



Terrafirma Risk Retention Group LLC

**SAMPLE (not identical)**

**ELECTRONIC APPLICATION FOR CONSERVATION DEFENSE INSURANCE**

***General Information:***

1. Name of organization: \_\_\_\_\_
2. Mail Address: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_
3. Contact Person: \_\_\_\_\_ Organization Role: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell phone: \_\_\_\_\_
4. Email Address: \_\_\_\_\_ Web site: \_\_\_\_\_
5. EIN number: \_\_\_\_\_

This is a draft document and is not an offer of insurance.  
Terrafirma application 2016

**Eligibility**

6. Is your organization a current member in good standing of the Land Trust Alliance?  
 yes  no
7. Does your organization maintain a policy or policies of general liability insurance covering all or any portion of its operations?  
 Yes  No
8. Is your organization currently accredited by and in good standing with the Land Trust Accreditation Commission?  
 Yes  No

**If you answered "Yes" to Questions No. 6-8, SKIP QUESTIONS 9 through 23 and go to Question 21.**

**If you answered "No" to Question 8, Complete Questions 9 through 23 and thereafter.**

**SUPPLEMENTAL APPLICATION QUESTIONS 8-20 ARE FOR NON-ACCREDITED ORGANIZATIONS ONLY**

9. Is your organization is a current member in good standing of the Land Trust Alliance?  
 yes  no
10. Does your organization maintain a policy or policies of general liability insurance covering all or any portion of its operations?  
 yes  no
11. Does your organization have a current 501(c)(3) or 509 (a) tax determination letter?  
 yes  no
12. Is your organization legally organized and in good standing in a jurisdiction within the United States of America?  yes  no Select state or territory name: (drop down)  
a. Select the year of incorporation: (drop down) (if part of a merged organization, use the oldest incorporation date).
13. Is your organization a member of the Land Trust Alliance?  yes  no
14. Do you have a completed baseline documentation report for each conservation easement that your organization seeks to insure?  yes  no
15. If your organization is insuring its fee properties, do you have a management plan for every parcel of fee-owned land?  yes  no
16. Does your organization implement a program of annual monitoring of your organization's conservation easements?  yes  no

17. If your organization is insuring its fee properties, do you regularly monitor your fee-owned land?  yes  no
18. Is your organization the subject of any ongoing local, state or federal government investigation or inquiry, including, but not limited to, any attorney general investigation or legislative inquiry, concerning any alleged fraud, misrepresentation, criminal charges, bad faith, misleading business practices or similar claims or charges, or for gross negligence?  yes  no
19. Has your organization ever been the subject of any final judgment or conviction for fraud, misrepresentation, criminal charges, bad faith, misleading business practices or similar claims or charges?  yes  no
20. Is your land trust solvent – i.e., operating at least at breakeven (where income and expenses are equivalent) or have a plan to reach breakeven?  yes  no
21. Does the land trust have and implement a written records policy and secure recordkeeping system that preserves irreplaceable documents essential to defense and enforcement?  yes  no
22. Is the land trust actively building its legal defense and general stewardship reserves or other reserves annually used for legal defense and stewardship?  yes  no

(NOTE: the system will refuse to proceed if the land trust checks no to any question; it should also flag the items that are at issue.)

### **Conservation Properties**

24. Complete **all** data fields for **each** easement, trail and fee property held that your organization wants to insure including co-held easements unless the co-held easements meet these [conditions for exceptions](#). **Note that your organization will not have coverage if you do not list the property here in full and correctly submit this application with your payment.** Please **remember** that special rules apply when counting: [divided easements](#), [reserves](#) assembled from many deeds and [multiple easements](#) owned by the same owner. Your organization may insure its interest in an easement or land co-held or owned by a [government](#) entity. Co-holder and back up holder easement interests are addressed in numbers 22 and 23 below.

**Commented [A1]:** Brown fields are hyperlinks to definitions and explanations.

**Your organization may not select individual properties or easements for coverage.** A land trust may insure its entire conservation easement portfolio or its entire fee-owned land portfolio or both, at your election. Covenants contained in a deed conveying real estate that are vested in and enforceable by an insured, as well as trail easements, are eligible for coverage

and maybe included in full or excluded in full in your discretion. A land trust may elect not to cover all trail easements or all deed covenants in its portfolio separately from its conservation easements and fee-owned land. A land trust may also elect to cover its entire portfolio of all conservation interests. Some very limited [exceptions](#) exist. [Façade](#) easements are excluded. You may exclude [trade lands](#). Other coverage [exclusions](#) are addressed in the Policy.

