BROKER-CARRIER TRANSPORTATION SERVICES AGREEMENT

THIS AGREEMENT (“**Agreement”**) is made and entered into effective as of the date the last party executes this Agreement (“**Effective Date**”), by and between Jefferson Hauling and Distributing Company d/b/a Capital Hauling, a Missouri corporation, with its principal place of business at 120 E. MO 94, Jefferson City, Missouri 65101 (“**Capital Hauling**”) and _______[name of Carrier]______________________________, a [type of entity], with offices located at __[Address of carrier’s principal office]___________________________________ (“**Carrier**”).

WITNESSETH:

WHEREAS, Carrier is an authorized motor carrier providing transportation and related services in interstate and foreign commerce from the Federal Motor Carrier Safety Administration (“**FMCSA**”) and/or is duly registered by applicable State regulatory agencies to provide intrastate motor carrier services under USDOT Number _______________.

WHEREAS, Capital Hauling is authorized by the FMCSA as a property broker pursuant to License No. MC-182407 to arrange for the interstate transportation of property by motor carrier, and further engages in the business of performing intrastate brokerage services for the transportation of property.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the mutual covenants and promises in this Agreement, the parties agree as follows:

1. **Scope of Services and Term**.

1.1 Scope. This Agreement applies to the performance of transportation and related services by Carrier for Capital Hauling and its shipper customers of such property tendered to Carrier as Capital Hauling may from time to time require. Carrier acknowledges that Capital Hauling has been delegated working control over each shipment of property as an intermediary of the shippers for the purpose of arranging for the transportation services of Carrier. Capital Hauling is acting for its shipper customers to select motor carriers and receive, process, and pay the freight bills submitted for the transportation and related services rendered to the shippers pursuant to this Agreement. The transportation arrangements for each shipment, such as scheduling, routing, pick up, transport and delivery, shall be made exclusively between Carrier and Capital Hauling for Capital Hauling’s shipper customers.

1.2 Brokerage. Carrier agrees to transport shipments tendered in accordance with the pickup and delivery schedules as communicated by Capital Hauling and in accordance with the terms and conditions of this Agreement. Carrier further agrees it is legally bound to deliver any shipments safely. Carrier agrees it will not double broker, re-broker, assign or interline any shipment tendered by Capital Hauling to another carrier. Carrier acknowledges the foregoing prohibition is necessary to ensure Capital Hauling of the authority, safety and insured status of all motor carriers transporting shipments brokered by Capital Hauling. If Carrier breaches this prohibition, Carrier acknowledges and agrees Capital Hauling shall be relieved of all responsibility for compensating Carrier for the shipment and Carrier further agrees to reimburse and indemnify Capital Hauling for all costs, liabilities, damages and expenses incurred by Capital Hauling as a result of Carrier’s breach of this prohibition.

1.3 Hazardous Materials.

If Capital Hauling tenders a shipment of property which is classified by the United States Department of Transportation, and analogous regulatory agencies in other countries in which Carrier’s transportation services will be performed, as a “hazardous material,” “hazardous substance” or “dangerous good” under applicable law (collectively, “**Hazardous Materials**”) and Carrier is not qualified under applicable law to transport such shipments, Carrier shall notify Capital

Hauling and decline the shipment. If Carrier accepts a shipment containing any Hazardous Materials, Carrier shall fully comply with all applicable federal, State and local laws and regulations including, but not limited to, the licensing and training of qualified drivers, the loading, unloading, storage and transportation requirements set forth in the applicable MSDS or other instructions from the shipper and maintaining a documented emergency response plan addressing Hazardous Materials.

1.4 Delays. In the event of any delay in transit or accident which may interfere with the timely delivery of any shipment, Carrier shall promptly notify Capital Hauling's designated Load Dispatcher of the occurrence of such delay. Carrier agrees to follow Capital Hauling's reasonable instructions concerning the disposition of any delayed shipment. If a shipment is refused by the consignee or Carrier is unable to complete delivery for any reason, Carrier shall provide Capital Hauling's designated Load Dispatcher with written notice stating the date and time storage charges will begin to accrue, if any.

