Board

Date: **17 March 2016**

Item: **New Advertising Agreement**

This paper will be considered in public

1 Summary

1.1 This paper describes the approach and process that has been undertaken to identify a new concessionaire for the majority of TfL's advertising estate and makes a recommendation for the award of a contract (the Agreement).

1.2 The new Agreement will primarily replace the current Exterion Media London Underground contract which expires on 30 September 2016. Subject to Board approval, the intention is to award the Agreement for 8.5 years to the bidder offering the most economically advantageous offer (the Preferred Bidder).

1.3 On 2 March 2016, the Finance and Policy Committee endorsed the recommendations in this paper.

1.4 A paper is included on Part 2 of the agenda, which contains exempt supplementary information. The information is exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to the business affairs of TfL. Any discussion of that information must take place after the press and public have been excluded from this meeting.

2 Recommendations

2.1 The Board is asked to note the paper and related supplemental information on Part 2 of the agenda and:

(a) approve entering into an agreement for the exploitation of Transport for London's (TfL) advertising estate as described in this paper with the entity identified in the paper on Part 2 of the agenda (the Agreement);

(b) approve Financial and Procurement Authority in the sums set out in the paper on Part 2 of the agenda for the Agreement, including for the purposes of any capital commitment by TfL under the Agreement (Capital Commitment);

(c) authorise the TfL Officers and the Subsidiaries (as described in paragraph 2.2 below) to agree and finalise the terms of the Agreement;

(d) authorise the Commissioner and Chief Finance Officer to appoint (and replace) from time to time one or more officers of TfL to represent TfL on the Partnering Board that is proposed as part of the operation of the Agreement, such appointment carrying with it the authority to agree on

behalf of TfL or any of its Subsidiaries any Capital Commitment up to the aggregate maximum set out in the paper on Part 2 of the agenda;

(e) authorise the agreement and execution (whether by deed or otherwise on behalf of TfL or any Subsidiary (as appropriate) of any documentation to be entered into in connection with the completion and implementation of the Agreement including any Capital Commitment, and any of the matters referred to in either regard (including, without limitation, all agreements, deeds, guarantees, indemnities, property or other licences, announcements, notices, contracts, certificates, letters or other documents);

(f) authorise TfL Officers and Subsidiaries to do all such other things as they consider necessary or desirable to facilitate the execution and implementation of the Agreement and any Capital Commitment and the matters referred to in, or relating to, it.

2.2 The following TfL Officers and Subsidiaries shall have delegated authority:

(a) TfL Officers: the Commissioner, Chief Finance Officer and General Counsel.

(b) Subsidiaries: Subsidiaries of TfL including Transport Trading Limited and any other subsidiary (whether existing presently or to be formed) of Transport Trading Limited and any of the directors of the relevant company shall be authorised to act for and on behalf of that company.

3 Background

3.1 TfL has a range of advertising assets and has sought to put in place strategies which best maximise the returns from these assets. The main TfL advertising asset categories are as follows:

(a) bus shelters;

(b) buses;

(c) roadside assets; and

(d) rail assets (in station and on train), together with Victoria Coach Station.

3.2 The first two categories, bus shelters and buses, are managed within Surface Transport (supported by Commercial Development's Commercial Media team). Surface Transport lead the management of these categories as bus shelter advertising is a sub-component of other bus shelter contracts and activities, such as cleaning and maintenance and bus advertising rights are incorporated within Surface Transport's bus franchise contracts. For bus shelter advertising a contract was awarded to JC Decaux in late 2015..

3.3 The second two categories, roadside and rail assets, are managed within Commercial Development. Roadside assets account for relatively low levels of revenue and also attract certain niche market providers. As a result of this, separate roadside contracts exist with a number of partners.

3.4 The final category is rail assets, primarily attributable to London Underground (LU) advertising assets, which account for the majority of advertising revenue. Commercial Development has an overall 10 year business plan with a net revenue target of £3.4bn. Of this £3.4bn, £1.11bn (32.7 per cent) is assumed to be generated by the roadside and rail asset advertising categories, with rail assets accounting for c. £1.03bn (93 per cent) of the £1.11bn.

