Q-FREE SOFTWARE O&M, AND SUPPORT AGREEMENT

This Software Maintenance & Support Agreement (the "Agreement") is made and effective
4/29/24_____,

BETWEEN: **Q-Free America Inc.** ("Q-Free"), a corporation organized and existing under the laws of the State of Virginia, with its head office located at:

1420 Kristina Way #102
Chesapeake, VA 23320

AND: _The City of Irvine_____ (the "Customer"), a corporation organized and existing under the laws of the State_____ of California_____, with its head office located at:

1 Civic Center Plaza_____

Irvine, CA 92606_____

_____.

hereinafter be referred to cumulatively as the "Parties" and singularly as the "Party".

RECITALS

This Agreement sets forth the terms and conditions under which Q-Free will provide Customer with certain software maintenance and support services on specified Customer premises (hereinafter referred to as the "Customer Provided Network Location(s)" and identified in Exhibit E).

WHEREAS, Q-Free has developed and owns certain traffic managements Software and related documentation more particularly described in Exhibit A attached.

WHEREAS Customer wishes to subscribe to Q-Free's Software Maintenance and Support Services under the conditions set forth in this Agreement.

WHEREAS, Q-Free has provided to Customer certain software, hereinafter referred to as the "Covered Software" and identified in Exhibit A) pursuant to a software license agreement between the parties (the "License Agreement"); and

NOW, THEREFORE, in consideration of the mutual agreements and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Customer initials   Q-Free initials

1. FEES

Customer agrees to pay the fees and other charges for all services provided under this Agreement as specified in Exhibit B of this Agreement. Annual fees shall be paid within 30 days of the effective day of this agreement, and annually within 30 days of the annual subscription renewal date. All amounts payable hereunder are exclusive of any and all taxes, and Customer is responsible for payment of such taxes.

2. DESCRIPTION OF SERVICES

A. SUPPORT SERVICES

During the term of this Agreement, Q-Free will provide the services described herein to maintain the Covered Software in good working order, keeping it free from material defects so that the Covered Software shall function properly and in accordance with the accepted level of performance as set forth in the License Agreement.

B. SUPPORT CENTER HOURS

Q-Free will make available to Customer a telephone and email help desk facility for Customer to contact, requesting service of the Covered Software. The Support Center can also be used to notify Q-Free of problems associated with the Covered Software and related documentation.

Unless indicated below, our standard maintenance package includes support Monday through Friday from 8:00 am to 8:00 pm Eastern, excluding federal holidays. Extended coverage is available for an additional fee.

☐ Upgrade to 24/7 phone and email support for a fee (defined in Exhibit B)

C. ONLINE SUPPORT PORTAL

Q-Free will make available to Customer an online Support Portal to access, download, and review support material for Covered Software that may include (1) product manuals; (2) video tutorials; (3) application or firmware downloads; (4) release notes; (5) technical notes, instruction guides.

The Support Portal can also be used to create a support ticket and to notify Q-Free of problems associated with the Covered Software and related documentation.

The Support Portal will be accessible to Customer-approved users with verified Customer email address throughout the duration of this Agreement.

D. SUPPORT SERVICE PERFORMANCE LEVEL

Upon receipt by Q-Free of notice from Customer through the Support Center of an error, defect, malfunction, or nonconformity in the Covered Software, Q-Free shall respond in accordance with the response times in Table 1 below. All times are for normal business hours as described in Section Bi.

Customer initials   Q-Free initials

Severity	Example	Response Time	Anticipated Resolution Time
Critical	System is completely unavailable.	4 hours	5 business days
Serious	During use of operationally critical features, system repeatedly (3x or more) becomes unavailable requiring server restart to restore functionality.	8 hours	10 business days
Moderate	Product crashes or does not function as expected during edge case or rarely used scenarios.	24 hours	30 business days
Minor	Product occasionally does not work as designed during edge case scenarios.	48 hours	3-6 months

Table 1: Response Time Matrix.

