

## **Code of Conduct Exemption Request Form**

Internet Corporation for Assigned Names and Numbers ("ICANN")  
12025 Waterfront Drive, Suite 300  
Los Angeles, California 90094

Attention: New gTLD Program Staff

RE: Request for Exemption from Registry Operator Code of Conduct

Merck KGaA ("Registry Operator"), in connection with the execution of the Registry Agreement for the .EMERCK TLD (the "Registry Agreement"), hereby requests an exemption from the obligations of the Registry Operator Code of Conduct set forth in Specification 9 to the Registry Agreement (the "Code of Conduct"). Pursuant to such request, Registry Operator confirms that each of the following statements is true and correct (collectively, referred to as the "Statements"):

1. All domain name registrations in the TLD shall be registered to, and maintained by, Registry Operator for the exclusive use of Registry Operator or its Affiliates (as defined in the Registry Agreement);
2. Registry Operator shall not sell, distribute or transfer control or use of any registrations in the TLD to any third party that is not an Affiliate of Registry Operator; and
3. Application of the Code of Conduct to the TLD is not necessary to protect the public interest for the following reasons:

The TLD ultimately is intended to function as Merck KGaA's integrated online branding and services platform. The space is intended to function with leading-edge technologies and business practices, ensuring a trustworthy and positive user experience. The goal is to use Merck KGaA's online infrastructure, services and marketing to encourage Internet users to interact online with Merck KGaA.

Merck KGaA will limit registration of the ".EMERCK" space to a single-registrant model, meaning that Merck KGaA will be the sole registrant of all domain names in the space. Merck KGaA may, in its sole discretion, elect from time to time to license the use of certain domain names within the TLD inter alia, to authorized corporate divisions, employees or other affiliated entities. . In all cases, however, Merck KGaA will remain the registrant of record for all domain name registrations within the TLD, and shall retain the authority to modify or terminate such registrations at any time via the concerned registrar.

The ".EMERCK" TLD is intended to serve as a dedicated space for the sole use of Merck KGaA for its online activities, and is designed to reinforce the ideals of the company. Merck KGaA will use this new TLD to provide information about its unique activities

and its colorful, extensive corporate history, as well as to communicate with its internal divisions, external business partners, shareholders, customers and all further stakeholders.

The “.EMERCK” Registry Service Provider will manage the Internet space under the direct control of Registry Operator. This will allow the distribution and exchange of information between Merck KGaA and its relevant stakeholders by means of, but not limited to, websites, social networks, email and other technologies that will reside within the “.EMERCK” domain name space.

Accordingly, domain usage guidelines will be implemented and enforced to constantly ensure the integrity of users’ “.EMERCK” experience and the reputation of the TLD. The “.EMERCK” space will provide information to Merck KGaA’s online visitors from across the globe, and the space will offer users an interconnected, well-organized network of information about Merck’s activities. Such guidelines will be further incorporated into any license agreement made between Merck and its authorized corporate divisions, employees or other affiliated entities who may from time to time be authorized to license the use of “.EMERCK” domain names. A licensed domain name may be revoked by Merck KGaA at any time if the licensee does not comply with the acceptable use requirements contained in the Policy, or any other contractual requirements as may be established in the particular license agreement.

Merck KGaA will be the sole registrant of all domain names in the “.EMERCK” space. Merck KGaA may, in its sole discretion, elect from time to time to license the use of certain domain names within the TLD to appropriate divisions or business affiliates, but at all times Merck KGaA shall remain the registrant of record for all domain names in “.EMERCK.” All domain name registrations and license agreements shall incorporate the usage requirements set out in the Domain Name Registration and Use Policy for “.EMERCK,” which is provided in Exhibit A at the end of this document. Registry Operator intends that no domain name in the “.EMERCK” space shall be used in a manner which:

- infringes any other third parties’ rights
- is in breach with any applicable laws, government rules or requirements

or for the purposes of:

- undertaking any illegal or fraudulent actions, including spam or phishing activities, or
- defaming Merck KGaA or its businesses, affiliates, dealers, employees, etc.

