

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re

MOUNTAIN CITY MEAT CO., INC.

Debtor.

Bankruptcy Case Nos. 11-29209-HRT,
11-32656-HRT

Jointly Administered Voluntary and Contested
Involuntary Cases under
Case No. 11-32656-HRT

Chapter 11

**FINAL AGREED ORDER AUTHORIZING (I) USE OF CASH COLLATERAL, AND (II)
PROVIDING ADEQUATE PROTECTION AND MODIFYING AUTOMATIC STAY**

THIS MATTER came before the Court for a final hearing on October 21, 2011 upon the Motion for Entry of Consensual Order (I) Authorizing Use of Cash Collateral, (II) Providing Adequate Protection, and (III) Scheduling a Final Hearing (“**Motion**”) filed by Mountain City Meat Co., Inc. (the “**Debtor**”), seeking interim and final authority and approval for:

I. The Debtor to use cash collateral (as such term is defined in the Bankruptcy Code) in which Fifth Third Bank (the “**Secured Lender**”) has an interest and the granting of adequate protection to the Secured Lender with respect to such use of its cash collateral and all use and diminution in value of the Pre-Petition Collateral (as defined below); and

II. The granting of certain replacement liens and superpriority claims to the Secured Lender payable from and having recourse to all pre-petition and post-petition property of the Debtor’s estate and all proceeds thereof.

NOW THEREFORE, based upon the Motion, offers of proof, and the pleadings and other submissions in this Case and, after due deliberation and sufficient cause appearing therefore, the Court FINDS as follows:

BACKGROUND

A. The Debtor filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (“**Bankruptcy Code**”) with this Court on September 24, 2011 (the “**Petition Date**”).

B. The Debtor has continued in the management of its business and possession of its property as Debtor-in-Possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. A creditors’ committee has not yet been appointed.

C. As of August 11, 2011, the Debtor was indebted to Secured Lender in the approximate amount of \$17,733,541.47 exclusive of contingent liabilities, swap liabilities and

fees and expenses owed pursuant to applicable loan documents (hereafter such indebtedness and all accrued but unpaid interest, fees and costs and all other obligations, contingent liabilities, and swap liabilities incurred or existing as of the Petition Date shall be referred to collectively as the “**Pre-Petition Secured Debt**”). The Pre-Petition Secured Debt was incurred pursuant to, and is evidenced by, various documents, agreements, amendments, modifications, supplements and instruments described on **Exhibit A**, attached hereto and incorporated herein (together, the “**Secured Loan Documents**”). The Secured Loan Documents are voluminous and have not been attached hereto but are available upon request to the Debtor’s counsel.

D. The Pre-Petition Secured Debt is secured by a first priority, perfected lien and continuing security interest in, among other things, all of the following property of the Debtor:

all of [the Debtor’s] assets whether now owned or hereafter acquired and wheresoever located including: (a) all Accounts; (b) all chattel paper (including all electronic and tangible chattel paper); (c) commercial tort claims set forth on Schedule 8.11 as amended from time to time; (d) all contract rights; (e) all deposit accounts and all amounts contained in the Loan Account, Remittance Account and Lock Box Account; (f) all documents including all warehouse receipts, bills of lading and other documents of title now or hereafter covering any goods; (g) all Equipment; (h) all fixtures; (i) all General Intangibles; (j) all goods; (k) all investment property; (l) all instruments including (including promissory notes); (m) all Inventory; (n) all letters of credit and letter of credit rights (whether or not the letters of credit are evidenced by writings); (o) all supporting obligations; (p) all Property and interests in personal property of [the Debtor] in the possession, custody or control of [Secured Lender], any Affiliate, or any agent (whether for safekeeping, deposit, custody, pledge, transmission, collection or otherwise) and all personal property subject to the Lien of [Secured Lender] under the Collateral Documents; (q) all keyman life insurance policies, casualty, liability, and business interruption insurance policies and coverage; (r) all accessions, accessories, additions, amendments, attachments, modifications, replacements, and substitutions to any of the foregoing; (s) all books and records, including all computer, electronic and tangible correspondence, information, and records; and (t) all insurance and other proceeds and products of any of the foregoing. Notwithstanding the foregoing, the Collateral does not include any Excluded Collateral. “Excluded Collateral” shall mean (a) any accounts used exclusively for payroll, fiduciary payments, taxes or employee wage and benefit payments to or for the benefit of [the Debtor], (b) any “intent to use” trademark applications for which a statement of use has not been filed (but only until such statement is filed and has been accepted), and (c) any of the outstanding equity interests of a foreign Subsidiary of [the Debtor] in excess of 65% of all classes of equity interests of

such foreign Subsidiary. Notwithstanding the foregoing, "Excluded Collateral" shall not include any assets that [the Debtor] has used to obtain any Advances or other financial accommodations from [Secured Lender] or its Affiliates or any proceeds, products, substitutions or replacements thereof (unless such proceeds, products, substitutions or replacements, would otherwise constitute Excluded Collateral as defined immediately above).

