

## EUTF DECLARATION OF DOMESTIC PARTNERSHIP

### I. DECLARATION:

We, \_\_\_\_\_, (employee-beneficiary) and, \_\_\_\_\_, (domestic partner), each declare under penalty of perjury, that we have established a domestic relationship effective \_\_\_\_\_ (date) and certify every one of the following criteria:

### II. STATUS

1. The employee-beneficiary and the domestic partner are currently in and intend to remain in a domestic partnership with each other indefinitely.
2. The employee-beneficiary and the domestic partner have a common residence and intend to reside together indefinitely.
3. The employee-beneficiary and the domestic partner are and agree to be jointly and severally responsible for each other's basic living expenses (such as food, shelter, and medical care) incurred in the domestic partnership.
4. Neither the employee-beneficiary nor the domestic partner is married or a member of another domestic partnership.
5. The employee-beneficiary and the domestic partner are not related by blood in a way that would prevent them from being married to each other in the State of Hawaii.
6. The employee-beneficiary and the domestic partner are both at least 18 years of age and mentally competent to contract.
7. The consent to the domestic partnership by the employee-beneficiary or the domestic partner has not been obtained by force, duress or fraud.
8. The employee-beneficiary and the domestic partner hereby agree to sign and file with the EUTF any and all declarations of domestic partnership and/or verifications of eligibility as the EUTF board may from time to time prescribe.

### III. DEPENDENT CHILDREN OF DOMESTIC PARTNER

We understand that dependent children of the domestic partner may be covered by the EUTF's health benefits plans if they meet all of the eligibility requirements for dependent-beneficiary coverage in such plans, e.g., be unmarried, under the age of nineteen or under the age of twenty-four and a full-time student, and be primarily dependent on the employee-beneficiary and/or domestic partner for support.



**IV. CHANGE IN DOMESTIC PARTNERSHIP:**

- 1. We understand that we have an obligation to notify the EUTF by filing a Declaration of Termination of Domestic Partnership if there is any change in our domestic partnership status as a result of: (a) any of the certifications in part II of this Declaration ceasing to be true; (b) the death of the domestic partner; or (c) the termination or dissolution of our domestic partnership. We will notify the EUTF as soon as possible of such change. The form for making this notification is available from the EUTF, your department personnel officer, or the Department of Human Resources Development.
- 2. We understand that coverage of the domestic partner and the domestic partner's dependent children (obtained as a result of completion of this Declaration) will be terminated upon: (a) the EUTF's receipt of a notice of change in our domestic partnership, (b) or upon the EUTF's receipt of any other proper notification requesting termination of such coverage, (c) the EUTF requests information from the employee-beneficiary or the domestic partner to verify that the statements made in this Declaration are correct and such information is not provided as requested; or (d) if the EUTF board concludes that the statements made in this Declaration are not correct.

**V. ACKNOWLEDGMENTS:**

- 1. We understand that a civil action may be brought against one or both of us for any losses due to any false statement contained in this Declaration or for failure to notify the EUTF of changed circumstances as required in Section IV above. Recoverable losses may include, but are not limited to, any health benefits paid by the EUTF health benefit plans and the EUTF's attorneys' fees and costs. I, the undersigned employee-beneficiary, further understand that falsification of information in this Declaration, or failure to notify the EUTF, of changed circumstances pursuant to Section IV above, may lead to disciplinary action against me, including discharge from employment.
- 2. We have voluntarily provided the information in this Declaration for use by the EUTF for the sole purpose of determining our eligibility for certain domestic partner benefits. We understand and agree that the EUTF is not legally required to extend any such benefits. We understand that the information provided in this Declaration will be treated as confidential by the EUTF but will be subject to disclosure; (a) upon the express written authorization of the undersigned employee, (b) upon request of the insurer or plan administrator, (c) if otherwise required by law, or (d) if necessary, to administer the EUTF health benefits plans.
- 3. We understand that this Declaration may have legal implications relating, for example, to our ownership of property, qualifications required to pay premiums with pretax funds, or to taxability of benefits provided, and that before signing this Declaration we should seek competent legal advice concerning such matters.

We affirm, under penalty of perjury, that the statements in this Declaration are true and correct.

Employee-Beneficiary Signature	Date
Domestic Partner Signature	Date
Employee-Beneficiary & Domestic Partner Address	

Subscribed and sworn to before me This ____ day of _____, 20__ .
Signature of Notary Public
Notary Public - State of Hawaii (Print Name)
My commission expires: _____

## AFFIDAVIT OF "DEPENDENCY" FOR TAX PURPOSES

Whether or not your Domestic Partner or Civil Union Partner qualifies as a dependent for tax purposes, this form must be submitted to the EUTF before your Domestic Partner or Civil Union Partner or Civil Union Partner can be enrolled. You will sign this form in one of two places, depending on your Domestic Partner or Civil Union Partner's status. Your Domestic Partner or Civil Union Partner may also be required to sign this form.

