IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TRUVERIS, INC.,	Civil Action No. ______________
Plaintiff,	
v.	
SKYSAIL CONCEPTS, LLC, d/b/a SKYSAIL RX, LLC,	**DEMAND FOR JURY TRIAL**
Defendant.	

COMPLAINT

Plaintiff Truveris, Inc. ("Truveris" or "Plaintiff"), by and through its undersigned counsel, files this Complaint against Defendant SkySail Concepts, LLC, d/b/a SkySail RX, LLC, ("SkySail" or "Defendant") and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, involving United States Patent No. 10,817,920 (the "'920 Patent" or "Asserted Patent") attached hereto as Exhibit 1.

THE PLAINTIFF - TRUVERIS

2. Truveris, Inc. is a company organized and existing under the laws of Delaware, with a principal place of business at 2 Park Avenue, Suite 1500, New York, NY, 10016.

THE DEFENDANT - SKYSAIL

3. On information and belief, SkySail Concepts, LLC, d/b/a SkySail RX, LLC, is a limited liability company organized and existing under the laws of Nevada, with a principal place of

business at 29425 Chagrin Boulevard, Suite 140, Pepper Pike, Ohio, 44122. *See* Exhibit 2, (identifying on SkySail Rx LinkedIn profile a primary location at "29425 Chagrin Blvd, STE 140, Pepper Pike, Ohio 44122, US"); *see also* Exhibit 3, (registering "29425 Chagrin Blvd, STE 280, Pepper Pike, Ohio 44122" as address for "agent upon whom process against" SkySail "may be served in the state of Ohio").

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under 35 U.S.C. § 271.

5. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. The Court has personal jurisdiction over SkySail pursuant to, *inter alia*, Ohio's Long-Arm Statute (Ohio Rev. Code Ann. § 2307.382(A)) because SkySail: (i) has a principal place of business in Ohio; (ii) transacts business in Ohio; (iii) contracts to supply services or goods in Ohio; (iv) causes tortious injury by an act or omission in Ohio by, *inter alia*, regularly doing or soliciting business in Ohio; (v) has an interest in, using, or possessing real property in this state; and/or (vi) has purposely availed itself of the laws, services, and/or other benefits of the State of Ohio and, therefore, should reasonably anticipate being hailed into one or more of the courts within the State of Ohio.

7. Venue is proper in this District under 28 U.S.C. §§ 1400(b) and 1391. On information and belief, SkySail has a regular and established place of businesses in Pepper Pike, Ohio, and Cleveland, Ohio, both of which are within this District, and SkySail has committed acts of infringement within the District. Indeed, on information and belief, SkySail has approximately 17 employees in an office located in Cleveland, Ohio. *See* Exhibit 4, at page 21 of 63 ("We currently have 17 employees with our primary office in Cleveland, OH.").

BACKGROUND

The Asserted Patent – U.S. Patent No. 10,817,920

8. On October 27, 2020, the United States Patent and Trademark Office duly and legally issued the ’920 Patent, entitled “System and Method for Managing Selection of Prescription Drug Plans[,]” to inventors Kristin Begley, Leon Greene, Anthony Loiacono, and Tom Staloch. A copy of the ’920 Patent is attached as Exhibit 1.

9. The ’920 Patent is valid and presumed valid under 35 U.S.C. § 282. The ’920 Patent is also enforceable.

10. Truveris is sole owner by assignment of all right, title, and interest in the ’920 Patent necessary to bring this action, including the exclusive right to enforce the ’920 Patent in the United States.

11. The ’920 Patent is generally directed to “electronic management of a request for proposal (RFP) and corresponding bids for selecting a prescription drug plan.” Exhibit 1, at 1:16-18. Claim 1, for example, reads as follows:

> 1. A computer-implemented method performed by a computer system for supporting an entity with selection of a prescription drug plan, said method comprising:
>
> (a) receiving a request to initiate a request for proposal (RFP) process from a particular remote client system of a plurality of remote client systems, the request to initiate the RFP process being for a prescription drug plan for a particular entity;
>
> (b) obtaining a particular set of historical drug claims for the particular entity from a remote database;
>
> (c) generating an RFP for the particular entity for the prescription drug plan based on the particular set of historical drug claims obtained from the remote database;
>
> (d) distributing said RFP to a plurality of remote pharmacy benefit manager (PBM) systems to participate in submission of a bid in response to said RFP;

(e) receiving an electronic confirmation from one or more of said plurality of remote PBM systems acknowledging participation in said RFP;

(f) receiving one or more bids containing pricing information and contract terms from the one or more of said plurality of remote PBM systems having acknowledged participation, the pricing information comprising respective pricing terms corresponding to one or more drug claims, the one or more bids each including a corresponding PBM-indicated drug classification for each drug claim of the one or more drug claims;

(g) obtaining, from one or more third party systems, data indicators indicating third-party-indicated drug classifications for the historical drug claims of the particular set of historical drug claims, the third-party-indicated drug classifications including a generic drug classification, a brand drug classification, and a specialty drug classification, the third party systems being different than the remote database, the particular remote client system and the plurality of PBM systems;

(h) classifying each historical drug claim of the particular set of historical drug claims into one or more third-party-indicated drug classifications of the third-party-indicated drug classifications based on the data indicators, the classifying disregarding the corresponding PBM-indicated drug classification;

(i) obtaining, from the one or more third-party systems, price inflation parameters and utilization inflation parameters for each third-party-indicated drug classification of the one or more third-party-indicated drug classifications;

(j) obtaining historical utilization data associated with the particular set of historical drug claims;

