

# 1670166

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
DEEP GEO INC.**

Deep Geo Inc., a corporation organized and existing under and by virtue of the provisions of the Business Corporation Act of the State of Rhode Island and Providence Plantations (the "Business Corporation Law"),

DOES HEREBY CERTIFY:

**FIRST:** The name of the corporation is Deep Geo Inc. (the "Corporation"), and that the Corporation was originally incorporated pursuant to the Business Corporation Law on January 19, 2017 by filing its initial Articles of Incorporation (the "Initial Articles of Incorporation") with the Secretary of State of the State of Rhode Island and Providence Plantations.

**SECOND:** The Corporation amended its Initial Articles of Incorporation by filing Articles of Amendment on March 29, 2019 (such Articles of Incorporation, as so amended, the "Current Articles of Incorporation");

**THIRD:** The Board of Directors duly adopted resolutions proposing to amend and restate the Corporation's Current Articles of Incorporation in their entirety, declaring said amendment and restatement to be advisable and in the best interests of the Corporation and its stockholders, and authorizing the appropriate officers of the Corporation to call a meeting of the Corporation's stockholders for the purpose, among others, of approving the proposed amendment and restatement of the Current Articles of Incorporation as follows:

RESOLVED, that the Articles of Incorporation of the Corporation be amended and restated in its entirety (as so amended and restated, the "Amended Articles of Incorporation") as follows:

**ARTICLE I**

The name of this corporation is DEEP GEO INC. The Corporation shall not be a close corporation pursuant to Section 7-1.2-1701 of the Business Corporation Law.

**ARTICLE II**

The total number of shares of all classes of stock which the Corporation shall have authority to issue is 10,000,000 shares of Common Stock, without par value per share ("Common Stock"), of which (i) 500,000 are designated as shares of Class A Common Stock, without par value per share (the "Class A Common Stock") and (ii) 9,500,000 are designated as shares of Class B Common Stock, without par value per share (the "Class B Common Stock").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

**FILED**

OCT 23 2020

KL HKC26  
12:23

R.I. DEPT. OF STATE  
BUS. SVCS. DIV.  
2020 OCT 23 P 12:23

A. COMMON STOCK

1. Voting.

1.1 Voting.

1.1.1 The holders of shares of Common Stock shall be entitled to one vote for each share of Common Stock, held at all meetings of stockholders (and written actions in lieu of meetings). Except as provided herein and as required by applicable law, the holders of shares of Class A Common Stock shall vote together with the Class B Common Stock as a single class.

1.1.2 There shall be no cumulative voting.

1.1.3 Any class or series of the Corporation's capital stock senior in right to or pari passu with the Class A Common Stock with respect to dividends, the distribution of assets on the liquidation, dissolution or winding up of the Corporation or the payment of dividends may only be created, authorized or issued and the number of authorized shares of Class A Common Stock may only be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of Class A Common Stock of the Corporation representing at least a majority of the votes represented by all shares of Class A Common Stock outstanding and entitled to vote and voting separately as a class, irrespective of the provisions of Section 7-1.2-904(b) of the Business Corporation Law.

1.1.4 The number of authorized shares of Class B Common Stock may only be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of capital stock of the Corporation representing at least a majority of the votes represented by all shares of capital stock outstanding and entitled to vote, irrespective of the provisions of Section 7-1.2-904(b) of the Business Corporation Law.

1.2 Anti-Dilution.

1.2.1 Any provision hereof to the contrary notwithstanding, and regardless of the number of shares of the Corporation's capital stock authorized at any time, at all times prior to the effectiveness of a Registration Statement relating to the Corporation's Initial Public Offering, each share of Class A Common Stock shall at all times represent an undivided interest (expressed as a percentage) in the Corporation and its assets equal to the quotient (the "**Class A Common Stock Per Share Interest**") obtained by dividing (a) one (1) by (b) the lesser of (1) the actual number of shares of the Corporation's capital stock issued and outstanding as of the date of determination (calculated on a fully diluted and as-converted-to-Common-Stock basis, in the event that the Corporation has any Convertible Securities outstanding as of the date of determination) and (2) one million (1,000,000). For the purposes hereof, "**Aggregate Class A Common Interest**" shall mean the product of the Class A Common Stock Per Share Interest multiplied by the number of shares of Class A Common Stock issued and outstanding as of the date of determination. "**Convertible Securities**" shall mean and include any security issued by the Corporation exercisable or exchangeable for, or convertible into, either (x) any class or series of the capital stock of the Corporation or (y) any security issued by the Corporation exercisable or exchangeable for, or convertible into, any other security issued by the Corporation that is

exercisable or exchangeable for, or convertible into, any class or series of the capital stock of the Corporation.