3.5 The rail advertising assets, together with Victoria Coach Station assets, form the scope of advertising rights being offered under the new Agreement. Specifically, the rights offered in station and on train are across the following assets:

(a) LU;

(b) London Overground;

(c) Docklands Light Railway (DLR);

(d) Croydon Tramlink;

(e) Victoria Coach Station; and

(f) Crossrail.

4 Strategic Approach to the new Agreement

4.1 The strategic objectives of the new advertising Agreement are summarised as follows:

(a) create a partnering relationship between TfL and the new media partner (via a ‘Partnering Board’) to develop profit maximising opportunities to grow the UK Out of Home (OOH) market, London’s share of the OOH market and TfL’s share of the London market e.g. through working together to develop a data driven sales strategy that captures the true value of TfL’s footfall and allows OOH advertising to compete more effectively against other media channels;

(b) consolidate TfL’s advertising contracts to bring together LU, Overground, DLR, Croydon Tramlink, Victoria Coach Station and Crossrail to reduce competition between different parts of the TfL estate and create a joined up ‘London audience’ to help maximise advertising sales revenues;

(c) adopt an advertising gross revenue share model without a minimum revenue guarantee – allowing parties an equitable share of advertising gross revenues from the estate and to fully align incentives; and

(d) increase flexibility of investment, moving away from an investment plan fixed for 8.5 years at the start of the Agreement. TfL will instead fund required investment in its estate (earning a preference return for doing so as a priority ahead of the revenue share) to allow investment plans to respond to market conditions and for investment to be phased to maximise value unconstrained by the media partner’s remaining contract term. If TfL wishes to have a greater exposure to upside value in the estate, TfL funding of its advertising assets is necessary to avoid a finance lease creditor treatment of media partner funded investment (which would impact on TfL’s corporate borrowing plans).

4.2 Further details, information and rationale in relation to the above key strategic objectives which have been adopted for this Agreement are set out within the paper on Part 2 of the agenda.

4.3 To support the strategy, a bespoke Agreement has been developed and negotiated with bidders. The Agreement's foundations are based upon the existing LU Advertising Contract (and lessons learned from that contract) and the recently awarded TfL Surface bus shelter advertising contract. The Agreement has been further developed to incorporate the strategic objectives outlined above.

4.4 Appendix 1 provides an overview of the key terms and conditions of the Agreement. In addition, Appendix 2 sets out further contractual details and requirements in relation to the joint Partnering Board.

5 Gross Revenue Share and Capital Commitment

5.1 As identified in section 4 above, under the new Agreement there are two key financial components. The first component is the adoption of an advertising gross revenue share model. The benefits and rationale for adopting this model are set out within the paper on Part 2 of the agenda.

5.2 The second component is in relation to TfL funding the capital investment in relation to the advertising assets. All parties recognise that significant investment in TfL's advertising assets is required to maximise advertising revenues through the expanded use of digital technologies and through associated data led targeted advertising. As such, at the initial stage of the tender process bidders were required to propose unconstrained capital proposals which were discussed and developed between the parties during the negotiation phase.

5.3 Subsequently, during the negotiation phase and as part of the invite to submit best and final offers (BAFOs), bidders were informed TfL was prepared to commit to fund capital expenditure relating to the advertising estate up to a maximum of £200 million. The Preferred Bidder's BAFO capital proposals ('Capex Opportunity') are set out within the paper on Part 2 of the agenda.

5.4 Within the Agreement it is proposed to fund the Preferred Bidder's Capex Opportunity proposals together with a contingency amount (collectively the 'Capital Commitment'). This Capital Commitment amount is set out in the paper on Part 2 of the agenda.