Loan and Security Agreement at Section 8.1. The personal property described in the above quote is hereinafter referred to as the "**Pre-Petition Collateral.**"

E. To perfect its security interests in the Pre-Petition Collateral, the Secured Lender filed a UCC-1 Financing Statement with the Colorado Secretary of State on September 28, 2009, document number 20092082091.

F. The Debtor acknowledges that, pursuant to the Secured Loan Documents, the Pre-Petition Secured Debt is secured by a valid and perfected first priority lien and security interest in the Pre-Petition Collateral.

G. Subject only to the rights of third parties to challenge the findings set out below in accordance with **Paragraph 19** herein, the Debtor acknowledges and agrees that: (a) the Secured Loan Documents are valid and binding upon the Debtor in all respects and continue in full force and effect with respect to the Pre-Petition Secured Debt and the Pre-Petition Collateral; (b) the amount of the Pre-Petition Secured Debt is fully due and payable by the Debtor to Secured Lender as of the Petition Date; (c) Secured Lender's liens and security interests upon the Pre-Petition Collateral and all proceeds thereof are valid, perfected, first priority liens and security interests and enforceable in all respects; (d) Secured Lender's pre-petition claims against the Debtor and its estate are hereby allowed and are valid and enforceable in the amount set forth above, together with all pre-petition interest, fees and expenses as provided for in the Secured Loan Documents and are not subject to avoidance or subordination under the Bankruptcy Code or otherwise; (e) the Debtor is unaware of any claims, defenses, setoffs and counterclaims of any kind including, without limitation, those which would affect the amount, validity and enforceability of the Pre-Petition Secured Debt and Secured Lender's liens and security interests upon the Pre-Petition Collateral in any way; and (f) as a result of the foregoing, on the Petition Date, Secured Lender held, and continues to hold, a first-priority perfected security interest in the Pre-Petition Collateral, subject only to senior pre-petition statutory liens, if any.

H. On August 11, 2011, Secured Lender commenced an action in the Colorado District Court, City and County of Denver (the "**State Court**"), seeking, among other things, the appointment of a receiver in order to marshal, preserve, maintain and liquidate the Pre-Petition Collateral and as deemed reasonably necessary by the receiver to complete the processing of Debtor's inventory and sell or dispose of such inventory in a reasonable manner.

I. On August 11, 2011, Secured Lender filed its Unopposed Motion for Forthwith Appointment of Receiver (the "**Receiver Motion**"). As reflected in the Receiver Motion and related pleadings, the Debtor and its Board of Directors expressly consented to the appointment of the Receiver.

J. On August 11, 2011, at approximately 5:00 p.m. the State Court entered its Stipulated Order for Forthwith Appointment of Receiver ("**Receivership Order**") thereby appointing BGA Management, LLC dba Alliance Management, Inc. (through its agent, Alex Smith) ("**Alliance**") as receiver ("**Receiver**") for the Pre-Petition Collateral and related operations and activities of the Debtor.

K. On August 12, 2011, an Involuntary Petition under Chapter 7 of the Bankruptcy Code ("**Involuntary Petition**") was entered on the Court's CM/ECF Filing System commencing Case No. 11-29209 HRT (the "**Involuntary Case**"). The Involuntary Petition contains a file stamp notation of August 11, 2011 at 4:56 p.m, approximately 4 minutes prior to the entry of the Receivership Order. Secured Lender was unaware of the Involuntary Petition until the afternoon of August 12, 2011.

L. On August 21, 2011, in the Involuntary Case, the Court entered an Interim Order Annuling Automatic Stay On A Limited Basis And Excusing Turnover Pending Further Order Of Court (Dkt. # 17, the "**First Interim Annulment Order**") thereby authorizing the Receiver to operate the Debtor's businesses and manage the property belonging to the Debtor's estate and to sell and liquidate approximately \$12,000,000 - \$14,000,000 of perishable meat inventory in various stages of processing and to collect accounts receivable. The meat inventory and accounts receivable constitute a portion of the Pre-Petition Collateral. As of the Petition Date, the Receiver has in the Receiver's bank account, the sum of approximately \$2,000,000 in proceeds from the meat inventory sales and collections of accounts receivable which were a portion of the Pre-Petition Collateral (the "**Receivership Proceeds**"). The Secured Lender has a valid perfected security interest in the Receivership Proceeds.

M. On September 11, 2011, in the Involuntary case, the Court entered the Second Interim Order Annuling Automatic Stay On A Limited Basis And Excusing Turnover Pending Further Order Of Court (Dkt. # 37, the "**Second Interim Annulment Order**"), extending the First Interim Annulment Order and granting other relief, including, without limitation, authorizing the Receiver to make certain payments to Secured Lender.

N. Pursuant to the First Interim Annulment Order and the Second Interim Annulment Order, the Receiver sold inventory, collected accounts receiveable and distributed proceeds thereof, which are proceeds of the Pre-Petition Collateral, to Secured Lender as follows: \$5,500,000 on September 9, 2011; \$2,000,000 on September 16 and \$886,500 on September 23 (collectively the "**Authorized Receiver Distributions**").