1.5 Term. This Agreement shall remain effect for a period of one year from the Effective Date, and shall automatically renew for additional one year periods, subject to the right of either party to give written notice of non-renewal to the other party at least 30 days prior to the expiration of the term Nothing in this Section shall be construed as limiting, abridging or superseding any right of cancellation or termination as may be specified in any other provision of this Agreement.

1.6 Non-Exclusive Dealing. This Agreement does not grant Carrier an exclusive right to perform the transportation and related services for Capital Hauling. Subject to Carrier's compliance with Section 9.1 below, Carrier shall be free to accept freight for transportation from other shippers and Capital Hauling shall be free to tender freight for transportation to other carriers. Capital Hauling does not guarantee any specific number of shipments or amount of revenue to Carrier. Capital Hauling's anticipated requirements are projections only and not firm commitments.

1.7 Survival of Certain Provisions. Any duty or obligation which has been incurred under this Agreement and which has not been fully observed, performed or discharged, and any right which has been created under this Agreement and which has not been fully enjoyed, enforced or satisfied, shall survive notwithstanding the termination, expiration or cancellation of this Agreement, until such duty or obligation has been fully observed, performed or discharged and such right has been fully enjoyed, enforced, or satisfied.

2. **Rates and Charges.**

2.1 Spot Quote Rates. All rates and charges payable to Carrier shall be established on a per shipment basis by the mutual agreement of Carrier and Capital Hauling. Capital Hauling shall pay Carrier at the rate agreed to orally at or prior to shipment pick up ("**Spot Quote Rate**"). Promptly after Capital Hauling and Carrier agree upon a Spot Quote Rate, Capital Hauling will provide Carrier with the pickup and delivery information, a trip ticket number, as well as any instructions from the shipper customer, and the Spot Quote Rate agreed to for the shipment. A Spot Quote Rate may be confirmed orally, via text message or other means. By performing the pickup of the shipment, Carrier shall be deemed to have agreed to the Spot Quote Rate. Each Spot Quote Rate shall be incorporated into and made a part of this Agreement.

2.2 No Tariffs. The parties expressly agree that no motor carrier tariff or service guide of Carrier, or any reissue, supplement, or incorporation by reference of any other tariff, is or will be applicable to any of the services performed by Carrier under this Agreement.

3. **Billing and Payment.**

3.1 Tickets. The shipper will generate a ticket for each load setting forth the date, time, description of material and other pertinent shipment information, which such ticket shall be construed as the bill of lading, if a bill of lading is not otherwise provided by the shipper ("**Ticket**"). Any directions, shipment instructions or loading/unloading information provided by Capital Hauling or its customer or the shipper either orally or in writing are for informational purposes only. Neither Capital Hauling nor its customer nor the shipper controls Carrier's performance of the transportation services. Carrier is solely responsible for complying with all applicable laws, commodity restrictions and to determine routes of travel with respect to performing services under a Ticket.

3.2 Payment. Capital Hauling will remit payment to Carrier based on the Ticket within 30 days following the date of the Ticket. Capital Hauling has the exclusive right to conduct all invoicing and receiving payment from its shipper customer. Carrier acknowledges and agrees it is prohibited from invoicing the shipper, receiver, consignor, or consignee for transportation charges for any Ticket.

3.3 Objection. If Carrier accepts such payment without providing written notice of objection to Capital Hauling within 15 days of receipt of payment, then Carrier shall have waived its rights: (i) to later assert the applicable Spot Quote Rate should have been higher than the charge originally paid; and (ii) to attempt to collect any undercharges. If Carrier receives any payment from Capital Hauling's customer, Carrier shall immediately forward such payment to Capital Hauling. Payment of the transportation charges by Capital Hauling shall relieve the shipper, receiver, consignor, or consignee of any liability to the Carrier for non-payment of any transportation charges.