**Electronic Data Fields:**

Property Name	Current Owner	File Number	Physical Address	City
State	Acres	Legal Interest	Title Insurance	

25. If **all** of the co-holders of an easement or co-owners of fee land each want coverage, each must pay a full premium but they will have only one aggregate collective policy limit and claim limit. Other [conditions](#) apply. Complete **all** data fields for **each** easement, trail and fee property that both (or in the case of 3 or more, all) co-holders or both (or in the case of 3 or more, all) wish to insure for all legal interests.

**Electronic Data Fields:**

Property Name	Current Owner	File Number	Physical Address	City
State	Acres	Legal Interest	Co-holder or co-owner name(s)	Title Insurance

26. Back-up holders and third-party enforcers are considered to be any other qualified holder with an expressly granted secondary, conditional or legally vested rights in a conservation easement for which the back-up holder or third-party enforcer has agreed in writing to serve in that role for the primary holder. If you are a primary holder only, skip this question. If you also have back-up or third-party enforcement holdings in addition to your primary holder portfolio, check here and complete the data fields.  yes

If you are *only a back-up holder or third-party enforcer*, then check a box in each line below and complete the data fields and eligibility information.

- yes  no The back-up holder or the third-party enforcer is eligible for coverage and has completed the above eligibility information.
- yes  no The primary holder has insured its portfolio (premium = \$30 per conservation easement per year; no discounts available). Name of primary holder: \_\_\_\_\_
- yes  no If not, then complete the [eligibility information for the primary holder](#) (premium = \$60 per conservation easement per year; discounts available).

Complete **all** data fields for **each** easement, trail and fee property that your organization wants to insure as a back-up holder or third-party enforcer.

**Electronic Data Fields:**

Property Name	Current Owner	File Number	Physical Address	City
State	Acres			

Legal Interest Title Insurance

**Total Number of Insured Properties:** Insert here the total number of properties (easements, fee interests, trail easements and other covenants) that your organization is insuring:

27. Most land trusts have general liability insurance, and many land trusts also have directors and officers insurance or title insurance. The Alliance recommends that land trusts maintain such insurance. Typically, general liability insurance, which is required for eligibility for the Program, covers lawsuits alleging bodily injury, property damage, or personal injury against the land trust. Directors and officers insurance and title insurance are not required for eligibility for the Program, but are strongly recommended. Directors and officers insurance covers breaches of fiduciary obligations by the land trust board and staff.

A. Does your organization maintain a policy or policies of general liability insurance covering all or any portion of its operations? Please note that General Liability Coverage is required for eligibility.  yes  no

If so, for each policy in force for any period after the date of this application, complete these data fields:

Carrier name coverage limits policy number currently in effect

B. Does your organization carry umbrella or excess liability covering all or any portion of its operations? If so, for each policy in force for any period after the date of this application, complete these data fields:

Carrier name coverage limits policy number currently in effect

C. Does your organization carry directors and officer's liability covering all or any portion of its operations? If so, for each policy in force for any period after the date of this application, complete these data fields:

Carrier name coverage limits policy number currently in effect

D. Does your organization carry professional liability covering all or any portion of its operations? If so, for each policy in force for any period after the date of this application, complete these data fields:

Carrier name coverage limits policy number currently in effect

E. Does your organization carry volunteer liability covering all or any portion of its operations? If so, for each policy in force for any period after the date of this application, complete these data fields:

Carrier name coverage limits policy number currently in effect

F. Does your organization carry property coverage for all or any portion of its property? If so, for each policy in force for any period after the date of this application, complete these data fields:

Carrier name coverage limits policy number currently in effect

**Claim & Incident Information:**

28. (NOTE: list of legal challenges for drop-down would be violation, trespass or encroachment, litigation notice, verbal or other threat of violation, trespass or litigation, disregard of easement obligations, mediation or arbitration notice or demand, adverse claim of legal right. Potential Challenger would be developer, neighbor, successor owner, original owner, government jurisdiction, heir, family member, property manager).

Is anyone in your organization aware of any violation, trespass or other legal challenge including threats, demands, determinations, notices, potential violations, trespass or challenges with respect to any conservation easement, fee-owned land or other rights in land held by your organization?

