

# Curriculum Vitae

- a. Family Name: **Lumbwe**
- b. First Name: **Bwalya**
- c. Nationality: **Zambian**
- d. Address: **20 Serval Road, Kabulonga, Lusaka 10101, Zambia**
- e. Telephone number: **+260 966 755980**
- f. Email address: **arbitratorzambia@gmail.com**
- g. Engineering qualifications: **B.Eng. (Civil) University of Zambia 1982, M.Sc. (Construction) University of Technology, Loughborough, UK-1984.**
- h. Legal and dispute resolution training/conferences/workshops:
  - \***Master of Laws-Construction Law and Arbitration(LLM), Robert Gordon University, Aberdeen, Scotland.**
  - \***Dispute Resolution Board Foundation Conference and Workshop on Dispute Boards- Madrid, May 2017.**
  - \***FIDIC Module 3 Course ‘The Responsibilities and Management of Dispute Adjudication and Dispute Boards(DB) under FIDIC 1999 & MDB Contract, Ghana Nov. 2017.**
  - \***FIDIC African Users Conference, Livingstone, Zambia 10-13<sup>th</sup> October 2017(Included launch of new Contracts-Red, Yellow and Grey) and workshop on FIDIC Dispute Boards.**
  - \***FIDIC International Users Conference, London, UK 4-7<sup>th</sup> December 2017(Included launch of new Contracts-Red, Yellow and Grey-2017 version), workshop on Dispute Resolution and Dispute Avoidance and Adjudication Boards.**
  - \***Dispute Resolution Board Foundation Conference and Workshop on Dispute Boards- Madrid, May 2017.**
  - \***NEC 4(New Engineering Contract) launch and Workshop, Johannesburg, RSA June 2018.**
  - \* **Dispute Resolution Board Foundation Conference and Advanced Workshop on Dispute Boards-Tokyo, Japan May 2018.**
  - \* **Construction Law Summer School, IBC Legal, Gonville & Caius College, Cambridge, UK- September 2018**
  - \* **FIDIC Africa Users Conference, Johannesburg, RSA October 2018**
  - \* **FIDIC International Users Conference, London, December 2018**
- i. Speciality and CV

## Memberships in Professional and other bodies:

- Registered Engineer (Zambia)-R.Eng
- Fellow of the Engineering Institution of Zambia-FEIZ
- Fellow of the Chartered Institute of Arbitrators-United Kingdom-FCI Arb
- Member Chartered Institute of Arbitrators, Kenya Branch-Fellow class

- Fellow of the Botswana Institute of Arbitrators
- Fellow of the Chartered Institute of Building-United Kingdom-FCIOB
- Chartered Construction Manager- UK-CIOB
- Certified Construction Auditor-National Association of Construction Auditors, USA-CCA
- Member of the American Society of Civil Engineers-MASCE
- Member of the Society of Construction Law-UK
- Member of the Adjudication Society -UK
- Member of the Association of Consulting Engineers, Zambia-MConsEng(Z)
- Member of the Dispute Resolution Board Foundation
- Corporate Panel Member -Dispute Board Federation

## **Field of Competence**

Construction, Engineering, Infrastructure

## **Key Relevant Experience:**

Mr. Bwalya Lumbwe is a Zambian Civil Engineer with over 34 years of experience covering all aspects of building, civil and mechanical construction of which 15 years were in executive management positions.

Mr. Lumbwe has held the positions of General Manager in Zambia, Area Manager, and Contracts Manager in addition to various middle management positions in earlier years in the Wade Adams Group. Wade Adams had operations in 9 African Countries and the Middle East. He was also Construction Manager with Wade Adams Construction Limited in Dar-es-Salaam, Tanzania where he managed some of the group's largest contracts which included major design and build projects where he oversaw a multi-disciplinary team of professionals and contractors and as the Project Manager. These projects included the complete refurbishment of 710 rooms and services in seven hotels, the complete refurbishment of three breweries and the construction of one new one and 90 Km road project. In all the above he was responsible for contractual as well as financial performance of contracts.

He has worked on major road projects notably the Kapiri- Serenje, Serenje-Mpika roads in Zambia and major arterial roads in Mozambique, Tanzania and building works in Burundi.

Other experience includes major construction of processing plants for mines in Zambia and Congo and other private developers.

He has many years' experience covering all construction and project design: building, civil- roads, bridges, canals, earth dams and earthworks, mechanical, electrical, water and sewage works, instrumentation, and plant having worked on several different projects over the years.