(k) using the particular set of historical drug claims from the remote database to project costs forward by applying the price inflation parameters to the pricing information of each bid of said one or more bids based on the one or more third-party-indicated drug classifications, and applying the utilization inflation parameters to the historical utilization data associated with the particular set of historical drug claims;

(l) calculating a corresponding estimated plan cost for each bid of the one or more bids based on the projecting costs forward, the corresponding estimated plan cost of each bid of the one or more bids having accounted for price inflation and utilization inflation

> based on the same price inflation parameters, the same utilization inflation parameters, and the same third-party-indicated drug classifications;
>
> (m) calculating a contract terms cost for the contract terms of each bid of the one or more bids;
>
> (n) generating scores for each bid of said one or more bids based on the corresponding estimated plan cost and on the contract terms cost; and
>
> (o) sending at least one bid of the one or more bids and at least one score of the scores to said particular remote client system to support selection of the drug prescription plan from the one or more bids.

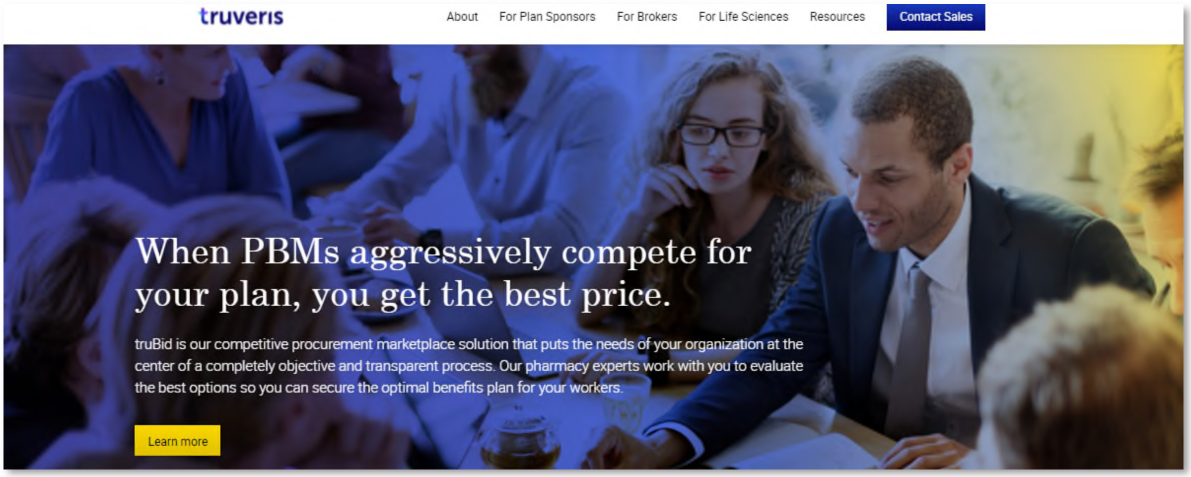
Exhibit 1, at cl. 1.

<u>Truveris – A Leading Digital Health Company with a Mission to Drive Lower Prescription Costs</u>

12. Founded in 2009, Truveris is a leading digital health company focused on helping its customers, such as employers, labor unions, government entities, retail pharmacies and consumers, reduce what they pay for prescription drugs. At its core, Truveris is helping patients obtain affordable prescription drugs.

13. Using its proprietary data-driven cloud-based platform, Truveris aggregates data and insights spanning the pharmacy market place to provide cost savings and affordability solutions for its customers. To date, Truveris works with more than 500 customers.

14. An example of Truveris' innovative technology is TruBid® ("TruBid"). TruBid is Truveris' reverse-auction solution that drives competition among pharmacy benefit managers ("PBM"), who are essentially intermediaries hired by corporate employers, health plans, and other organizations to interface with drug manufacturers and process prescription-related claims, to provide its customers with customized plan options at the best possible costs:



15. Truveris' disruptive technology has been applauded as an industry game-changer and achieved significant success shortly after its founding:

> The Truveris TruBid® solution provides a level playing field where clients can understand and shop for pharmacy benefit manager (PBM) contracts so they can make smarter decisions about their members' prescription drug coverage resulting in an average cost reduction of 11%. TruBid includes continuous bill review that analyzes every claim for accuracy of pricing and contract terms. The State of New Jersey recently used the Truveris platform to save $1.6 billion on its prescription drug benefits.

See Exhibit 5, print out of Sept. 6, 2017 press release (https://www.businesswire.com/news/home/20170906005416/en/Truveris-Secures-25-Million-in-New-Funding-to-Help-Reduce-Cost-and-Improve-Access-to-Prescription-Medications).

