



# Black Hat Developers Corporation

Our Standards of Professional Practice

Published by Black Hat Developers Corporation

**Revised and republished**

**This Constitution is adopted by the founders and members of Black Hat Developers Corporation (Private Limited), a company incorporated under the Companies Act, No. 7 of 2007 of Sri Lanka, to establish a comprehensive framework for governance, ownership, management, and ethical operation of the Company.**

# Black Hat Developers

## **An Induwara Jayasinghe Holdings Company Limited**



# Chapter 10

## ARTICLE 38

### Executive Compensation Recovery Policy

#### 38.1 Purpose and Scope

This Executive Compensation Recovery Policy (“Policy”) establishes the circumstances under which Black Hat Developers Corporation (Private Limited) (“the Company”) is required or authorized to recover certain incentive-based compensation awarded to or received by executive officers.

The purpose of this Policy is to:

- (a) promote integrity, accountability, and ethical leadership;
- (b) align executive compensation with accurate financial performance and lawful conduct;
- (c) protect the Company, its shareholders, and stakeholders from financial and reputational harm; and
- (d) support the Company’s corporate governance and risk management framework.

This Policy applies to the Company’s Covered Officers, as defined by the Compensation Committee.

#### 38.2 Covered Officers

This Policy applies to:

- (a) the Chief Executive Officer (CEO);
- (b) other executive officers and senior leaders designated by the Board or Compensation Committee; and
- (c) any individual who previously served in such a capacity during the applicable review period (collectively, “Covered Officers”).

#### 38.3 Definitions

For purposes of this Policy, unless the context otherwise requires:

“Incentive Compensation” means any cash, equity, or equity-linked compensation that is granted, earned, or vested based wholly or partly on the achievement of financial, operational, or performance-based measures.

“Recoverable Incentive Compensation” means the portion of Incentive Compensation that the Compensation Committee determines is subject to recovery under this Policy.

“Applicable Period” means the period determined by the Compensation Committee during which Incentive Compensation was awarded, earned, vested, or paid and is subject to potential recovery.

“Restatement” means a revision or correction of previously issued financial statements or performance results due to material error, misstatement, omission, or non-compliance with applicable accounting standards.

“Misconduct” means a material breach of law, regulation, fiduciary duty, Company policy, or ethical standards, including willful misconduct, gross negligence, fraud, or dishonesty.

#### **38.4 Recovery Following Financial Restatement**

**38.4.1.** In the event the Company is required to undertake a Restatement, the Company shall seek to recover, reasonably promptly, all Recoverable Incentive Compensation received by a Covered Officer during the Applicable Period that exceeds what would have been earned based on the corrected results.

**38.4.2.** Recovery shall be pursued without regard to whether the Covered Officer had personal knowledge of, or responsibility for, the circumstances leading to the Restatement.

**38.4.3.** If Incentive Compensation was not awarded or paid based on a strictly formulaic method, the Compensation Committee shall determine in good faith the amount of Recoverable Incentive Compensation.

**38.4.4.** The Compensation Committee may determine that recovery is impracticable if, after due process and careful consideration of all relevant facts, it concludes that recovery would be unreasonable, unenforceable, or materially adverse to the Company’s legitimate interests.

#### **38.5 Recovery Following Legal, Regulatory, or Policy Violations**

**38.5.1.** Compliance with applicable laws and the Company’s governance, ethics, and conduct policies is a condition precedent to earning Incentive Compensation.

**38.5.2.** If the Compensation Committee determines that a Covered Officer:

- (a) engaged in Misconduct; or
- (b) knew of, directed, or was willfully blind to Misconduct occurring within the Covered Officer’s area of responsibility,

the Company may seek recovery of all or part of the Recoverable Incentive Compensation awarded or paid for the Applicable Period.

**38.5.3.** In addition, any unpaid, unvested, or deferred Incentive Compensation may be deemed unearned and forfeited.

**38.5.4.** Recovery may be pursued even if the Misconduct did not directly increase the amount of Incentive Compensation awarded.

**38.5.5.** In determining whether and to what extent recovery is appropriate, the Compensation Committee may consider, among other factors:

- (a) the severity and duration of the Misconduct;
- (b) the Covered Officer’s level of responsibility and intent;
- (c) whether the Covered Officer was unjustly enriched;
- (d) potential harm to the Company’s interests; and
- (e) any mitigating or aggravating circumstances.

### **38.6 Methods of Recovery**

Subject to applicable law, the Compensation Committee may recover compensation using one or more of the following methods:

- (a) direct reimbursement by the Covered Officer;
- (b) offset against current or future compensation;
- (c) cancellation or rescission of unvested equity awards;
- (d) withholding of unpaid bonuses or incentives; or
- (e) any other lawful means deemed appropriate.