5.5 Once the Agreement has been awarded, each individual Capex Opportunity will be developed by the parties as soon as practical into a proposal ('Capex Proposal') which will be developed into a business case and presented to the Partnering Board. Capex Proposals will further specify each Capex Opportunity and will provide full details of opportunity including all key financial, commercial and technical details, together with the detailed plan and timescales for implementation of the Capex Proposal. The plan will also take into account other works which may be taking place on the estate. Based on the Capex Proposal, the Partnering Board may:

(a) reject the Capex Proposal;

(b) request further information in which case the Capex Proposal will be amended and represented at the next meeting of the Partnering Board; or

(c) approve the Capex Proposal, upon the occurrence of which the Capex Proposal will become a project (Capex Project).

5.6 Where the Partnering Board has agreed a Capex Project and the contractual terms forming part of the Capex Project are signed the media partner will implement the Capex Project in accordance with the agreed timetable.

5.7 In return for funding each Capital Project, TfL will be entitled to a fixed preference payment. This is referred to as the TTL Investment Preference Payment (TIPP). The payment amount will reflect the amortisation of capital invested over 5 years, as well as a 6.29 per cent return on the unamortised value of capital. For example, if £10m is invested in year one, TfL will receive £11.55m as an investment return over five years. Only after TfL, as the provider of capital, has received the TIPP payment are the gross revenue sharing provisions of the Agreement applied to apportion remaining revenues to the parties. The TIPP will be a preference payment from the gross revenue pool; as a result it represents a low risk return, albeit not a guaranteed return.

6 Tender Process and Timetable

6.1 The advertising tender process was launched in May 2015 and consisted of a Pre Qualification Questionnaire (PQQ) stage, Invitation to Tender (ITT) stage and a final negotiation phase. Following the conclusion of the negotiation phase, the bidders were issued with an invitation to submit best and final offers (BAFOs). Bidders' BAFOs were submitted on 27 January 2016. The paper on Part 2 of the agenda provides further details on the tender process.

6.2 BAFO evaluation was completed in February 2016 and was based on 60 per cent of the evaluation score being allocated to bidders' quality/technical responses and 40 per cent allocated to their financial offers (the gross revenue percentage offers to TfL). Appendix 3 sets out a more detailed overview of the BAFO evaluation components.

6.3 During the tender process external input and assurance has been provided in regard to the approach, strategy, tender documentation and tender process by both procurement/commercial advisors and from legal advisors.

7 BAFO Evaluation

7.1 The BAFO evaluation results and Preferred Bidder are set out within the paper on Part 2 of the agenda. Subject to the approval of the Board, it is the intention to notify the bidder with the most economically advantageous tender that they are the Preferred Bidder on c. 17 March 2016. TfL would then seek to finalise the Agreement with the Preferred Bidder based on the terms of the Preferred Bidder's BAFO, with a target of signing the Agreement in April 2016.

7.2 Signature of the Agreement in April will then allow for a circa five month mobilisation period (which may include activities such as TUPE) to ensure all parties are best placed to successfully deliver under the terms of the new Agreement from service commencement on 1 October 2016.

8 Financial Implications

8.1 Covered in sections 4 and 5 of this paper and the paper on Part 2 of the agenda.

9 Views of the Finance and Policy Committee

9.1 On 2 March 2016, the Finance and Policy Committee considered a similar paper. The Committee raised no specific issues for the attention of the Board and endorsed the recommendations in this paper.

List of appendices to this report:

Appendix 1: Advertising Agreement Summary
Appendix 2: Advertising Partnering Board Overview
Appendix 3: BAFO Evaluation Components

Exempt supplemental information is included on Part 2 of the agenda.

List of Background Papers:

None

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Appendix 1: Advertising Agreement Summary

1. Executive Summary

1.1 The new contract titled the Advertising Partnering Agreement (the "Agreement") is a bespoke contract developed from the existing LU Commercial Advertising Concession agreement and the recent Bus Shelter Advertising agreement. The Agreement incorporates a financial regime which consists of a gross revenue share arrangement between the winning bidder (to be known as the "Media Partner") and Transport Trading Limited, the TfL entity which will be entering into the Agreement on behalf of the other modes of TfL. Under the Agreement, TfL will fund capital expenditure to be invested in the 'advertising estate', being the estate over which rights are to be granted to the Media Partner (the "Advertising Rights"). The Agreement has also been developed to incorporate key principles of partnering including a partnering board and several working groups which reflects TfL's objective to form a partnering relationship with the successful bidder.