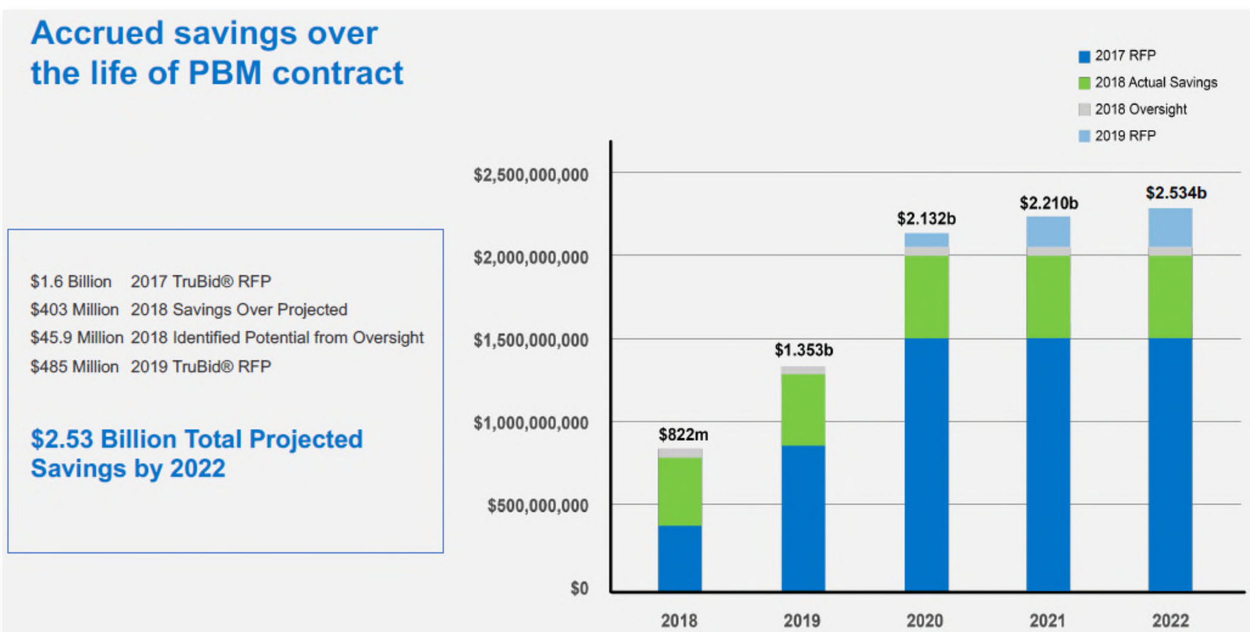
16. Indeed, Truveris' TruBid technology reduced the State of New Jersey's prescription drug spend by 18% on a three-year contract with OptumRx—a pharmacy benefit manager—which resulted in savings of nearly $1.6 billion, and shortened the vendor selection process by approximately four months:

> The State has historically spent approximately $2.2 billion annually to provide prescription drug benefits to employees, dependents and retirees of the School Employees Health Benefits Plan, the State Health Benefits Plan, and the Employer Group Waiver Plans (EGWP).

> The new contract will result in a total three-year savings of nearly $1.6 billion. To achieve this, Truveris helped the State conduct a reverse auction that included three pharmacy benefits managers (PBMs). In the reverse auction, the bidders were provided with historical data on nearly 11 million prescriptions that were covered by the State in 2016. During two rounds of blind bidding, the PBMs offered their best prices for the State's three-year contract. The Truveris technology platform priced the proposals utilizing code-based classification of drugs from nationally-accepted data sources.
>
> Traditionally, the vendor selection process can take more than six months. By leveraging Truveris' technology platform, the State concluded the entire process in less than two months.

Exhibit 6, copy of Aug. 7, 2017 press release (https://www.prweb.com/releases/2017/08/prweb14569034.htm).

17. 2017 was not the only time Truveris reduced the State of New Jersey's prescription drug spend. For example, as a result of a 2019 Reverse Auction Bid Solicitation administered by Truveris, the State of New Jersey is projected to save $2.53 billion on prescription drug costs by 2022. Exhibit 7, NJ_SALGBA_Slides.pdf (ohio.gov) at slide 17:



18. Truveris takes seriously protecting its intellectual property geared toward helping its customers navigate the pharmacy maze to arrive at lower prescription costs. The '920 Patent is a

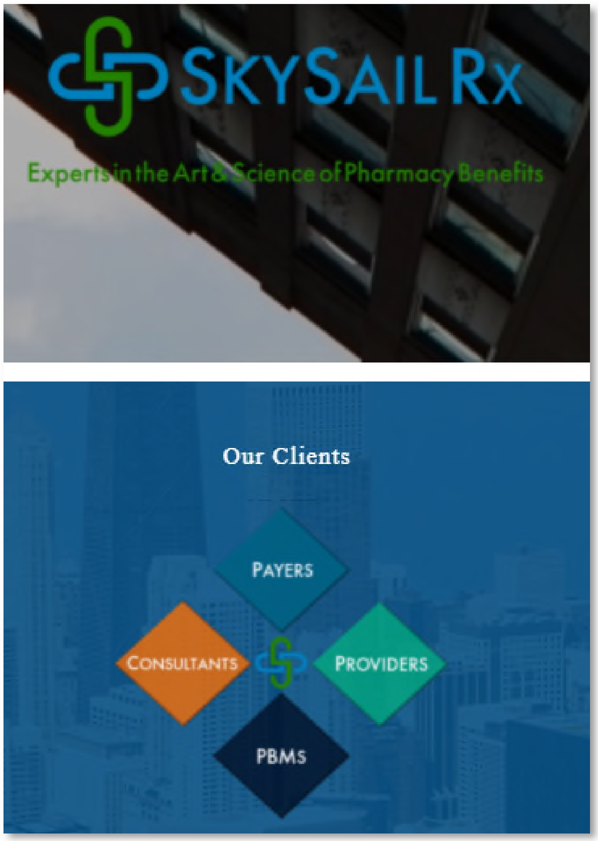
testament to Truveris' innovative intellectual property and technology, and Truveris' patent portfolio continues to grow. Truveris has patent applications pending in support of its mission to improve the health of everyone.

SkySail and Its Infringing Activities

19. SkySail is purportedly a pharmacy benefit consulting company. *See* Exhibit 4, at page 21 of 63 ("SkySail Rx was founded in 2015 as pharmacy benefit experts using decades of PBM experience and technical knowledge to provide independent advice and proprietary data analytics.").

