARS-CoV-2 Instructions for Use.

The above described Panther Fusion SARS-CoV-2 test, when labeled consistently with the labeling authorized by FDA, entitled “Panther Fusion SARS-CoV-2 Instructions for Use” (available at <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations>), which may be revised by Hologic 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.

The above-described Panther Fusion SARS-CoV-2 test is authorized to be accompanied by the following information pertaining to the emergency use, which is required to be made available to healthcare providers and patients:

- Fact Sheet for Healthcare Providers: Panther Fusion SARS-CoV-2
- Fact Sheet for Patients: Panther Fusion SARS-CoV-2

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 the authorized Panther Fusion SARS-CoV-2 test, 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 such a 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 the authorized Panther Fusion SARS-CoV-2 test may be effective in the qualitative detection of SARS-CoV-2, 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 the Panther Fusion SARS-CoV-2, when used for qualitative detection of the SARS-CoV-2 in the specified population (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 the authorized Panther Fusion SARS-CoV-2 test 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), the Panther Fusion SARS-CoV-2 described above is authorized to detect SARS-CoV-2 in individuals who meet COVID-19 clinical and/or epidemiological criteria.

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 the Panther Fusion SARS-CoV-2 test 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 the Panther Fusion SARS-CoV-2

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

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

#### **Hologic and Its Authorized Distributor(s)**

- A. The Panther Fusion SARS-CoV-2 test 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. Hologic and its authorized distributor(s) will make available the authorized Panther Fusion SARS-CoV-2 test with the authorized labeling to authorized laboratories. Hologic may request changes to the authorized labeling. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- C. Hologic and its authorized distributor(s) will provide to authorized laboratories the authorized Panther Fusion SARS-CoV-2 Fact Sheet for Healthcare Providers and the authorized Panther Fusion SARS-CoV-2 Fact Sheet for Patients.
- D. Hologic and its authorized distributor(s) will make available on their website(s) the authorized Panther Fusion SARS-CoV-2 Fact Sheet for Healthcare Providers and the authorized Panther Fusion SARS-CoV-2 Fact Sheet for Patients.

- E. Hologic and its 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 the Panther Fusion SARS-CoV-2 test, authorized labeling and authorized Fact Sheets.
- F. Through a process of inventory control, Hologic and its authorized distributor(s) will maintain records of the authorized laboratories to which they distribute the test and number of tests they distribute.
- G. Hologic and its authorized distributor(s) will collect information on the performance of the test. Hologic will report to FDA any suspected occurrence of false positive and false negative results and significant deviations from the established performance characteristics of the test of which Hologic becomes aware.
- H. Hologic and its authorized distributor(s) are authorized to make available additional information relating to the emergency use of the authorized Panther Fusion SARS-CoV-2 test that is consistent with, and does not exceed, the terms of this letter of authorization.

## **Hologic**

- I. Hologic will notify FDA of any authorized distributor(s) of the Panther Fusion SARS-CoV-2 test, including the name, address, and phone number of any authorized distributor(s).
- J. Hologic will provide its authorized distributor(s) with a copy of this EUA and communicate to its authorized distributor(s) any subsequent amendments that might be made to this EUA and its authorized accompanying materials (e.g., Fact Sheets).
- K. Hologic may request changes to the authorized Panther Fusion SARS-CoV-2 Fact Sheet for Healthcare Providers and the authorized Panther Fusion SARS-CoV-2 Fact Sheet for Patients. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- L. Hologic may request changes to the Scope of Authorization (Section II in this letter) of the authorized Panther Fusion SARS-CoV-2 test. Such requests will be made by Hologic 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.
- M. Hologic may request the addition of other instruments and associated software for use with the authorized Panther Fusion SARS-CoV-2. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- N. Hologic may request the addition of other specimen types for use with the authorized

Panther Fusion SARS-CoV-2 test. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.

- O. Hologic may request the addition and/or substitution of primers or probes for use with the authorized Panther Fusion SARS-CoV-2 test. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- P. Hologic may request the addition and/or substitution of control materials for use with the authorized Panther Fusion SARS-CoV-2 test. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- Q. Hologic may request the addition and/or substitution of other ancillary reagents and materials for use with the authorized Panther Fusion SARS-CoV-2 test. Such requests will be made by Hologic in consultation with, and require concurrence of, DMD/OHT7-OIR/OPEQ/CDRH.
- R. Hologic will evaluate the analytical limit of detection and assess traceability<sup>5</sup> of the Panther Fusion SARS-CoV-2 test with any FDA-recommended reference material(s). After submission to FDA and DMD/OHT7-OIR/CDRH's review of and concurrence with the data, Hologic 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.
- S. Hologic will track adverse events, including any occurrence of false results and report to FDA under 21 CFR Part 803.

### **Authorized Laboratories**

- T. Authorized laboratories using the Panther Fusion SARS-CoV-2 test will include with result reports of the Panther Fusion SARS-CoV-2 test, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- U. Authorized laboratories using the Panther Fusion SARS-CoV-2 test will perform the Panther Fusion SARS-CoV-2 test as outlined in the Panther Fusion SARS-CoV-2 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 perform the Panther Fusion SARS-CoV-2 test are not permitted.
- V. Authorized laboratories that receive the Panther Fusion SARS-CoV-2 test must notify the relevant public health authorities of their intent to run the test prior to initiating testing.

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<sup>5</sup> Traceability refers to tracing analytical sensitivity/reactivity back to an FDA-recommended reference material.

- W. Authorized laboratories using the Panther Fusion SARS-CoV-2 test will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- X. Authorized laboratories will collect information on the performance of the test and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and Hologic ([customersupport@hologic.com](mailto:customersupport@hologic.com)) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the test of which they become aware.
- Y. All laboratory personnel using the test must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit, and use the test in accordance with the authorized labeling.

### **Hologic, Its Authorized Distributor(s), and Authorized Laboratories**

- Z. Hologic, its authorized distributor(s) and authorized laboratories using the Panther Fusion SARS-CoV-2 test 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**

- AA. All advertising and promotional descriptive printed matter relating to the use of the authorized Panther Fusion SARS-CoV-2 test 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.
- BB. All advertising and promotional descriptive printed matter relating to the use of the authorized Panther Fusion SARS-CoV-2 test 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 the authorized Panther Fusion SARS-CoV-2 test may represent or suggest that this test is safe or effective for the detection of SARS-CoV-2.

The emergency use of the authorized Panther Fusion SARS-CoV-2 test 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,

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RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration

Enclosures