This includes all past violations, trespass or other legal challenges whether concluded or in process. You may choose to omit minor problems and technical paper violations with 1) no resource damage or nominal damage; 2) nominal time by land trust personnel; and 3) that were not recurring problems.

Coverage exclusions need not be disclosed.

Please note that the definition of "anyone" means any board member, any staff member and any volunteer of the land trust.

If yes, please complete the data entry fields for the properties to which any such apply and select from the drop-down menus the category in each data entry field that most closely resembles your facts.

PLEASE NOTE: Listing a challenge on your application does not serve as official notice of a claim. If you have a challenge that could rise to a claim please file a claim or a placeholder claim using the online claims form.

Challenges against parcels to be insured

**Parcel ID Parcel Name Challenger Challenge type Expense Year**

**Discounts**

Accredited land trusts receive an automatic \$11 per insured property discount. If your land trust is accredited you do not need to answer question 29 below. Please proceed to question 30.

29. If not accredited, your organization must meet all the following conditions to receive a \$4 discount per insured property. Does your organization:

- a. Retain qualified legal counsel to review and approve every transaction prior to closing?  yes  no
- b. Have and follow a written policy on violation resolution?  yes  no
- c. Have and follow a written conflict of interest policy?  yes  no
- d. Have and follow written criteria for selecting land and easement projects consistent with its mission?  yes  no
- e. Evaluate capacity to perform its perpetual stewardship responsibilities for each project?  yes  no

30. Did at least one person from your land trust attend a TerraFirma approved Risk Management seminar or other education program approved by the Alliance Risk Management Services LLC to obtain an additional discount of \$1 per insured property?  yes  no

31. Does your land trust have a total insured portfolio of 250 or more properties to obtain a volume discount of \$3 per insured property?  yes  no

32. Does your land trust wish to petition the TerraFirma Members Committee for a waiver on insuring any of your small parcels of fewer than five acres?  yes  no If yes, do the parcels meet the **waiver criteria**?  yes  no Please note: if the parcels do not meet the waiver criteria, you must include them with your portfolio for insurance.

**Higher Aggregate Limit**

Accredited land trusts automatically qualify for the higher aggregate provided they have the larger portfolios.

33. Does your land trust have a total insured portfolio of 250 to 399 properties?  yes  no If no, proceed to question 31. If yes, proceed to question 32.

34. Does your land trust have a total insured portfolio of 400 or more properties?  yes  no

35. Any non-accredited large-portfolio land trust also must attest that it has each of the following to qualify for a higher aggregate limit (\$750,000 or \$1,000,000 respectively):

- a. In-house legal counsel or retained outside counsel on call under a written agreement? yes  no
- b. Formal written program to personally visit every successor landowner with a conservation easement?  yes  no
- c. Database system for tracking records, visits, amendments, reserved rights, discretionary approvals and violations?  yes  no
- d. Written policies for recordkeeping, amendments, violations, annual visits, landowner relationships and conflicts of interest?  yes  no

**One Time Registration Fee**

36. Did your organization pay the one-time registration fee? Check the [list](#).  
 yes  no

If not, your one-time registration fee for initial participation is based on this sliding scale schedule and will be added to your premium for the first year only.

Total Insured Portfolio	Registration Fee
1 to 10	\$375
11 to 24	\$600
25 to 49	\$900
50 to 99	\$1,400
100 to 299	\$1,900
300 to 499	\$2,400
500 to 999	\$2,900
1000 to 1999	\$3,400
2000 and up	\$4,000

**Offer of Terrorism Insurance Coverage**

37. The federal Terrorism Risk Insurance Act of 2002, as amended, (“TRIA”) requires that the Company offer coverage for claims arising out of a certified Act of Terrorism, as is defined in TRIA. An additional premium of \$6.00 per property will be charged for such coverage. More information about this offer is provided in the [Offer of Terrorism Insurance Coverage](#). Do you desire to purchase this coverage?  yes  no

**Lapsed Renewal Endorsement**

38. If a land trust does not renew its participation in any year and then decides to renew participation later, the land trust would need to pay another registration fee at the higher price and for its full insured portfolio each time it reenters TerraFirma after a lapse of a year or more.



