**Sample Land Trust**

**Title Investigation and Subordination Policy**

*Adopted* ***[DATE]***

**Sample Land Trust** (“**SLT**”) conducts a title investigation in connection with all easement and property acquisitions, to ensure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. The investigation must include a clear legal description of the land with reference to identifiable deeds. **SLT** requires a survey for all properties and easements. **SLT** performs one or more site inspections in connection with each proposed transaction during which it inspects for implied or prescriptive easements that may not be discovered through title investigation.

To protect **SLT**’s property interests in conserved land from being extinguished in the event of foreclosure, judicial action, or other exercise of rights by the holder of the mortgage or lien, **SLT** requires that all properties be free of mortgages, liens, and encumbrances prior to closing or that the holders of such mortgages, liens and encumbrances subordinate their rights in the property to the interests of **SLT**. This is particularly important in the case of donated conservation restrictions (easements), which by IRS regulations must be perpetual in order for the donor’s gift to qualify as a charitable contribution. (See Treas. Reg. Section 1.170(A)-14(g)(2)).

If a property under consideration is subject to one or more rights of way or other easements, **SLT** must consider and document the effect, if any, of such rights on the conservation values of the property and on **SLT**’s capacity to monitor and enforce its property rights. If the exercise of a right of way or other easement could impair the conservation values of the property, such rights must be terminated or modified to eliminate the threat to the conservation values or **SLT** will not execute the transaction.

TITLE INSURANCE AND TITLE CERTIFICATES

**SLT** obtains title insurance for fee and easement purchases. For donated fee and easement properties, **SLT** requires an attorney’s Certificate of Title ensuring clear title and the discharge or subordination of all encumbrances at closing.

RECORDING

It is **SLT**’s policy to record evidence of its property interests, including but not limited to conservation easements and property deeds, with the Clerk of the Town in which the property or easement is located.