All claims under this Agreement must be made in writing to Q-Free and a support ticket number (SN) must be obtained. Upon issuance of a support ticket Q-Free support engineers will make commercially reasonable efforts as described above to resolve the issue.

E. SOFTWARE RELEASES & UPDATES

During the term of this Agreement, Q-Free will maintain the Covered Software by providing software updates and enhancements to Customer as the same are offered by Q-Free to its licensees of the Covered Software under maintenance generally ("Updates").

Updates will include an upgrade of the Covered Software from MAXVIEW to Kinetic Signals.

All software updates and enhancements provided to Customer by Q-Free pursuant to the terms of this Agreement shall be subject to the terms and conditions of the License Agreement between the parties. Updates will be provided on an as-available basis and include the items listed below:

i. Hotfix release, when needed to address product defects, Q-Free will provide copies of all such software Hotfix Release to the Customer promptly following the general release of the relevant Hotfix Patches to the customers; and apply such Hotfix Release to the Software promptly following the general release of the relevant Hotfix Release to the customers of the Supplier through remote access. If the environment, hardware or operating system in user by the Customer is deemed not to be sufficient for installation of the Hotfix Release, then the Customer shall be responsible for the cost of any new hardware/software or other related purchases as may be required;

ii.   Enhancement to market data service software provided by Q-Free to keep current with changes in market data services or as Q-Free makes enhancements;

iii.   Enhancements to keep current with the current hardware vendor's OS releases, as available from Q-Free, provided that the current hardware vendor's OS release is both binary and source-compatible with the OS release currently supported by Q-Free; and

iv.   Provide Updates of Covered Software, promptly following reasonable prior notification of Major Releases of relevant Update, through remote access or on-site support if required, provided that the hardware or operating system in use by the Customer is deemed sufficient for installation of the Update release, otherwise Customer shall be responsible for the cost of any new hardware or software as may be required for the installation of the Update. Required on-site support shall be paid or on a time and materials basis.

v.   **Exclusions**

1.   New or different software modules not included in the original license agreement; and

2.   Migration of existing licensed software to (1) different hardware platforms; (2) different operating system platforms; (3) a new Customer Provided Network Location.

Updates will be provided in an electronic format and will include related documentation. All such deliveries shall be made by a single communication to a single Customer designated distribution point. Duplication, distribution and installation of Updates is the responsibility of Customer. If requested, Q-Free will provide on-site assistance in the installation of Updates on a time and materials basis, plus expenses. Requests and quotes can be made by creating a ticket with Q-Free support.

Q-Free assumes no responsibility for the correctness of, performance of, or any resulting incompatibilities with, current or future releases of the Covered Software if the Customer has made changes to the system hardware/software configuration or modifications to any supplied source code which changes affect the performance of the Covered Software and were made without prior notification and written approval by Q-Free. Q-Free assumes no responsibility for the operation or performance of any Customer-written or third-party application.

F.   SERVICES NOT INCLUDED

Maintenance Services do not include any of the following:

(1) Custom programming services

(2) On-site support, including installation of hardware or software

(3) Support of any software that is not Covered Software

(4) Initial installation and set up

(5) Out-of-pocket and reasonable expenses, including hardware and related supplies

(6) Integration and configuration support

(7) Operating system support

(8) Signal timing operations

(9) Signal hardware maintenance

(10) Configuration of Federated Authentication

(11) Configuration of high availability environments

(12) Acquiring, installing, and maintaining SSL certificates

(13) A license to use the Covered Software

G. OPTIONAL ADD-ON SERVICES

Q-Free will provide the following optional add-on services as selected below:

☐ Intersection configuration for _____ **signals** (Signal permits/diagrams with all pertinent information must be provided by Customer).

☐ User configuration for _____ **users** (User register with all pertinent information must be provided by Customer).

☐ Configuration of federated authentication. The Agency's existing authentication platform is _____. If selecting this option, Agency must provide Q-Free staff with sensitive security information.

☐ Acquiring, installing, and maintaining an SSL Certificate for HTTPS access to the Covered Software.