O. On or about September 28, 2011, the Court entered an Interim Order Authorizing Sale of Meat Inventory and Approving Sale Procedures (the "**Inventory Sale Order**").

P. The First Interim Annulment Order, Second Interim Annulment Order and Inventory Sale Order expressly provide:

To the extent the [Receiver/Debtor] sells inventory of the Debtor which is subject to valid and enforceable liens, security interests or reclamation rights, then such liens, security interests and/or reclamation rights shall attach to the net proceeds resulting from such sale of inventory and shall attach to the net proceeds in the same order, priority and

validity as such liens, security interests and/or reclamation rights had in the Debtor's inventory under applicable law on the date such inventory was sold (this language is hereafter referred to as the "Annulment Order Provision").

Q. The Debtor is in critical need of funds during the pendency of its Chapter 11 case. In order to provide the Debtor with funds to continue the sale of its inventory and to sell its equipment in an orderly basis to maximize their value and such other general corporate purposes as may be permitted by the Court and applicable law, the Debtor has requested that Secured Lender consent to the Debtor's limited use of Secured Lender's cash collateral, as defined in Section 363(a) of the Bankruptcy Code (the "**Cash Collateral**"), in accordance with the budget ("**Budget**") attached hereto and incorporated herein as **Exhibit B**.

R. The Debtor has an immediate need to use Cash Collateral in order to permit, among other things, the orderly continuation of the operation of its businesses, to maintain business relationships with vendors, suppliers and customers, to make payroll, to make capital expenditures and to satisfy other working capital needs. The ability of the Debtor to obtain sufficient working capital and liquidity through the use of Cash Collateral is vital to the preservation and maintenance of the going concern value of the Debtor and to a successful reorganization of the Debtor.

S. This Order has been negotiated in good faith and at arm's length between the Debtor and the Secured Lender, and all of the Debtor's obligations and indebtedness arising under, in respect of or in connection under this Order shall be deemed and are hereby deemed to have been extended by Secured Lender in good faith.

T. Without the use of Cash Collateral, the Debtor will not have the funds necessary to pay post-petition payroll, payroll taxes, suppliers, overhead and other expenses.

U. The proposed use of Cash Collateral is necessary and appropriate for the continued operation of the Debtor's businesses and management and preservation of its assets.

V. To the best information, knowledge and belief of the Debtor, the proposed use of Cash Collateral set forth in the Budget is sufficient to fully pay the obligations incurred by the Debtor on and after the Petition Date and for the time period set forth in the Budget.

W. Secured Lender is willing consent to the use of Cash Collateral described in the Motion and the Budget subject to the terms and conditions set forth herein.

X. The terms regarding the Debtor's use of Cash Collateral are fair and reasonable, reflect the Debtor's exercise of prudent business judgment consistent with its fiduciary duties and are supported by reasonably equivalent value and fair consideration.

Y. The Debtor has requested entry of this Order pursuant to Bankruptcy Rules 4001(a), (b) and (d). Absent entry of this Order, the Debtor's estate will suffer immediate and irreparable harm. The use of Cash Collateral in accordance with this Order is therefore in the best interest of the Debtor's estate.

Z. This matter constitutes a “core proceeding” as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), (G), (K), (M) and (O). The Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334.

AA. Sufficient and adequate notice of the Motion and the hearing with respect thereto appears to have been given pursuant to Bankruptcy Rules 2002, 4001(a), (b) and (d) and 9013, and L.B.R. 2081-1 and 9013-1 and no timely objections were filed.

BB. Good, adequate and sufficient cause has been shown to justify the granting of the relief requested in the Motion.

CC. On September 30, 2011, the Court entered Agreed Order Authorizing Interim Relief For (I) Use Of Cash Collateral, And (II) Providing Adequate Protection And Modifying Automatic Stay.

ORDER AND JUDGMENT

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, effective as of the date set forth below that:

1. Approval. The Motion is hereby granted and approved on a final basis.
2. Authorization to Use Cash Collateral. The Debtor is hereby authorized to use Cash Collateral for the purpose of preserving and maximizing value of the estate, up to the amounts set forth in the Budget, for the period from the Petition Date until January 31, 2012 (the “**Termination Date**”); provided, however, the Debtor may only use Cash Collateral strictly in accordance with this Order and the Budget. The Debtor shall not exceed expense amounts specified in the Budget by more than ten percent (10%) in the aggregate. The Debtor shall not be allowed to exceed the expenditures set forth in the Budget by 10% in the aggregate unless Secured Lender consents in writing, in its sole and absolute discretion. Unless Secured Lender consents in writing, the Debtor shall not pay any items that are not described in the Budget or that fall outside the categories described in the Budget, but the Debtor shall have discretion in allocating its resources among Budget line items so long as it does not exceed the aggregate permissible variance set forth above without further Court order approving the same.
3. Adequate Protection. As used herein the term “**Cash Collateral Use Amount**” includes all Cash Collateral used by the Debtor after the Petition Date. To provide Secured Lender with the adequate protection required by Sections 361(1), (2) and 363(e) of the Bankruptcy Code to the extent of (i) the Cash Collateral Use Amount, (ii) the Debtor’s collection of accounts constituting a portion of Pre-Petition Collateral, and (iii) disposition of inventory constituting Pre-Petition Collateral, the Secured Lender is hereby granted and provided with:
 - (a) Replacement Lien. As security for the Cash Collateral Use Amount, effective and perfected upon the Petition Date and without the necessity of the execution, filing and recordation by the Debtor or Secured Lender of any mortgages, deeds of trust, security agreements, control agreements, pledge agreements, financing statements or other similar documents, the Secured Lender is hereby granted and deemed to hold valid, perfected, first priority security interests in and liens upon all “**DIP Collateral**” as that term is defined and

described herein which liens shall be senior to all other liens, interests and encumbrances except for superior liens, security interests and/or reclamation rights, if any. "DIP Collateral" shall consist of all property of the Debtor, including but not limited to the Pre-Petition Collateral, and any and all post-petition property of the Debtor, including, without limitation the following: all accounts, deposit accounts, cash, chattel paper, contract rights, depository accounts, documents, equipment, tax refunds, fixtures, general intangibles (including, but not limited to, patents and trademarks), goods, inventory, investment property, instruments, intangibles, patents, real property, supporting obligations, trademarks, instruments, letter of credit rights, other rights to payment, and other personal and real property of any kind and all proceeds and products thereof. Notwithstanding anything to the contrary herein or otherwise, DIP Collateral shall not include any of the Debtor's avoidance actions arising under Sections 544, 545, 546, 547, 548, 549, 550 and 551 of the Bankruptcy Code.

(b) [intentionally omitted]

(c) Section 552. Secured Lender's liens upon and security interests in the Pre-Petition Collateral continue in the proceeds and profits of the Pre-Petition Collateral as provided in section 552(b) of the Bankruptcy Code without exception as further described in the Secured Loan Documents.

(d) Protection of Liens. The security interests and liens granted to Secured Lender hereunder shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code or (ii) any liens and security interests arising in favor of any other entity after the Petition Date including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtor.

(e) Carve-Out. Notwithstanding any provision of this Order, the First Interim Annulment Order, the Second Interim Annulment Order, the Inventory Sale Order or the Secured Loan Documents to the contrary, any liens and security interests in the Pre-Petition Collateral and the DIP Collateral, and the liens, security interests, and any claims referred to or granted herein or in the First Interim Annulment Order, the Second Interim Annulment Order, and the Inventory Sale Order shall be subject to: (i) payment of quarterly fees to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6), and (ii) payment of Alliance's fees and expenses, including its counsel's fees and expenses and the professional fees and expenses of the Debtor and any statutory committee of creditors appointed in this case incurred prior to the Termination Date in such amounts as agreed to by Secured Lender as set forth in the Budget and only as allowed by orders of this Court, (the "**Professional Fee Carve-Out**") to be shared pro-rata by Alliance, its counsel, and all professionals retained pursuant to Court order (exclusive of all pre-petition retainers which have been paid by the Debtor to the Debtor's professionals which draws or retainers will be governed by separate court order) as allowed by orders of this Court; provided, however, the fees and expenses of any professionals retained herein shall be subordinate to the liens, security interests and claims of the Secured Lender to the extent such fees and expenses, if any, are incurred, directly or indirectly, in respect of, arising from or relating to, the preparation, initiation or prosecution of any action for preferences, fraudulent

conveyances, other avoidance power claims, subordination, recharacterization or any other claims, objections or causes of action against the Secured Lender.

(f) Preservation of Credit Bid Rights. As additional adequate protection for the Debtor's use and consumption of the Pre-Petition Collateral and Cash Collateral use, the Debtor on its behalf and on behalf of the estate hereby unconditionally recognizes the right of the Secured Creditor to credit bid portions of the Pre-Petition Debt in connection with any sale of the Pre-Petition Collateral, whether such sale is by motion, pursuant to Section 363 of the Bankruptcy Code, or through a plan of reorganization or otherwise.

4. No Priming of DIP Liens. No liens shall be granted to any person or entity pursuant to Section 364(d) of the Code or otherwise which are senior or equal to the liens and security interests of Secured Lender upon the Pre-Petition Collateral or DIP Collateral. The Debtor on its own behalf and on behalf of its bankruptcy estate shall not assert and instead irrevocably waives, effective immediately, any claim pursuant to Section 506(c) of the Bankruptcy Code, provided however, that the Debtor shall retain the right, if any, to recover from the DIP Collateral proceeds the reasonable, necessary costs and expenses for goods or services requested by and delivered to the Debtor after September 24, 2011, for purposes of preserving or disposing of the DIP Collateral and such goods and services conferred benefit to the DIP Collateral, but only to the extent that such goods and services were not paid as set forth in the Budget or otherwise and that funds are not available for their payment. In addition, except as provided in Paragraph 19, Secured Lender shall not be subject to the equitable doctrine of marshaling or any similar doctrine with respect to the Pre-Petition Collateral, DIP Collateral or otherwise.