### **38.7 Additional Disciplinary Measures**

In exercising its business judgment, the Compensation Committee may impose additional actions or disciplinary measures, including termination of employment, to address the circumstances giving rise to a Restatement or Misconduct and to reduce the likelihood of recurrence.

### **38.8 No Indemnification or Insurance**

Neither the Company nor any of its affiliates shall indemnify, reimburse, or insure any Covered Officer against the loss of Incentive Compensation recovered under this Policy.

No Company-funded insurance policy shall be maintained to cover obligations arising under this Policy.

### **38.9 Administration and Authority**

**38.9.1.** This Policy shall be administered exclusively by the Compensation Committee.

**38.9.2.** The Compensation Committee shall have full authority to:

- (a) interpret and apply this Policy;
- (b) determine recoverable amounts;
- (c) decide whether recovery is appropriate; and
- (d) take all actions necessary to enforce this Policy.

**38.9.3.** All determinations of the Compensation Committee shall be final, binding, and conclusive.

### **38.10 No Limitation on Other Rights**

The remedies under this Policy are in addition to, and not in substitution for, any other legal, contractual, or equitable rights available to the Company, including claims arising under employment agreements or applicable law.

### **38.11 Condition to Incentive Compensation**

Incentive Compensation subject to this Policy shall not be considered fully earned until:

- (a) all applicable performance and vesting conditions are satisfied; and
- (b) the applicable recovery period under this Policy has expired.

### **38.12 Amendment and Termination**

The Board of Directors or the Compensation Committee may amend, suspend, or terminate this Policy at any time, subject to applicable law. Any amendment shall not impair the Company's right to recover compensation awarded prior to such amendment.

### **38.13 Effectiveness and Survival**

This Policy shall apply to Incentive Compensation awarded, paid, or received on or after its effective date, unless otherwise determined by the Compensation Committee.

The obligations under this Policy shall survive termination of employment.

### **38.14 Successors and Assigns**

This Policy shall be binding upon all Covered Officers and their heirs, executors, administrators, successors, and legal representatives.

### **38.15 Governing Law**

This Policy shall be governed by and construed in accordance with the laws of the Democratic Socialist Republic of Sri Lanka, without regard to conflict of law principles.

## **ARTICLE 39**

### **Exhibit A**

#### **DEFINITIONS**

This Exhibit A forms an integral part of Article 38 – Executive Compensation Recovery Policy and shall be read together with the Company's Articles of Incorporation, Bylaws, Corporate Governance Guidelines, and all applicable policies of Black Hat Developers Corporation (Private Limited) (the "Company").

Unless the context otherwise requires, the following capitalized terms shall have the meanings set forth below.

#### **39.1 Applicable Period**

"Applicable Period" means:

(a) In the case of a Restatement, the three (3) completed fiscal years of the Company immediately preceding the earlier of:

(i) the date on which the Board of Directors, a committee of the Board, or officers authorized to act on behalf of the Board concludes, or reasonably should have concluded, that a Restatement is required; or

(ii) the date on which a regulator, court, auditor, or other legally authorized authority directs the Company to undertake a Restatement;

and

(b) In the case of Misconduct, such period as the Compensation Committee or the Board of Directors determines to be appropriate, reasonable, and proportionate, having regard to the nature, duration, scope, and impact of the Misconduct.

The Applicable Period shall also include any transition period resulting from a change in the Company's fiscal year that occurs within or immediately following the periods described above.

### **39.2 Board**

"Board" means the Board of Directors of Black Hat Developers Corporation (Private Limited), as constituted in accordance with the Company's Articles of Incorporation and Bylaws.

### **39.3 Compensation Committee**

"Compensation Committee" means the committee of the Board of Directors established pursuant to the Company's Bylaws and Compensation Committee Charter, composed of independent directors and responsible for executive compensation oversight.

If no such committee exists at a given time, the term shall mean a majority of the independent directors serving on the Board.

### **39.4 Covered Officer**

"Covered Officer" means:

(a) In the case of a Restatement, any individual who is, or was at any time during the Applicable Period:

- (i) an Executive Officer of the Company; or
- (ii) a member of the Company's Senior Leadership Team;

and

(b) In the case of Misconduct, any individual who was an Executive Officer or a Senior Leadership Team Member at the time the Misconduct occurred.

For the avoidance of doubt:

- A Covered Officer may include a former executive, whether such individual resigned, retired, was terminated, or transitioned into a non-executive employee role during or after the Applicable Period.
- Service in an interim or acting capacity shall be sufficient to qualify an individual as a Covered Officer.

