

**DRAWN BY: JoAnne L. Carlyle, City Attorney**  
**RETURN TO: City Attorney, P.O. Box 230, High Point, NC 27261**

**NORTH CAROLINA**

**GUILFORD COUNTY**

**RIGHT OF WAY  
ENCROACHMENT AGREEMENT**

THIS AGREEMENT (Agreement) made this 9<sup>th</sup> day of June, 2016, between **THE CITY OF HIGH POINT**, a municipal corporation existing under the laws of the State of North Carolina (the "City") and **Yihua Timber Industry (USA), INC.**, hereinafter known as the "Company"

**WITNESSETH**

**WHEREAS**, the City owns the public right of way that includes East Commerce Avenue;  
and

**WHEREAS**, the Company desires, for its interest and convenience, to construct, maintain and put in place a building in said public right-of-way as described in Exhibit A ("Building") in said public right of way; and

**WHEREAS**, the City under the terms and conditions herein set forth, is willing to allow the above described improvements to be made, and allow the Company to encroach upon the above-referenced City-owned right of way; and

**WHEREAS**, the Company has paid to the City the sum of \$150.00, which partially defrays the administrative costs of the City.

**NOW, THEREFORE**, in consideration of the premises and \$150.00 in hand paid receipt of which is hereby acknowledged and other consideration, the Company hereby covenants and agrees that:

1. The Company is responsible for any and all expenditure of labor or materials required in the installation, erection, repair, maintenance or location of the above-referenced Building.

2. The Company is responsible for any and all labor or expense which results from any and all future maintenance and repair of such Building, and the removal or dismantling of the Building if and when the Building is removed.

3. The Company is to be fully responsible for any and all property damage or injury to or death of any person which results from any and all negligence, omission, defect in design, maintenance or workmanship created by the Company, its agents, employees, contractors or subcontractors in connection with the Encroachment, or any cause of action arising out of the installation, maintenance, or location of said Building or any other cause of action arising out of the planting, installation, maintenance, or location of said Building (collectively, "Claims and Causes of Action").

4. The Company agrees:

- (a) to hold the City, its officers, agents and employees harmless from any and all liability arising out of any such Claims and Causes of Action, and
- (b) to defend the City, its officers, councilors and employees and pay all attorney fees in any and all actions brought as a result of such Claims and Causes of Action; and
- (c) indemnify the City, its officers, agents and employees against any and all loss sustained by reason of such Claims and Causes of Action.

5. The Company, during the life of this agreement, agrees to procure or cause to be procured from a responsible insurance carrier or carriers, authorized under the laws of the State of North Carolina, insurance in the minimum amounts of One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate, combined single limit for personal injury, property damage, or wrongful death caused by construction, maintenance, location, repair or visual obstruction of said encroachment with the City of High Point being included as additional insured as respects work under this Agreement. Company shall furnish the City upon the City's request, but no more than once in any 12 month period, a certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect (or proof of self-insurance as referenced below). Company shall give the City at least 30 days advanced written notice of any cancellation of any required coverage that is not replaced. Should Company fail to

pay premiums upon said insurance, or should Company fail to obtain said insurance, or to perform any of the agreements, terms, or conditions herein contained; the City at its option, by written notice may declare this agreement cancelled and terminated and all rights acquired hereunder by Company shall thereupon terminate, except Owner shall still be responsible for removing the Equipment from the right of way. In lieu of the foregoing, Company may self insure for any or all of the coverages set forth above.

6. The Company, upon completion of the installation of the Building, shall submit to the City revised drawings in the form of an AutoCad (.dwg) file for retention by the City if the actual installation differs significantly from the installation shown on the Exhibit B (Site Plan) (in such event, the Company shall secure approval of the City prior to the differing installation).

7. The Company agrees to abide by all lawful statutes and ordinances governing construction of the Building as contemplated herein.

8. This Agreement shall not divest the City of any rights or interest in said right of way.

9. The Company shall contact "NC One Call Center" prior to excavation where and in the manner required by the NC One Call law.

11. This Agreement shall be binding upon and ensure to the benefit of all of the parties hereto and their heirs, personal representatives, grantees, successors, and assigns.

12. All matters relating to this Agreement shall be governed by laws of the State of North Carolina without regard to its choice of law provisions, and venue for any action related to the Agreement shall be Guilford County Superior Court or the United States District Court for the Middle District of North Carolina.

13. All notices required herein shall be deemed given by depositing such in the United States Mail, first class, and addressed as follows:

If to City:

City of High Point  
Planning & Development Department  
P.O. Box 230  
High Point, NC 27261  
ATTN: Planning Director

If to Company:

Waterleaf Property Management, LLC  
4301 Waterleaf Court  
Greensboro, NC 27410

IN WITNESS WHEREOF, the City of High Point has caused this instrument to be signed by its Mayor and attested by its Clerk and its seal to be affixed by the duly-granted authority of its City Council, the day and year first above written.

Yihua Timber Industry (USA), INC.  
(A California Corporation)

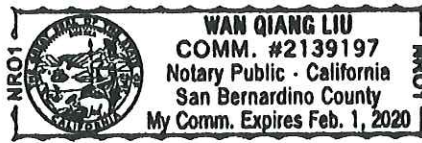
(Corporate Seal)

By: Wan Qiang Liu

Print Name: Zhuangchao Liu

Title: CEO

STATE OF California  
San Bernardino COUNTY



I, WAN QIANG LIU, a Notary Public of the County and State, do hereby certify that Zhuangchao Liu, personally came before me this day and acknowledged that he/she is CEO, and that he/she, as CEO being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 9<sup>th</sup> day of June, 2016.

My commission Expires: Feb 1, 2020

Michael Liu  
Notary Public

APPROVED AS TO FORM BY:

JoAnne Carlyle  
JoAnne Carlyle, City Attorney

CITY OF HIGH POINT

By: Bill Bencini  
Bill Bencini, Mayor

ATTEST:

Lisa B. Vierling  
Lisa B. Vierling, City Clerk



EXHIBIT A

Starting at the South-East corner on E Commerce Street running along the right of way  $S81^{\circ}14'56''W$ , 120.15 lf to an existing corner; then running along the same right of way  $S81^{\circ}10'23''W$ , 100 lf to a property corner at the intersection of S Hamilton Street and East Commerce Street; then running along the S Hamilton Street right of way  $N08^{\circ}35'03''W$ , 100 lf to a point, then  $n81^{\circ}11'18''E$ , 100 lf; then  $n81^{\circ}06'43''E$ , 119.84 lf; then  $S08^{\circ}45'47''E$ , 100.26 to the point of beginning.