1.2.2 The provisions of Article II.B.1.2.1 above shall terminate automatically and without action by any holder of any shares of the capital stock of the Corporation, and shall be of no further force or effect, immediately prior to the effectiveness of a Registration Statement relating to the Corporation's Initial Public Offering. "Initial Public Offering" shall mean the Corporation's initial public offering of its shares of capital stock pursuant to a firm commitment underwritten public offering resulting in the listing of the Company's Common Stock on New York Stock Exchange or the Nasdaq Stock Market.

## 2. Dividends.

2.1 *Class A Common Stock.* Each share of Class A Common Stock shall be entitled to its Class A Common Stock Per Share Interest in such dividends and other distributions of cash, equity or debt securities or other property of the Corporation as may be declared by the Board of Directors from time to time with respect to the Common Stock, provided that such dividend or other distribution is made from funds or other assets of the Corporation legally available for such purpose.

2.2 *Class B Common Stock.* Each share of Class B Common Stock shall be entitled to its Class B Common Stock Per Share Interest in such dividends and other distributions of cash, equity or debt securities or other property of the Corporation as may be declared by the Board of Directors from time to time with respect to the Common Stock, provided that such dividend or other distribution is made from funds or other assets of the Corporation legally available for such purpose. For the purposes hereof, "**Class B Common Stock Per Share Interest**" shall mean the fraction (expressed as a percentage) obtained by dividing (a) the difference obtained by subtracting (x) the Aggregate Class A Common Interest from (y) one (1) by (b) the number of shares of Class B Common Stock issued and outstanding on the date of determination. The Aggregate Class B Common Interest shall be the difference obtained by subtracting the Aggregate Class A Common Interest from one (1). For example, assuming that, as of a date of determination, 90,000 shares of Class A Common Stock and 1,600,000 shares of Class B Common Stock are issued and outstanding, then (A) the Class A Common Stock Per Share Interest would be 0.0001% ( $1/1,000,000$ ); (B) the Aggregate Class A Common Interest would be 9.00% ( $90,000 \times .00001$ ); (C) the Aggregate Class B Interest would be 91.00% ( $1.00 - .09 = .91$ ); and (D) the Class B Common Stock Per Share Interest would be 0.0000565875% ( $0.91/1,600,000 = 0.00000565875$ ).

## 3. Liquidation and Dissolution; Deemed Liquidation.

3.1 *Payments to Holders of Class A Common Stock.* In the event of the voluntary or involuntary liquidation, dissolution distribution of assets and winding up of the Corporation or any Deemed Liquidation Event, each share of Class A Common Stock then outstanding shall be entitled to be paid, out of the assets of the Corporation lawfully available for distribution to its stockholders, an amount equal to its Class A Common Stock Per Share Interest of such assets.

3.2 *Payments to Holders of Class B Common Stock.* In the event of the voluntary or involuntary liquidation, dissolution distribution of assets and winding up of the Corporation or any Deemed Liquidation Event, each share of Class B Common Stock then outstanding shall be entitled to be paid, out of the assets of the Corporation lawfully available for distribution to its stockholders, an amount equal to its Class B Common Stock Per Share Interest of such assets.

### 3.3 Deemed Liquidation Events.

3.3.1 Definition. Each of the following events shall be considered a “**Deemed Liquidation Event**” unless the holders of at least a majority of the outstanding shares of Class A Common Stock and the holders of at least a majority of the outstanding shares of Class B Common Stock, voting as separate classes (collectively, the “**Requisite Holders**”), elect otherwise by written notice sent to the Corporation at least ten (10) days prior to the effective date of any such event:

- (a) a merger or consolidation in which
  - (i) the Corporation is a constituent party or
  - (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation,

except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets or intellectual property of the Corporation and its subsidiaries taken as a whole, or the sale or disposition (whether by merger, consolidation or otherwise) of one or more subsidiaries of the Corporation if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Corporation.