He is familiar many forms of contract and procurement procedures as follows:

1. FIDIC- Conditions of Contract for Plant, Design and Build/Yellow Book
2. FIDIC Conditions of Contract for Construction/Red Book
3. FIDIC Conditions of Contract for Construction/Multilateral Development Banks Harmonised Editions-Pink Book

4. FIDIC Conditions of Contract for Engineering, Procurement and Construction (EPC)/Turney Key Projects/Silver Book
5. FIDIC Short Form of Contract for Construction/Green Book
6. FIDIC Model Services Agreement (Client/Consultant), Sub- consultancy Agreement, Model Joint Venture Agreement between Consultants
7. New Engineering Contract 3-NEC3 and 4-UK
8. Joint Contract Tribunal, JCT-UK DB and Standard Building Forms- 2011; and
9. Local forms used in Zambia and Tanzania

He is a member of the Technical Committee of the Zambia Public Procurement Authority Board on behalf of the Engineering Institution of Zambia and has developed expertise in public procurement processes and their standard conditions of contract and which looks at Forms of Contract including the FIDIC Multilateral Development Banks Harmonised Red Book version.

He is a Certified Construction Auditor with the National Association of Construction Auditors in the USA one of two bodies that has such registration.

He is past Chairman of the National Council of Construction during which time the body changed from an association to a statutory body and served on the board prior to that.

Mr. Lumbwe is now a Managing Consultant for a firm that performs construction technical auditing and construction claim management services. The firm also provides a service in the preparation of statements of claim and defence in arbitral/ adjudication cases and assessment of damages.

He also is also an Arbitrator, Adjudicator and Expert Witness in construction cases and other aspects of dispute resolution.

### **Employment Record:**

#### **June 2012 – Present Managing Consultant Incipio Construction Auditing and Project Management – Lusaka Zambia**

Firms mandate covers construction auditing, provision of expertise in preparation of arbitration and adjudication statement of Claims from inception to completion of process. This later part includes an examination and interpretation of the conditions of contract and addition of case law into the claims and assessment of damages in disputes. Project Manager for the University of Zambia New library to cater for 16, 000 students and lecturers and outsiders as it will be a national reference centre. The project is using the Silver Book from inception through procurement to completion. This is a project started in Sept 2017 is at planning stage.

Consultancies in arbitration and adjudication disputes using the Conditions of Contract for construction for Building and Engineering and Engineering works designed by the employer for Multilateral Development Bank Harmonized Edition 2010/ FIDIC Harmonised Red Book on one project. Other notable and complex arbitral advisory services include an arbitration involving the Electrification Authority (Sept 2015- Feb 2016), Food Reserve Agency v Vision Venture- Construction of Storage Warehousing (Three separate contracts-Sept 2015- May 2016 all utilizing the Zambia Public Procurement /World Bank form for small works.

Project Manager for the University of Zambia, School of Engineering Rehabilitation of Electrical Laboratories using the FIDIC Small Works Contract (Green Book), June. 2016- June 2017.

**Feb. 2009 – May 2012-Took a break from Construction to pursue other interests.**

**Aug. 1995 – Jan. 2009 Managing Director- Shareholder Kansai Construction Ltd – Lusaka Zambia**

Firm operated as subcontractors/ contractors to major international firms. Major contracts carried out have been with huge international firms such as Lemnikainen of Finland and Holgaard and Schultz of Denmark, L.T.A Construction of South Africa in Zambia and Mozambique, L.T.A Processing, L.T.A Mechanical, Group Five of R.S.A and Siemens of R.S.A. The work covered both civil and building works. and LTA Processing and Mechanical July 2001- Feb 2002 for Nampundwe Mine Material handling plant foundations. Projects in Mozambique were Save River- Masinga Road and Mocuba- Marapula Road subcontract to LTA- May 2001- Dec 2002 for bridge works, drainage structures.

**Feb. 1992–March 1995 Construction Manager, Wade Adams Construction Ltd, Dar-es-Salaam, Tanzania**

Management of all construction activities in Tanzania and Burundi. Project Manager for design and build brewery project for Tanzania Breweries & Tanzania Hotel Investments Ltd hotel works and Meridian BIAO Bank Branches in Tanzania with employing a multi-disciplinary team of external consultants. Preparing of budgets and board papers, attending board meetings as board member. Responsible Contractual and financial performance of all the projects. Cross border negotiation for the provision of skilled labour, which was in short supply from Kenya, RSA and Zambia. Conditions of Contract used included the 1987 Red Book on three projects: Songea Mbinga Road Project, Feb 1992- July 93, Hotels Projects June 92- Dec 93 and Brewery Projects, May 92- Sept 93.

**Jan 1992-Feb 1994 General Manager, Minestone (Z) Ltd – Lusaka, Zambia**

Responsibilities for all divisions. Preparation of budgets. Tender finalization. Ensuring that tenders were done in accordance with conditions laid out in the procurement documents. Familiarly with World Bank, African Development Bank, European Union and local and other guidelines and conditions of contract was a must to carry out this function. Project Manager, Meridian BIAO Bank Head Office, now COMESA Centre, Lusaka, Zambia which was a design and build project. Preparation of board papers. Attending board meetings, liaison with clients, Architects, Engineers, Quantity Surveyors, suppliers. Liaison as and when the need arose with donors, clients and funding agents on projects they have funded. Negotiating, dispute resolution of contractual claims with subcontractors and employers. Negotiating contracts.