The “.EMERCK” domain space shall be used for the benefit of Merck KGaA and, as the space will follow a single-registrant model, Merck KGaA will remain the registrant of record for all registered domain names in the space. Merck KGaA will have the right to cancel any domain name registration or revoke any domain name license agreement should Merck KGaA deem such action appropriate for the benefit of the company.

The content and use of all registered “.EMERCK” domain names will be monitored by Registry Operator on an ongoing basis, and compliance with the contractual restrictions and guidelines will be enforced. Violations of any restrictions, guidelines or other contractual conditions may result in termination of the relevant domain name license.

Registry Operator represents that the registration policies attached hereto as Exhibit A are a true and correct copy of the Registry Operator’s registration policies for the TLD. Registry Operator agrees that if Registry Operator makes any changes to its registration policies (whether before or after an exemption has been granted), it will promptly provide ICANN with a revised set of registration policies.

Registry Operator acknowledges and agrees that in the event that any of the foregoing Statements becomes untrue (including after ICANN has granted an exemption pursuant to this exemption request), any Code of Conduct exemption granted by ICANN to Registry Operator for the TLD shall immediately expire, and Registry Operator shall (i) immediately notify ICANN specifying in reasonable detail the circumstances causing any of the Statements to be untrue and (ii) immediately comply with the Code of Conduct.

Registry Operator further acknowledges and agrees that ICANN may revoke this exemption at any time based upon evidence reasonably satisfactory to ICANN that the Statements have become untrue. In the event that ICANN provides notice that it has revoked this exemption, Registry Operator shall immediately comply with the Code of Conduct.

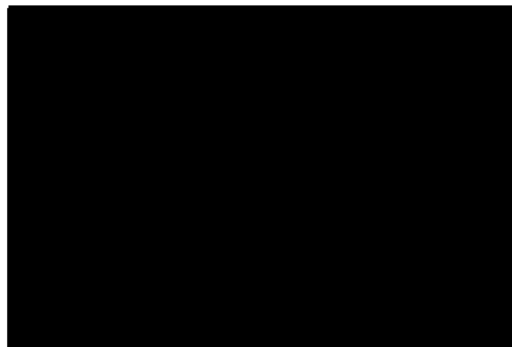
Questions about this request should be directed to [REDACTED], the Contracting Point of Contact.

Submitted by:

Position:

Date Noted:

Email:



## **EXHIBIT A**

### Domain Name Registration and Use Policy for “.EMERCK”

#### I. General principles

##### 1. Purpose

The “.EMERCK” Top Level Domain (“TLD”) established by and for the use of

The “.EMERCK” Top Level Domain (“TLD”) is established by and for the use of the Merck KGaA Corporation, the Registry Operator for the TLD space. The Registry Operator reserves the sole and exclusive right to make any changes to domain name registrations within the .EMERCK (including the cancellation, transfer, deletion or suspension of any such domains) where it determines that the registration in question is in violations of the terms and conditions contained herein, or is contrary to the best interests of Merck KGaA.

This Policy is intended to be updated and revised regularly to reflect the needs of Merck KGaA and its TLD. The current version of this Policy will be made publicly available at: [insert website when determined].

The registration of domain names within the “.EMERCK” TLD shall be restricted to Merck KGaA itself, thus following a single-registrant model. Merck KGaA may, in its sole discretion, elect to license registrations within this space to, *inter alia*, authorized corporate divisions, employees or other affiliated entities.

##### 2. Registration Policy

As indicated above, the “.EMERCK” TLD follows a single-registrant model. Thus, Merck KGaA shall be the only entity eligible to register domain names within the “.EMERCK” TLD.

##### 3. Licensing of domain name registrations

Merck KGaA may, in its sole discretion, elect to license domain name registrations within the “.EMERCK” space to, *inter alia*, authorized corporate divisions, employees or other affiliated entities. In all cases, however, Merck KGaA will remain the registrant of record for all domain name registrations within the TLD, and shall retain the authority to modify or terminate such registrations at any time via the concerned registrar.