EXPLANATION: Under Section 152 of the Internal Revenue Code, as it pertains to health benefit plans, an individual may qualify as a dependent of an employee for tax purposes if: (a) the employee provides over one-half of the individual's support for the employee's taxable year; (b) the individual has the same principal place of abode as the employee for the entire taxable year; (c) the individual is a member of the employee's household for the entire taxable year; and (d) the individual is citizen or national of the United States or a resident of the United States or a country contiguous to the United States.

We, \_\_\_\_\_ (the "Employee-Beneficiary") and \_\_\_\_\_ (the "Domestic Partner or Civil Union Partner") being duly sworn, under penalty of perjury, say:

1. For the current taxable year of the Employee-Beneficiary, over half of the Domestic Partner's or Civil Union Partner's support is received from the Employee-Beneficiary. [See the attached worksheet to determine whether this requirement is satisfied.]
2. For the current taxable year of the Employee-Beneficiary, the Domestic Partner or Civil Union Partner has as his or her principal place of abode the home of the Employee-Beneficiary.
3. For the current taxable year of the Employee-Beneficiary, the Domestic Partner or Civil Union Partner is a member of the Employee-Beneficiary's household.
4. The Domestic Partner or Civil Union Partner is a citizen of \_\_\_\_\_ (Country). If your answer is United States, skip to Question 8. If not, continue from question 5.

EXPLANATION: Under Section 7701(b) of the Internal Revenue Code, an alien is treated as a "resident" of the United States for tax purposes if such individual is lawfully admitted for permanent residence in the United States or meets the "substantial presence" test. To meet the "substantial presence" test, an individual must generally: (a) be present in the United States for at least 31 days during the current calendar year, and (b) the sum of the number of days on which the individual was present in the United States during the current calendar year and the 2 preceding calendar years (when multiplied by the applicable multipliers) equals or exceeds 183. The applicable multipliers are: 1 for the current year, 1/3 for the 1st preceding year, and 1/6 for the 2nd preceding year. The following individuals are not "residents" of the United States for tax purposes and, thus can never be "dependents" for tax purposes:

- A foreign government-related individual temporarily present in the United States on a diplomatic or consular visa, a full-time employee of an International organization, or a family member of such person.
- A teacher or trainee temporarily present in the United States.
- A student temporarily present in the United States.
- A professional athlete temporarily in the United States to compete in a charitable sports event.

5. The Domestic Partner or Civil Union Partner is currently a "resident" of \_\_\_\_\_ (Country).
6. The Domestic Partner or Civil Union Partner is currently lawfully present in the United States under the following type of visa: \_\_\_\_\_

7. If the type of visa is "permanent resident" skip to Question 8. If not, answer the following questions.

The Domestic Partner or Civil Union Partner meets the "substantial presence" test as the actual number of days the Domestic Partner or Civil Union Partner has been lawfully present in the United States during the current year and the 2 preceding years is:

\_\_\_\_\_ (Number of days in USA, current year) x 1 = \_\_\_\_\_  
\_\_\_\_\_ (Number of days in USA, 1st preceding year) x 1/3 = \_\_\_\_\_  
\_\_\_\_\_ (Number of days in USA, 2nd preceding year) x 1/6 = \_\_\_\_\_  
Total of above (must equal or exceed 183) = \_\_\_\_\_

EXPLANATION: Section 152 (f)(3) of the Internal Revenue Code provides that an individual is not a member of the taxpayer's household if, at any time during the taxable year of the taxpayer, the relationship between such individual and the taxpayer is a violation of local law.

8. Our state of permanent residence is \_\_\_\_\_  
(State)

9. We understand that if the Domestic Partner or Civil Union Partner is not a "dependent" of the Employee-Beneficiary, we may incur various tax liabilities in connection with obtaining health care coverage for the Domestic Partner or Civil Union Partner. We therefore agree to notify the Hawaii Employer-Union Health Benefits Trust Fund (EUTF) within 10 days if there is any change in the Domestic Partner's or Civil Union Partner's status as a "dependent" of the Employee-Beneficiary. In addition, we shall indemnify and hold the EUTF harmless for any taxes, tax related penalties, or interest imposed upon the EUTF as a result of providing Domestic Partner or Civil Union Partner coverage to us, including any taxes, tax related penalties, or interest imposed as a result of our taking the position the Domestic Partner or Civil Union Partner is a "dependent" of the Employee-Beneficiary for tax purposes.