☐ Configuration and maintenance of a high-availability environment as described in the Network Architecture in Exhibit C. This option applies for on-prem deployments only.

3. CUSTOMER'S RIGHTS AND OBLIGATIONS

Customer agrees that it shall:

A. be responsible for providing and maintaining its own Internet access and all necessary telecommunications equipment, hardware, software and other materials ("Customer Equipment and Configuration") as defined in Exhibit D;

B. locate the Customer Equipment and Configuration at the Customer's Location defined in Exhibit E;

C. deploy the Customer Equipment and Configuration in accordance with the Network Architecture in Exhibit C;

D. be responsible for the cost of any existing or new hardware or software that may be required, if the hardware or operating system in use by the Customer is deemed not to be sufficient for installation and operation of the Covered Software;

Customer initials   Q-Free initials

E.   notify Q-FREE of any changes in the Customer Equipment and Configuration, including any system configuration changes or any hardware or software upgrades, which may affect the Covered Software provided under this Agreement at least 30 days in advance of the changes. Q-Free is not liable for outages caused by unscheduled changes to the Customer Equipment and Configuration. Customer agrees to provide Q-Free staff with 24/7 autonomous administrative remote access to the servers.

F.   comply with all applicable laws and regulations with respect to its activities under this Agreement; and

G.   ensure that its network and systems comply with the relevant specifications provided by the Company from time to time.

To the extent that certain components of the Software may be downloaded to Customer's or User's computer as a result of accessing the Covered Software as part of the Covered Software, Q-Free grants Customers a non-exclusive, non-transferable, limited license, with right to sublicense solely to Users, to use such Software only in connection with the Covered Software under this agreement.

Neither Customer nor Users are otherwise permitted to use the Software, nor will Customer or Users disassemble, decompile, or otherwise attempt to discern the source code of such Software. Customer agrees that, except as expressly set forth in this Section and in Section 8, it will not rent, lease, sublicense, re-sell, time-share or otherwise assign to any third party this Agreement or any of Customer's rights or licenses to access the Covered Software or the Q-Free System, nor shall Customer use, or authorize others to use, the Covered Software, or the Q-Free System to operate a service bureau. Notwithstanding the preceding sentence, Customer shall be permitted to provide access to the Q-Free System to its employees and agents located worldwide.

4. REPRESENTATIONS AND WARRANTIES

Q-Free hereby represents and warrants to Customer that:

A.   Q-Free is the owner of all right, title and interest, including copyright to the Covered Software, or has the authority to enter into this Agreement on behalf of the owner.

B.   Q-Free has not granted any rights or licenses to the Covered Software that would conflict with Q-Free's obligations under this Agreement.

C.   Q-Free is fully aware of Customer's business requirements and intended uses for the Covered Software and the Covered Software shall satisfy such requirements and is fit for such intended uses.

D.   Q-Free will not enter into any agreement with any third party which would affect Customer's rights under this Agreement, or bind Customer to any third party, without Customer's prior written consent.

E. Customer's use of the Covered Software as authorized by this Agreement will not infringe any existing copyright, trade secret, patent, or trademark rights of any third party.

F. To the extent permitted by applicable statutory law, Q-Free makes no other warranty or guarantees of support, either expressed or implied, with respect to the Covered Software.

5. TERM AND TERMINATION

This Agreement shall continue in effect from the date this Agreement is executed by both parties for a one-year period, and thereafter shall renew automatically for successive one-year periods unless either party gives the other party at least 60 days prior written notice of its intent not to renew the Agreement.

Q-Free shall have the right to immediately terminate this Agreement if Customer fails to perform any obligation required of Customer under this Agreement or fails to pay its annual or period services fees when due. This Agreement will also automatically terminate if Customer fails to comply with any term or condition of any of the software licenses acquired for the Covered Software.