3.4 Election of Directors. The holders of record of the shares of Class A Common Stock exclusively and as a separate class, shall be entitled to elect that number of directors of the Corporation equal to the number of directors (rounded up to the nearest whole number) then authorized multiplied by four-tenths. The holders of record of the shares of Class B Common Stock, exclusively and together as a separate class, shall be entitled to elect all other directors of the Corporation; provided that one director elected by the holders of Class B Common

Stock shall be the Non-Voting Director (as defined below). At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class, classes or series entitled to elect such director shall constitute a quorum for the purpose of electing such director. Any vacancy, including newly created directorships resulting from any increase in the authorized number of directors or amendment of these Amended Articles of Incorporation, and vacancies created by removal or resignation of a director, may be filled by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and shall qualify, unless sooner displaced; provided, however, that where such vacancy occurs among the directors elected by the holders of a class, classes or series of stock, the holders of shares of such class, classes or series may override the Board's action to fill such vacancy by (a) voting for their own designee to fill such vacancy at a meeting of the Corporation's stockholders or (b) written consent, if the consenting stockholders hold a sufficient number of shares to elect their designee at a meeting of the stockholders. Any director may be removed during his or her term of office, either with or without cause, by, and only by, the affirmative vote of the holders of the shares of the class, classes or series of stock entitled to elect such director or directors, given either at a special meeting of such stockholders duly called for that purpose or pursuant to a written consent of stockholders, and any vacancy thereby created may be filled by the holders of that class or series of stock represented at the meeting or pursuant to written consent.

### ARTICLE III

The address of the registered office of this corporation in the State of Rhode Island and Providence Plantations is 39 Allston Avenue, Middletown, RI 02842.

### ARTICLE IV

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the Business Corporation Law of Rhode Island and Providence Plantations. The Corporation shall have all lawful powers of a corporation organized pursuant to the Business Corporation Law. In addition to, and not in limitation of, thereof:

- (a) the Corporation shall have the right, power and authority to carry on any business, operation or activity to the same extent as might an individual, whether as a principal, agent, contractor, or otherwise, and either alone or in conjunction, joint venture, partnership or other arrangement with any other entity or natural person;
- (b) the Corporation shall have the right, power and authority to carry on any lawful business, operation or activity through one or more direct or indirect subsidiaries, whether wholly-owned or owned in part;
- (c) the Corporation shall have the right, power and authority to be a partner in any business enterprise which the Corporation would have the power to conduct directly or through a direct or indirect subsidiary;
- (d) The Directors shall have the power to fix from time to time their compensation;

- (e) No shareholder shall have the right to examine any property or any books, accounts or other writings of the Corporation if there is a reasonable ground for belief that such examination will, for any reason, be adverse to the interests of the Corporation. A vote of the Directors, refusing permission to make such examination and setting forth that in the opinion of the Directors such examination would be adverse to the interests of the Corporation, shall be prima facie evidence that such examination would be adverse to the interests of the Corporation. Every such examination shall be subject to such reasonable regulations as the Directors may establish with respect thereto; and
- (f) The Directors may specify the manner in which the accounts of the Corporation shall be kept and may determine what constitutes net earnings, profits and surplus, what amounts, if any, shall be reserved for any corporate purpose, and what amounts, if any, shall be declared as dividends. Unless the Directors specify otherwise, the excess of the consideration paid for any shares of capital stock with par value issued by it over such par value shall be paid-in surplus. The Directors may allocate to capital stock less than all of the consideration paid for any share of the Corporation's capital stock without par value issued by the Corporation, in which case the balance of such consideration shall be paid-in surplus. All surplus shall be available for any corporate purpose, including the payment of dividends.
  - (g) Any action required or permitted to be taken at any annual or special meeting of the shareholders of the Corporation may be taken without a meeting by the written consent of shareholders having not less than the minimum number of votes necessary to take such action at a meeting of the shareholders at which all shareholders entitled to vote thereon are present and voting; provided, that any such action is a proper subject for shareholder action by written consent and such action is taken in accordance with, and subject to the Corporation's Bylaws and applicable law.

#### **ARTICLE V**

Each director shall have the authority contemplated by the Business Corporation Law. Subject to any additional vote required by the Amended Articles of Incorporation or Bylaws, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

#### **ARTICLE VI**

Subject to any additional vote required by the Amended Articles of Incorporation, the number of directors of the Corporation shall be determined in the manner set forth in the Bylaws of the Corporation.

#### **ARTICLE VII**

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

## ARTICLE VIII

Meetings of stockholders may be held within or without the State of Rhode Island and Providence Plantations, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept outside the State of Rhode Island and Providence Plantations at such place or places as may be designated from time to time by the Board or in the Bylaws of the Corporation.

## ARTICLE IX

To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Rhode Island and Providence Plantations is amended after approval by the stockholders of this Article IX to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended.

Any repeal or modification of the foregoing provisions of this Article IX by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

## ARTICLE X

The following indemnification provisions shall apply to the persons enumerated below.

1. Right to Indemnification of Directors and Officers. The Corporation shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (an "**Indemnified Person**") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**Proceeding**") by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Indemnified Person in such Proceeding. Notwithstanding the preceding sentence, except as otherwise provided in Section 3 of this Article X, the Corporation shall be required to indemnify an Indemnified Person in connection with a Proceeding (or part thereof) commenced by such Indemnified Person only if the commencement of such Proceeding (or part thereof) by the Indemnified Person was authorized in advance by the Board of Directors.

