

October 20, 2020

Sarah Kalil  
Advisor  
binx health, Inc.  
77 N. Washington Street, 5<sup>th</sup> Floor  
Boston, MA 02114

Device: binx health At-Home Nasal Swab COVID-19 Sample Collection Kit

Company: binx health, Inc.

Indication: For use by individuals for self-collection of nasal swab specimens at home, when determined by a healthcare provider to be appropriate based on the results of an online COVID-19 questionnaire and for use only with an in vitro diagnostic (IVD) molecular test for the detection of SARS-CoV-2 RNA that is indicated for use with the binx health At-Home Nasal Swab COVID-19 Sample Collection Kit.

Authorized Laboratories: Testing is limited to laboratories designated by binx health, Inc. that are certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, and meet requirements to perform high complexity tests and that run the specimens collected from the binx health At-Home Nasal Swab COVID-19 Sample Collection Kit on an in vitro diagnostic (IVD) molecular test that is indicated for use with the binx health At-Home Nasal Swab COVID-19 Sample Collection Kit for self-collection of nasal swabs.

Dear Ms. Kalil:

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).

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

<sup>2</sup> For ease of reference, this letter will use the term “your product” to refer to the binx health At-Home Nasal Swab COVID-19 Sample Collection Kit used for the indication identified above.

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>3</sup> Pursuant to Section 564 of the Act, and on the basis of such determination, the Secretary of HHS then declared on March 24, 2020, that circumstances exist justifying the authorization of emergency use of medical devices during the COVID-19 outbreak, subject to the terms of any authorization issued under Section 564(a) of the Act.<sup>4</sup>

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 contained in the EUA Summary (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, by serving as an appropriate means to collect and transport human nasal swab specimens so that an authorized laboratory can detect SARS-CoV-2 RNA from the self-collected specimen, 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>5</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.

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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> U.S. Department of Health and Human Services, *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 17335 (May 27, 2020).

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

## **Authorized Product Details**

Your product is a collection kit intended for self-collection of dry nasal swab specimens by individuals over 18 years of age when determined by a healthcare provider to be appropriate based on the results of an online COVID questionnaire. Once collected, the human nasal swab specimen, which may include SARS-CoV-2 RNA, is maintained in the authorized product packaging and transported at ambient temperature to an authorized laboratory. The authorized laboratory then runs the specimen using an IVD molecular test that is indicated for use with nasal swab specimens collected with the binx health At-home Nasal Swab COVID-19 Sample Collection Kit. When using your product, individuals must follow all specimen collection and mailing instructions provided with the kit. The binx health At-home Nasal Swab COVID-19 Sample Collection Kit includes the following materials or other authorized materials: cardboard shipping box, sterile swab in tube, instructions for collection and mailing, sample bag with absorbent pad, pre-paid return envelope and sample identification label.

The above described product is authorized to be accompanied with authorized labeling (available at <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/vitro-diagnostics-euas>). Authorized labeling includes the following documents: the EUA Summary, the binx health Collection Kit patient instructions “binx health At-home Nasal Swab COVID-19 Sample Collection Kit Instructions for Use,” and the “COVID-19 At-Home Test Questionnaire.”

The above described product, when accompanied by the authorized labeling is authorized to be distributed and used by individuals (accompanied only by “binx health At-home Nasal Swab COVID-19 Sample Collection Kit Instructions for Use”) and authorized laboratories (accompanied by all authorized labeling) as set forth in this letter and pursuant to the conditions in the 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, by serving as an appropriate means to collect and transport human nasal swab specimens so that an authorized laboratory can detect SARS-CoV-2 RNA from the self-collected specimen 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:

#### **binx health, Inc. (You) and Authorized Distributor(s)<sup>6</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 distributors will make available, both with the shipped product and on your website(s) the “binx health At-home Nasal Swab COVID-19 Sample Collection Kit Instructions for Use” patient instructions.
- C. You and authorized distributors 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, or the authorized labeling.
- D. Through a process of inventory control, you and authorized distributors will maintain records of the numbers and locations to which your product is distributed.
- E. You and authorized distributors will maintain customer complaint files on record. You will report to FDA any significant complaints about usability or deviations from the established performance characteristics of the product of which you become aware.

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<sup>6</sup> “Authorized distributors” are identified by you (binx health, Inc.) in your EUA submission as an entity allowed to distribute your device. By agreement with FDA, conditions C and E do not apply to Expeditors International.

- F. You and authorized distributors 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.

**binx health, Inc. (You)**

- G. You will notify FDA of any authorized of any authorized distributor(s) of your product, including the name, address, and phone number of any authorized distributor(s).
- H. You will notify FDA of any authorized laboratories designated by binx health, Inc. to use your product, including the name, address, and phone number of any authorized laboratories.
- I. You will provide authorized distributor(s) and authorized laboratories with a copy of this EUA and communicate any subsequent revisions that might be made to this EUA and its authorized accompanying materials.
- J. 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 In Vitro Diagnostics and Radiological Health (OIR)/Office of Product Evaluation and Quality (OPEQ)/Center for Devices and Radiological Health (CDRH) and require appropriate authorization from FDA prior to implementation.
- K. You will 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).
- L. You must have lot release procedures and the lot release procedures, including the study design and statistical power, must ensure that the kits 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 will have a process in place to track adverse events, including any occurrence of false results with your product and report to FDA pursuant to 21 CFR Part 803. Serious adverse events, especially unexpected biosafety concerns, should also be immediately

be reported to DMD/OHT7-OIR/OPEQ/CDRH (via email:CDRH-EUAREporting@fda.hhs.gov).

- O. You will notify FDA of any changes to the COVID-19 questionnaire used by a healthcare provider to determine eligibility of an individual to receive the binx health At-Home Nasal Swab COVID-19 Sample Collection Kit.
- P. You will submit to FDA a summary report within 30 calendar days of this letter summarizing the results of any testing performed using nasal specimens collected with the binx health At-Home Nasal Swab COVID-19 Sample Collection Kit during that timeframe, including how many kits were requested and sent for home collection to individuals, how many kits were shipped and returned according to the instructions, how many specimens had to be rejected during accession and the main reasons for rejection, and the positivity rate for the first binx health At-Home Nasal Swab COVID-19 Sample Collection Kit lot.
- Q. You will complete the agreed upon winter stability study for your product. After submission to and concurrence with the data by FDA, you will update the EUA Summary to reflect the additional testing. Such updates will be made in consultation with, and require concurrence of DMD/OHT7-OIR/OPEQ/CDRH.

#### **Authorized Laboratories**

- R. Authorized laboratories testing nasal swab specimens self-collected using your product must have in place a suitable specimen receipt and accessioning SOP when accepting specimens for testing.
- S. Authorized laboratories using your product will use it only in conjunction with COVID-19 in vitro diagnostic (IVD) molecular tests that are indicated for use with your product.
- T. 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 ([www.mybinxhealth.com](http://www.mybinxhealth.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.

#### **binx health, Inc. (You) and Authorized Laboratories**

- U. You 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**

- V. 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.

- W. 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.
- X. All descriptive printed matter, including advertising and promotional materials, relating to the use of your product shall clearly and conspicuously state that:
- This home collection kit has not been FDA cleared or approved;
  - This home collection kit has been authorized by FDA under an EUA for use by authorized laboratories;
  - This home collection kit has been authorized only for the home collection and maintenance of nasal swab specimens as an aid in the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens; and
  - This home collection kit in combination with the authorized test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of medical devices 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 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 medical devices 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