

AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this “Agreement”), dated as of March 4, 2021, by and between JVC Mergeco, LLC, a Florida limited liability company (the “Acquiror”), and JVC Media of Florida, LLC, a New York limited liability company (the “Company”).

WHEREAS, the Sole Member of the Acquiror, and the Board of Managers and Sole Member of the Company have each approved and adopted this Agreement, in each case after making a determination that this Agreement and such transactions are advisable and fair to, and in the best interests of, such limited liability company and its members; and

WHEREAS, pursuant to the transactions contemplated by this Agreement and on the terms and subject to the conditions set forth herein, the Company, in accordance with the Florida Revised Limited Liability Company Act (the “Florida Act”) and the New York Limited Liability Company Law (the “LLCL”), and subject to the approval of the Federal Communications Commission (the “FCC”), will merge with and into the Acquiror, with the Acquiror as the surviving company (the “Merger”).

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Merger. Subject to the prior approval of the FCC, and upon the terms and subject to the conditions set forth in this Agreement, and in accordance with Section 605.1025 of the Florida Act, and Section 1003 of the LLCL, the Company shall be merged with and into the Acquiror at the Effective Time (as hereinafter defined). Following the Effective Time, the separate existence of the Company shall cease, and the Acquiror shall continue as the surviving company (the “Surviving Company”). The effects and consequences of the Merger shall be as set forth in this Agreement, the Florida Act, and the LLCL.

2. Effective Time.

(a) Subject to the provisions of this Agreement, as soon as practicable after the approval of the FCC has been obtained, the parties shall duly prepare, execute and file certificates of merger (the “Certificates of Merger”) complying with the Florida Act with the Secretary of State of the State of Florida, and complying with the LLCL with the Secretary of State of the State of New York, with respect to the Merger. The Merger shall become effective upon filing (the “Effective Time”).

(b) The Merger shall have the effects set forth in the Florida Act and LLCL and, in addition, the name of the Acquiror shall be changed to JVC Media of Florida, LLC. Without limiting the generality of the foregoing, from the Effective Time: (i) all the properties, rights, privileges, immunities, powers, licenses and franchises of the Company shall vest in the Acquiror, as the Surviving Company, and (ii) all debts, liabilities, obligations and duties of the Company shall become the debts, liabilities, obligations and duties of the Acquiror, as the Surviving Company.

3. Organizational Documents. The Operating Agreement of the Company in effect at the Effective Time shall be the Operating Agreement of the Surviving Company with such changes therein as shall be necessary to replace all references to “New York” with “Florida” and to define the “Act” as the Florida Revised Limited Liability Company Act, until thereafter amended as provided therein or by the Florida Act, and the certificate of formation of the Acquiror in effect at the Effective Time, as amended pursuant to the Certificates of Merger, shall be the certificate of formation of the Surviving Company until thereafter amended as provided therein or by the Florida Act.

4. Officers and Managers. The officers and managers of the Company immediately prior to the Effective Time shall be the officers and managers of the Surviving Company from and after the Effective Time and shall hold office until the earlier of their respective death, resignation or removal or their respective successors are duly elected or appointed and qualified in the manner provided for in the certificate of formation and Operating Agreement of the Surviving Company or as otherwise provided by the Florida Act.

5. Conversion of Units. At the Effective Time, by virtue of the Merger and without any action on the part of the Acquiror or the Company or the holders of the membership interests (the “Interests”) in the Company:

(a) the Interests, issued and outstanding immediately prior to the Effective Time, other than Interests held by the Acquiror, shall be converted into the right to receive one identical interest in the Surviving Company;

(b) any interest that is owned by the Acquiror or the Company will automatically be canceled and retired and will cease to exist, and no consideration will be delivered in exchange therefor; and

(c) any interest in the Acquiror issued and outstanding immediately prior to the Effective Time shall be cancelled and retired and will cease to exist, and no consideration will be delivered in exchange therefor following the consummation of the Merger.

6. Submission to Service of Process. The Surviving Company agrees that it may be served with process in the State of Florida in any proceeding for enforcement of any obligation of any constituent company, as well as the enforcement of any obligation of the Surviving Company arising from this Merger and irrevocably appoints Corporation Service Company as its agent to accept service of process in any such suit or proceeding. The Secretary of State shall mail a copy of any such process to the Surviving Company at 1201 Hays Street, Tallahassee, FL 32301.

7. Entire Agreement. This Agreement together with the Certificates of Merger constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, representations and warranties and agreements, both written and oral, with respect to such subject matter.

8. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

9. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

10. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

11. Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

12. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.


13. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Florida.

14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.


[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

JVC MERGECO, LLC
(Florida Limited Liability Company)

By: 
Name: John Caracciolo
Title: President

JVC MEDIA OF FLORIDA, LLC
(New York Limited Liability Company)

By: 
Name: John Caracciolo
Title: President