5. Adequate Protection Payments. As part of the adequate protection being provided to Secured Lender for the Debtor's use of Cash Collateral, collection of accounts receivable, sale of the inventory, and sale of equipment serving as collateral for the Debtor's obligations to the Secured Lender, the Debtor shall pay from the following amounts: (i) \$4,100,000 on or before October 28, 2011; (ii) \$500,000 on or before November 15, 2011; (iii) \$458,251 on or before December 15, 2011 and (iv) the balance of the Secured Lender's claim on or before January 31, 2012. These payments shall be subject to the provision of paragraph 19 below.

6. Termination. Secured Lender's agreement consenting to use of Cash Collateral and Debtor's authority to use Cash Collateral under this Order shall terminate upon the earlier of (i) the occurrence of any Event of Default (as hereinafter defined) or (ii) the Termination Date.

7. Annulment Order Provision. Subject to the provisions of paragraph 19 below, the Annulment Order Provision shall remain in full force and effect.

EVENTS OF DEFAULT AND REMEDIES

8. Events of Default. The Debtor shall be deemed in default under this Order upon the occurrence of: any of the following conditions (individually, an "Event of Default" and, collectively, "Events of Default") unless such Event(s) of Default is specifically waived in writing by Secured Lender which waiver may be withheld by Secured Lender in its sole discretion and shall not be implied from any other action, inaction or acquiescence by Secured

Lender: (a) the Debtor's failure to perform in any material respect any of its obligations pursuant to this Order; (b) the Debtor's failure to comply with the Budget as described and set forth in paragraph 2 hereof; (c) the appointment of a trustee pursuant to either section 1104(a)(1) or 1104(a)(2) of the Bankruptcy Code; (d) the appointment of an examiner with expanded powers; (e) the conversion or dismissal of this case; (f) the entry of an order providing for relief from the automatic stay on any item comprising the DIP Collateral valued at \$25,000 or more; (g) the Debtor's failure to make adequate protection payments as set forth in Paragraph 5 herein; or (h) the entry of any order amending, modifying, violating, contradicting, reversing, revoking, staying, rescinding or vacating this Order without the express prior written consent of Secured Lender (which may be withheld in Secured Lender's sole discretion and shall not be implied from any other action, inaction or acquiescence by Secured Lender). The Debtor acknowledges that any Event of Default shall constitute cause to grant Secured Lender relief from the automatic stay.

9. Default Remedies. Upon the occurrence of any Event of Default (unless waived by Secured Lender in writing in its sole discretion) and the giving of written notice thereof by email, overnight delivery service or telefax upon the Debtor, the Debtor's counsel, the United States Trustee and the chairperson and counsel of record for any unsecured creditors committee or if no creditors committee has been appointed, the twenty largest unsecured creditors (but without further notice, hearing or approval of the Court): (a) the Debtor's right to continue using Cash Collateral shall immediately cease; (b) the Debtor shall segregate and account for any cash in the Debtor's possession, custody or control and hold such cash for the benefit of the Secured Lender, subject to further order of this Court; and (c) all sums owed by the Debtor to Secured Lender shall become immediately due and payable. Thereafter, Secured Lender shall be entitled to request an expedited hearing regarding relief from the automatic stay within ten (10) calendar days or such next time that the Court is available, with respect to vacating of the automatic stay. The Debtor acknowledges and agrees that Secured Lender would not have agreed to permit the Debtor to use and consume Cash Collateral as provided in this Order but for the terms and provisions of this paragraph of this Order. Nothing herein shall preclude the Debtor from contesting the existence of an Event of Default or seeking other appropriate relief.

GENERAL PROVISIONS

10. Automatic Perfection. This Order shall be sufficient and conclusive evidence of the validity, perfection, and priority of the Secured Lender's liens and security interests upon the DIP Collateral; and Secured Lender shall not be obligated to obtain the execution of, file or record any documents or take any other actions to evidence and effectuate the arrangements described in this Order. Furthermore, Secured Lender is not required to create, attach, perfect, or continue Secured Lender's liens and security interests in the Pre-Petition Collateral or DIP Collateral, and Secured Lender is not required to provide any third parties with notice thereof as otherwise would be required under applicable law. Secured Lender, in its discretion, shall be entitled to file a certified copy of this Order in any filing or recording office in any jurisdiction in which Debtor conducts its businesses or possesses any personal property and, in such event, the filing or recording officer is authorized and directed to file or record such certified copy of this Order.

