

1 E. SCOTT DOSEK #012114
 2 KUTAK ROCK LLP
 3 8601 North Scottsdale Road, Suite 300
 4 Scottsdale, AZ 85253-2742
 5 Telephone: 480-429-5000
 6 Facsimile: 480-429-5001
 7 Email: scott.dosek@kutakrock.com
 8 *Attorneys for Plaintiff/Counterdefendant/Counterclaimant*
 9 *Soilworks, LLC*

10 JOHN P. PASSARELLI #16018 (NE)
 11 KUTAK ROCK LLP
 12 1650 Farnam Street
 13 Omaha, NE 68102-2186
 14 (402) 346-6000
 15 Facsimile: (402) 346-1148
 16 Email: john.passarelli@kutakrock.com
 17 *Attorneys for Plaintiff/Counterdefendant/Counterclaimant Soilworks, LLC*

11 **UNITED STATES DISTRICT COURT**
 12 **IN AND FOR THE DISTRICT OF ARIZONA**

13 SOILWORKS, LLC, an Arizona corporation,
 14
 15 Plaintiff / Counterdefendant /
 16 Counterclaimant,

NO.: 2:06-CV-2141-DGC

16 v.

**PLAINTIFF'S PROPOSED
 FORMS OF VERDICT**

17 MIDWEST INDUSTRIAL SUPPLY, INC., an
 18 Ohio corporation authorized to do business in
 19 Arizona,

20 Defendant / Counterclaimant /
 21 Counterdefendant.

21 Attached are Plaintiff's proposed forms of verdict.

22 Dated this 19th day of September, 2008.

KUTAK ROCK LLP

25 By _____ /s E. Scott Dosek

26 E. Scott Dosek, Esq.
 27 8601 North Scottsdale Road, Suite 300
 28 Scottsdale, AZ 85253-2742
Attorneys for Plaintiff Soilworks, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. **Soilworks' Lanham Act False Advertising Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff/Counterdefendant Soilworks on its Lanham Act False Advertising Claim, and find Soilworks' full damages to be \$_____.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. **Soilworks' Common Law Unfair Competition Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff/Counterdefendant Soilworks on its Common Law Unfair Competition Claim, and find Soilworks' full damages to be \$_____.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. **Midwest’s Lanham Act False Advertising Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths,
do find in favor of Plaintiff/Counterdefendant Soilworks.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. **Midwest’s Lanham Act Trademark Infringement, False Designation of Origin, and Unfair Competition Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff/Counterdefendant Soilworks.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. **Midwest’s State Law Unfair Competition Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths,
do find in favor of Plaintiff/Counterdefendant Soilworks.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. **Midwest’s Unjust Enrichment Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths,
do find in favor of Plaintiff/Counterdefendant Soilworks.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. **Midwest's Patent Claim:**

We, the jury, duly empanelled and sworn in the above-entitled action, upon our oaths,
do find in favor of Plaintiff/Counterdefendant Soilworks.

Juror 1

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Foreperson

1 **COPY** of the foregoing electronically filed
2 this 19th day of September, 2008, and copies electronically
3 submitted this same date to:

3 **CRAIG A. MARVINNEY #0004951 (OH)**
4 **BROUSE MCDOWELL**
5 1001 Lakeside Avenue, Suite 1600
6 Cleveland, OH 44114
7 (216) 830-6830
8 *Attorneys for Defendant/Counterclaimant/Counterdefendant Midwest Industrial Supply,*
9 *Inc.*

7 **JOHN M. SKERIOTIS #0069263 (OH)**
8 **BROUSE MCDOWELL**
9 388 S. Main Street, Suite 500
10 Akron, OH 44311-4407
11 (330-535-5711
12 Facsimile: (330) 253-8601
13 *Attorneys for Defendant/Counterclaimant/Counterdefendant Midwest Industrial Supply,*
14 *Inc.*

11 Donald L. Myles, Jr., Esq.
12 **JONES, SKELTON & HOCHULI PLC**
13 2901 North Central Avenue
14 Suite 800
15 Phoenix, Arizona 85012
16 dmyles@jshfirm.com
17 *Attorneys for Defendant Midwest Industrial Supply, Inc.*

16 By: s/Amy Fletcher