

Land Donation Journey

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The Portuguese version of this document is the binding version.

From conversation to care in permanence

Why donate land to Terra Agora Foundation

Terra Agora Foundation exists to protect land in permanence by placing it within a robust legal and Guardianship framework. Land accepted into the Strategic Assets cannot be sold, mortgaged or fragmented, and remains dedicated to long term care.

The Foundation does not regenerate land. It holds the land and the standard to which the land is cared for. The care itself is carried out by a Guardian Entity, under contract with the Foundation.

Terra Agora Foundation cannot yet offer any fiscal advantage on a donation of land. That depends on the environmental patronage status under artigo 62.º of the Estatuto dos Benefícios Fiscais. The Foundation is preparing the application and does not expect a formal decision before 2027. The Foundation does not hold utilidade pública status either, and does not expect to for some years yet. Until then, nothing in this document should be read as a tax benefit.

One pathway, several paths

The pathway is common to every case: a conversation, coming to know the land, a Memorandum of Understanding, the formal commitment and the transfer. What changes is the path taken at each branch.

This document sets out the pathway and marks where it divides. It does not fix a single structure, because the structure of each donation depends on the land, on the donor's situation, and on how long it takes to find the people who will care for it.

Where the pathway branches

- Who approaches whom: almost always the landowner contacts us; sometimes the Foundation approaches them
- Where the land goes: into the Strategic Assets, protected by the inalienability, or held as a non strategic asset
- What has to be resolved before transfer, which varies with what the certidão and the land's history reveal
- What form the commitment takes, and who occupies and cares for the land until there is a Guardian Entity

Some cases settle in months; others take years; and there is land the Foundation cannot accept. We mark the branches so that nobody walks the whole path before learning there was an alternative.

The Guardianship framework is settled. The monitoring capacity that accompanies it is being built in stages and is expected to be in full operation during the course of 2027.

How it begins

A conversation, binding on neither side

In most cases the person who holds the land approaches us. Sometimes the Foundation approaches them, when a landscape has evident relevance to its purpose. Either way the starting point is the same: a conversation.

That first conversation is to understand your relationship to the land and what you would like to happen to it after you; to explain the Guardianship model, the inalienability of the Strategic Assets and the governance safeguards; and to establish, on both sides, whether there is a basis for going further. It commits nobody to anything.

What we need to understand

In order to judge whether the land can be a Strategic Asset

Where there is a basis for proceeding, the Foundation needs to know the land: who holds rights over it, what has been done to it, and what might prevent it from being transferred. This serves one concrete decision: whether the land can be accepted into the Strategic Assets, whether it makes better sense as a non strategic asset, or whether it cannot be accepted at all. The condition of the land is rarely in itself a reason for refusal. Not knowing its condition is.

Not all of it is needed at the start. The first group decides whether the donation is possible at all. The second is asked for only once the donation is going ahead.

First: what decides whether the donation is possible

Ownership and registration

- Certidão permanente and registo predial, the Portuguese land registry record
- Evidence of ownership, boundaries and co-owners

Succession

- Known heirs and succession arrangements
- Estates not yet divided, or inheritances held in common

Charges and encumbrances

- Mortgages, attachments and other registered charges
- Tax or social security debts attaching to the property
- Disputes pending or registered, as shown on the certidão

Rights, uses and contracts

- Leases, easements, usufrutos and rights of way
- Grazing, hunting, water or access rights, held or granted away
- Occupations or uses in fact, with or without title

Later: what informs the future care

The land's past

- What was cropped, grazed or forested, and when
- What chemicals were applied, when, and over how much of the land
- Extraction, landfill, dumping or known contamination
- Fires, erosion or other significant events

Investment and infrastructure

- Significant investments made in the land, with approximate values and dates
- Buildings, water abstraction, tracks and fencing
- Topographic or cadastral information, if it exists
- Ecological, agricultural or technical studies already carried out

Damaged land is not refused land

The Foundation accepts land that is polluted, exhausted or degraded. Recovering it is part of the purpose, not an obstacle to it. What the Foundation needs is to know what it is dealing with, because the recovery plan, the time it will take and the means required all follow from that.

For that reason the declaration of the land's condition and history forms part of the formal commitment, and is given under warranty by the donor. If something material comes to light later and was not declared, that risk sits with the donor. This is not a penalty. It is what allows the Foundation to accept damaged land at all, without putting at risk the protection of everything else it holds.

The practical consequence is simple, and it favours the donor: contamination declared is a technical problem that can be planned for; contamination withheld is a legal problem that is inherited. It is always worth being open and clear from the start.

Strategic and non strategic assets

The Strategic Assets are the properties whose land the Foundation owns and which fall under the inalienability: they cannot be sold, mortgaged or fragmented, and they remain dedicated to long term care.

Not all donated land has to be strategic. Where a property does not fit that category it may still be accepted as a non strategic asset, through a simpler process, to the same ethical and governance standards, and with the possibility of later sale to fund the Foundation's work. The distinction is explained to the donor before any commitment.

The Memorandum of Understanding

Where intention is fixed and obstacles are named

When both sides want to proceed, a Memorandum of Understanding is signed. It records the donor's intention, the vision for the land and the conditions they regard as non negotiable, and it organises the work that remains.