Upon termination of this agreement, Customer shall no longer receive software updates or support from Q-Free staff for the product. All Customer generated data shall remain property of the Customer. Q-Free administered hosted solutions Customer generated datasets shall be provided to the agency within thirty (30) days of acknowledged receipt of cancellation notice. All data will be provided electronically in the Q-Free software's native file format. Customer owned system environments shall continue to have access to the Customer generated datasets. All data will be in the Q-Free software's native file format. The Customer shall provide remote system access to Q-Free for thirty (30) days after acknowledged cancellation notice for removal of the Covered Software.

6. CUSTOMER REFERENCES

Customer agrees that, during the term of this Agreement, Q-Free may reference Customer in Q-Free's customer listings and may place Customer's name and logo on Q-Free's web site and in collateral marketing materials relating to Q-Free's products and services. Customer hereby grants Q-Free a right to use Customer's trademarks (name and logo only) designated by Customer for such limited uses, subject to Customer's trademark/logo usage guidelines, if any, provided by Customer to Q-Free. With these limited exceptions, Q-Free agrees that it may not use Customer's name, logo, or any other trademarks (including in any press releases, customer "case studies," and the like) without Customer's prior consent.

7. CONFIDENTIALITY

Each party agrees that it shall not disclose to any third party any information concerning the customers, trade secrets, methods, processes, or procedures or any other confidential, financial, or business information of the other party which it learns during its performance of this Agreement,

Customer initials   Q-Free initials

without the prior written consent of such other party. This obligation shall survive the cancellation or other termination of this Agreement.

The Covered Software contains trade secrets and proprietary know-how that belong to us, and it is being made available to Customer in strict confidence.

ANY USE OR DISCLOSURE OF THE SOFTWARE, OR OF ITS ALGORITHMS, PROTOCALS OR INTERFACES, OTHER THAN IN STRICT ACCORDANCE WITH THIS AGREEMENT, MAY BE ACTIONABLE AS A VIOLATION OF OUR TRADE SECRET RIGHTS.

8. PUBLICITY

Q-Free shall not refer to the existence of this Agreement in any press release, advertising or materials distributed to prospective customers, without the prior written consent of Customer.

9. ASSIGNMENT

Customer may assign this Agreement to any subsidiary or affiliate under its control, or as part of the sale of that part of its business which includes the Hardware or any substantial portion of its data processing facilities, or pursuant to any merger, consolidation, or other reorganization, without Q-Free's consent, upon notice to Q-Free. Q-Free shall not assign this Agreement without Customer's prior written consent, which shall not be unreasonably withheld. An assignee of either party, if authorized hereunder, shall have all the rights and obligations of the assigning party set forth in this Agreement.

10.   INDEMNITY

Q-Free agrees to indemnify and hold harmless Customer and its subsidiaries or affiliates under its control, and their directors, officers, employees and agents, against any and all losses, liabilities, judgments, awards and costs (including legal fees and expenses) arising out of or related to any claim that Customer's use or possession of the Covered Software or Documentation, or the license granted hereunder, infringes or violates the copyright, trade secret or other proprietary right of any third party. Q-Free shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided Customer gives Q-Free prompt notice of any such claim of which it learns. No settlement which prevents Customer from continuing to use the Software System as provided herein shall be made without Customer's prior written consent. In all events, Customer shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing.

Q-Free shall have no liability for any claim based on (a) a modification of the Covered Software not authorized by Q-Free, or (b) use of the Covered Software other than in accordance with the Documentation, this Agreement and end user license agreement.

Clause 10 shall survive termination of this Agreement.

11. ATTORNEY FEES

If any legal action is necessary to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs, and expenses in addition to any other relief to which it may be entitled.

12. LIMITED LIABILITY

A. This Agreement does not include repair services due to damage caused by rain, fire, flood, lightning, tornado, windstorm, hail, earthquake, explosion, smoke, aircraft, motor vehicle, collapse of building, strike, riot, power failure or fluctuation, or other case originating by reason of other than normal operation of the software, or the Customers negligence or misuse of the software.

B. This Agreement does not cover support, repair or warranty of any hardware or 3rd party software installed as part of the Software.