11. Accounting by Debtor. Within ten (10) calendar days after the entry of this Order, the Debtor shall account to Secured Lender for all cash, checks, notes, drafts, instruments, acceptances or other property representing cash or other proceeds of Pre-Petition Collateral in Debtor's possession or control (collectively, "**Cash Proceeds**"). All Cash Proceeds in the possession of Debtor or in any accounts of Debtor in financial or other institutions, including any lock box, brokerage or escrow, pledge or depository accounts, as of the Petition Date, shall be deemed proceeds of the Pre-Petition Collateral.

12. Insurance. The Debtor is authorized and directed to establish and maintain insurance coverage on the Pre-Petition Collateral and DIP Collateral for the full replacement value therefore and to cause Secured Lender and senior statutory lienholders, if any, to be named as a loss payee for the insurance policies. In addition, the Debtor shall maintain adequate casualty and general liability insurance and shall name Secured Lender as an additional insured on all insurance policies. The insurance policies and related endorsements shall be in form and substance reasonably acceptable to Secured Lender.

13. Modification of Stay. The automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit Secured Lender to: (a) collect and apply the Debtor's accounts pursuant to the terms of the Secured Loan Documents and this Order, including without limitation the application of Cash Collateral to the payment of the Pre-Petition Secured Debt; (b) perfect its liens and security interests in the DIP Collateral as set forth in this Order; and (c) conduct the transactions permitted by the Secured Loan Documents and this Order.

14. Trust Fund Taxes. The Debtor is hereby authorized to segregate all trust fund taxes from the debtor-in-possession operating accounts and to pay all post-petition federal and state payroll, withholding, sales, use, personal property, real property, and other taxes and assessments of any kind when due and owing under applicable law in accordance with the Budget. Secured Lender shall not be responsible for the payment of such taxes and assessments under any conditions.

15. Financial Reporting. Unless there is a written waiver by Secured Lender in each instance, the Debtor is authorized and directed to provide to Secured Lender on a weekly basis, with: (a) a weekly accounts receivable aging; (b) a weekly inventory aging report, and (c) a weekly borrowing base report, all of which shall be consistent with the form of report made to the Secured Lender from August 11, 2011, through the Petition Date. In addition, on a monthly basis, the Debtor shall provide Secured Lender with: (a) a monthly Budget comparison showing each line item in the Budget, the amount budgeted, the actual amount and the variance, if any; and (b) a monthly accounts payable aging. In addition, the Debtor shall provide Secured Lender with reasonable access to its books, records and physical premises, and shall timely supply Secured Lender with copies of its Schedules, Statements of Financial Affairs, and Monthly Operating Reports contemporaneously with the filing of same.

16. Reliance Upon Order. Secured Lender is consenting to the Debtor's use of Cash Collateral in reliance on this Order. The liens and security interests granted to Secured Lender hereunder and the rights of Secured Lender pursuant to this Order with respect to the DIP Collateral shall not in any way be altered, impaired, modified, or otherwise adversely affected.

17. Fees and Expenses of Lender. Without further order of Court, the Debtor is authorized to immediately pay or reimburse Secured Lender for all reasonable attorneys' fees, costs, expenses and charges incurred by Secured Lender in connection with: (a) the negotiation, preparation and implementation of this Order; or (b) the monitoring, implementation, preservation, enforcement or protection of Secured Lender's rights under the Secured Loan Documents and this Order. The Court shall retain the right to review the reasonableness of such fees and expenses in the event there is objection to them by the Debtor or the Creditor's Committee.

18. Survivability. The provisions of this Order shall inure to the benefit of the Debtor and Secured Lender and shall be binding upon the Debtor and its estate. The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered converting this case to a Chapter 7 case or any order which may be entered confirming or consummating any plan of reorganization of the Debtor. The terms and provisions of this Order as well as the priorities in payment, liens, and security interests granted pursuant to the Secured Loan Documents and this Order shall be binding upon and enforceable against any subsequently appointed Chapter 11 or Chapter 7 trustee.