The Memorandum also exists to name whatever would prevent the Foundation from accepting the land, and to agree how it will be resolved: mortgages to be discharged, situations not lawfully

regularised, estates not yet divided, licences missing, disputes to be closed. None of this stops the conversation. It stops the transfer, which is why it is dealt with before.

The Foundation can only accept land that is legally in order, or that has a clear path to being so. This is not a demand for perfection: it is the difference between a problem that is identified, with a route, a timetable and someone answering for it, and a problem that is still undiscovered.

The Memorandum typically also sets out the scope and sequence of due diligence, the documentation required, how costs are shared between donor and Foundation, and an indicative timetable.

Due diligence has costs, and the Foundation carries them in any case. Each transaction is therefore structured to cost the Foundation as little as possible, so that resources go to the land rather than to the transfer. That means choosing the simplest and least onerous route that produces the same legal result; it does not mean moving charges onto the donor.

The formal commitment

The most visible branch in the pathway

Once the identified questions are resolved, the parties move to a formal commitment. This is where the paths separate most, and the choice is made with the donor, not for them.

- The donation can be immediate, or promised for some years hence
- The donor may reserve a usufruto, keeping the use of the land for life or for a fixed term
- The land may be free from the outset, so that a Guardian Entity can occupy it
- A comodato may be granted, a loan for use allowing occupation and care while there is no Guardian yet

Which of these applies depends on the donor's situation, the state of the land, and how long it takes to find the people who will care for it.

The Foundation does not hold land unprotected

Terra Agora Foundation never holds land without a legal instrument in place that shields it from the liabilities attaching to that property.

Ownership carries exposure: fines, taxes, contributions, obligations arising from what happens on the land, and claims by third parties. Before the Foundation accepts land, and for as long as it holds it, there is an agreement determining who answers for each of those obligations, whether a Guardian Entity, a comodatário, or the donor during a reserved usufruto.

This is not administrative caution. A foundation answering for liabilities it does not control loses the ability to protect the land it holds, and it is the land that is put at risk.

Finding the people to care for the land takes time

Finding a Guardian Entity suited to a particular landscape can take a while. Once found, the Guardian still needs time to come to know the land before making commitments about it. A place cannot be read in a month.

During that period the land is not left. This is the last branch in the pathway, and it opens onto a transitional use, a comodato, or the continuation of an existing lease, always within the Foundation's standards and always with the responsibilities allocated.

We say this openly because it is common and because it is not a problem. It is the pace this work runs at.

A note on care and pace

Land donations require depth, attention and time. The Foundation moves at a pace that respects donors and their families, that secures legal and ethical clarity, and that protects the land beyond a human lifetime.

Portuguese terms used in this document

For readers outside Portugal, and for their advisers

Portuguese land law has no exact equivalents in English, so these terms are kept in Portuguese rather than translated into something that would mean a different thing in another jurisdiction. Each is explained here once.

Certidão permanente

The official extract from the land registry for a single property, kept continuously up to date. It shows who is registered as owner, the property as registered, and every mortgage, charge, easement, usufruto and registered dispute attaching to it. It is obtained online, it is not expensive, and any owner can request their own. It is the single most useful document in a land conversation, and it is usually the first thing we ask for.

Registo predial

The Portuguese land registry itself, where ownership of property and the rights and charges over it are recorded. Registration is what makes a right effective against people who were not party to it, which is why the inalienability of the Strategic Assets is registered rather than merely agreed.

Prédio

The unit of registered property in Portugal: a defined parcel with its own registry description. A single holding is often made up of many prédios, each with its own history, boundaries and charges. This is why an apparently simple donation can involve dozens of separate records.

Usufruto

The right to use land and take what it produces while somebody else owns it. A donor can give the land and reserve the usufruto, keeping the use of it for life or for a fixed term. It is registered, and it ends automatically when that life or term ends, at which point the use joins the ownership already held by the Foundation.

Comodato

A loan of property for use, free of charge, for an agreed purpose or period. It lets somebody occupy and care for land without owning it and without paying rent, under terms that can be ended. The Foundation uses it to keep land in active care while a Guardian Entity is being found. A comodatário is the person or body holding the land under such an arrangement.

Escritura

The notarial deed that transfers the property. It is executed before a notary and then registered. Until the escritura and its registration, nothing has moved, whatever has been agreed.

Mecenato Ambiental

The Portuguese regime, under artigo 62.º of the Estatuto dos Benefícios Fiscais, that would allow environmental patronage to be treated favourably for tax. It requires a joint decision by the members of Government responsible for finance and for the environment. The Foundation is preparing its application; it has not been granted. Until it is, no donation to the Foundation carries a fiscal advantage, and nothing in this document should be read as suggesting otherwise.

None of this replaces advice. Anyone considering a donation of land should take their own legal and tax advice in Portugal, and the Foundation expects them to.

Starting the conversation

If you are considering donating land, now or in the future, the invitation is to begin with a conversation. It obliges you to nothing, and it is the only way to find out whether this makes sense.

Holding land, responsibility and legacy in permanence.

Terra Agora Foundation