C. Q-Free shall not be held liable for any indirect, special, incidental, exemplary, punitive or consequential damages suffered by the Customer, any party claiming on behalf of or through the Customer, or any other third party resulting from or arising out of or related to this Agreement or the failure of the Covered Software, including without limitation, damages for loss of business or profits, business interruption, damage or loss or destruction of data or loss of use of the Covered Software, even if such party has been previously advised of the possibility of such damage.

D. Q-Free's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Fees paid for the Services immediately preceding the date on which the claim arose.

13. NOTICE

All notices required or permitted to be given by one party to the other under this Agreement shall be sufficient if sent by certified mail, return receipt requested, to the parties at the respective addresses set forth above or to such other address as the party to receive the notice has designated by notice to the other party, or by electronic mail to ITRAC@cityofirvine.org_____.

14. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of Virginia Q-Free consents and agrees that all legal proceedings relating to the subject matter of this Agreement shall be maintained in courts sitting within the State of Virginia, and Q-Free consents and agrees that jurisdiction and venue for such proceedings shall lie exclusively with such courts. Service of process

Customer initials   Q-Free initials

in any such proceeding may be made by certified mail, return receipt requested, directed to the respective party at the address at which it is to receive notice as provided herein.

15. SEVERABILITY

If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

16. NO WAIVER

The failure by any party to exercise any right provided for herein shall not be deemed a waiver of any right hereunder.

17. COMPLETE AGREEMENT

This Agreement sets forth the entire understanding of the parties as to its subject matter and may not be modified except in a writing executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth first above, with full knowledge of its content and significance and intending to be legally bound by the terms hereof.
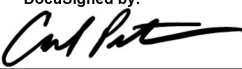
CUSTOMER

Q-FREE

DocuSigned by:

Dahle Bulosan

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Authorized Signature

DocuSigned by:

Whitney Nottage

3646537F2E3E42D...

Authorized Signature

Dahle Bulosan, Director of Administrative Services

Whitney Nottage   Chief Operating Officer

Printed Name and Title

Printed Name and Title

5/16/2024

5/14/2024

Date

Date

Attest:

DocuSigned by:

By: _Carl Pet___

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Carl Petersen

Its: City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

DocuSigned by:

By: _Jeffrey Melching_

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Jeffrey Melching

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Customer initials   Q-Free initials

EXHIBIT A
SOFTWARE COVERED BY Q-FREE

The following is defined as Covered Software under this Agreement

Q-Free developed and owned software ("Covered Software")

- Kinetic Signals
- MAXVIEW
  _____
- _____
- _____
- _____
- _____

Software licensed by 3rd party that has been deployed to support the Q-Free Covered Software:

- N/A

Customer initials   Q-Free initials

EXHIBIT B
PRICING & PAYMENT SCHEDULE

The following is defined as the pricing and payment Exhibit under this Agreement

Item	Payment Term	Due Date	Cost
Initial set up and configuration	One-time	Upon installation	N/A
Software O&M: for 33 Active devices.	Annual-5% annual increase year after year	5th day of the month following installation, and annually thereafter	$ 9,950.00
Optional: Intersection Configuration for X signals	One-time	Upon Configuration	N/A
Optional: User Configuration for X users	One-time	Upon Configuration	N/A
Optional: Configuration of Federated Authentication	One-Time	Upon configuration	N/A
Optional: Configuration of SSL Certificates	One-time	Upon configuration	N/A
	Annual	5th day of the month following installation and annually thereafter	N/A
Optional: Configuration of a High-availability network	One-time	Upon configuration	N/A
	Annual	5th day of the month following installation and annually thereafter	N/A
Optional: 24/7 Support Upgrade	Annual	5th day of the month following installation, and annually thereafter	N/A

