

March 24, 2023

Katie Edwards, M.Sc., RAC
Vice President, Quality and Regulatory
Biomeme, Inc.
401 N Broad Street Suite 222,
Philadelphia, PA 19108

Device: Biomeme SARS-CoV-2 Real-Time RT-PCR Test

EUA Number: EUA201209

Company: Biomeme, Inc.

Indication: Qualitative detection of nucleic acid from SARS-CoV-2 in nasopharyngeal, anterior nasal, mid-turbinate nasal and oropharyngeal swab specimens, and nasopharyngeal wash/aspirate or nasal aspirate specimens collected from individuals suspected of COVID-19 by their healthcare provider.

Emergency use of this test is limited to authorized laboratories.

Authorized Laboratories: Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.

Dear Katie Edwards:

On August 11, 2020, based on your¹ request, the Food and Drug Administration (FDA) issued an Emergency Use Authorization (EUA) for emergency use of the Biomeme SARS-CoV-2 Real-Time RT-PCR Test, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. §360bbb-3) for the indication stated in the letter.² Subsequently, FDA added your product to Exhibit 1 of the Pooling and Serial Testing Amendment for Certain Molecular Diagnostic Tests for SARS-CoV-2 on June 22, 2021.³ In addition, FDA established

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

² The Biomeme SARS-CoV-2 Real-Time RT-PCR Test was authorized for the qualitative detection of nucleic acid from SARS-CoV-2 in nasopharyngeal, nasal, and oropharyngeal swab specimens, and nasopharyngeal wash/aspirate or nasal aspirate specimens collected from individuals suspected of COVID-19 by their healthcare provider. Testing was limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.

³ On June 22, 2021, FDA added Biomeme, Inc.’s Biomeme SARS-CoV-2 Real-Time RT-PCR Test to Exhibit 1 of the Pooling and Serial Testing Amendment for Certain Molecular Diagnostic Tests for SARS-CoV-2 to allow pooling of Swabs: Up to n = 10 (Appendix C) and Media: Up to n = 10 (Appendix F - validation option 1). The April 20, 2021 amendment letter for the Pooling and Serial Testing Amendment for Certain Molecular Diagnostic

additional Conditions of Authorization in response to the continued emergence of new variants of SARS-CoV-2 on September 23, 2021.⁴ On April 5, 2022, FDA granted your request to update the authorized labeling and also updated the indications for Exhibit 1 of the Pooling and Serial Testing Amendment.^{5,6}

On January 13, 2023, FDA received a request to further amend the EUA. Based on this request, and having concluded that revising the August 11, 2020, EUA is appropriate to protect the public health or safety under section 564(g)(2)(C) of the Act (21 U.S.C. § 360bbb-3(g)(2)(C)), FDA is reissuing the August 11, 2020, letter in its entirety with the revisions incorporated.⁷ Pursuant to section 564 of the Act and the Scope of Authorization (Section II) and Conditions of Authorization (Section IV) of this reissued letter, your product⁸ is now intended for the indication described above.

On February 4, 2020, as amended on March 15, 2023, 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, or a significant potential for a public health emergency, that affects, or 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.⁹

Tests for SARS-CoV-2 can be accessed at: <https://www.fda.gov/media/147737/download>.

⁴ The Viral Mutation Revision Letter – September 23, 2021, can be accessed at: <https://www.fda.gov/media/152406/download>.

⁵ On April 5, 2022, your request was granted to update the Biomeme SARS-CoV-2 Real-Time RT-PCR Test to: (1) update the authorized labeling to address Condition of Authorization (1) in the Viral Mutation Revision Letter dated September 23, 2021, (2) update the in-use stability of the RNA Process Control (RPC) kits once resuspended, (3) include use of the Biomeme Go Dx App mobile application for use with the Biomeme Franklin three9 Real-Time PCR Thermocycler, and (4) add use of the KingFisher Flex Purification System when used with the KingFisher with 96 PCR head and the MagMAX Viral/Pathogen Nucleic Acid Isolation Kit as an authorized extraction method.

⁶ On April 5, 2022, FDA updated the indications claimed under Exhibit 1 of the Pooling and Serial Testing Amendment from Appendix F (Media: Up to n = 10 - validation option 1) to Appendix H (Media: Up to n = 10 - validation option 2). The April 20, 2021 amendment letter for the Pooling and Serial Testing Amendment for Certain Molecular Diagnostic Tests for SARS-CoV-2 can be accessed at: <https://www.fda.gov/media/147737/download>.

⁷ The revisions to the August 11, 2020, letter and authorized labeling include; (1) updates to the intended use to clarify “nasal” as “anterior nasal” and “mid-turbinate nasal” swab specimens, (2) updates to remove reference to the Biomeme Go App, (3) updates to the letter to include reference to the previously granted Biomeme Go Dx App mobile application for use with the Biomeme Franklin three9 Real-Time PCR Thermocycler, (4) adding Conditions of Authorization (2) and (3) from the Viral Mutation Revision Letter – September 23, 2021 to the letter (Conditions of Authorization P. and Q. below) and adding Condition of Authorization D. (below) concerning how authorized labeling is to be made available, (5) use of a “Instructions for Use” card in the distributed product, (6) updating the Conditions of Authorization, including consolidating several conditions, to reflect language used in more recent letters of authorization and (7) other general updates to the letter and Fact Sheets to reflect the revised intended use and language used in more recent authorizations.

⁸ For ease of reference, this letter will use the term “your product” to refer to the Biomeme SARS-CoV-2 Real-Time RT-PCR Test used for the indication identified above.