20. On information and belief, SkySail was formed in 2015 by co-founders Brandon Kessler, Kathryn Medina, and Trey Smith, all of whom are former employees of Truveris. *See* Exhibit 8 (LinkedIn Profile of Brandon Kessler); Exhibit 15 (LinkedIn Profile of Kathryn Medina); Exhibit 9 (LinkedIn Profile of Trey Smith). Since its inception, SkySail has recruited several former Truveris employees. *See* Exhibit 10 (LinkedIn Profile of Nicole Mateo); Exhibit 11 (LinkedIn Profile of Ryan Fox). On information and belief, SkySail currently has approximately 17 employees. *See* Exhibit 2 (LinkedIn Profile for SkySail Rx) (providing link to "[v]iew all 16 employees."); Exhibit 4, at page 21 of 63 ("We currently have 17 employees with our primary office in Cleveland, OH."). Indeed, these five SkySail employees identified in this paragraph, or nearly one-third of SkySail's current employee headcount, are former Truveris employees.

21. On information and belief, SkySail's customers include "PBM providers, payors (unions, employers, health plans, government groups), consultants, brokers, auditors and pharmacy providers." Exhibit 4, at page 21 of 63; *see also* Exhibit 12 (screenshots of skysailrx.com):



22. On information and belief, SkySail Rx uses technology that manages the selection of prescription drug plans. For example, on information and belief, SkySail uses at least a technology called OnX that manages the selection of prescription drug plans:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63 (annotated).

23. On information and belief, Skysail "compare[s] the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders." Exhibit 4, at page 25 of 63.

24. On information and belief, SkySail has been engaged in activities, and currently is engaging in activities, such as having used and continuing to use systems and methods for managing the selection of prescription drug plans, which infringe upon at least one or more claims of the '920 Patent.

25. On information and belief, with respect to Truveris' proprietary technology, employees of Truveris, at least one of whom (Mr. Fox) is now in the employ of SkySail, have discussed Truveris' technology as being replicable. *See* Exhibit 13, (excerpt of chat history between Ryan Fox, former Principal Analyst of Key Accounts, Compliance and Analytics at Truveris, and Ryan Haynes, former Senior Clinical Director, Account Management at Truveris) (reproduced and compiled below) (emphasis added):

rfox	5/24/2018 8:25	he was talking to me, said how could i go to a Amazon or Google selling ourselves....those companies can look at us, throw 50 million and build what we do in 3 months
rfox	5/24/2018 8:25	we need to get where Amazon and Google are before Mercer and Aon get to where we are.....its a race, and i like to win
rhaynes	5/24/2018 8:27	it may not take 3 months for those guys
rhaynes	***5/24/2018 8:27***	***our tech is cool but nothing to say it can't be replicated***

26. On information and belief, SkySail, as a bidder, responded to a Request for Proposal for PBM Technology Platform Services from the State of New Hampshire (the "NH RFP"). *See* Exhibit 4.

27. The NH RFP required that bidders satisfy minimum qualifications, including "[b]idder's proposed technology platform must have the capacity to perform the following for the PBM reverse auction: a. Conduct an automated, online, PBM reverse auction." *Id.* at page 13.

28. On information and belief, SkySail won the New Hampshire bid.

COUNT I: INFRINGEMENT OF THE '920 PATENT

29. Truveris realleges and incorporates by reference the allegations in the preceding paragraphs as though fully stated herein.

30. On information and belief, SkySail infringes or induces or contributes to the infringement of at least claim 1 of the '920 Patent as follows.

31. On information and belief, SkySail's OnX is a computer-implemented method performed by a computer system for supporting an entity with selection of a prescription drug plan. For example, SkySail, as a bidder, responded to the NH RFP as follows. *See* Exhibit 4, at page 2:

State of New Hampshire

SECTION I: INTRODUCTION

This Request for Proposal ("RFP") is issued by the Department of Administrative Services (DAS), acting through the Division of Risk & Benefits, for a contract for technology platform services to assist the State in running a reverse auction to procure Pharmacy Benefit Management (PBM) services for the State Employee and Retiree Health Benefit Plan and to provide ongoing pharmacy invoice reviews and other related services as described herein.

See also id. at page 4:

State of New Hampshire

C. OBJECTIVE

The State is seeking proposals to provide technology platform services to assist the State in conducting an online automated reverse auction to support DAS and its authorized representatives in comparing the pricing for its PBM procurement for the State Employee and Retiree Health Benefit Plan. The Contractor must also assist with evaluating the qualifications of PBM bidders and to provide related professional services as described throughout this RFP.

After conducting a PBM reverse auction, the Bidder must repurpose the reverse auction technology platform to assist the State with ongoing PBM invoice reviews for all invoiced PBM prescription drug claims throughout the life of the State's PBM contract.

If requested by the State, the selected Bidder must also conduct a market check using technology driven evaluation of the incumbent PBM's prescription drug pricing based on benchmark comparators.

32. The NH RFP required that bidders satisfy minimum qualifications, including "[b]idder's proposed technology platform must have the capacity to perform the following for the PBM reverse auction: a. Conduct an automated, online, PBM reverse auction." *Id.* at page 13.

33. On information and belief, SkySail's OnX receives a request to initiate a request for proposal (RFP) process from a particular remote client system of a plurality of remote client systems, the request to initiate the RFP process being for a prescription drug plan for a particular entity:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63 (annotated).