**Nov 1988-Dec 1991 Area Manager – Kitwe, Zambia**

Operational and financial management of construction activities: - Building, Civil, Mechanical works for two divisions of the company. Responsibility for day-to-day supervision of all support services, viz. Procurement, Quantity Surveying, Finance, Personnel and Administration, Security, carpentry and fabrication shops, Plant and Transport. External Manager for a new Copper Leach Plant in Likasi- Congo. Finalization of tenders. Provision of logistical support to other group companies in the region. Liaison with regional procurement offices in London and South Africa. Negotiating contracts and liaison with clients. Arranging training seminars for Engineers and Quantity Surveyors in the company. Liaison with donors as and when the need arose on projects they funded. Preparation of budgets, preparation of board papers. Attending board meetings. Handling and preparation of contractual claims. Continuous contractual claim, dispute claim resolution with subcontractors and employers. Technical financial appraisal of ongoing projects and finalization of tender submissions. Project Manager for Group design and build construction projects employing external consultants. Tendering and preparation of Consultant's contracts for all in house projects. Contract forms used were local standard government, copper mines, Architects form and civil engineering forms and the African Develop Bank forms for major works. Leach Plant Project in the Congo used the 1987 FIDIC form of contract (Dec 88- June 91).

**Aug 1987-Oct 1988 Contracts Manager – Kitwe, Zambia**

Responsibility for financial performance and product quality control of engineering /architectural services for in-house / group projects. Tender negotiation with clients, project architects. Operational and financial management of building and civil projects for one division of the company. Day to day supervision of support services - plant and transport, carpentry shop. Liaison with other support services - Personnel and Administration, Buying, Finance, Quantity Surveying, Electrical, Estimating and Tendering Departments. Sub-contract and supplier negotiations. Liaison with other group construction companies in other countries for provision of logistical support. Continuous technical and financial appraisal of ongoing projects. Appraisal of completed projects on technical and financial performance. Providing input and finalization of tenders. Preparation, negotiating, dispute resolution of contractual claims with subcontractors and employers. Contract forms used were local standard government, copper mines, Architects form and civil engineering forms and the African Develop Bank forms for major works. FIDIC Red Book 1987 used on the Munkumpu Dam and Irrigation Project (June 1988- June 1990) which include 30 km of access roads.

**Nov 1985-Jul 1987 Senior Engineer – Lusaka, Zambia**

Responsible for daily operations of a number of construction sites. Liaison with Project Architects, Engineers and Quantity Surveyors. Preparation and ensuring programmes of works are met, supervision and training of junior and site Engineers. Quality control of Building standards and specifications. Preparation of contract budgets. Project cost control and preparation of contract financial reports. Daily liaison with support services. Liaison and control of sub-contractors, manufacturers and suppliers. Collection of site information for tendering purposes and feeding this back to Estimating Department on correctness of rates used in tendering. Tendering and negotiating sub and suppliers contracts. Design of temporary works. Agreeing applications for payments with projects architects, engineers and quantity surveyors. Preparation, negotiating, dispute resolution of contractual claims with subcontractor and employers. Preparation of pre-tender site visit reports. Contract forms used were local standard government, copper mines, Architects form and civil engineering forms and the African Develop Bank forms for major works and 1977 Red Book.

**Oct 1984 – Oct 1985 Study Leave – Loughborough, U.K**

Master of Science Course in Construction.

**Jun 1984 – Sept 1984 Contracts Coordinator – Kitwe, Zambia**

Head office logistical support to out of town sites. Liaison with these sites mainly by radio for the timely procurement of material and services, in conjunction with the procurement department and other departments. Arranging for timely dispatch of materials and services. Liaison with sites as to the status of materials and services. Co-ordinating with Architects and Engineers, sub-contractors, manufacturers and suppliers on behalf of a number of far off sites. Perform administrative and technical functions on behalf of sites. Also attached to Planning Department, carried out planning functions for some major projects.

**Jan 1983 – May 1984 Site Engineer – Kitwe, Zambia**

Setting out, quality control and interpretation of Building specifications and lines and levels. Material take offs and reconciliation. Preparation of buying schedules, preparation of short and long term Programmes. Coordination with other Engineers and other departments as regards timely supply of materials and services, managing of labour and resources e.g. Plant, devising construction methods, erection and design of temporary works including form work. Contract forms used were copper mines, Architects form.

