

## **ArentFox Schiff Surrogacy Reimbursement Program**

### **Effective January 1, 2024**

ArentFox Schiff (the “Firm”) recognizes that families are built in many ways. In order to support eligible individuals on their path to building a family, the Firm offers a Surrogacy Reimbursement Program (the “Program”). The Program can provide “Eligible Individuals” with financial assistance for eligible reimbursable surrogacy-related expenses in connection with a lawful surrogacy arrangement.

The Firm recommends that you consult with legal counsel before you start your surrogacy journey. State laws and court decisions regarding surrogacy are complex and varied. A number of states do not recognize or permit surrogacy contracts, arrangements or payment of fees to surrogates. In other states, the laws related to surrogacy arrangements may be less-developed and the absence of this framework could result in unanticipated problems. We urge you to proceed cautiously with the advice of legal counsel who can help you navigate this specialized area of law. When you submit expenses for reimbursement, you will be asked to sign an affidavit that you have entered into a valid surrogacy agreement.

### **Eligibility**

You are an “Eligible Individual” for purposes of the Program if you have successfully completed 180 days of service with the Firm since date of hire or rehire at the time and are:

- a regular full-time employee;
- a regular employee with reduced hours working at least 28 hours per week; or
- an Income Partner with at least an 80% commitment level.

To be eligible for financial assistance, you must be an Eligible Individual both when you enter into a Valid Surrogacy Contract and when you pay the reimbursable expenses. Additionally, you must remain an Eligible Individual until the Valid Surrogacy Contract has been completed (see below) and any applicable expenses have been reimbursed.

### **How Surrogacy Reimbursement Works**

The Firm will reimburse you for qualifying expenses that are directly related to and incurred by you pursuant to a “Valid Surrogacy Contract”. A Valid Surrogacy Contract is one that is legal in the U.S. state in which the parties enter into the surrogacy contract and is between the party who has agreed to become impregnated, carry and give birth to a child and the intended parent(s) of such child. A Valid Surrogacy Contract will be “completed” when it results in an Eligible Individual being recognized as the parent of the child on a birth certificate, court order of adoption, post-birth court order, or other court order recognizing the Eligible Individual’s parental rights under applicable law.

A lawful surrogacy contract that fails to result in a live birth, or results in a live birth, but the Eligible Individual is not recognized as the parent of the child on a birth certificate, court order of adoption, post-birth court order, or other court order recognizing the Eligible Individual’s parental rights under applicable law, shall not be treated as a Valid Surrogacy Contract and no financial assistance will be provided under this Program.

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#### **Amount of Surrogacy Reimbursement Assistance**

An Eligible Individual can be reimbursed up to a maximum of \$25,000 for qualified surrogacy expenses for Valid Surrogacy Contracts entered into on or after March 1, 2022. There is a lifetime maximum reimbursement of \$50,000 combined for the Firm's Surrogacy and Adoption Reimbursement Programs. Accordingly, no Eligible Individual in his/her lifetime may receive reimbursement from the Firm in excess of \$50,000 for qualified adoption or surrogacy expenses.

If you and your spouse/domestic partner are Eligible Individuals, only one of you can be reimbursed for surrogacy expenses.

Please be aware that you may not receive benefits under this Program if you or your spouse /domestic partner are receiving financial assistance through Firm's Adoption Reimbursement Program with respect to the same child.

#### **Reimbursable Expenses**

The Firm recognizes that the medical and non-medical expenses associated with surrogacy can be substantial. This Program provides for the potential reimbursement of non-medical expenses only. The non-medical expenses must be payable by you under the terms of a surrogacy contract that is valid under applicable law. Detailed documentation of the nature of the expense and your payment of the expense must be provided.

Reimbursable expenses include the items listed below.

- Surrogate agency fees, which include fees for managing the surrogate or locating and vetting a potential surrogate.
- Legal and court fees associated with the surrogacy contract.
- Travel expenses associated with surrogacy within the U.S.
- Lodging expenses for up to 14 days before the child's expected due date. Lodging expenses are capped at a 14—day maximum, even if the child's due date changes.

The following expenses are not considered reimbursable expenses.

- Fees paid to the surrogate mother for her services, including living expenses, travel and meals.
- Clothing expenses for the surrogate.
- Medical expenses for the surrogate.
- Fees paid to an egg or sperm donor or egg or sperm donor agency.
- Fees paid for egg or sperm freezing and/or storage.
- Travel costs to meet with a surrogate, doctor or lawyer prior to the 38<sup>th</sup> week of the surrogate's pregnancy term.
- Expenses incurred before you are eligible for the Program.
- Any expenses that violate applicable law.
- Expense reimbursable through your spouse's/domestic partner's surrogacy reimbursement program.
- Expenses associated with a surrogacy contract outside of the United States.

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To the extent Valid Surrogacy Contract is illegal in the jurisdiction where expenses are incurred, such expenses are not eligible for reimbursement under this Program.

The Firm, in its sole discretion, shall determine which expenses are considered reimbursable for purposes of the Program.

### **How to Submit for Reimbursement**

Eligible Individuals may submit for reimbursement once the Valid Surrogacy Contract is completed and the Eligible Individual is recognized as the parent of a child on a birth certificate, court order of adoption, post-birth court order, or other court order recognizing the Eligible Individual's parental rights under applicable law. All reimbursement requests must be submitted within 180 days of the date that the Valid Surrogacy Contract is completed. Reimbursement requests submitted 180 days or after the date that the Valid Surrogacy Contract is completed will not be eligible for reimbursement.

To request reimbursement:

1. Complete the Surrogacy Reimbursement Request Form which is available on the Firm's intranet and from Human Resources.
2. Include copies of all surrogacy-related receipts for reimbursable expenses and proof of payment. Receipts must be detailed and show the nature of the expense and the date the expense was incurred. Cancelled checks may be used to show proof of payment.
3. Include an executed copy of the Valid Surrogacy Contract.
4. Include a certified copy of the court order of adoption, or post-birth court order or other court order recognizing your parental rights under applicable law.
5. Sign and return the completed form, along with supporting documentation to Human Resources.

Your Form and supporting documentation will be reviewed, and if approved, your reimbursement will be coordinated with payroll to be included as part of your regular pay. This process takes approximately 4 weeks from the date the request is submitted.

*Note: You must be an employee or Income Partner of the Firm at the time that the reimbursement is paid. No reimbursements will be made to individuals who are no longer employed by or affiliated with the Firm*

The Firm reserves the right to ask for any additional evidence, documentation or data that it deems necessary and desirable to administer the Program.

### **Important Tax Information**

Reimbursements under this Program are considered fully taxable and are subject to all applicable federal, state and local income and employment taxes. To the extent that the Firm deems appropriate, applicable federal, state and local taxes may be withheld from any reimbursement under this Program. Please consult your tax advisor for assistance with your specific tax situation.

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**Modification or Termination**

The Firm regularly reviews its benefits and reserves the right to modify or terminate this Program at any time.

This Program is not considered a welfare plan under the Employee Retirement Income Security Act of 1974, as amended.

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