34. On information and belief, SkySail's OnX obtains a particular set of historical drug claims for the particular entity from a remote database:

2. Bidder's proposed technology platform must have the capacity to perform the following for the PBM reverse auction:
   a. Conduct an automated, online, PBM reverse auction;
   b. Automate repricing of diverse and complex PBM prescription drug pricing proposals to enable "apples-to-apples" comparisons of the price of PBM bids utilizing 100 percent of annual prescription drug claims data available for state-funded health plans and using code-based classification of drugs from nationally accepted drug sources;

Exhibit 4, at page 13 of 63; *see also id.* at page 25 of 63:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

35. On information and belief, SkySail generates an RFP for the particular entity for the prescription drug plan based on the particular set of historical drug claims obtained from the remote database:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63.

36. On information and belief, SkySail distributes the RFP to a plurality of remote pharmacy benefit manager (PBM) systems to participate in submission of a bid in response to said RFP:

QUESTION		BIDDER RESPONSE
17.	How do you ensure transparency and security throughout the reverse auction process?	SkySail Rx ensures security throughout the process by adhering to our strict data security procedures. We have established a formal information security program designed to protect sensitive information from loss or disclosure. Sensitive information includes both internal SkySail Rx information as well as customer data that we store and process as part of delivering products or services. To create a robust program, we reference established information security and data privacy frameworks such as the ISO 27002:2013 framework, HIPAA and the NIST CSF. To support the program, we create an internal Control Framework designed to reduce cyber risks while enabling our business to function effectively. In regards to transparency, SkySail Rx manages the RFP process in such a way so that bidders can have a clear line of sight into the value of the other offers and how those offers compare to their own. This transparency allows for increase competition and ultimately benefits the state by driving down costs. The RFP360 tool allows us to control and customize the process to allow for transparency.
18.	Describe the process by which PBMs will access the reverse auction tool and input financial information during the reverse auction process.	The PBMs will access the RFP tool by logging into the site with a secure password they create. Once the PBM has securely logged on, the PBM will have the opportunity to input the information related to their offering. PBMs will need to complete different required and optional sections in the RFP. This includes financial information including but not limited to AWP discounts, dispense fees, inclusion/exclusions, brand/generic definitions, specialty definitions, rebate guarantees, etc. PBMs have to opportunity to review answers before submitting their proposal.

Exhibit 4, at page 28 of 63.

37. On information and belief, SkySail receives an electronic confirmation from one or more of said plurality of remote PBM systems acknowledging participation in said RFP:

18.	Describe the process by which PBMs will access the reverse auction tool and input financial information during the reverse auction process.	The PBMs will access the RFP tool by logging into the site with a secure password they create. Once the PBM has securely logged on, the PBM will have the opportunity to input the information related to their offering. PBMs will need to complete different required and optional sections in the RFP. This includes financial information including but not limited to AWP discounts, dispense fees, inclusion/exclusions, brand/generic definitions, specialty definitions, rebate guarantees, etc. PBMs have to opportunity to review answers before submitting their proposal.
19.	Describe the process to verify and document that PBMs have accessed and correctly inputted information during each round of the reverse auction process.	PBMs will be responsible for the accuracy of their inputs. PBMs will acknowledge such prior to entering their specific information. As part of the extensive quality control process, SkySail Rx will review and identify any information which may appear outside of the norm. SkySail Rx will identify the issue to the PBM and receive either confirmation of the information or updated information from the PBM. PBM have the opportunity to ask questions through the system. SkySail Rx receives an email within seconds of a question being asked and SkySail Rx will respond to PBM questions within 24 hours.

Id.

38. On information and belief, SkySail receives one or more bids containing pricing information and contract terms from the one or more of said plurality of remote PBM systems having acknowledged participation, the pricing information comprising respective pricing terms corresponding to one or more drug claims, the one or more bids each including a corresponding PBM-indicated drug classification for each drug claim of the one or more drug claims:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63 (annotated); *see also id.* at page 31 of 63 (annotated):

25.	Describe the source and methodology your firm uses to classify prescription drugs as brand, generic, or specialty.	SkySail Rx leverages nationally recognized drug databases for the classification of brand and generic. During the RFP process the PBM will state what database (generally First Data Bank or MediSpan) will be used for brand/generic classification. SkySail Rx will then use that database to re-adjudicate the claims. Regarding the classification of specialty, there is not one list or definition of specialty. Each PBM has a slightly different specialty list. This is an issue that is vital to capture during the RFP process. Ensuring the PBM has provided their specialty list at the NDC level and the process of updating the specialty list will help to minimize issues and confusion around the specialty benefit.

39. On information and belief, SkySail obtains, from one or more third party systems, data indicators indicating third-party-indicated drug classifications for the historical drug claims of the particular set of historical drug claims, the third-party-indicated drug classifications including a generic drug classification, a brand drug classification, and a specialty drug classification, the third party systems being different than the remote database, the particular remote client system and the plurality of PBM systems:

25.	Describe the source and methodology your firm uses to classify prescription drugs as brand, generic, or specialty.	SkySail Rx leverages nationally recognized drug databases for the classification of brand and generic. During the RFP process the PBM will state what database (generally First Data Bank or MediSpan) will be used for brand/generic classification. SkySail Rx will then use that database to re-adjudicate the claims. Regarding the classification of specialty, there is not one list or definition of specialty. Each PBM has a slightly different specialty list. This is an issue that is vital to capture during the RFP process. Ensuring the PBM has provided their specialty list at the NDC level and the process of updating the specialty list will help to minimize issues and confusion around the specialty benefit.