**Aug 1982-Dec 1983 Junior Site Engineer – Chingola, Zambia**

With Minestone (Z) Ltd., Parent company Wade Adams Construction International with eleven subsidiaries in Africa and the Middle East. This was part of a group of companies that included banking all over Africa- Meridian BIAO Group), finance and insurance, mining and trading. Setting out, Interpretation of standards, specifications and quality control. Material take off and reconciliation. Preparations of short term Programmes.

**j. Dispute resolution experience: See tables below. Party names blanked out in some cases due for privacy obligations**

**List of Arbitrations**

	<b>Parties</b>	<b>Award Date</b>	<b>Nature of Dispute</b>	<b>Appointing Authority</b>	<b>Contract Type</b>
1.	[Redacted]	4 <sup>th</sup> Feb 2013 for Award	Termination of contract	Parties	ZPPA <sup>1</sup> Multilateral Form(FIDIC)
2.	Spancrete (Z) Ltd v The Disaster Management and Mitigation Unit- Office of the Vice President	9 <sup>th</sup> Oct 2012	Termination of contract	Parties	World Bank/ZPPA Small Works Form
3.	Food Reserve Agency v CBR Business Ltd	18 <sup>th</sup> July 2014	Termination of contract	Parties	World Bank/ZPPA Small Works
4.	CBR Business Ltd v Food Reserve Agency	9 <sup>th</sup> April 2014	Termination of contract	Parties	World Bank/ZPPA Small Works Form
5.	The Institute of Daughters of Mary Help of Christians v Multipack Enterprises Ltd	7 <sup>th</sup> Sept 2015	Termination of contract	The High Court of Zambia	Bespoke form
6.	G& G Nationwide( Z) Ltd v China Henan International Cooperation Co. Ltd	25 <sup>th</sup> April 2015 for Jurisdiction Award. Substantive issues-25 <sup>th</sup> Oct 2016.	Repudiation of contract with challenge to jurisdiction	Chartered Institute of Arbitrators, Zambia Branch	FIDIC Conditions of Subcontract form for Construction
7.	EastConsult Ltd v Iliso Consulting Ltd	30 <sup>th</sup> April 2016	JV payment dispute	The High Court of Zambia	Bespoke JV Agreement

**List of Adjudications**

	<b>Parties</b>	<b>Award Date</b>	<b>Nature of Dispute</b>	<b>Appointing Authority</b>	<b>Contract Type</b>
--	----------------	-------------------	--------------------------	-----------------------------	----------------------

<sup>1</sup> Zambia Public Procurement Authority

1.	Semba Engineering and Construction Ltd and Leopards Hill Development Ltd	7 <sup>th</sup> May 2014	Termination of contract	The High Court of Zambia	Bespoke Building Contract
2.	Zuthona Engineering Technologies v Zambia Information and Communications Authority	1 <sup>st</sup> Dec 2016	Termination of contract	Zambia Centre for Dispute Resolution Ltd	World Bank/ZPPA Small Works Form
3.	Nelkam Industrial Construction Limited v Road Development Agency	10 <sup>th</sup> Jan 2016	Termination of contract with challenge to appointment and jurisdiction	The Engineering Institution of Zambia	World Bank/ZPPA Small Works Form
4.	PME Power Solutions (India) Limited v Zambia Electricity Supply Cooperation	Jurisdiction Decision-24th Feb. 2017. Substantive issue- 18 <sup>th</sup> April 2017	Termination with challenge to appointment and Jurisdiction	The Engineering Institution of Zambia	Bespoke EPC <sup>2</sup> contract
5.	Mazzonites Ltd v Ministry of Justice-/Ministry of Health	Decided Oct. 17 <sup>th</sup> 2017	Termination of Contract	Engineering Institution of Zambia	World Bank/ZPPA Small Works Form
6	Bomar Mining Ltd(RSA) v Mopani Copper Mines Ltd	On going	Termination and counterclaim	Chartered Institute of Arbitrators, Zambia Branch	New Engineering Term Service Contract-NEC 3 TSC

### Expert Witness

	Parties	Date	Nature of Dispute	Appointing Authority	Contract Type
1.	ZEGA Ltd v Diamond Insurance Ltd	May 2017. Expert Report submitted to Tribunal	Cause and Quantum of Roof Damage to buildings following rain storm	Diamond Insurance Ltd	Contract of Insurance

### Dispute Adjudication Boards

<b>Name of Board</b>	<b>Capacity in which Serving</b>	<b>Date</b>	<b>Parties to the Contract</b>	<b>Funding Agents</b>	<b>Contract Type</b>
Upgrading of the Tylo-Therekani-Muona-Mukhanga Road, Republic of Malawi	Chairman of a three-member international dispute board of Civil Engineers	On going	Roads Authority of Malawi and Mota-Engil of Spain	Kuwait, BADEA, OFID and Saudi Fund	FIDIC Multilateral Development Bank Version