**AFFIDAVIT TO ESTABLISH SURVIVING**

**TENANT BY THE ENTIRETY**

Title No.

STATE OF NEW YORK :

 : ss.:

COUNTY OF \_\_\_\_\_\_\_\_\_\_ :

\_\_\_\_\_\_\_\_\_\_, being duly sworn, deposes and says:

1. That he/she was validly married to \_\_\_\_\_\_\_\_\_ (“decedent”) immediately prior to the decedent’s death, and that the affiant and the decedent held title as "husband and wife" to the following described property:

Street Address: \_\_\_\_\_\_\_\_\_\_

Section \_\_\_\_\_\_\_\_\_, Block \_\_\_\_\_\_\_\_\_\_, Lot \_\_\_\_\_\_\_\_\_

2. (a) That the affiant and the above-named decedent were legally married on \_\_\_\_\_\_\_\_\_\_ and affiant is the widow/widower of decedent.

 (b) That the affiant and the above named decedent were still legally married at the time of the death of said decedent and that no agreement, judicial decree of separation, annullment or divorce had terminated the tenancy by the entirety.

 (c) that there was is no joint last will and testament by the affiant and by the decedent regarding the dispositon of the real property of the affiant and of the decedent.

3. That \_\_\_\_\_\_\_\_\_\_ died on \_\_\_\_\_\_\_\_\_\_ as evidenced by a certified copy of the Certificate of Death attached hereto.

4. That the affiant has carefully examined all of the decedents' personal possessions, letters, papers, effects and belongings, and is certain that either:

(a) No Will was executed or otherwise declared by the decedent, based not only on affiant's failure to discover a will, but because affiant was never informed of decedent having executed or declared a will, and affiant is certain that he/she would have been consulted, or would at least have had knowledge of that fact if a testamentary disposition were attempted, or

(b) If a Will is present that it is the last complete Will (with codicils and/or other amendments) and that this Will devised the subject property to the affiant.

5. That, with respect to the above-described property, there has not been nor will there be an election filed pursuant to EPTL 5-1.1A in any proceedings in any court of competent jurisdiction.

6. That I am fully familiar with the assets of which the decedent died and that there are no Federal Estate Taxes or New York Estate Taxes due on the Estate, and further, that all debts/legacies against the Estate, if any, are satisfied.

7. That this affidavit is executed to induce Stewart Title Insurance Company to issue a policy of title insurance covering said premises, knowing that they will rely on the statements herein made are true.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sworn to before me this

\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 20\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public