# GROUND LEASES

*Key Terms/ Considerations*

November 4, 2021

| Key Terms | Considerations |
|---|---|
| Term | Length of the ground lease (eg. 99 years); Term will influence the buyer pool and the ability to finance the ground lease and/or sell the improvements. The longer the term, the closer the ground lease will perform like a fee interest |
| Payment (Upfront vs Ground Rent) | Upfront payments allow the seller to receive a lump sum at closing while continued ground rents will lead to payment over the length of the term. Ground rents can also reset or increase at desired intervals |
| Transfer Fee | Transfer fees can be received when a lease is assigned and/or direct or indirect ownership interests are transferred |
| ROFO (Right of First Offers), ROFR (Right of First Refusals), Purchase Options | The Ground Lessor can have rights if the Ground Lessee desires to effectuate a transfer event or the entity control changes |
| Net Leases | The most favorable for the Lessor is if the lease is 'triple net' under which the Lessee is obligated to pay all costs and expenses of every kind and nature over the term |
| Security | Completion Guarantees, Payment Guarantees: means of protection prior to construction finishes and coverage of carrying costs such as taxes, insurance |
| New Improvements/Use | For new construction timelines can be implemented for when Substantial Completion may occur or what type of building is constructed; definitions for Substantial Completion can be negotiated |
| Additional Development Rights | If the Lessee acquires additional development rights there can be payment to the Lessor |
| Casualty | Delineated responsibilities between the Lessor and Lessee if a casualty were to occur, including restoration obligations |
| Termination Rights | Circumstances where the Lessor can terminate the ground lease. These may include payment defaults, violations of transfer events, defaults in paying taxes or keeping in full force and effect any insurance, failure to keep the property clear of liens and encumbrances, failure to achieve Substantial Completion, failure for the guarantor to satisfy any financial covenants |
| Confidentiality | All information and documentation to remain confidential |
| Exclusivity | The time allotted to negotiate the transaction contemplated by the Term Sheet |
| Transfer of Lease | Qualifications of subsequent buyers |
| Subleasing | Requirements around subtenants |
| Leasehold Financing | Definitions around Qualified Lenders and requirements around Loan to Cost (LTC), or Loan to Value (LTV) maximums |
| End of Term Repairs | The quality and operating condition of the building when it reverts to the Lessor |
| Green Construction | Requirements around Sustainability |