4. **Relationship of the Parties.** It is agreed and understood that Carrier is entering into this Agreement as an independent contractor. Neither Carrier nor any personnel engaged by Carrier to perform work under this Agreement shall be considered an employee or agent of Capital Hauling at any time or for any purpose whatsoever. Carrier acknowledges that the performance of services contemplated by this Agreement creates no relationship of joint venture, partnership, limited partnership, agency, or employer-employee between Carrier and Capital Hauling, and Carrier acknowledges that no other facts or relations exist that would create any such relationship with Capital Hauling. Carrier acknowledges no right of authority to assume or to create any obligation or responsibility on behalf of Capital Hauling or its customers, except as provided by a written agreement acknowledged by Capital Hauling.

5. **Carrier's Services, Equipment and Drivers.**

5.1 Reasonable Dispatch. Carrier shall promptly and efficiently receive, transport, and deliver the commodities from and to the points identified by Capital Hauling with reasonable dispatch and without delay and shall safely deliver the commodities in good order and condition to the consignee at destination. Carrier agrees to follow applicable instructions and policies for safe operations while at a shipper customer facility.

5.2 Carrier Authority. Carrier shall obtain and maintain in force at its sole expense any and all licenses, permits or registrations of any sort necessary for the performance of services pursuant to this Agreement. Carrier represents and warrants all such authorizations are and will remain in full force and effect throughout the term of this Agreement. Carrier will notify Capital Hauling immediately if its operating authority or registration is revoked, suspended, or rendered inactive for any reason. Carrier further represents and warrants that it has a "Satisfactory/Continue to Operate" or "Unrated" safety fitness rating issued by the FMCSA and will notify Capital Hauling in writing immediately if its safety rating is changed.

5.3 Equipment. Carrier shall provide at its sole expense all necessary facilities and motor vehicle equipment for use in performing transportation and related services to Capital Hauling's shipper customers. Carrier shall maintain such equipment in good and efficient condition and as required by applicable law. Carrier shall provide trailer equipment suitable for the transportation of the shipper customer's commodities with drivers properly trained to handle the commodities. Carrier shall make available a sufficient and adequate amount of equipment to furnish prompt transportation services, including the type and size of trailer equipment necessary to transport liquid commodities.

5.4 Drivers. Carrier shall engage in the operation of equipment under this Agreement personnel and drivers fully qualified, properly licensed, and fully informed concerning their responsibilities for the protection and care of the involved property.

5.5 Compliance with Laws. Carrier agrees to comply with applicable federal, State, and local laws, regulations and ordinances relating to the services to be performed pursuant to this Agreement. Carrier shall pay any fine or fee imposed or assessed against the Carrier's equipment, the commodities, or the Carrier by any governmental authority as a result of any action by Carrier in the performance of services under this Agreement.

6. **Cargo Liability Standards.**

6.1 Cargo Liability. In accordance with 49 U.S.C. § 14706 (Carmack liability), Carrier assumes liability for loss, theft, delay, damage, or destruction of any and all property transported pursuant to this Agreement while said property is under Carrier's care, custody or control. Carrier's liability for loss or damage to any commodities shall begin at the time the property is received by Carrier and a receipt, Ticket or bill of lading, as applicable, is issued at the point of origin, and shall continue until the property is delivered to the designated consignee and the receipt, Ticket or bill of lading, as applicable, is signed by the consignee at the point of destination. Carrier shall pay the shipper customer for the Actual Value of any commodities which are lost, damaged, or destroyed, without abatement, deduction, set-off, recoupment or counterclaim. "**Actual Value**" means the invoice price of the lost or damaged commodities, including the associated transportation charges relating to the shipment.

6.2 Cargo Claim Process. Any claim for cargo loss or damage may be filed by Capital Hauling on behalf of its shipper customer or by the shipper directly with Carrier. All claims for loss or damage must be filed within nine months of the shipper's discovery of the loss or damage. All claims for cargo loss or damage arising under this Agreement shall be processed by Carrier in accordance with the regulations set forth in 49 C.F.R. Part 370. All cargo claims shall be administered by Carrier with no recourse to Capital Hauling.