### **39.5 Effective Date**

"Effective Date" means the date on which Article 38 – Executive Compensation Recovery Policy is formally approved and adopted by resolution of the Board of Directors of the Company, unless otherwise specified by the Board.

### **39.6 Executive Officer**

"Executive Officer" means any individual who performs a policy-making, strategic, or senior management function for the Company, including but not limited to:

- (a) the Chief Executive Officer;
- (b) the Chief Financial Officer;
- (c) the Chief Operating Officer;
- (d) the Chief Technology Officer;

- (e) the Chief Information Security Officer;
- (f) the principal accounting or finance officer;
- (g) any vice president, director, or senior manager in charge of a principal business unit, function, or division; or
- (h) any other person designated by the Board as an Executive Officer for governance or regulatory purposes.

The title held by an individual shall not be determinative; rather, functional authority and responsibility shall govern.

### **39.7 Financial Performance Measure**

“Financial Performance Measure” means any quantitative or qualitative measure that is determined, presented, or derived in accordance with the accounting principles, financial standards, or internal reporting frameworks adopted by the Company.

Financial Performance Measures include, without limitation:

- (a) revenue, profit, or margin metrics;
- (b) earnings before interest, tax, depreciation, or amortization;
- (c) cash flow, liquidity, or capital efficiency measures;
- (d) return on assets, equity, or invested capital;
- (e) budgetary or forecast-based targets;
- (f) project profitability or delivery metrics;
- (g) non-GAAP or adjusted financial measures approved by the Board; and
- (h) any measure derived wholly or partly from the foregoing.

Where applicable, measures related to Company valuation, equity value, or notional share performance shall also be considered Financial Performance Measures.

### **39.8 Impracticable**

“Impracticable” means a determination made in good faith by the Compensation Committee that recovery of Recoverable Incentive Compensation would be unreasonable or inappropriate, including where:

- (a) enforcement would violate applicable laws of Sri Lanka or another relevant jurisdiction;
- (b) the direct costs of recovery would exceed the amount reasonably expected to be recovered;
- (c) recovery would materially prejudice the Company’s legal position in an ongoing dispute, investigation, or proceeding;
- (d) recovery would cause disproportionate hardship inconsistent with principles of fairness and equity; or
- (e) exceptional circumstances exist that justify non-recovery in the interests of the Company.

### **39.9 Incentive Compensation**

“Incentive Compensation” means any compensation, whether cash or equity-based, that is granted, earned, vested, or paid based wholly or partly upon the attainment of one or more Financial Performance Measures.

Incentive Compensation includes, without limitation:

- (a) performance bonuses;
- (b) incentive payments;
- (c) profit-sharing awards;
- (d) equity or equity-linked awards;
- (e) deferred incentive arrangements; and
- (f) any similar form of variable compensation.

Incentive Compensation does not include:

- fixed base salary (except where increases are performance-linked);
- discretionary bonuses not tied to performance measures;
- time-based equity awards not linked to performance; or
- benefits provided solely under statutory or retirement arrangements.

Notwithstanding the above, in cases of Misconduct, Incentive Compensation shall include all forms of incentive-related cash or equity compensation, whether performance-based or time-based.

### **39.10 Received**

“Received” means that Incentive Compensation is deemed received during the fiscal period in which the applicable Financial Performance Measure is achieved, regardless of when payment, vesting, or settlement actually occurs.

### **39.11 Recoverable Incentive Compensation**

“Recoverable Incentive Compensation” means:

- (a) In the case of a Restatement, the amount of Incentive Compensation (calculated on a pre-tax basis) received by a Covered Officer during the Applicable Period that exceeds the amount that would have been received had the compensation been calculated using the corrected financial results; and
- (b) In the case of Misconduct, the amount of Incentive Compensation awarded or paid during the Applicable Period that the Compensation Committee determines, in its sole discretion, to be appropriate for recovery.

Recoverable Incentive Compensation may include compensation received:

- while serving as an Executive Officer; or
- after transitioning to a non-executive role, provided the compensation relates to a period of executive service.

Where precise recalculation is not feasible, the Compensation Committee shall determine recovery amounts using a reasonable and documented estimate.

### **39.12 Restatement**

“Restatement” means any correction, revision, or reissuance of the Company’s financial statements or financial performance results due to material error, omission, misstatement, or non-compliance with applicable accounting standards or reporting requirements.

Restatements include both:

- (a) material restatements affecting previously issued statements; and
- (b) corrections that would result in a material misstatement if left uncorrected.

A Restatement may occur regardless of whether Misconduct was involved.