A 50 percent co-payment of all claims in the first year of re-entry after a lapse is also required.  
Has your organization has a lapse of a year or more in participation?  yes  no

**Your Premium (please select payment method)** (the tech wizards will have to finish this)

39. Here are the elements of your premium calculation; please verify. [Edit](#) your application if necessary to correct entries.
- Number of insured properties
  - Any co-holders included on policy
  - Discounts
    - Accredited
    - Good Practices
    - Approved Seminar
    - Volume
  - One time registration fee
  - Optional TRIA Coverage
  - Renewal after a lapse if any

**Accession to the Operating Agreement for Terrafirma Risk Retention Group LLC**

40. We understand that Terrafirma is a risk retention group the purpose of which is to pool and insure certain risks of its not-for-profit land trust Members and, accordingly, that we must become a Member of Terrafirma in order to become insured by it, and we must be insured by Terrafirma to remain a Member. We have read and reviewed, and we accept the Limited Liability Company Operating Agreement for Terrafirma Risk Retention Group LLC, dated as of April 15, 2011 (the "Agreement").  yes  no

**Certification of Answers and Information:**

**READ AND SIGN BELOW IF TRUE:**

I have reviewed this application for accuracy before signing it. As a condition precedent to coverage, I hereby state that all of the information contained herein is true, accurate and complete and that no material facts have been omitted, misrepresented or misstated especially with regard to eligibility and to possible existing challenges. I understand that Terrafirma will rely on the information in this application, that it is material to the risks undertaken and will be incorporated into and made a part of the Policy, if issued. However, until the Policy is issued, this document is an application for insurance, only, and I understand that completion and submission of this application does not bind coverage with any insurer.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_

*Print Name*

\_\_\_\_\_

*Title*

By my signature below, I represent that I am authorized to sign this document on behalf of \_\_\_\_\_ and this certification evidences my authority to execute this document. Terrafirma Risk Retention Group LLC and its representatives may rely upon this statement of authority without further inquiry.

By: \_\_\_\_\_

Title: \_\_\_\_\_

**PRIOR TO COVERAGE BEING BOUND:  
YOU MUST FULLY COMPLETED THE APPLICATION AS INSTRUCTED  
YOU MUST SIGN THE APPLICATION  
TERRAFIRMA MUST RECEIVE PAYMENT IN FULL  
YOU MUST SIGN THE FOLLOWING ACCESSION AGREEMENT**

**INSTRUMENT OF ACCESSION TO MEMBERSHIP**

Date: \_\_\_\_\_

Terrafirma Risk Retention Group LLC  
c/o Marsh Management Services  
100 Bank Street Suite 610  
Burlington, VT 05402

\_\_\_\_\_ [insert name of land trust], has submitted to Terrafirma an application for insurance. We understand that Terrafirma is a risk retention group the purpose of which is to pool and insure certain risks of its not-for-profit land trust Members and, accordingly, that we must become a Member of Terrafirma in order to become insured by it, and we must be insured by Terrafirma to remain a Member.

We hereby represent that we have received and currently maintain an unrevoked determination from the Internal Revenue Service that we are an organization described in Section 501(c)(3) of the Internal Revenue Code. A true copy of such determination is attached. We also hereby represent that either (a) we have been and currently are accredited by The Land Trust Accreditation Commission or (b) we meet each of the **operating standards** attached hereto as Annex 1.

Attached hereto is a copy of the Limited Liability Company **Operating Agreement** for Terrafirma Risk Retention Group LLC, dated as of April 15, 2011 (the "Agreement"). We have read and reviewed the Agreement.

By executing this instrument, \_\_\_\_\_ [insert name of land trust] hereby (i) becomes a party to the Agreement as a Member, (ii) acknowledges, accepts and agrees to each of the agreements, covenants, or undertakings made by a Member thereunder, and (iii) agrees to be bound thereby.

We acknowledge and agree that we shall not become, or acquire any of the rights of, a Member of Terrafirma, until and unless this Instrument of Accession has been accepted and executed by the Manager and returned to us, and our application for insurance has been accepted and a policy of insurance has been issued to us by Terrafirma. Our membership in Terrafirma shall become effective as of the date of inception of our insurance coverage.

Our application for insurance, including our becoming a Member of Terrafirma by our execution and delivery of this Instrument of Accession, has been authorized by our board of directors or trustees.

\_\_\_\_\_ [insert name of land trust]

By: \_\_\_\_\_

Name of person signing: \_\_\_\_\_

Title of person signing: \_\_\_\_\_