2. Term

2.1 The provision of services under the Agreement will commence on 1 October 2016 (following a transition/mobilisation period) and will continue until 31 March 2025, unless terminated earlier in accordance with the termination provisions of the Agreement.

3. The grant of rights to the Media Partner

3.1 The Media Partner will be granted exclusive Advertising Rights to advertise on the advertising spaces across the London Underground, DLR, London Overground, Croydon Tramlink, Victoria Coach Station and Crossrail estates.

3.2 The new Agreement will apply to these assets outlined in paragraph 3.1 above as they change during the term of the Agreement, including any assets acquired and brought into those asset descriptions, but will not apply to any other assets introduced onto the wider TfL estate.

3.3 The Media Partner will also be granted non-exclusive rights to advertise on the estate as part of sponsorship activities, leafleting or sampling activities and as part of data services linked to tablet and mobile/smart phone coverage, Bluetooth, Wi-Fi services or similar.

3.4 The Agreement explicitly carves out from the Advertising Rights granted to the Media Partner:

3.4.1 any cellular, radio or other audio broadcasts on the estate;

3.4.2 advertising on the exterior of any station other than at specifically listed sites scheduled in the Agreement;

3.4.3 advertising at any car parks;

3.4.4 advertising anywhere at Heathrow Terminal 5;

3.4.5 advertising on any part of the estate that is not visible and/or accessible to the public and that is used only by TfL staff and/or contractors or sub-contractors;

3.4.6 advertising at the following DLR stations; Lewisham, Elverson Road, Deptford Bridge, Greenwich, Cutty Sark, Island Gardens and Mudchute;

3.4.7 advertising at any roadside locations - roadside locations being locations where any advertising would be primarily visible to users of a public highway and subject to local planning consent or where any advertising would not generally be affixed to a station building;

3.4.8 advertising on any area within the curtilage of retail units located on the estate;

3.4.9 advertising at any other kiosks, photo booths, vending machines, ATMs or newspaper stands; and

3.4.10 on any part of the estate and for any purpose the Partnering Board may determine to exclude from the exercise of such rights.

3.5 TfL retains the right to display or supply at any location that is not considered an ‘advertising space’ under the Agreement:

3.5.1 any advertising, information or promotional materials in relation to the business or activities of TfL or any of TfL’s operating subsidiaries (Affiliates) or any third party where such business or activities are carried out in association with TfL or any TfL Affiliates;

3.5.2 or any artwork, decorative friezes or other non-promotional materials; and

3.5.3 any free newspapers or journals.

4. Exercise of the rights by the Media Partner

4.1 The Media Partner when exercising the rights granted under the Agreement is required to ensure compliance with an overarching ‘advertising strategy’ which is to be developed by the Media Partner in consultation with TfL in order to be agreed and come into effect as soon as possible after the contract commencement date of the Agreement. The advertising strategy document will be revised, where appropriate, throughout the term of the Agreement. The Media Partner will also be required to exercise rights in compliance with TfL Standards. The Media Partner is also required to maintain the advertising estate in good condition at all times and is responsible for the maintenance, repair and replacement of equipment used in the exercise of the advertising rights.

4.2 The Media Partner will be responsible for examining and approving all advertisements which are displayed by it on the advertising estate in accordance with TfL’s advertising policy and also in compliance with the relevant approvals issued by TfL in force from time to time. A further requirement exists for the Media Partner to avoid approving any advertisements which are expressly banned by TfL and TfL can require at its sole discretion that the Media Partner removes an advertisement that it considers to be contrary to TfL's interests or the interests of TfL's Affiliates.

5. Guarantee

5.1 No performance bond is required to be given by the Media Partner. A parent company guarantee will be provided by the Media Partner at the Media Partner's expense which is a guarantee for the performance of all Media Partner obligations under the Agreement.

