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# NEWALTA Income Fund

## EXTERNAL PRIVACY POLICY

*March 2005*

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# **EXTERNAL PRIVACY POLICY**

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## **Purpose**

At Newalta Income Fund, Newalta Corporation and our subsidiaries (collectively, "Newalta"), we are committed to maintaining the integrity, confidentiality, and security of the personal information of the individuals with whom we interact. This policy applies to all individuals other than our present, past and potential employees, trustees and directors. The personal information of such individuals is addressed in our Employee Privacy Policy.

## **Application**

This policy describes the personal information that Newalta collects from you or about you, how we use it and to whom we disclose that information.

Privacy legislation or an individual's right to privacy may differ from one jurisdiction to another. This policy has a limited scope and application and the rights and obligations contemplated by it may not be available to all individuals or in all jurisdictions. This policy covers only those activities that are subject to the provisions of Canada's federal and provincial privacy laws, as applicable. If you are unsure if or how this Privacy Policy applies to you, please contact our Privacy Representative for more information.

## **Personal Information**

For the purposes of this policy, personal information is any information about an identifiable individual, other than a person's business title or business contact information (business telephone number, address and email) when used or disclosed for the purpose of business communications.

Personal information we collect and maintain includes:

- Contact and identification information, such as your name, address, telephone number and email address;
- Product and service related information concerning the products and services that we provide to, or receive from you, including with respect to the service, maintenance and repair of such products;
- Credit and financial information such as your payment methods and preferences, and billing and credit history; and,
- Business relationship information, including information relating to your agreements, preferences, advisors and decision-makers, service requests and feed-back, and information requested by or provided to you.

Newalta may also collect information, which may include personal information, concerning market trends and activities impacting our business. This information may include contract terms, financial information and other information for the purpose of market analysis and strategic planning. We may also collect information related to our media, investor and public relations activities and information related to our interactions with financial and other analysts and advisors.

In the course of conducting our business, Newalta may monitor the activities of individuals in respect of our operations and our property. For example, some Newalta locations have

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surveillance equipment. Where in use, surveillance equipment is there for the protection of employees and third parties, and to protect against theft, vandalism and damage to Newalta's goods and property. Generally, video tapes recording images are routinely destroyed and not shared with third parties unless there is suspicion of a crime, in which case they may be turned over to the police or other appropriate government agency or authority.

As a general rule, Newalta collects personal information directly from you. In most circumstances where the personal information that we collect about you is held by a third party, we will obtain your permission before we seek out this information from such sources (such permission may be given directly by you, or implied from your actions).

From time to time, we may utilize the services of third parties in our business and may also receive personal information collected by those third parties in the course of the performance of their services for us or otherwise. Where this is the case, we will take reasonable steps to ensure that such third parties have represented to us that they have the right to disclose your personal information to us.

### **Collection, Use and Disclosure of Personal Information**

Newalta collects, uses and discloses personal information to enable us to manage and develop our business, including:

- Establishing and managing relations with you so that we may provide you with or receive from you, the products and services that have been requested;
- Informing you of our products and services other than those that you have requested including promotional information;
- Complying with your requests (for example, if you prefer to be contacted at a residential telephone number or e-mail address, we will use this information to contact you at that number);
- Administering investor relations programs or conducting public relations activities;
- Conducting market analysis and assessing current or potential opportunities;
- Protecting us against error, fraud, theft and damage to our operations and property;
- Enabling us to undertake our environmental, health and safety activities, including incident planning, response and investigation;
- Enabling us to comply with applicable law, valid legal processes, or regulatory requirements (for example, we may collect personal information to satisfy the obligations imposed on us by various regulatory boards or agencies);
- As part of Newalta's regular reporting activities (including within the Newalta group of companies);
- To protect Newalta's rights and property;
- To collect a debt owed to Newalta;
- Where the personal information is publicly available;
- During emergency situations or where necessary to protect the safety of a person or group of persons; and,
- Any other reasonable purpose to which you consent.

We may share your personal information with our employees, contractors, consultants and other parties who require such information to assist us with managing our relationship with you, including: third parties that provide services to us or on our behalf; third parties that

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collaborate with Newalta in the provision of services to you; and, third parties whose services we use to perform our services.