#### II. Domain Allocation Rules

##### 3. String Requirements and Reserved Names

###### String Requirements

Second-Level Domain names within the TLD must only include hyphens in the third and fourth position if they represent valid internationalized domain names in their ASCII encoding (for example “xn--ndk061n”), and must otherwise comply with any other applicable ICANN requirements.

#### Reserved Names

At all times Merck KGaA will reserve names from registration in accordance with Specification 5 of the Registry Agreement.

However, Merck KGaA may propose the release of these reservations, subject to review by ICANN’s Governmental Advisory Committee and approval by ICANN.

### III. Acceptable Usage Guidelines for “.EMERCK” Domain Names

#### 6. Acceptable Use

The “.EMERCK” space is intended to function as the Merck KGaA’s online corporate branding platform, and as such the registrations therein should generally support the goals and mission of the organization.

Accordingly, no registered .EMERCK domain name may be used in a manner which:

- infringes any other third parties rights
- is in breach with any applicable laws, government rules or requirements

or for the purposes of:

- undertaking any illegal or fraudulent actions, including spam or phishing activities, or
- defaming Merck KGaA or its businesses, affiliates, dealers, employees, etc.

The Corporate Trademark Department of Merck KGaA will routinely monitor the use of all domain names registered in the “.EMERCK” space to ensure that the content displayed thereon is in the best interests of the company and its business endeavors. The Registry Operator will periodically review the use of all registered .EMERCK domains to ensure that the provisions of the Public Interest Commitments are met, including those relating to geo-targeting.

Failure to comply with the terms and conditions set out in this Registration agreement will result in the immediate cancellation, transfer, deletion or suspension of a registered .EMERCK domain. The Registry Operator reserves the right to make any necessary changes to a domain name registration in the event of breach of the provisions herein established.

### IV. Dispute Resolution Policies

The registrant of any .EMERCK domain name hereby agrees to be bound to the provisions of the following dispute resolution Policies in force within the .EMERCK space:

#### 7. Uniform Domain Name Dispute Resolution Policy (“UDRP”)

The Uniform Domain Name Dispute Resolution Policy (“UDRP”) shall apply to any challenges to registered domain names on the grounds that: 1) such domain names are identical or confusingly similar to a trademark in which the complainant has rights, 2) the registrant lacks rights or legitimate interests in the domain name, and 3) the domain name has been registered and used in bad faith.. The full text of the UDRP is located at the following address: <http://www.icann.org/dndr/udrp/policy.htm>

#### 8. Uniform Rapid Suspension System (“URS”)

The Uniform Rapid Suspension System (“URS”) shall apply to any challenges to registered domain names on the grounds that: 1) such domain names are identical or confusingly similar to a trademark in which the complainant has rights, 2) the registrant lacks rights or legitimate interests in the domain name, and 3) the domain name has been registered and used in bad faith. The full text of the URS is located at the following address: [insert website when available].

#### 9. Trademark Post-Delegation Dispute Resolution Procedure (Trademark PDDRP)

The Registry Operator for “.EMERCK” shall agree to be bound by the Trademark Post-Delegation Dispute Resolution Procedure (Trademark PDDRP). The Trademark PDDRP applies to challenges by trademark holders claiming that one or more of its marks have been infringed, and thereby the trademark holder has been harmed, by the registry operator’s manner of operation or use of the gTLD. The full text of the Trademark PDDRP is located at the following address: [insert website when available].

10. The Registry Operator for “.EMERCK” will comply with all dispute resolution mechanisms as defined in the registry agreement Specification 7 article 2, and as revised from time to time by ICANN consensus policies and procedures. Registrants of .EMERCK domain names (*e.g.* – Merck KGaA) hereby agrees to be bound by all applicable domain name dispute policies, as outlined in this Registration Agreement.

These dispute mechanisms include, but are not limited to:

- the Trademark Post-Delegation Dispute Resolution Procedure (“PDDRP”);
- the Uniform Rapid Suspension system (“URS”);
- the Public Interest Commitment Dispute Resolution Procedure (PICDRP);
- the Uniform Domain Name Dispute Resolution Policy (“UDRP”).