19. Effect of Stipulations on Third Parties. The stipulations, admissions, agreements and assertions contained in this Order, including, without limitation, the assertions contained in paragraphs D, E, F, G, N and 5 of this Order, shall be binding upon the Debtor and all other parties in interest, including, without limitation, any Committee, unless (a) a party in interest, including without limitation the Debtor, has timely filed an adversary proceeding or contested matter (subject to the limitations contained herein) by no later than March 31, 2012 (or such later date (x) as has been agreed to, in writing, by the Secured Lender in its sole discretion or (y) ordered by the Court for cause shown by an official committee of unsecured creditors or other party in interest, including, without limitation, the Debtor), (i) for claims challenging the extent, validity, enforceability, perfection or priority of the Pre-Petition Secured Debt or Secured Lender's liens on the Pre-Petition Collateral, (ii) asserting the equitable doctrine of marshalling or any similar claims or (iii) otherwise asserting or prosecuting any action for preferences, fraudulent conveyances, other avoidance power claims, subordination or any other claims, counterclaims or causes of action, objections, contests or defenses against the Secured Lender or any of the Secured Lender or its affiliates, representatives, attorneys or advisors in connection with matters related to the Secured Loan Documents, the Pre-Petition Secured Debt, the Pre-Petition Collateral; and (b) there is a final order sustaining any such challenge or claim in any such timely filed adversary proceeding or contested matter. Nothing contained herein is intended to assign any claim of the Debtor to any third party and/or to bestow any standing with respect thereto. If no such adversary proceeding or contested matter is timely filed as required by this paragraph, then: (w) the Pre-Petition Secured Debt and all related obligations of the Debtor (the "**Pre-Petition Obligations**") shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, pursuant to the Bankruptcy Code or otherwise for all purposes in this Chapter 11 case and any subsequent Chapter 7 case, (x) the Secured Lender's liens on the Pre-Petition Collateral and all proceeds thereof shall be deemed to have been, as of the Petition Date, legal, valid, binding and perfected first priority liens and security interests not subject to recharacterization, subordination, avoidance, reclamation claims, the equitable doctrine of marshalling or similar claims (y) the Pre-Petition Obligations and the Secured Lender's liens on the Pre-Petition Collateral and Secured Lender shall not be subject to

any other or further challenge by any party in interest, including without limitation the Debtor, seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor thereto (including, without limitation, any Chapter 7 or Chapter 11 trustee appointed or elected for the Debtor), and (z) the Authorized Receiver Distributions made to Secured Lender pursuant to the First Interim Annulment Order, the Second Interim Annulment Order as set forth in Paragraph N and the payments to be made pursuant to Paragraph 5 of this Order shall be authorized, valid and unavoidable. If any such adversary proceeding or contested matter is timely filed, the representations, acknowledgment, payments and agreements contained in paragraphs D, E, F, G, N and 5 of this Order and the First Interim Annulment Order and Second Interim Annulment Order shall nonetheless remain binding and preclusive (as provided in this paragraph) on any official committee and on any other person or entity, except to the extent that such representations, acknowledgments, payments or agreements are expressly challenged and thereby modified as a result of a final order not subject to further appeal in such adversary proceeding or contested matter.

20. Secured Loan Documents. The Debtor will continue to be bound by the terms, obligations and conditions set forth in the Secured Loan Documents except to the extent especially provided otherwise in this Order.

21. Partial Waiver of Prepayment Fee. Subject to: (i) the entry of this Order and (ii) the timely and complete payment of the adequate protection payments set forth in paragraph 5(i), (ii) and (iii), the Secured Lender has agreed that it shall not seek allowance of a prepayment fee in the amount of \$500,000 as set forth under the Loan and Security Agreement (the "**Prepayment Fee**") as part of its claims against the estate; provided however, that should a claim, adversary proceeding or other action be filed against the Secured Lender in accordance with Paragraph 19 above or otherwise ("**Claim Challenge**"), the Secured Lender expressly retains its rights to assert the Prepayment Fee as a defense or setoff (whether or not such defense or setoff is properly pled or asserted as a counterclaim) in connection with or in response to any Claim Challenge.

22. Order Controls. To the extent the terms and conditions of the Secured Loan Documents are in conflict with the terms and conditions of this Order, the terms and conditions of this Order shall control.

23. Notice. Any notices required or allowed under this Order shall be given by regular first class mail, hand delivery, or fax as follows:

If to the Debtor:

Alex G. Smith
Alliance Management
Market Square Center, Ste. 400
1400 16th St.
Denver, CO 80202
Telephone: 720-932-8171
Facsimile: 720-932-8107
asmith@alliancemgmt.com

with a copy to:

Michael J. Pankow
Daniel J. Garfield
Brownstein Hyatt Farber Schreck, LLP
410 17th Street, Suite 2200
Denver, CO 80202
Telephone: (303) 223-1100
Facsimile: (303) 223-1111
mpankow@bhfs.com
dgarfield@bhfs.com

If to Secured Lender:

Donald Mitchell
Fifth Third Bank
38 Fountain Square Plaza
Cincinnati, OH 45263
Telephone: (513) 534-8590
E-mail: don.mitchell@53.com

with a copy to:

James T. Markus
John F. Young, Esq.
Markus Williams Young & Zimmermann LLC
1700 Lincoln Street, Suite 4000
Denver, CO 80203
Telephone: (303) 830-0800
Facsimile: (303) 830-0809
E-mail: jmarkus@markuswilliams.com
jyoung@markuswilliams.com

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: /s/ *Ethan Birnberg*

John C. Smiley
Ethan Birnberg
Lindquist & Vennum, P.L.L.P
600 17th Street, Suite 1800
Denver, CO 80202
(303) 573-5900

