UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS AT KANSAS CITY

In re:	)	
	)	
JOHN Q. HAMMONS FALL 2006, LLC, *et al.*,	)	**Case No. 16-21142**
	)	
Debtors.	)	**(Jointly Administered)**
	)	

DEBTORS' LIMITED INITIAL RESPONSE TO MOTION OF MISSOURI STATE UNIVERSITY AND THE MISSOURI STATE UNIVERSITY FOUNDATION TO REQUIRE POST-PETITION PERFORMANCE OF OBLIGATION AND COMPEL ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS

COME NOW the above-captioned debtors (collectively, the "Debtors") and file this limited initial response (the "Response") to the Motion of Missouri State University and the Missouri State University Foundation (collectively "MSU") to Require Post-Petition Performance of Obligation and Compel Assumption or Rejection of Executory Contracts (ECF Doc. 1546) (the "Motion"). In support of the Response, the Debtors respectfully represent as follows:

1. On December 20, 2017, after the Motion was filed, the Debtors filed Debtors' Joint Unimpairment Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Dated as of December 20, 2017 (ECF Doc. 1584) (the "Plan"), which provides for, among other things, the assumption of all executory contracts and unexpired leases unless otherwise rejected under the Plan or by separate order of the Court. *See* Plan at § 8.01(a). This includes the Charitable Gift Agreement and the License Agreement, as defined in the Motion.

2. A hearing to address various issues related to the Plan currently is scheduled for January 23, 2018.

3. The Debtors currently intend to assume the Charitable Gift Agreement or the License Agreement in connection with confirmation of the Plan. However, the Debtors file this Response

to address two issues: (1) the timing of assumption of such agreements; and (2) and the approximately $1.6 million payment due to MSU on April 1, 2018 under the Charitable Gift Agreement (the "April MSU Payment").

4. As the Court knows, the Charitable Gift Agreement and the License Agreement and the prior payments made by Debtors thereunder are included among the issues raised by the JD Holdings LLC's Motion for Appointment of Examiner (ECF Doc. 1445) (the "Examiner Motion"), which remains under advisement. The Debtors do not believe that sufficient grounds exist to accelerate the assumption of the Charitable Gift Agreement and the License Agreement, given the pending Examiner Motion and anticipated issues relating to confirmation of the Plan.

5. In addition, on December 11, 2017, the Court held a hearing (the "Dec. 11 Hearing") to consider, among other things, the Debtors' Motion for Order Authorizing the Debtors to Continue to (A) Use Cash Collateral and (B) Grant Adequate Protection (ECF Doc. 1488) (the "Cash Collateral Motion"). One of the issues raised at the Dec. 11 Hearing was the payments to MSU under the Charitable Gift Agreement and whether the Debtors would be permitted to use cash collateral to make those payments.

6. The Court authorized the use of cash collateral under the Debtors' budgets on an interim basis through April 30, 2018 and entered its Interim Order Authorizing the Debtors to Continue to (A) Use Cash Collateral and (B) Grant Adequate Protection Through April 30, 2018 Motion to Use Cash Collateral on December 20, 2017 (ECF Doc. 1587) (the "Cash Collateral Order"). While the Cash Collateral Order technically authorizes the April MSU Payment, the Debtors are unsure whether it was the Court's intent to authorize this payment prior to the continued hearing on the Cash Collateral Motion.

7. The Cash Collateral Order sets a hearing for April 16, 2018 at 1:30 p.m. to consider

the Debtors' request to authorize the use of cash collateral through December 31, 2018. Accordingly, in an abundance of caution, the Debtors hereby request a continuance of the January 22 hearing on the Motion to the omnibus docket on March 12, 2018 to obtain guidance from the Court on the April MSU Payment.

8. Debtors do not believe there will be any material prejudice to MSU from the requested continuance.

9. Debtors respectfully reserve, and do not waive, the right to file a supplemental response to the Motion asserting any other available rights, claims, or defenses.

WHEREFORE, the Debtors request that the Court enter an order continuing the hearing on the Motion to March 12, 2018 and granting such other and further relief as is just and proper.

Respectfully submitted,

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