Exhibit 4, at page 31 of 63 (annotated).

40. On information and belief, SkySail classifies each historical drug claim of the particular set of historical drug claims into one or more third-party-indicated drug classifications of the third-party-indicated drug classifications based on the data indicators, the classifying disregarding the corresponding PBM-indicated drug classification:

25.	Describe the source and methodology your firm uses to classify prescription drugs as brand, generic, or specialty.	SkySail Rx leverages nationally recognized drug databases for the classification of brand and generic. During the RFP process the PBM will state what database (generally First Data Bank or MediSpan) will be used for brand/generic classification. SkySail Rx will then use that database to re-adjudicate the claims. Regarding the classification of specialty, there is not one list or definition of specialty. Each PBM has a slightly different specialty list. This is an issue that is vital to capture during the RFP process. Ensuring the PBM has provided their specialty list at the NDC level and the process of updating the specialty list will help to minimize issues and confusion around the specialty benefit.

Exhibit 4, at page 31 of 63 (annotated); *see also id.* at page 26 of 63:

QUESTION		BIDDER RESPONSE
12.	Describe your experience with Pharmacy Benefit Management (PBM) contracts and your strategy to compare proposals in a consistent way.	As mentioned above, SkySail Rx's principals and employees have decades of experience in all facets of the PBM industry, including contracting. Pharmacy Benefit Management contracts can be very complex and can be written in such a way as to favor the PBM instead of the client. It is vital to work with a resource that possesses experience and expertise in both PBM pricing and contract negotiation. By leveraging our experience, SkySail Rx knows where to look for issues within the PBM contract. On top of that, our proprietary technology has the flexibility to address any variations in definitions or exclusions, allowing for an accurate and consistent comparison of proposals. A PBM contract can promise any rates and potential savings but without a clear understanding of the impact of the definitions, those rates and numbers are meaningless. By understanding and identifying the subtle differences in contract language and loading them into our technology platform for repricing, SkySail Rx is able to accurately quantify the value or potential increase in cost associated with each offer. The final output provides a true "apples-to-apples comparison" for the client, taking into account all factors that impact pricing, not just rates. Once a PBM is selected, SkySail Rx will work with the PBM and the state to ensure that all terms agreed to in the RFP are accurately captured in the final contract language. This will ensure that the state gets the "deal" that they were promised.

41. On information and belief, SkySail obtains, from the one or more third-party systems, price inflation parameters and utilization inflation parameters for each third-party-indicated drug classification of the one or more third-party-indicated drug classifications:

QUESTION		BIDDER RESPONSE
14.	Explain your approach for bidders to see what other bidders have bid while protecting proprietary/non-published bidder information and the integrity of the published information from tampering.	Showing the bidders where they stand in comparison to everyone else is powerful. However, it is a delicate balance to ensure that not too much information is provided. The approach SkySail Rx takes when sharing this information is simple: we provide the expected net drug cost. The expected net drug cost equals the ingredient cost less discounts plus dispense fees plus admin fees (if applicable) less rebates. This net drug cost is provided as a single number, preventing the other bidders from being able to dissect the number in order to get additional market intelligence while still providing a comparable value to encourage competition. By providing only the expected net drug cost, the bidders will not be able to back into other bidders rebate numbers or discounts, nor will they be able to back into any of the inflation or utilization assumptions made within the reverse auction tool. The bidders will know what they need to do in order to earn the business. This increased competition will only benefit the state with better rates and contract terms.

Exhibit 4, at page 27 of 63; *see also id.* at page 31 of 63:

26.	Indicate whether your firm has independent access to average wholesale price (AWP) information and the source used.	Our organization has independent access to AWP information from MediSpan. In addition, we also have access to First DataBank should we need to align pricing for a specific PBM.

42. On information and belief, SkySail obtains historical utilization data associated with the particular set of historical drug claims:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63 (annotated).

43. On information and belief, SkySail uses the particular set of historical drug claims from the remote database to project costs forward by applying the price inflation parameters to the pricing information of each bid of said one or more bids based on the one or more third-party-indicated drug classifications, and applying the utilization inflation parameters to the historical utilization data associated with the particular set of historical drug claims:

QUESTION		BIDDER RESPONSE
14.	Explain your approach for bidders to see what other bidders have bid while protecting proprietary/non-published bidder information and the integrity of the published information from tampering.	Showing the bidders where they stand in comparison to everyone else is powerful. However, it is a delicate balance to ensure that not too much information is provided. The approach SkySail Rx takes when sharing this information is simple: we provide the expected net drug cost. The expected net drug cost equals the ingredient cost less discounts plus dispense fees plus admin fees (if applicable) less rebates. This net drug cost is provided as a single number, preventing the other bidders from being able to dissect the number in order to get additional market intelligence while still providing a comparable value to encourage competition. By providing only the expected net drug cost, the bidders will not be able to back into other bidders rebate numbers or discounts, nor will they be able to back into any of the inflation or utilization assumptions made within the reverse auction tool. The bidders will know what they need to do in order to earn the business. This increased competition will only benefit the state with better rates and contract terms.