In addition, personal information may be disclosed or transferred to another party (including an affiliate of Newalta) during the course of or completion of a change in ownership of, or a grant of security interest in, all or a part of Newalta through, for example, an asset or share sale, or some other form of business combination, merger or joint venture, where such party is bound by appropriate agreements or obligations and required to use or disclose your personal information in a manner consistent with this Privacy Policy.

### **Consent**

It is important to us that where we collect, use or disclose your personal information we have your consent to do so. Depending on the sensitivity of the personal information, your consent may be implied, deemed (using an opt-out mechanism) or express. Express consent can be given orally, electronically or in writing. Implied consent is consent that can reasonably be inferred from your action or inaction.

Typically, we will seek your consent at the time that we collect your personal information. In certain circumstances, your consent may be obtained after collection but prior to our use or disclosure of your personal information. If we plan to use or disclose your personal information for a purpose not previously identified (either in this Privacy Policy or separately), we will endeavour to advise you of that purpose before such use or disclosure.

We may collect, use or disclose your personal information without your knowledge or consent where we are permitted or required to do so by applicable law or regulatory requirements.

You may change or withdraw your consent at anytime, subject to legal or contractual restrictions and reasonable notice. All communications with respect to such withdrawal or verification of consent should be in writing and addressed to our Privacy Representative. In some circumstances, a change in or withdrawal of consent may severely limit Newalta's ability to provide or acquire products or services. Newalta assumes, unless expressly advised otherwise, that you have consented to the collection, use and disclosure of your personal information as explained in this policy.

### **Safeguards**

Newalta endeavours to maintain physical, technical and procedural safeguards that are appropriate to the sensitivity of the personal information in question. These safeguards are designed to prevent your personal information from loss and unauthorized access, copying, use, modification or disclosure.

### **Information Updates**

It is important that the information contained in our records is both accurate and current. If your personal information happens to change during the course of our relationship, please keep us informed of such changes.

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In some circumstances we may not agree with your request to change your personal information and will instead endeavour to make a note in our records that the correction was requested but not made.

## **Access**

If you want to access your personal information, please contact our Privacy Representative in writing, clearly identifying the information being requested. Newalta may request additional information to confirm your identity and right to access, as well as to search for and provide you with the personal information we hold about you. We may charge you a fee to access your personal information; however, we will advise you of such a fee in advance.

Your right to access the personal information that we hold about you is not absolute. There are instances where applicable law or regulatory requirements allow or require us to refuse to provide some or all of the personal information that we hold about you. In addition, the personal information may have been destroyed, erased or made anonymous in accordance with our record retention obligations and practices.

In the event that we cannot provide you with access to your personal information, we will endeavour to inform you of the reasons why, subject to any legal or regulatory restrictions.

## **Inquiries and Concerns**

If you have any questions about this Privacy Policy or concerns about how we manage your personal information, please contact our Privacy Representative by telephone, in writing, or by e-mail. We will endeavour to answer your questions and advise you of any steps taken to address the issues raised by you. If you are unsatisfied with our response, you may be entitled to make a written submission to the Privacy Commissioner for your jurisdiction.

## **Privacy Representative**

We have appointed a Privacy Representative to oversee compliance with this Privacy Policy. The contact information for our Privacy Representative is as follows:

Privacy Representative  
c/o Director, Human Resources  
1200, 333 11<sup>th</sup> Avenue S.W.  
Calgary AB T2R 1L9

Tel: (403) 266-6556  
Fax: (403) 206-2948  
E-mail: [privacy@newalta.com](mailto:privacy@newalta.com)

## **Interpretations**

Any interpretation associated with this Privacy Policy will be made by our Privacy Representative. This Privacy Policy includes examples but is not intended to be restricted in its application to such examples, therefore, where the word 'including' is used, it shall mean 'including without limitation.'

This Privacy Policy does not create or confer upon any individual any rights, or impose upon Newalta any rights or obligations outside of, or in addition to, any rights or obligations confirmed or imposed by Canada's federal and provincial privacy laws, as applicable. Should there be, in a specific case, any inconsistency between this Privacy Policy and

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Canada's federal and provincial privacy laws, as applicable, this Privacy Policy shall be interpreted, in respect of that case, to give effect to, and comply with, such privacy laws.

### **Revisions**

Newalta may from time to time make changes to this Privacy Policy to reflect changes in its legal or regulatory obligations or in the manner in which we deal with your personal information. We will post any revised version of this Privacy Policy on our website, and we encourage you to refer back to it on a regular basis. This Privacy Policy was last updated on March 16, 2005.