6. Governance and Partnering

6.1 The Agreement establishes a governance and partnering regime between TfL and the Media Partner. This regime is set out in Schedule 5 of the Agreement. The governance arrangements consist of a Partnering Board which is established between the parties to oversee the development and delivery of the advertising strategy, set and ensure the alignment of objectives and consider and approve the capital expenditure proposals, the budget for research and development expenditure and changes to the advertising strategy.

6.2 The second level of the governance and partnering regime are three groups ("Working Groups") which relate to Commercial Innovation, Technology Innovation and Operational Activity. The Working Groups report to the Partnering Board although the Partnering Board are not obliged to accept the recommendations of the Working Groups.

6.3 The Commercial Innovation Working Group and the Technology Innovation Working Group are required to proactively consider innovation and the parties may make further commitments to introduce innovation through the bringing forward and implementation of capital expenditure proposals relating to innovation.

6.4 In addition, the Commercial Innovation Working Group is responsible for the overseeing and delivery of commercial components of the advertising strategy and the annual business plan, the generation of commercial ideas and opportunities and business case development.

6.5 The Technology Innovation Working Group is responsible for and will oversee the delivery of the technology and innovation components of the advertising strategy and the annual business plan, identification of solutions to enable the delivery of new/innovative commercial opportunities, the sharing/input of industry and market trends, developments and best practice and the conducting of business case development.

6.6 The Operational Activity Working Group is responsible for overseeing the delivery of operational components of the advertising strategy and the annual business plan, operational delivery of capital expenditure including, but not limited to, the project management, scheduling of digital deployment, delivery of services under the Agreement, implementation of Capital Projects approved by the Partnering Board, proposed operational solutions to deliver commercial opportunities, input from operational model experts, stakeholder engagement/buy-in and conducting business case development (together with other relevant Working Groups).

7. Financials – Gross Revenue Share and Capital Commitment

7.1 The Media Partner is required to pay to TfL a percentage of the advertising gross revenue (after deduction of the TIPP) earned from advertising on the estate. There is no guaranteed minimum payment mechanism in the Agreement.

7.2 TfL commits to fund capital expenditure in relation to the advertising estate, subject to the Partnering Board and governance arrangements, as set out in the main body of this paper.

8. Accounting & Contract Information

8.1 The Media Partner is required to provide TfL with open book accounting, together with a range of financial reports and a financial controls plan. In addition, the Media Partner is required to make available a range of contract information and records to enable TfL to effectively monitor performance.

9. Ownership and use of equipment

9.1 Title and risk in all equipment, tooling, displays and structures funded by TfL and made available by TfL to the Media Partner under the Agreement will vest in TfL at all times.

9.2 Title and risk in all equipment, tooling, displays and structures (including equipment leased by the Media Partner) and any other asset, other than equipment made available by TfL to the Media Partner or equipment and structures owned by a third party installed by or on behalf of the Media Partner on the Estate, will vest in the Media Partner at all times. As TfL is providing the vast majority of assets used on the estate, it is anticipated that most of the assets used in the performance of the Agreement on the estate will belong at all times to TfL.

10. Changes to the Advertising Estate

10.1 TfL will consult with the Media Partner regarding any advertising spaces to be created at any new property which is built, transferred to, or otherwise acquired by TfL (or the relevant TfL Affiliate as the case may be) as a result of any extension to the estate or the construction of any new stations. The Media Partner is not automatically granted rights over these newly created advertising spaces.

11. Limitation of Liability

11.1 The Agreement contains a limit of liability provision.

11.2 The Media Partner is required to make good any damage it causes to the estate.

11.3 The Media Partner’s liability for events covered by insurance is limited to the Insured Amount. The Media Partner is required to maintain employers liability insurance for £10 million per event, public and product liability insurance for £25 million per event and professional indemnity insurance for £5 million per event.

11.4 The Media Partner’s liability for non-insured events will be capped at £15 million per event.

11.5 The Media Partner’s liability for loss of profit and similar claims and indirect and consequential loss is limited to £7.5 million in aggregate in each financial year.