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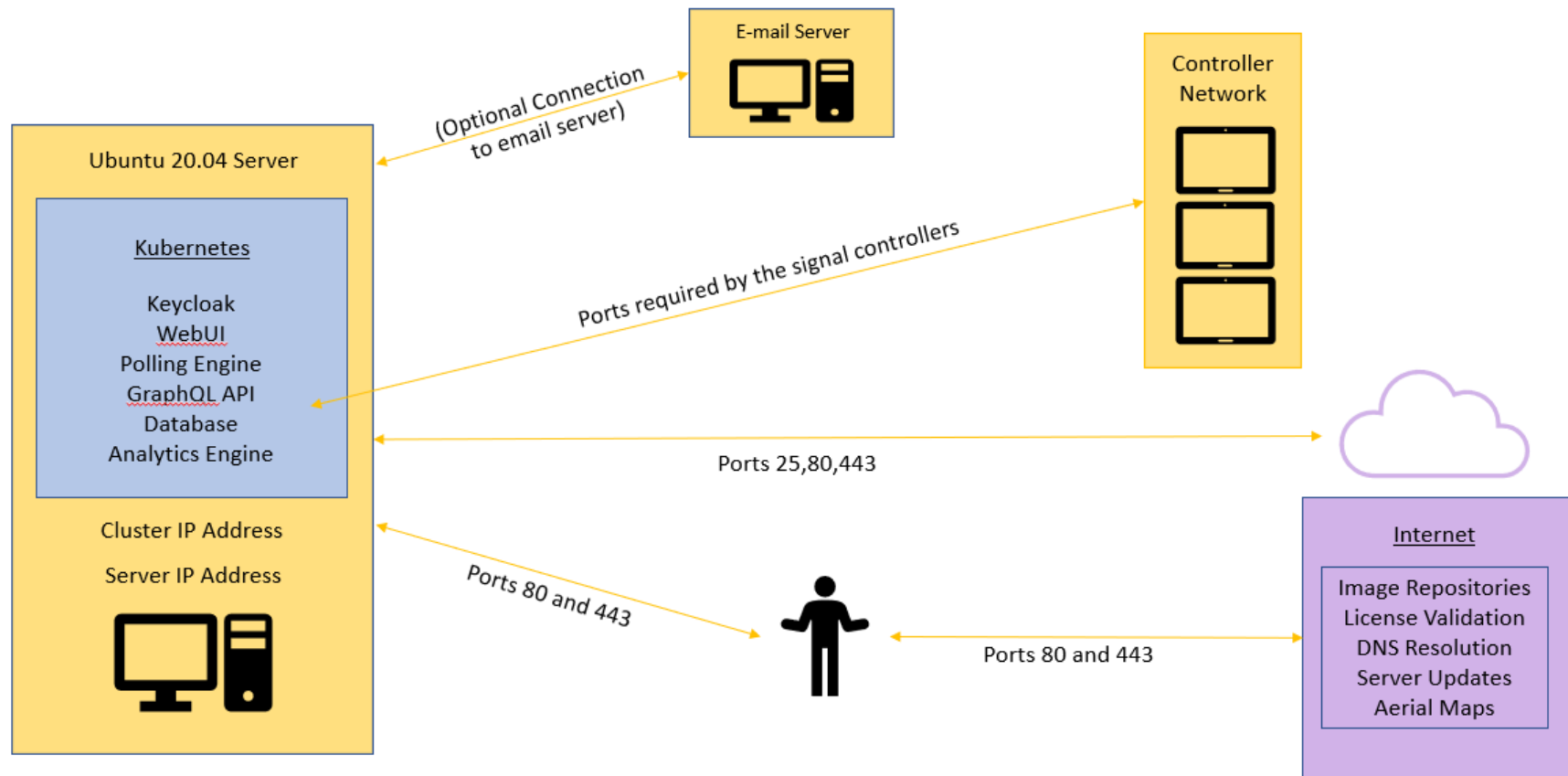Customer initials

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EXHIBIT C

NETWORK ARCHITECTURE

The network diagram below shows the standard network architecture for an Agency on-premises system. The system must be configured in accordance with the architecture below. Substitutions or alterations to this architecture may not be used without prior written consent from Q-Free. Q-Free shall not be liable for the proper operation of Kinetic Signals under any environment that deviates from these specifications.