EXHIBIT A
LIST OF SECURED LOAN DOCUMENTS

1. Loan and Security Agreement dated November 6, 2009
2. First Amendment to Loan and Security Agreement and Related Documents and Waiver dated March 7, 2011
3. First Amended and Restated Revolving Note
4. First Amended and Restated Term Note
5. Cap Ex Note
6. Master Treasury Management Agreement
7. Financing Statement and Fixture Filings
 - a. Colorado Secretary of State
 - b. City and County of Denver, Colorado
8. Bailee Waivers
 - a. Americold Storage, 4475 East 50th Avenue, Denver, Colorado 80216
 - b. High Country, 5140 Race Court, Unit #8, Denver, Colorado 80216
 - c. Magellan Freight Line, 6211 East 42nd Avenue, Denver, Colorado 80216 and 415 Yuma Street, Denver, Colorado 80204
 - d. US Cold Storage, 125 Threet Industrial Road, Smyrna, Tennessee 37167
 - e. Intersate Warehousing, 2125 Joe B. Jackson Parkway, Murfreesboro, Tennessee 37127; 10251 E. 51st Avenue, Denver, CO 80239; and 2500 McDonough Street, Joliet, IL 60436
9. Landlord's Waiver and Termination (5905 East 42nd Avenue, Denver, Colorado 80216)
10. Landlord's Waiver (4260 Kearney Street, Denver, Colorado 80216)
11. Landlord's Waiver and Termination (2960 Armory Drive, Nashville, Tennessee 37204)
12. Environmental Indemnity Agreement
13. Notice of Event of Default dated October 27, 2010
14. Letter Agreement dated January 28, 2011
15. Letter Agreement dated November 10, 2011 and related Series A Note
16. Letter Agreement dated December 2, 2010 and related Amended and Restated Series A Note
17. Forebearance under Loan and Security Agreement and January 31, 2011 and February 18, 2011 amendments
18. Letter Agreement dated January 7, 2011 and January 31, 2011 and February 18, 2011 amendments
19. Cash Collateral Agreement and January 31, 2011 and February 18, 2011 amendments

**EXHIBIT B
BUDGET**

[See attached budget]

Case No. 11-29209-HRT, 11-32656-HRT

1 Mountain City Meat Co., Inc.
 2 Cash Flow Statement- 3 Months
 6 Revised Cash Collateral Budget

7 November 2011 to January 2012

	Projected		Projected-New CC Budget		Projected New CC	
	WE 10/23-WE 10/30	Nov-11	Dec-11	Jan-12	3 Month Total	
9 <u>Operating Cash Flow</u>						
10 Sources of Cash						
11 +Cash Collections	476,362	899,961	0	0	899,961	
12 +Other Cash Collections (Utility Deposits)	0	0	0	132,191	132,191	
13 Total Sources of Cash	476,362	899,961	0	132,191	1,032,152	
14 Uses of Cash						
15 <u>Disbursements</u>						
16 Payroll, Payroll Taxes	212,639	34,014	10,000	10,000	54,014	
17 Employee Insurance & Benefits	15,247	3,000	1,000	1,000	5,000	
18 Rent	140,000	140,000	140,000	0	280,000	
19 Insurance	21,000	10,000	10,000	10,000	30,000	
20 Utilities & Telephone(Just Utilities)	210,135	173,000	25,000	25,000	223,000	
21 Equipment & Vehicle Leases	4,000	2,000	1,000	1,000	4,000	
22 Freight Expenses	10,000	20,000			20,000	
23 US Trustee Fees	0	6,500		5,000	11,500	
24 Professional Fees	300,000	75,000	75,000	75,000	225,000	
25 Taxes	0	0			0	
26 Waste removal	1,000	1,000			1,000	
27 Storage Expenses	5,200	12,900			12,900	
28 Security Expenses	5,700	1,500	1,500	1,500	4,500	
29 Other G&A, Sls Tx,Bank Fees	0	0	0	0	0	
30 Interest	0	15,000	2,917	1,458	19,375	
31 Misc	40,000	20,000	20,000	20,000	60,000	
32 Total Disbursements (excl. float)	964,921	507,414	292,917	149,958	950,289	
33 Book-to-bank Cash Adjustment (float) - Cleared	0	0	0	0	0	
34 Total Operating Expenditures:	964,921	507,414	292,917	149,958	950,289	
35 Net Operating Cash Flow Before LOC	(488,559)	392,547	(292,917)	(17,767)	81,863	
36 Non-Operating Cash Flow						
37 Net Paydown to Fifth Third Bank	(4,100,000)	(500,000)	(458,251)	(285,000)	(1,243,251)	
38 Net Paydown to Other Secured Lenders		(88,532)			(88,532)	
39 Net (Purchase)/Sale of Other Assets	5,652,000	0	0	0	5,652,000	
40 (2) Net Investing Cash Flow	1,552,000	(588,532)	(458,251)	(285,000)	(1,331,783)	
41 (4) Net Cash Flow (Sum 1-3)	1,063,441	(195,985)	(751,167)	(302,767)	(1,249,920)	
42 (5) Beginning Cash	1,397,158	2,460,599	2,264,613	1,513,446	2,460,599	
43 (6) Ending Cash (4+5)	2,460,599	2,264,613	1,513,446	1,210,679	1,210,679	