

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 qualifications:**
 - ❖ Master of Laws-Construction Law and Arbitration (LLM), Robert Gordon University, Aberdeen, Scotland
 - ❖ FIDIC Module 3 Course ‘The Responsibilities and Management of Dispute Adjudication and Dispute Boards (DB) under FIDIC 1999 & MDB Contracts, Ghana Nov. 2017
 - ❖ Certificate in Oil and Gas Contract Law
- i. **Legal and dispute resolution training and workshops**
 - Dispute Resolution Board Foundation Conference and Workshop on Dispute Boards- Madrid, May 2017.
 - FIDIC African Users Conference, Livingstone, Zambia 10-13th October 2017(Included launch of new Contracts-Red, Yellow and Grey) and workshop on FIDIC Dispute Boards.
 - FIDIC International Users Conference, London, UK 4-7th 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 and Livingstone, Nov. 2019
 - FIDIC International Users Conference, London, December 2018 and London, Dec. 2019
- j. **Neutrals Listing**
 - FIDIC National List of Dispute Adjudicators (Zambia): Dispute Board Panel
 - Kigali International Arbitration Centre (Rwanda): Arbitration Panel

- Cairo Regional Centre for International Commercial Arbitration-CRCICA(Egypt): Arbitration Panel
- London Court of International Arbitration- LCIA (England): Arbitration Panel
- UK Adjudicators- UKA (United Kingdom): Dispute Board Panel
- International Chamber of Commerce -ICC(France)- Arbitration and Dispute Adjudication Board Panels
- Centre for Arbitration and Dispute Resolution -CARDER (Uganda)-Arbitration, Adjudication Panels
- Chartered Institute of Arbitrators, Kenya Branch- Adjudication, Arbitration and Dispute Boards
- Chartered Institute of Arbitrators, Zambia Branch- Adjudication, Arbitration and Dispute Boards
- Botswana Institute of Arbitrators- Adjudication, Arbitration and Dispute Boards
- Nairobi Centre for International Arbitration- Adjudication, Arbitration and Dispute Boards

k. 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, Zambia/Kenya Branches-Fellow class)
- Fellow of the Botswana Institute of Arbitrators
- Fellow of the Chartered Institute of Building-United Kingdom-FCIOB
- Chartered Construction Manager- UK
- Member of the Association of Consulting Engineers, Zambia-MConsEng(Z)
- 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 Dispute Resolution Board Foundation
- Corporate Panel Member -Dispute Board Federation

l. Field of Competence

Construction, Engineering, Infrastructure, oil and gas, renewable energy construction

m. Publications

- Bwalya Lumbwe, ‘Construction Dispute Resolution in Zambia: A Public Procurement Perspective’ [2020], 36 Const.L.J. Issue 4, 314
- Bwalya Lumbwe, The African Arbitration Association is Here. Now what? (Alternative Dispute Resolution, vol 7, issue 2, 2019) 32
- Bwalya Lumbwe, Constitution of Dispute Boards: What are the Salient Issues (Alternative Dispute Resolution, vol 7, issue 1, 2019) 291
- Bwalya Lumbwe, Effective Dispute Settlement as a Catalyst for Infrastructure Development in the Construction and Energy Industry (Alternative Dispute Resolution, Vol 8 Issue 2, 2020)
- Bwalya Lumbwe, The Arbitration Act, Zambia: Peculiarities and Implications (Alternative Dispute Resolution, 2020) (Alternative Dispute Resolution, Vol 8 Issue 3, November 2020) [Forthcoming]

- Bwalya Lumbwe, FIDIC 2017 Edition of Contracts: The Repercussions of Defining the Words Claim & Dispute on the Claims and Dispute Referral Procedures (Arbitration: The International Journal of Arbitration, Mediation and Dispute Management Volume 86, Issue 4 (2020) pp. 447 – 462

n. Conference Presentations/ papers

- Bwalya Lumbwe, ‘Business Case for Arbitration and ADR in Africa: Dispute Resolution in Construction and Infrastructure: Are we keeping in step with growth? (2nd NCIA International Arbitration Conference and ADR Conference, Mombasa, March 2020) [Presentation/paper]
- Dispute Avoidance/Adjudication Board’s (DAAB) Role Under FIDIC Conditions: Current Practices and the New Rules (FIDIC African Users Conference, Livingstone, November 2019) [Presentation]

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

Dispute Adjudication Boards

	Name of Board	Capacity in which Serving	Date	Parties to the Contract	Funding Agents	Contract Type
1.	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 Engenharia	Kuwait, BADEA, OFID and Saudi Fund, Malawi Government	FIDIC Red Book
2.	Construction of Thalamabele Veterinary Gate to Mosu Road, Republic of Botswana	Sole Dispute Adjudication Board Member	On going	Government of Botswana, Roads Department-Landmark Project Pty Ltd	Government of Botswana	FIDIC Red Book
3.	Priority Water Distribution Network Rehabilitation, Lilongwe, Republic of Malawi	Sole Dispute Adjudication Board Member	On going	Lilongwe Water Board- Sinohydro Corporation Ltd	Multilateral Development Agency.	FIDIC Red Book
4	Rehabilitation of Kamuzu Dam I for Lilongwe Water Board	Sole Dispute Adjudication Board Member	On Going	Lilongwe Water Board- Mota Engil Engenharia	Multilateral Development Agency	FIDIC Red Book