6.3 Refused Delivery. When a shipment is refused by the consignee, or Carrier is unable to complete delivery in a timely fashion for any reason, Carrier shall provide Capital Hauling with notice of delay in accordance with Section 1.4 above. Carrier shall be liable for all costs incurred for a delayed Shipment caused by the act or default of the Carrier. Carrier's liability as a warehouseman shall not begin until Carrier has placed the property in a public warehouse or other storage facility under reasonable security.

6.4 No Released Value. Carrier's liability may not be limited by any provision purporting to limit Carrier's liability, including without limitation, any Ticket, bill of lading or common carrier tariff, schedule, service guide or similar document issued by or on behalf of Carrier. If any terms or conditions contained on any applicable Ticket, bill of lading, tariff, schedule, service guide or similar document are in conflict or inconsistent with the terms of this Agreement, then the terms, conditions and provisions of this Agreement shall govern.

7. **Insurance.**

7.1 Insurance. Carrier shall provide and maintain in force during the term of this Agreement, at the sole expense of Carrier, the following minimum insurance:

(a) Workers' Compensation insurance as required by all applicable workers' compensation laws, at limits of the State in which the work is to be performed or containing an all-State endorsement and employer's liability insurance in an amount not less than $1,000,000;

(b) Automobile liability insurance (including owned, non-owned and hired vehicles) ("**Auto**") in the minimum amount of $1,000,000 combined single limit for personal injury, including death, and property damage. Carrier shall have automobile liability insurance in the minimum amount of $5,000,000 combined single limit if transporting Hazardous Materials, including property damage and environmental damages due to any release or discharge of Hazardous Materials;

(c) All risk cargo insurance in the minimum amount of $100,000 per occurrence, or such higher limit as requested by Capital Hauling on a per-shipment basis as necessary to cover the full value of the cargo being shipped; and

(d) Broad form commercial general liability insurance, including contractual liability coverage, ("**CGL**") in the minimum amount of $1,000,000 per occurrence.

7.2 Certificate of Insurance. Carrier shall furnish an insurance certificate addressed to Capital Hauling showing Carrier's compliance with the requirements of this paragraph. and naming Capital Hauling and its shipper customers as an additional insured with respect to the Auto and CGL policies. Amounts required under Section 7.1 above may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance required by one or more excess or umbrella liability policy(ies). Additionally, the Auto, CGL and Workers' Compensation policies shall include a waiver of subrogation in favor of Capital Hauling. Said certificate(s) shall provide that such insurance will not be canceled or changed, unless at least 30 days' notice has been first given to Capital Hauling of such change. Capital Hauling does not in any way represent that the coverage or limits of insurance specified in this paragraph are sufficient or adequate to protect Carrier's interest or liabilities. The required insurance policies and associated certificate of insurance do not limit Carrier's liabilities or obligations under this Agreement.

8. **Indemnification.** Except to the extent caused by the negligence or intentional acts or omissions of Capital Hauling or its shipper customer, Carrier shall indemnify, defend and hold harmless Capital Hauling and its shipper customer from and against any and all loss, damage, cost, expense, liability or claim including reasonable attorneys' fees and other costs of defense, caused by, arising from or incident to the services provided by Carrier pursuant to this Agreement, including: (a) personal injury or death of persons (including without limitation, employees of Capital Hauling and its customers); (b) damage, destruction or conversion of the property of any person, theft, defalcation or embezzlement by Carrier or its employees; (c) Carrier's failure to comply with any State and federal laws, rules or regulations; or (d) any claim arising out of or relating to Carrier's failure to comply with any term or condition of this Agreement. The provisions of this Section shall survive the termination of this Agreement.

9. **Non-Solicitation/Confidentiality.**

9.1 Non-Solicitation. Carrier understands and agrees that Capital Hauling has put forth substantial effort and investment to develop its accounts and to secure the goodwill of its customers. As part of the consideration of this Agreement, Carrier agrees that during the term of this Agreement, and for a period of one year after the termination of this Agreement for any reason, with or without cause, Carrier shall not directly or indirectly, solicit, accept orders or requests for services or otherwise perform any transportation or brokerage services for any Customer of Capital Hauling, without Capital Hauling's prior written consent. For purposes of this provision, "**Customer**" means any shipper, consignor, consignee, receiver, or customer of Capital Hauling for whom Carrier has performed motor carrier transportation services for as part of, or as a result of, this Agreement. Unless Carrier is given prior written authorization from Capital Hauling, Carrier agrees to pay Capital Hauling a commission of thirty-five percent (35%) of all revenues billed per shipment moved in violation of any of the foregoing, and such commission shall be due and payable within ten days after Carrier's billing date to the Customer.

