



TITLE: Privacy Policy

Revision Record

Rev	CO	Description	Revised by	Date
0A	CO06442	New Privacy Policy	Hannah King	January 12, 2004
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0C	CO13612	Amended and Restated Privacy Policy	Wendy Pitt-Brooke	July 26, 2007

Created by: Hannah King

Date: January 12, 2004

Approved by: Hannah King

Date: August 13, 2007

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INTRODUCTION

Canadian privacy legislation applicable to Ballard Power Systems Inc. (“Ballard”) requires, generally, that the consent of an individual be obtained for the collection and use of his or her Personal Information, that steps be taken to protect Personal Information and that one or more individuals be appointed to monitor compliance with the provisions of the applicable legislation.

Ballard and its affiliated corporations, (collectively, the “Ballard Companies”), are committed to controlling the Collection, Use and Disclosure of Personal Information provided by the Customers and Employees of each Ballard Company and have adopted this Privacy Policy to ensure the accuracy, confidentiality and integrity of such Personal Information.

APPLICATION

Ballard Companies are in the business, generally, of designing, developing and manufacturing zero-emission proton exchange membrane fuel cells (the “Business”). This Privacy Policy applies to Personal Information that a Ballard Company collects, uses or discloses in respect of any Customer or Employee in the course of Business activities.

It does not, however, apply in respect of the Collection, Use or Disclosure of the following information by the Ballard Companies:

- information that is publicly available, such as a Customer’s name, address, telephone number and electronic address, when listed in a directory or made available through directory assistance; or
- the name, title, business address or telephone number of an employee of an organization.

The application of this Privacy Policy is subject to the requirements or provisions of any applicable legislation, regulations, tariffs or agreements, or the order of any court or other lawful authority. Various legal criteria independent of this Privacy Policy will determine whether federal or provincial privacy legislation applies to the Personal Information that a Ballard Company collects, uses or discloses in respect of its Customers or Employees. This Privacy Policy does not replace those criteria and nothing in this Privacy Policy should be construed as indicating which privacy legislation, if any, applies to the Collection, Use and Disclosure of Personal Information.

DEFINITIONS

The following defined terms are used throughout this Privacy Policy:

Candidate – means an individual who applies for a position as an Employee of a Ballard Company.

Collection – means the act of gathering, acquiring, recording or obtaining Personal Information from any source, including third parties, by any means.

Consent – means voluntary agreement with the collection, use and disclosure of Personal Information for defined purposes. Consent can be either express or implied and can be provided directly by the individual or by an authorized representative. Express consent can be given orally, electronically or in writing but is always unequivocal and does not require an inference on the part of Ballard. Implied consent is consent that can reasonably be inferred from an individual’s action or inaction.

Customer – means an individual who:

- uses, or applies to use, the products or services of a Ballard Company; or

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- corresponds with a Ballard Company, in connection with the Business or otherwise.

Disclosure – means making Personal Information available to other Ballard Companies or to a Third Party.

Employee – means a present or former Ballard Company employee or other temporary or permanent staff member, consultant, volunteer or other individual assigned or previously assigned to a Ballard Company and, for the purposes of this Privacy Policy, includes, where appropriate:

- the directors, shareholders and security holders of Ballard; and/or
- Candidates.

Personal Information – means information about an identifiable individual recorded in any form and includes, but is not limited to, such things as race, ethnic origin, nationality, colour, age, gender, marital status, religion, education, medical information, criminal information, performance reviews, trade union membership, employment and financial history, income, address and telephone number, e-mail address, numerical identifiers such as Social Insurance Number, and views and personal opinions. Personal Information also includes information about a Customer’s product and service subscriptions and usage, credit information, billing records, service and any recorded complaints and, in the case of an Employee, includes information found in personal employment files, performance appraisals and medical and benefits information. Publicly available information, such as a public directory listing of names, addresses, telephone numbers and electronic addresses, however, is not considered Personal Information.

Privacy Officer – means the person who is accountable for a Ballard Company’s policies and practices regarding Personal Information, and to who related complaints or inquiries can be forwarded.

Third Party – means an individual other than the Customer/Employee or his or her agent or an organization other than a Ballard Company.

Use – means the treatment, handling and management of Personal Information by the Ballard Companies.

THE TEN PRIVACY PRINCIPLES

This Privacy Policy is modeled after the *Canadian Standards Association Model Code for the Protection of Personal Information*, CAN/CSA-Q830-96 (the “CSA Code”). Accordingly, the ten principles of fair information practices, as identified by the Canadian Standards Association, have been adopted by the Ballard Companies and represent a formal statement of the minimum requirements to be adhered to by each of the Ballard Companies for the protection of Personal Information collected from Customers and Employees.

PRINCIPLE 1 – ACCOUNTABILITY

Each Ballard Company is responsible for the Personal Information under its control and shall designate one or more individuals who shall be accountable for the company’s compliance with the procedures and principles set out in this Privacy Policy.