11.6 TfL’s liability will be capped at £3 million per event.

12. Termination

12.1 TfL has the right to terminate the Agreement for a number of trigger events including:

12.1.1 material breach by the Media Partner;

12.1.2 the occurrence of one of several insolvency situations experienced by the Media Partner or its parent;

12.1.3 the Media Partner incurring more than 10,000 deficiency points (deficiency points being service penalty points incurred where service levels set out in the Agreement are not met) on two or more instances in any period of four consecutive quarters;

12.1.4 the Media Partner failing to make undisputed payments on six or more occasions during the Agreement or on two occasions in a 12 month period;

12.1.5 the Media Partner failing to provide a parent company guarantee (or a replacement guarantee in certain circumstances);

12.1.6 the occurrence of a change in control of the Media Partner when in the reasonable opinion of TfL this has an adverse effect on the Media Partner’s ability to perform its obligations under the Agreement as a result of the change in control;

12.1.7 if a force majeure event has lasted for more than 6 months and the parties have not been able to agree alternative terms and the benefit of the agreement has been lost by the terminating party

13. Transition

13.1 The Agreement contains detailed provisions for mobilisation at the commencement of the Agreement and transition at its termination to ensure the smooth transition of the exercise of the rights and the related personnel.

Appendix 2: Advertising Partnering Board Overview

1. Purpose

1.1 This Appendix provides an overview of the key points in relation to the Partnering Board envisaged under the Agreement. The Partnering Board is envisaged as a senior management board with representation from both TfL and the Media Partner.

2. Partnering Board – Roles and Responsibilities

2.1 The Partnering Board shall be responsible for the following matters in relation to the Agreement:

2.1.1 advertising strategic priorities;

2.1.2 monitoring of delivery (both financial and non-financial) against the advertising strategy and annual business plan;

2.1.3 approval of changes to the advertising strategy and the annual business plan;

2.1.4 use and spend of the Capex Commitment;

2.1.5 requesting additional financial support from TfL and the Media Partner in relation to proposed innovation (for example via Capex Proposals) which is supported by the Partnering Board;

2.1.6 considering any issues relating to the financial provisions of the Agreement including those relating to the accounting of gross revenues. Gross revenue accounting issues include the apportionment of revenues to the Agreement deriving from agreements to which the Media Partner is a party which include advertising activities outside the advertising estate; and

2.1.7 monitoring, guidance and oversight of the advertising Working Groups.

3. Partnering Board members

3.1 The maximum number of Partnering Board members shall be six and the minimum number shall be four. The Partnering Board shall at all times comprise an equal number of representatives from TfL and the Media Partner and the meetings shall be chaired by a member appointed by TfL.

3.2 Each of TfL and the Media Partner may at any time remove their nominated members from office and appoint another person(s) in their place. TfL and the Media Partner shall only appoint members to the Partnering Board who are appropriately qualified and have the requisite experience for such position.

3.3 The Partnering Board may, from time to time, invite other persons to attend and speak at meetings of the Partnering Board but, for the avoidance of doubt, such persons shall not be members of the Partnering Board and shall have no right to vote at such meetings.

3.4 It is proposed that the TfL Partnering Board representatives are the Chief Finance Officer, the Director of Strategy London Underground and the Commercial Asset Management Director, with their responsibilities and attendance requirements being as per those summarised in this Appendix.

4. Meetings

4.1 The quorum necessary for the transaction of business at any Partnering Board meeting shall be two members provided that at least one member appointed by each party is present. Partnering Board meetings shall be held at least monthly on dates agreed by the members of the Partnering Board and outside of this meeting frequency a Partnering Board can be called as an emergency meeting.

4.2 All Partnering Board meetings shall be held at a venue reasonably convenient for all the members and will be permitted by electronic means whereby all parties to the meeting can hear and be heard by all other parties to the meeting.

5. Voting rights

5.1 Each member shall be entitled to one vote. The chairman shall not have a second or casting vote.

5.2 A resolution in respect of a Reserved Matter shall only be passed if approved unanimously by the members present at the meeting.