Exhibit 4, at page 27 of 63; *see also id.* at page 25 of 63:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

44. On information and belief, SkySail calculates a corresponding estimated plan cost for each bid of the one or more bids based on the projecting costs forward, the corresponding estimated plan cost of each bid of the one or more bids having accounted for price inflation and utilization inflation based on the same price inflation parameters, the same utilization inflation parameters, and the same third-party-indicated drug classifications:

QUESTION		BIDDER RESPONSE
14.	Explain your approach for bidders to see what other bidders have bid while protecting proprietary/non-published bidder information and the integrity of the published information from tampering.	Showing the bidders where they stand in comparison to everyone else is powerful. However, it is a delicate balance to ensure that not too much information is provided. The approach SkySail Rx takes when sharing this information is simple: we provide the expected net drug cost. The expected net drug cost equals the ingredient cost less discounts plus dispense fees plus admin fees (if applicable) less rebates. This net drug cost is provided as a single number, preventing the other bidders from being able to dissect the number in order to get additional market intelligence while still providing a comparable value to encourage competition. By providing only the expected net drug cost, the bidders will not be able to back into other bidders rebate numbers or discounts, nor will they be able to back into any of the inflation or utilization assumptions made within the reverse auction tool. The bidders will know what they need to do in order to earn the business. This increased competition will only benefit the state with better rates and contract terms.

Exhibit 4, at page 27 of 63; *see also id.* at page 25 of 63:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

45. On information and belief, SkySail calculates a contract terms cost for the contract terms of each bid of the one or more bids:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63; *see also id.* at page 26 of 63:

QUESTION		BIDDER RESPONSE
12.	Describe your experience with Pharmacy Benefit Management (PBM) contracts and your strategy to compare proposals in a consistent way.	As mentioned above, SkySail Rx's principals and employees have decades of experience in all facets of the PBM industry, including contracting. Pharmacy Benefit Management contracts can be very complex and can be written in such a way as to favor the PBM instead of the client. It is vital to work with a resource that possesses experience and expertise in both PBM pricing and contract negotiation. By leveraging our experience, SkySail Rx knows where to look for issues within the PBM contract. On top of that, our proprietary technology has the flexibility to address any variations in definitions or exclusions, allowing for an accurate and consistent comparison of proposals. A PBM contract can promise any rates and potential savings but without a clear understanding of the impact of the definitions, those rates and numbers are meaningless. By understanding and identifying the subtle differences in contract language and loading them into our technology platform for repricing, SkySail Rx is able to accurately quantify the value or potential increase in cost associated with each offer. The final output provides a true "apples-to-apples comparison" for the client, taking into account all factors that impact pricing, not just rates. Once a PBM is selected, SkySail Rx will work with the PBM and the state to ensure that all terms agreed to in the RFP are accurately captured in the final contract language. This will ensure that the state gets the "deal" that they were promised.

46. On information and belief, SkySail generates scores for each bid of said one or more bids based on the corresponding estimated plan cost and on the contract terms cost:

2. Bidder's proposed technology platform must have the capacity to perform the following for the PBM reverse auction:
   a. Conduct an automated, online, PBM reverse auction;
   b. Automate repricing of diverse and complex PBM prescription drug pricing proposals to enable "apples-to-apples" comparisons of the price of PBM bids utilizing 100 percent of annual prescription drug claims data available for state-funded health plans and using code-based classification of drugs from nationally accepted drug sources;
   c. Produce an automated report and analysis of PBM bids, including the ranking of PBM bids based on the comparative costs and qualitative aspects thereof within a 48-hour time period following the close of each round of reverse auction bidding; and
   d. Perform real-time, electronic, line-by-line, claim-by-claim review of 100 percent of invoiced PBM prescription drug claims, and identify all deviations from specific terms of the PBM services contract resulting from the reverse auction process.

Exhibit 4, at page 13 of 63.

47. On information and belief, SkySail sends at least one bid of the one or more bids and at least one score of the scores to said particular remote client system to support selection of the drug prescription plan from the one or more bids:

QUESTION		BIDDER RESPONSE
11.	Describe your company's experience and capabilities in hosting and conducting online automated reverse auctions. Describe use of subcontractors, if applicable.	SkySail Rx's experience with PBM Request for Proposals (RFPs) is extensive. Our leadership and employees have decades of PBM pricing, operations, account management, clinical, pharmacy and consulting experience, during which we have been on both the underwriting side and also working on behalf of the client. It is that expertise and knowledge which sets us apart when dealing with PBMs and PBM contracts, as we understand the big picture, including all loopholes and potential pitfalls that may provide less than desirable outcomes. We leverage our deep understanding all elements of the prescription industry to craft and execute RFPs that produce the best outcomes for our clients. In addition to our decades of experience, SkySail Rx has developed a propriety technology, OnX, that allows for the reprocessing of claims based on the way the PBM is defining the data elements (i.e. what is a brand/generic, what is considered specialty, what is a 90-day supply). Our RFP methodology starts with a thorough evaluation of the client's current contract, utilization data and plan design. SkySail Rx creates a base assessment of the client's utilization data and current PBM contract. PBM contracting is complex and may contain references that put the client at a distinct disadvantage. We then compare the historic pricing discounts, dispensing fees, rebates and administrative fees to the actual PBM performance. Each bidder is evaluated on their RFP responses and pricing proposals in a separate analysis and then compared between the bidders. The final contractual terms and definitions between the PBM and the client are ultimately the most important aspect of the RFP process and deviations from the proposal or inconsistencies in responses may eliminate a PBM from the bidding process. To assist in RFP administration and project management, SkySail Rx has invested time and resources in a third-party RFP vendor called RFP360. RFP360's robust tool set allows for multiple rounds, unlimited numbers of questions, Q+A processes, as well as complete data gathering and logging of responses. The RFP360 platform allows us to completely customize the questionnaire and scoring process for the State. We've built a library of data questions, contract definitions, and an efficient communication process to multiple vendors for complex RFP procurements. The State will be provided with total access to the tool to see current responses in real time.

