

May, 2017

NEW TERMS AND CONDITIONS APPLICABLE TO LAND CONCESSIONS GRANTED OVER STATE OWNED LAND FOR THE DEVELOPMENT OF NCRE PROJECTS

A new ministerial order that provides the new terms and conditions applicable to land concessions (“CUOs”) granted over State-owned land for the development of NCRE projects (“Ministerial Order”), was issued the Ministry of National Assets (“MNA”) and published on the Official Gazette on May 11, 2017.

The Ministerial Order aims to facilitate the existing conditions and support the development of NCRE projects over State-owned land by providing flexible mechanisms to promote the study of energy sources and extending existing terms for the fulfilling of construction and other obligations assumed by concessionaires.

A brief description of the main elements of the Ministerial Order is set forth below:

- 1 Extension of the CUOs’ validity term.** The validity period of the CUOs is extended from 30 to 35 years.
- 2 Extension of the construction period.** The construction period of the CUOs is extended from 48 months to 10 years.
- 3 Amount of the performance bonds to be provided by concessionaires.** i) During the construction period, a bank bond guarantee equivalent to 25% of the market value of the land must be provided. ii) During the operation of the project, a bank bond guarantee equivalent to 50% of the market value of the land must be provided.
- 4 Prospection Permits.** The implementation of monitoring stations and the execution of prospection studies over State-owned lands are eligible for “Prospection Permits”. Prospection Permits are granted free of cost and are limited to one hectare and a validity period of 12 months.
- 5 Reserved Areas.** The MNA and the Ministry of Energy are allowed to label certain State-owned estates as reserved areas considered strategic for the development of NCRE projects. These areas will not necessarily be subject to the new terms and conditions set forth in the Ministerial Order.
- 6 Application of the Ministerial Order to Existing CUOs.** Existing CUOs may be subject to the new terms and conditions set forth in the Ministerial Order, provided that: i) a formal request is filed to the MNA within 90 days as from May 11, 2017; and ii) reasons stating the impossibility of observing the original terms and conditions are provided. Depending on the status of the CUO, the request may be subject to the payment of a penalty or a fee.



If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Carey contact.

Juan Francisco Mackenna
Partner
+56 2 2928 2210
jfmackenna@carey.cl

José Miguel Bustamante
Partner
+56 2 2928 2211
jmbustamante@carey.cl

José Tomás Hurley
Associate
+56 2 2928 2211
jthurley@carey.cl

Juan de Dios Vial
Associate
+56 2 2928 2205
jdvial@carey.cl

This memorandum is provided by Carey y Cía. Ltda. for educational and informational purposes only and is not intended and should not be construed as legal advice.

Carey y Cía. Ltda.
Isidora Goyenechea 2800, 43rd Floor.
Las Condes, Santiago, Chile.
www.carey.cl