9.2 Confidentiality. Carrier agrees it will treat all matters relating to the business of Capital Hauling, or its customers, as confidential business information entrusted to Carrier solely for its use in performing services under this Agreement. Such information will not be divulged in any way to any person except as is necessary for Carrier to carry out its obligations under this Agreement. The provisions of this Section shall survive termination of this Agreement.

10. **Waiver.** Capital Hauling and Carrier expressly waive any and all such rights and remedies under the ICC Termination Act of 1995, in accordance with 49 U.S.C. § 14101(b), for the transportation covered under this Agreement, except to the extent otherwise stated herein. Nothing in this Agreement shall be construed as waiving any provision of federal law governing Carrier's compliance with all statutory registrations, insurance, and/or safety requirements.

11. **Termination.**

11.1 Default and Cure. Either party may terminate this Agreement upon ten days' prior written notice in the event of failure by a party to cure, to the reasonable satisfaction of the non-defaulting party, any of the following defaults within said notice period. Defaults giving rise to a party's right to terminate under this Section are as follows:

(a) A party's failure to perform or comply with any term or condition of this Agreement;

(b) A party admitting in writing to any party and in any context the inability to pay its debts generally as they become due; or

(c) A party becoming insolvent or consenting to the appointment of a receiver or other similar official of itself or any substantial part of its property.

11.2 Immediate. Immediate and automatic termination will occur upon written notice if either of the following takes place:

(a) A party filing a petition in bankruptcy or a petition to take advantage of any insolvency act; or

(b) A party making an assignment for the benefit of its creditors or a petition in bankruptcy being filed against the party or it being adjudicated bankrupt in a court of competent jurisdiction.

12. **Attorneys' Fees.** If either party institutes any action or proceeding based upon or arising out of this Agreement, the prevailing party in any such action or proceeding, whether or not such proceeding proceeds to final judgment or determination, shall be entitled to receive from the non-prevailing party as a cost of suit, and not as damages, all costs and expenses of prosecuting or defending the action or proceeding, including reasonable attorneys' fees and expenses.

13. **No Liens.** Carrier shall not have any right, title, interest, ownership or claim in the property tendered for transportation under this Agreement. Carrier shall not in any way encumber or otherwise impair a shipper customer's right to possession of such property, including but not limited to, asserting any lien, or withholding any goods on account of any dispute arising under this Agreement. Carrier shall not possess and expressly waives, disclaims and releases any lien, whether statutory or otherwise, security interest or encumbrance of any kind or nature whatsoever with respect to any property, or any portion thereof, transported under this Agreement.

14. **Force Majeure.** Neither party will be liable for the failure to tender or timely transport freight under this Agreement if such failure, delay, or other omission is caused by strikes, acts of God, war, civil disorder, or other unforeseen circumstances beyond the party's reasonable control.

15. **Third-Party Beneficiary.** This Agreement shall not provide any person not a party, assignee, or successor to this Agreement, with any remedy, claim, liability, reimbursement, cause of action or other right in excess of those existing without reference to this Agreement. Notwithstanding the foregoing, the parties agree that Capital Hauling's shipper customers are intended third-party beneficiaries of this Agreement entitled to the benefits of Carrier's obligations of performance.

16. **Assignment.** Carrier shall not sell, assign, or transfer, in whole or in part, any right, interest, duty, responsibility, agreement or obligation contained in this Agreement, without the prior written consent of Capital Hauling, which consent will not be unreasonably withheld, delayed, or conditioned. Any such purported assignment or transfer by Carrier without Capital Hauling's prior written consent, shall be null and void and of no force or effect, and shall vest no rights or interests in the purported assignee or transferee. Subject to the provisions of this Section, this Agreement shall inure to the benefit of, and be binding upon, the lawful or permitted successors and assigns of Carrier.