Exhibit 4, at page 25 of 63; *see also id.* at page 26 of 63:

QUESTION		BIDDER RESPONSE
12.	Describe your experience with Pharmacy Benefit Management (PBM) contracts and your strategy to compare proposals in a consistent way.	As mentioned above, SkySail Rx's principals and employees have decades of experience in all facets of the PBM industry, including contracting. Pharmacy Benefit Management contracts can be very complex and can be written in such a way as to favor the PBM instead of the client. It is vital to work with a resource that possesses experience and expertise in both PBM pricing and contract negotiation. By leveraging our experience, SkySail Rx knows where to look for issues within the PBM contract. On top of that, our proprietary technology has the flexibility to address any variations in definitions or exclusions, allowing for an accurate and consistent comparison of proposals. A PBM contract can promise any rates and potential savings but without a clear understanding of the impact of the definitions, those rates and numbers are meaningless. By understanding and identifying the subtle differences in contract language and loading them into our technology platform for repricing, SkySail Rx is able to accurately quantify the value or potential increase in cost associated with each offer. The final output provides a true "apples-to-apples comparison" for the client, taking into account all factors that impact pricing, not just rates. Once a PBM is selected, SkySail Rx will work with the PBM and the state to ensure that all terms agreed to in the RFP are accurately captured in the final contract language. This will ensure that the state gets the "deal" that they were promised.

48. On information and belief, SkySail has actively encouraged infringement of at least claim 1 of the '920 Patent by providing customers with access to and training on how to use SkySail's OnX technology:

30.	Indicate whether the State would have direct access to your system or data warehouse for the purpose of running queries and/or reports.	The State would have direct access to the SkySail OnX analytics tool. We empower you and your representatives with easy access and straight forward analytics tools to address issues and identify solutions. SkySail Rx will work with the state to train users and provide as little or as much guidance as necessary throughout our partnership.

Exhibit 4, page 32 of 63 (annotated).

49. On information and belief, SkySail has actively induced infringement of one or more claims of the '920 Patent in violation of 35 U.S.C. § 271(b).

50. SkySail's activities have been without license permission or authorization from Truveris.

51. SkySail's unlawful infringement activities have caused and will continue to cause Truveris substantial harm.

52. As a result of SkySail's infringement of the '920 Patent, Truveris has suffered damage. Truveris is entitled to recover from SkySail damages adequate to compensate for such infringement, which have yet to be determined. The amount of damages will continue to accrue until SkySail is enjoined from its infringing activity.

53. The harm Truveris has suffered and will continue to suffer is irreparable and cannot be sufficiently compensated through monetary damages. This harm includes, but is not limited to, loss of business opportunities, loss of market share, price erosion, and direct and indirect competition. Accordingly, Truveris is entitled to preliminary and permanent injunctive relief. The public interest would not be disserved by injunctive relief.

54. On information and belief, SkySail's infringement of the '920 Patent is willful, justifying the assessment of treble damages pursuant to 35 U.S.C. § 284.

55. Notwithstanding the fact that multiple Truveris employees, who are now under the employ of SkySail, had direct experience using Truveris' technology and were employed at Truveris during the prosecution of the '920 Patent, SkySail has no reasonable basis for believing that its actions do not infringe the '920 Patent.

56. On information and belief, by 2019, SkySail was developing a software for service and described as a company providing similar services to Truveris:

rfox	9/23/2019 14:05	an old "friend" reached out to me last week
rfox	9/23/2019 14:05	out of the blue
rfox	9/23/2019 14:06	Brandon Kessler
rfox	10/2/2019 15:09	he started his own company, real smart dude
rfox	10/2/2019 15:10	***basically they do what we do***, but they listen to their clients, consult, and are ***working on a building a software for service***
rfox	10/2/2019 15:10	***everrything[sic] we are trying to do here***

Exhibit 14 (excerpt of Ryan Fox chat history) (emphasis added).

57. On information and belief, SkySail has no reasonable basis for believing that the ’920 Patent is invalid or otherwise unenforceable.

DAMAGES

58. As a result of SkySail’s acts of infringement, Truveris has suffered actual and consequential damages. However, Truveris does not yet know the full extent of the infringement and its extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Truveris seeks recovery of damages at least for lost profits, reasonable royalties, unjust enrichment, and/or benefits received by SkySail as a result of using misappropriated Truveris technology. Truveris further seeks any other damages to which Truveris is entitled under law or in equity.

DEMAND FOR JURY TRIAL

59. Pursuant to Federal Rule of Civil Procedure 38(b), Truveris demands a trial by jury on all issues triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Truveris respectfully requests that this Court enter judgment in its favor and against SkySail as follows:

A. A judgment that SkySail has directly and indirectly infringed the ’920 Patent;

B. A judgment that SkySail’s infringement of the ’920 Patent was willful, and that SkySail’s continued infringement of the ’920 Patent is willful;

C. An award of damages to Truveris for SkySail’s infringement, together with pre- and post-judgment interest and costs pursuant to 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement up until entry of the final judgment;

D. Treble damages pursuant to 35 U.S.C. § 284;

E. A finding that this case is "exceptional" under 35 U.S.C. § 285 and an award of attorneys' fees and costs;

F. Orders preliminarily and permanently enjoining SkySail and its officers, employees, agents, servants, and those in privity with them from continuing to infringe the '920 Patent; and

G. Any further and additional relief as this Court deems just and proper.

Dated: June 29, 2021

Respectfully submitted,

By: */s/ Kyle Deighan*

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