⁹ 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*

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 “Biomeme SARS-CoV-2 Real-Time RT-PCR Test 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.¹⁰

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 real-time RT-PCR test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in nasopharyngeal, anterior nasal, mid-turbinate nasal and oropharyngeal swab specimens, and nasopharyngeal wash/aspirate or nasal aspirate specimens collected from individuals suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a that meet requirements to perform high complexity tests.

Results are for the identification of SARS-CoV-2 nucleic acid which is generally detected in respiratory specimens during the acute phase of infection. Positive results are indicative of the

Cosmetic Act, 21 U.S.C. § 360bbb-3. February 4, 2020. 85 FR 7316 (February 7, 2020). U.S. Department of Health and Human Services, *Amended Determination of a Public Health Emergency or Significant Potential for a Public Health Emergency Pursuant to Section 564(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3(b)*. March 15, 2023. 88 FR 16644 (March 20, 2023) (“Amended Determination”).

¹⁰ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the Act.

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 agent detected may not be the definite cause of disease. Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

To use your product, SARS-CoV-2 nucleic acid is first extracted, isolated and purified from clinical specimens. The purified nucleic acid is then reverse transcribed into cDNA followed by PCR amplification and detection using an authorized real-time (RT) PCR instrument and authorized software. Your product includes the materials (or other authorized materials as may be requested under Condition K. below) described in the authorized labeling (described below).

Your product requires control materials (or other authorized control materials as may be requested under Condition K. below) that are described in the authorized labeling (described below). 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 authorized labeling (described below).

The “Biomeme SARS-CoV-2 Real-Time RT-PCR Test Instructions for Use,” the “Instructions for Use” card (available at <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/in-vitro-diagnostics-euas>), the “Franklin Real-Time PCR Thermocycler (EUA)” User Manual, and the following fact sheets pertaining to the emergency use, are 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 Providers: Biomeme, Inc. – Biomeme SARS-CoV-2 Real-Time RT-PCR Test
- Fact Sheet for Patients: Biomeme, Inc. – Biomeme SARS-CoV-2 Real-Time RT-PCR Test

The above described product, when accompanied by the authorized labeling provided as set forth in the Conditions of Authorization (Section IV) 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 authorized 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 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:

Biomeme, Inc. (You) and Authorized Distributor(s)¹¹

- A. Your product must comply with the following labeling requirements pursuant to 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) must make your product available with the authorized labeling to authorized laboratories.
- C. You and authorized distributor(s) must make available on your website(s) the authorized labeling.
- D. You and authorized distributor(s) must include a physical copy of the authorized "Instructions for Use" card with each shipped product to authorized laboratories, and

¹¹ "Authorized Distributor(s)" are identified by you, Biomeme, Inc., in your EUA submission as an entity allowed to distribute your device.

must make the authorized “Biomeme SARS-CoV-2 Real-Time RT-PCR Test Instructions for Use” and “Franklin Real-Time PCR Thermocycler (EUA)” User Manual electronically available with the opportunity to request a copy in paper form, and after such request, you must promptly provide the requested information without additional cost.

- E. You and authorized distributor(s) must 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 .
- F. Through a process of inventory control, you and authorized distributor(s) must maintain records of the authorized laboratories to which they distribute the test and number of tests they distribute.
- G. You and authorized distributor(s) must collect information on the performance of your product. You must 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.
- 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.

Biomeme, 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 amendments that might be made to this EUA and its authorized labeling.
- K. 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 not exceed the terms of authorization of this letter. Any request for changes to this EUA should be submitted to the Division of Microbiology (DMD)/Office of Health Technology 7 (OHT7)/Office of Product Evaluation and Quality (OPEQ)/Center for Devices and Radiological Health (CDRH) and require appropriate authorization from FDA prior to implementation.
- L. You must comply with the following requirements pursuant to 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).

- M. 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.
- N. 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.
- O. You must evaluate the analytical limit of detection and assess traceability of your product with any FDA-recommended reference material(s), if requested by FDA.¹² After submission to and concurrence of the data by FDA, you will update the authorized labeling to reflect the additional testing if requested by FDA. Such labeling updates will be made in consultation with, and require concurrence of, DMD/OHT7/OPEQ/CDRH.
- P. 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 (via email: CDRH-EUA-Reporting@fda.hhs.gov).
- Q. If requested by FDA, you must update your labeling within 7 calendar days to include any additional labeling risk mitigations identified by FDA regarding the impact of viral mutations on test performance. Such updates will be made in consultation with, and require concurrence of, DMD/OHT7/OPEQ/CDRH.
- R. You must have a process in place to track adverse events, including any occurrence of false results and report to FDA pursuant to 21 CFR Part 803.

Authorized Laboratories

- S. Authorized laboratories using your product must 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.
- T. Authorized laboratories using your product must use your product as outlined in the authorized labeling. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen

¹² Traceability refers to tracing analytical sensitivity/reactivity back to an FDA-recommended reference material.

types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.

- U. Authorized laboratories that receive your product must notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- V. Authorized laboratories using your product must have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- W. Authorized laboratories must collect information on the performance of your product and report to DMD/OHT7/OPEQ/CDRH (via email: CDRH-EUA-Reporting@fda.hhs.gov) and you (email: support@biomeme.com; phone: 267-930-7707) 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 laboratory personnel using your product must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit, and use your product in accordance with the authorized labeling.

Biomeme, Inc. (You), Authorized Distributors and Authorized Laboratories

- Y. 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

- Z. 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 requirements set forth in section 502(a), (q)(1), and (r) of the Act, as applicable and FDA implementing regulations.
- AA. 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.
- BB. All descriptive printed matter, including 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 for use by authorized laboratories;
 - This product has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens; and

- The emergency use of 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 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,

Jeffrey E. Shuren, M.D., J.D.
Director
Center for Devices and Radiological Health
Food and Drug Administration

Enclosure