List of Arbitrations

	Parties	Award Date	Nature of Dispute	Appointing Authority	Contract Type
1.		4 th Feb 2013 for Award	Termination of contract	Parties	World Bank Works Form
2.	Spancrete (Z) Ltd v The Disaster Management and Mitigation Unit- Office of the Vice President	9 th Oct 2012	Termination of contract	Parties	World Bank Works Form
3.	Food Reserve Agency v CBR Business Ltd	18 th July 2014	Termination of contract	Parties	World Bank/ZPPA Small Works
4.		9 th 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 th 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	Final Award 21 Aug. 2020	Repudiation of contract with challenge to jurisdiction	Chartered Institute of Arbitrators, Zambia Branch	Bespoke
7.	EastConsult Ltd v Iliso Consulting Ltd	Award 30 th April 2016	JV payment dispute	The High Court of Zambia	Bespoke JV Agreement
8.		Award Issued 8 th Nov. 2019	Poor workmanship/ Over certification	Party Appointed member of a three-person Tribunal	Bespoke contract
9.	Kegon Services Limited v Sinomine International Zambia Engineering Company Limited & The Attorney General	Settled by Parties with intervention by Tribunal	Sub-contract disagreement	Party Appointed member of a three-person Tribunal	Bespoke contract
10.	Sasini Ltd (Kenya) v Nocart Oy Ltd (Finland)	Award Issued 29 th Nov, 2019	Breach of Contract/ Lack of Performance	Chartered Institute of Arbitrators- Kenya Branch	Bespoke contract
11.	Ltd (UK) v Government of Republic of Tanzania, Tanzania Petroleum Development Corporation	Current	Breach of Contract	Party appointed member of a three-person tribunal-Solicitor General of Tanzania	Bespoke Oil/Gas Contract Arbitration under the International Chamber of Commerce, Paris
12	Wah Kong Enterprises Ltd v Trustees of the Kwacha Pension Trust Fund	Award issued 8 th Nov 2020	Non payment of work	Party appointed member of three person Tribunal	Bespoke building contract

List of Adjudications

	Parties	Award Date	Nature of Dispute	Appointing Authority	Contract Type
1.	Semba Engineering and Construction Ltd and Leopards Hill Development Ltd	7 th May 2014	Termination of contract	The High Court of Zambia	Bespoke Building Contract
2.	Zuthona Engineering Technologies v Zambia Information and Communications Authority	1 st 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 th 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 th April 2017	Termination with challenge to appointment and Jurisdiction	The Engineering Institution of Zambia	Bespoke EPC ¹ contract
5.	Mazzonites Ltd v Ministry of Justice-/Ministry of Health	Decided Oct. 17 th 2017	Termination of Contract	Engineering Institution of Zambia	World Bank/ZPPA Small Works Form
6	Bomar Mining Ltd (RSA) v Mopani Copper Mines Ltd	Decided Nov. 2018	Termination and counterclaim	Chartered Institute of Arbitrators, Zambia Branch	New Engineering Term Service Contract-NEC 3 TSC

Expert Witness

	Parties	Report 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 rainstorm	Diamond Insurance Ltd	Contract of Insurance

Court References- High Court Referee

	Parties	Report Date	Nature of Dispute	Appointing Authority	Contract Type
1.	Construcoes Gabriel A.S. Couto S.A. v Pangení Ltd	25 th November 2019	Breach of sub-contract/ Poor workmanship	The High Court of Zambia	Sub-contract Order/FIDIC Subcontract Form

p. Key Relevant Experience:

Mr. Bwalya Lumbwe is a Zambian Civil Engineer with over 37 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. World Bank Forms of Contract
8. New Engineering Contract -NEC3 and 4-UK
9. Joint Contract Tribunal, JCT-UK DB and Standard Building Forms- 2011; and
10. Local forms used in Zambia and Tanzania

He was a member of the Technical Committee of the Zambia Public Procurement Authority Board for seven years and has developed expertise in public procurement processes and their standard conditions of contract including the FIDIC Multilateral Development Banks Harmonised version and

the World Banks standard versions as adopted in Zambia.

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

He has made conference presentations and written on alternative dispute resolution and dispute boards and on expert witnesses.

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.

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 Pink Book on one project. Other notable and complex arbitral advisory services include an arbitration involving an electrification project (Sept 2015- Feb 2016), construction of multiple food storage warehousing 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. Often advises legal counsel on construction disputes under arbitration.

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.