Customer initials   Q-Free initials

EXHIBIT D
CUSTOMER EQUIPMENT & CONFIGURATION

Kinetic Signals was designed for the cloud. Dubbed by tech experts and leaders as superior to on-premises solutions, cloud-based solutions provide increased flexibility, reliability, and security. It also eliminates the headache of maintaining servers and backing up and restoring data.

Recognizing that not all agencies are ready or able to migrate to a cloud-hosted system, Q-Free will continue to offer Kinetic Signals as an on-premises ("on-prem") solution in the near term. Agencies are able to migrate to a cloud-hosted system down the road with minimal disruption to operations, given Kinetic Signals' modern tech stack, at an additional cost.

If selecting an on-prem deployment, Kinetic Signals and related modules must be configured in accordance with the following specifications. Substitutions or alterations to these specifications may not be used without written consent from Q-Free. Q-Free shall not be liable for the proper operation of Kinetic Signals under any environment that deviates from these specifications.

If your agency is unable to meet all the Kinetic Signals system requirements below, we suggest you consider cloud hosting. Hosting options are available through Q-Free, the Agency, or third parties. Q-Free will be happy meet with your agency to discuss how cloud hosting can meet your needs at a comparable cost.

SERVER REQUIREMENTS

The server requirements are as follows:

- Operating System: Ubuntu Server 20.4.1 LTS
- Kubernetes version 1.22 to 1.24
- Storage: 300GB
    - See Historical Data Storage Requirements for additional details
- Network: 1 Gb Ethernet
    - See Networking Requirements for additional details
- The network must allow server-initiated connections over ports 80, 443, and 25.
    - Kinetic Signals is built around a modern open-source framework. As such, it accesses secure, open-source repositories from organizations such as Google, Git-Hub, and Docker. These third-party IP addresses change frequently. As such, firewall filters or proxy whitelists may not be used with the system.

    NOTE: Single Server Requirements and Cluster Server Requirements for CPU and RAM requirements are based on your implementation.

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SINGLE SERVER REQUIREMENTS

System Size (devices)	Minimum CPU	RAM
Small <150 devices	8 CPU cores	32 GM
Medium 151-300 devices	12 CPU cores	64 GB
Large 301-1,000 devices	18+ CPU cores	128 GB

Please contact us if your system is larger than 1,000 devices to discuss your server requirements.

CLUSTER SERVER REQUIREMENTS

A 3-node minimum cluster is suggested. Minimum 4core CPU, 16gb ram per node is suggested and

scaling total nodes based on size.

HISTORICAL DATA STORAGE REQUIREMENTS

The storage disk must be local to the server.

To calculate storage requirements for historical data, use the following formula:
(C × 30 × HR × HD) + (C × 30 × AR × AD) / 1,048,576

Where: C = Total number of controllers

30 = Avg days/month (converting the HR/HD/AR/AD from MB/day to MB/month)

HR = Total number of months to store high resolution data

HD = Average hi- res data collected per day in MB (typically 30 MB)

AR = Total number of months to store aggregate data

AD = Average aggregate data collected per day in MB (typically 6 MB)

1,048,576 = Conversion from MB to TB

NETWORKING REQUIREMENTS

- Network that supports ARP (Address Resolution Protocol)
- Internet access, so the installer can download packages from HTTP and HTTPS sources.
- At least two IP addresses — one for each server and one for the load balancing software. The IP address for the load balancing software must be able to reach the controller network. The IP addresses should be on the same subnet.
- If a domain name is desired, the agency is responsible for acquiring, installing, and maintaining the SSL certification for that domain, and the name must resolve to the cluster IP address.

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EXHIBIT E
CUSTOMER PROVIDED NETWORK LOCATION(S)

The following Customer Provided Network Location is covered under this Agreement:

1 Civic Center Plaza
Irvine, CA 92606