17. **Notice.** Any notice given under this Agreement shall be in writing and shall be delivered in person or sent by certified or registered mail, return receipt requested, and postage prepaid, to the other party at:

To Capital Hauling:	To Carrier:
Capital Hauling	______________________________
Attn: Legal Department	Attn:__________________________
221 Bolivar Street, Suite 400	______________________________
Jefferson City, MO 65101	______________________________

Such notice is effective upon receipt by the addressee. Either party may change such address by written notice to the other party.

18. **Amendment, Waiver and Severability.**

18.1 Amendment and Waiver. This Agreement may not be amended or modified except by written agreement between Carrier and Shipper signed by a duly authorized representative of both parties. No provision of this Agreement shall be waived by either party except by a writing signed by a duly authorized representative of the party to be charged. Either party's failure, in any instance, to enforce or insist upon the other party's performance or compliance of any of the terms, covenants or conditions of this Agreement or to exercise any right or privilege herein, or the written waiver by any breach of any of the terms, covenants or conditions of this Agreement, shall not be construed as thereafter waiving any such term, covenant, condition, right or privilege, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

18.2 Severability. This Agreement shall at all times be in compliance with federal and State laws, rules and regulations applicable to the provision of motor carrier transportation services. Both parties shall at all times comply with all laws, ordinances and regulations of federal, State and local government relating to this Agreement as they become effective. In the event any term, condition or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be declared to be invalid, unenforceable or unconstitutional, such invalidity, unenforceability or unconstitutionality shall not affect the remaining provisions of this Agreement, and this Agreement and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective.

19. **Governing Law and Venue.**

19.1 Governing Law. This Agreement shall be governed by the laws of the State of Missouri, without regard to the choice of law provisions, unless superseded specifically by applicable federal laws and regulations.

19.2 Venue. The parties submit to the exclusive jurisdiction of the courts in and of the State of Missouri, County of Cole, or the U.S. District Court for the Western District of Missouri, Jefferson City Division and to the respective courts to which an appeal of the decisions of any such court may be taken. **EACH PARTY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO A JURY TRIAL IN ANY PROCEEDING ARISING UNDER OR RELATING TO THIS AGREEMENT.**

20. **Entire Agreement.**

20.1 Entire Agreement. This Agreement, together with any attached Exhibits, states the entire agreement between the parties with respect to the subject matter. No agreements, representations, or warranties other than those specifically set forth herein shall be binding on any of the parties unless set forth in writing and signed by both parties. No agent or employee of Capital Hauling shall have authority to orally waive any of the provisions of this Agreement. **This Agreement supersedes any and all previous agreements entered into between the Carrier and/or its affiliates and Capital Hauling, including but not limited to, any Master Transportation Services Agreement, such prior agreements being terminated by execution of this Agreement.**

20.2 Bill of Lading. Each shipment shall be deemed to have been tendered on a Ticket or a uniform straight bill of lading, in the form used by Capital Hauling or its shipper customer. The terms, conditions, and provisions of such Ticket or bill of lading shall be subject and subordinate to the terms, provisions, and conditions of this Agreement. In the event of a conflict between the terms, conditions, and provisions of such Ticket or bill of lading and this Agreement, the terms, conditions, and provisions of this Agreement shall govern. In addition, any provisions in any Ticket or bill of lading purporting to make the underlying transportation subject to the terms of any of Carrier's tariffs/schedules/service guides or other similar documents are specifically made inapplicable. Carrier agrees that a shipper's insertion of Capital Hauling's name as the carrier on a Ticket or bill of lading shall be for the shipper's convenience only and shall not change Capital Hauling's status as a property broker or Carrier's status as a motor carrier.

21. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one single agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date set forth above.

JEFFERSON HAULING AND DISTRIBUTING COMPANY d/b/a CAPITAL HAULING	**CARRIER: [Name of Carrier]**
By: ______________________	By______________________
Name: ______________________	Name: ______________________
Title: ______________________	Title:______________________
Date: ______________________	Date: ______________________

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