5.3 Any other resolution shall be passed if approved by a majority of the members present at the meeting provided that such majority includes at least one representative of TfL and one representative of the Media Partner.

5.4 The Partnering Board itself does not have the authority to enter into an agreement on behalf of either TfL or the Media Partner (including in respect of any commitment to further expenditure or liability), nor does the Partnering Board exercise any such power on their behalf. If the implementation of a proposed resolution would require TfL and/or the Media Partner to commit to further expenditure or incur liability (for example, a resolution approving a Capex Proposal), the Partnering Board shall prepare (or require the relevant Working Group to prepare) the contractual terms proposed to implement the resolution. These contractual terms will form part of the proposed resolution, and an approval of the resolution will be an approval of the contractual terms. If such a resolution is passed, the relevant contractual terms will be signed by the authorised representatives of (and be binding of) TfL and the Media Partner. Notwithstanding any other provisions of this Agreement, neither TfL nor the Media Partner shall have any obligation to implement a Capex Proposal unless and until such contractual terms are so signed.

6. Reserved Matters

6.1 The following are “Reserved Matters”:

6.1.1 approval of a Capex Proposal;

6.1.2 approval of a budget for research and development;

6.1.3 approval of changes to the advertising strategy;

6.1.4 any exclusion from the scope of the exclusive rights to advertise on the estate granted to the Media Partner under the Agreement; and

6.1.5 any other matter which is expressly designated as a “Reserved Matter” by a unanimous resolution of the Partnering Board.

6.2 The Media Partner agrees and undertakes that it will procure that members of the Partnering Board nominated by the Media Partner will not oppose a Capex Proposal put forward to the Partnering Board by TfL unless, in the reasonable opinion of the Media Partner, the Media Partner is materially disadvantaged by the implementation of such Capex Proposal and the consequences of such implementation.

6.3 If a resolution in relation to a Capex Proposal is not approved due to TfL not supporting such resolution and at that time the Partnering Board has not approved Capex Proposals up to the Capex Commitment limit specified in the Agreement, the matter will not be subject to the dispute resolution process, but the Media Partner may require TfL to put forward alternative Capex Proposals up to the limit specified in the Agreement.

Appendix 3: BAFO Evaluation Components

#	Component	Component weighting	Sub-Component				
			Sub-Component Name	**Sub-Component Weighting**	**Sub- Component Questions/Details**	**Sub-Component Question Weightings**	**Overall BAFO Weighting**
A.	Technical	60%	A1 Delivery Proposal	95%	*1. Partnering:* 1.1 Fulfilling TfL governance requirements	10%	5.7%
					1. Partnering: 1.2 Partnering Vision and Initiatives	5%	2.85%
					2. Capital Expenditure: 2.1 Strategy and Total Proposed Expenditure	12.5%	7.125%
					2. Capital Expenditure: 2.2 Specific Initiatives	12.5%	7.125%
					2. Capital Expenditure: 2.3 Delivery Programme	5%	2.85%
					3. Sales, Marketing and Insights: 3.1 Approach	15%	8.55%
					3. Sales, Marketing and Insights: 3.2 New Initiatives	15%	8.55%
					4. Mobilisation: 4.1 Plan and Capability	5%	2.85%
					5. Operations: 5.1 Proposal and Capability	20%	11.4%
					Questions 1-5:	*100%*	*57%*
			A2 Health, Safety & Environment (HSE)	5%	HSE QA2.1	11.111%	0.333%
					HSE QA2.2	11.111%	0.333%
					HSE QA2.3	11.111%	0.333%
					HSE QA2.4	11.111%	0.333%
					HSE QA2.5	11.111%	0.333%
					HSE QA2.6	11.111%	0.333%
					HSE QA2.7	11.111%	0.333%
					HSE QA2.8	11.111%	0.333%
					HSE QA2.9	11.111%	0.333%
					Questions A2.1-A2.9:	*100%*	*3%*
B.	Financial	40%	B1 Pricing	100%	Pricing submission – gross revenue percentage share offer	100%	40%
					B:	*100%*	*40%*
		100%					**100%**