2. Prepayment of Expenses of Directors and Officers. The Corporation shall pay the expenses (including attorneys' fees) incurred by an Indemnified Person in defending any

Proceeding in advance of its final disposition; provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the Proceeding shall be made only upon receipt of an undertaking by the Indemnified Person to repay all amounts advanced if it should be ultimately determined that the Indemnified Person is not entitled to be indemnified under this Article X or otherwise.

3. Claims by Directors and Officers. If a claim for indemnification or advancement of expenses under this Article Tenth is not paid in full within thirty (30) days after a written claim therefor by the Indemnified Person has been received by the Corporation, the Indemnified Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the Corporation shall have the burden of proving that the Indemnified Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

4. Indemnification of Employees and Agents. The Corporation may indemnify and advance expenses to any person who was or is made or is threatened to be made or is otherwise involved in any Proceeding by reason of the fact that such person, or a person for whom such person is the legal representative, is or was an employee or agent of the Corporation or, while an employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, limited liability company, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such person in connection with such Proceeding. The ultimate determination of entitlement to indemnification of persons who are non-director or officer employees or agents shall be made in such manner as is determined by the Board of Directors in its sole discretion. Notwithstanding the foregoing sentence, the Corporation shall not be required to indemnify a person in connection with a Proceeding initiated by such person if the Proceeding was not authorized in advance by the Board of Directors.

5. Advancement of Expenses of Employees and Agents. The Corporation may pay the expenses (including attorneys' fees) incurred by an employee or agent in defending any Proceeding in advance of its final disposition on such terms and conditions as may be determined by the Board of Directors.

6. Non-Exclusivity of Rights. The rights conferred on any person by this Article X shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, provision of the Amended Articles of Incorporation, By-laws, agreement, vote of stockholders or disinterested directors or otherwise.

7. Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer or employee of another Corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise shall be reduced by any amount such person may collect as indemnification from such other Corporation, partnership, limited liability company, joint venture, trust, organization or other enterprise.

8. Insurance. The Board of Directors may, to the full extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Corporation's expense insurance that will: (a) indemnify the Corporation for any obligation which it incurs as a result of the indemnification of directors, officers and employees under the provisions of this Article Tenth; and (b) indemnify or insure directors, officers and employees against liability in instances in which they may not otherwise be indemnified by the Corporation under the provisions of this Article Tenth.

9. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this Article X shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification. The rights provided hereunder shall inure to the benefit of any Indemnified Person and such person's heirs, executors and administrators.

#### ARTICLE XI

The Corporation reserves the right to amend, alter, change or repeal any provision of these Amended Articles of Incorporation), in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

#### ARTICLE XII

The Corporation renounces, to the fullest extent permitted by law, any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, any Excluded Opportunity. An "**Excluded Opportunity**" is any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any Investor or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (collectively, "**Covered Persons**"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation.

#### ARTICLE XIII

Unless the Corporation consents in writing to the selection of an alternative forum, the state courts (the "**Rhode Island Court**") of the State of Rhode Island and Providence Plantations sitting in the City of Providence, Providence County, Rhode Island and Providence Plantations shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its directors, officers or employees arising pursuant to any provision of the Business Corporation Law or the Corporation's certificate of incorporation or bylaws or (iv) any action asserting a claim against the Corporation, its directors, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Rhode Island Court determines that there is an indispensable party not subject to the

jurisdiction of the Rhode Island Court (and the indispensable party does not consent to the personal jurisdiction of the Rhode Island Court within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Rhode Island Court, or for which the Rhode Island Court does not have subject matter jurisdiction. If any provision or provisions of this Article XIII shall be held to be invalid, illegal or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article XIII (including, without limitation, each portion of any sentence of this Article XIII containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other persons or entities and circumstances shall not in any way be affected or impaired thereby.

**THIRD:** The foregoing amendment and restatement was approved by the holders of the requisite number of shares of the Corporation in accordance with Sections 7-1.2-903, 7-1.2-904, and 7-1.2-906 of the Business Corporation Law.

**FOURTH:** That said amendment and restatement, which restates and integrates and further amends the Corporation's Articles of Incorporation, has been duly adopted in accordance with Section 7-1.2-903 of the Business Corporation Law.

\* \* \*

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, this First Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 19<sup>th</sup> day of October, 2020.

By: Joseph Link Murray  
Name: Joseph Link Murray  
Title: President