### **39.13 Senior Leadership Team Member**

“Senior Leadership Team Member” means any individual formally designated by the Board or Chief Executive Officer as part of the Company’s senior leadership structure, whether or not such individual holds the title of Executive Officer.

# CONCLUSION AND RATIFICATION

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This Constitution constitutes the complete, final, and authoritative governing instrument of the Company. It consolidates and supersedes, to the fullest extent permitted by law, all prior constitutions, memoranda, articles, internal rules, policies, informal practices, resolutions, understandings, and representations relating to the governance, management, powers, duties, and operations of the Company.

This Constitution has been established to ensure clarity of authority, continuity of leadership, protection of intellectual, commercial, and proprietary assets, ethical conduct, accountability, and the long-term sustainability of the Company, while preserving the foundational vision, strategic intent, and proprietary interests upon which the Company was formed.

All Chapters and Articles contained herein shall be read and construed harmoniously as a single, integrated instrument. No provision shall be interpreted in isolation in a manner that undermines the purpose, spirit, or intent of this Constitution. Where interpretation is required, such interpretation shall be guided by:

- the best interests of the Company;
- strict compliance with the Companies Act, No. 07 of 2007 of Sri Lanka and all other applicable laws;
- the preservation of corporate integrity, operational stability, and strategic control.

Unless expressly stated otherwise, the powers, rights, and authorities conferred by this Constitution are continuous and enduring, and shall not lapse or be diminished by reason of non-use, silence, change of personnel, restructuring, or passage of time.

This Constitution shall take full force and legal effect upon its formal ratification by the Company in accordance with applicable law, and shall thereafter be binding upon:

- the Company;
- all present and future shareholders;
- all directors and officers;
- all employees, contractors, and agents;
- all successors, assigns, and lawful representatives.

No custom, practice, agreement, or course of dealing shall amend, override, or derogate from this Constitution except in strict accordance with the amendment provisions set forth herein and duly authorized by the appropriate governing authority of the Company.

By operating pursuant to this Constitution, the Company affirms its commitment to lawful governance, responsible leadership, protection of innovation, and the disciplined exercise of corporate authority.

# FORMAL RATIFICATION

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This Constitution is hereby irrevocably ratified, approved, confirmed, and declared effective by a resolution of the Company duly passed in strict compliance with all applicable laws, regulations, and statutory requirements. Upon such ratification, this Constitution shall take immediate and continuing legal effect and shall constitute the sole, final, conclusive, and supreme governing instrument of the Company.

This ratification shall be conclusive and binding evidence of the lawful authority under which this Constitution is established and of the Company's unconditional intention to be governed exclusively by its provisions. No act, omission, custom, practice, agreement, representation, or course of dealing shall give rise to any implied amendment, waiver, estoppel, or derogation from this Constitution.

## ENFORCEMENT, NON-DEROGATION, AND CONTROL

### 1. Non-Derogation

No right, power, authority, or protection conferred by this Constitution shall be limited, suspended, diminished, or overridden except strictly in accordance with an express amendment duly authorized under this Constitution and permitted by law.

### 2. Waiver of Implied Rights

To the fullest extent permitted by law, all persons subject to this Constitution expressly waive any claim to implied rights, equitable relief, customary practices, or interpretations inconsistent with its express terms.

### 3. Anti-Challenge Clause

The validity, authority, enforceability, and binding effect of this Constitution shall not be challenged, questioned, or contested on the basis of prior documents, informal arrangements, historical practices, or alleged understandings, whether written or oral.

### 4. Founder Authority Confirmation

The authority, rights, and powers vested in the Founder under this Constitution are hereby expressly affirmed and acknowledged as intentional, fundamental, and integral to the governance structure of the Company, and shall not be construed narrowly or restrictively.

### 5. Continuity and Perpetuity

This Constitution shall remain binding in perpetuity, subject only to lawful amendment in strict accordance with its provisions, and shall survive any change in ownership, management, control, structure, or legal status of the Company.

This ratification is made with full corporate capacity, authority, knowledge, and intent, without reservation, condition, or limitation, and is effective against all persons to whom this Constitution applies.

**FOUNDER & CHIEF EXECUTIVE OFFICER:**

**Induwara P. Jayasinghe**

**Founder and CEO of Black Hat Inc., Clidder LLC, and Black Hat Developers, with additional affiliations to Jayasinghe Brothers Holdings PLC**

**DATE OF RATIFICATION:** 2025.04.06

**PLACE OF RATIFICATION:** 1 Black Hat Way, Mountain View, Jayasinghe Park

**AUTHORIZED SIGNATURE:** 

**END OF CONSTITUTION**