10. We agree that each of us is jointly and individually responsible for reimbursement of benefits and expenses, including interest, attorney's fees, and collection costs as a result of any false or misleading statement contained in this affidavit and related applications and submissions to the EUTF.

If your Domestic Partner or Civil Union Partner is not a qualified dependent, **STOP HERE**, print your name, sign and date. Return form to your employer's personnel office (or directly to the EUTF if enrolled in a retiree plan). If your Domestic Partner or Civil Union Partner is a qualified dependent, please continue to next page.

I have read this document and have determined that my Domestic Partner or Civil Union Partner is not qualified as a dependent under section 152 of the Internal Revenue Code as described above.

Name (Print): \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

This section to be completed in the presence of a Notary.

Each of us affirms under penalty of perjury under the laws of the State of Hawaii that we are the respective undersigned signatories, the statements in this affidavit are true to the best of our knowledge, and this affidavit and related application instruments are the free act and deed of each of us.

\_\_\_\_\_  
Employee-Beneficiary's Signature

\_\_\_\_\_  
Domestic Partner or Civil Union Partner Signature

\_\_\_\_\_  
Print Employee-Beneficiary's Name

\_\_\_\_\_  
Print Domestic Partner or Civil Union Partner Name

\_\_\_\_\_  
Employee-Beneficiary SS#

\_\_\_\_\_  
Domestic Partner or Civil Union Partner SS#

Address:

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

Subscribed and sworn to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Subscribed and sworn to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Notary Public - State of Hawaii  
My commission expires: \_\_\_\_\_

Notary Public - State of Hawaii  
My commission expires: \_\_\_\_\_

## WORKSHEET TO DETERMINE DEPENDENT STATUS

(Worksheet modeled after the Internal Revenue Service worksheet in Publication 17)

### IMPORTANT

You can use this worksheet to determine whether your domestic partner or civil union partner qualifies as a dependent under Section 152 of the

Revenue Code (in general, your domestic partner must receive more than half of his or her support from you).

<b>Funds Belonging to your Domestic Partner or Civil Union Partner</b>	
1. Total funds belonging to your Domestic Partner or Civil Union Partner, including income received and amounts borrowed during the year, plus the amount in savings and other accounts at the beginning of the year.	\$
2. Amount of income used for support	\$
3. Amount of income used for other purposes	\$
4. Amount in savings and other accounts at the end of the year.	\$
(The total of lines 2, 3, and 4 should equal line 1)	\$
<b>Expenses for Entire Household (Where You and Your Domestic Partner or Civil Union Partner Lived)</b>	
5. Lodging (complete either a or b)	
a. Rent paid	\$
b. If not rented, show fair rental value of home. If your Domestic Partner or Civil Union Partner owned the home, include this amount on line 19.	\$
6. Food	\$
7. Utilities (heat, light, water, etc., not included on line 5a or 5b)	\$
8. Repairs (not included in 5a or 5b)	\$
9. Other (i.e., furniture). Do not include expenses of maintaining home (i.e., mortgage interest, real estate taxes, and insurance).	\$
10. Total household expenses (add lines 5 through 9)	\$
11. Total number of persons who lived in household	
<b>Expenses for Your Domestic Partner or Civil Union Partner</b>	
12. Each person's part of the household expenses (line 10 divided by line 11)	\$
13. Clothing	\$
14. Education	\$
15. Medical and Dental	\$
16. Travel and recreation	\$
17. Other (please specify)	\$
18. Total cost of support for the year (Add lines 12 through 17)	\$
<b>Did You Provide More Than Half?</b>	
19. Amount your Domestic Partner or Civil Union Partner provided for his/her own support (Line 2, plus line 5b if your Domestic Partner or Civil Union Partner owned the home)	\$
20. Amount that others added to your Domestic Partner's or Civil Union Partner's support. Include amounts provided by state, local, and other welfare societies or agencies. Do not include any amounts included on line 1)	\$
21. Amount you provided for your Domestic Partner's or Civil Union Partner's support (line 18 minus lines 19 and 20)	\$
22. 50% of line 18	\$
Is line 21 more than line 22?	
Yes. Your Domestic Partner or Civil Union Partner qualifies as a dependent under Section 152 of the IRC. You are able to deduct your Domestic Partner's or Civil Union Partner's portion of health plan premium contributions on a pre-tax basis.	
No. Your Domestic Partner or Civil Union Partner does not qualify as a dependent. Your Domestic Partner's or Civil Union Partner's portion of health plan premium contributions must be deducted on an after-tax basis.	