1.1 Accountability for compliance by each Ballard Company with the policies and procedures set out in this Privacy Policy rests with the Privacy Officer for that company, even though other individuals within the company may be responsible for the day-to-day collection and processing of Personal Information. The Privacy Officer may, from time to time, designate one or more individuals within the company to act on his or her behalf.

1.2 The contact information for the Privacy Officer for each Ballard Company shall be made available on the Ballard website at www.ballard.com, or the Ballard Intranet site and shall be made available upon request.

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1.3 Each Ballard Company shall be responsible for the Personal Information in its possession or custody, including information that has been transferred to a Third Party for processing. Each Ballard Company shall use contractual or other appropriate means to ensure a comparable level of protection while the information is being processed by a Third Party.

1.4 The Ballard Companies have implemented policies and practices to give effect to the principles and procedures set out in this Privacy Policy, including:

- implementing procedures to protect Personal Information;
- establishing procedures to receive and respond to complaints and inquiries;
- training and communicating to staff information about the Ballard policies and practices; and
- developing public information to explain the Ballard policies and procedures.

PRINCIPLE 2 - IDENTIFYING PURPOSE

Each Ballard Company will identify the purpose for which Personal Information is collected at or before the time the information is collected.

2.1 Each Ballard Company will document the purposes for which Personal Information is collected in order to comply with the Openness principle (See Principle 8) and the Individual Access principle (See Principle 9).

2.2 Identifying the purposes for which Personal Information is collected at or before the time of Collection allows each Ballard Company to determine the information it needs to collect to fulfill these purposes. The Limiting Collection principle (Principle 4) requires each Ballard Company to collect only that information necessary for the purposes that have been identified.

2.3 The Collection of Personal Information by a Ballard Company will be limited to those purposes which are related to the Business and which a reasonable person would consider appropriate in the circumstances.

2.4 The purposes for which the Personal Information of Customers is collected may include, but is not limited to:

- To establish a Customer relationship and to communicate with Customers;
- To develop, implement, market and manage services for the Customer;
- To manage and promote Business activities; and/or
- To meet requirements imposed by law.

2.5 The purposes for which the Personal Information of Employees is collected may include, but is not limited to:

- To recruit, train, recognize and retain a highly qualified and motivated workforce;
- To establish and maintain harmonious employer/employee relations;
- administer Ballard policies and procedures, including investigations related thereto;
- To manage and promote the Business activities of the Ballard Companies;
- To administer compensation and benefits;
- To develop, manage and promote employee services; and/or
- To meet requirements imposed by law.

2.6 The purposes for which the Personal Information of a Candidate is collected may include, but is not limited to:

- To verify previous employment;

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- To investigate employment references;
- To verify education;
- To determine credit history and verify identification; and/or
- To determine criminal background.

2.7 Personal Information of a Candidate will be used in order to evaluate the Candidate's application for employment and to assess whether to offer the individual a position at a Ballard Company. For Candidates who are not offered or do not accept a position, Ballard Companies normally retain this information for a reasonable period in the event that an appropriate position becomes available or that the Candidate re-applies to Ballard.

2.8 The identified purposes for which Personal Information is collected shall be specified at or before the time of Collection to the Customer or Employee from whom the Personal Information is collected. Depending upon the way in which the information is collected, this shall be done orally or in writing.

2.9 When a Ballard Company proposes to Use Personal Information that has been collected for a purpose not previously identified, it will identify the new purpose before using such Personal Information. Unless the new purpose is required by law, or consent is otherwise not required pursuant to applicable privacy legislation, the consent of the individual shall be obtained before the Personal Information is used for the new purpose.

2.10 Individuals responsible for collecting Personal Information on behalf of a Ballard Company will explain to Customers and/or Employees the purposes for which the information is being collected, including any purposes that may not be immediately obvious to the individual.

PRINCIPLE 3 - CONSENT

The knowledge and consent of the individual are required for the Collection, Use or Disclosure of Personal Information, except where consent is not required by privacy legislation.

3.1 This principle requires "knowledge and consent". Accordingly, in obtaining an individual's consent to the Use and Disclosure of his/her Personal Information, a Ballard Company will make a reasonable effort to ensure that the individual is advised of the purposes for which the information will be used. In addition, a Ballard Company will not, as a condition of the supply of a product or service, require an individual to consent to the Collection, Use, or Disclosure of Personal Information beyond that required to fulfill explicitly specified and legitimate purposes.

3.2 The manner in which a Ballard Company seeks consent, including whether it is express or implied, may vary depending on:

- The sensitivity of the information;
- The type of information; and/or
- The reasonable expectations of the individual.

For example, Ballard will generally seek express consent when the information is likely to be considered sensitive, while implied consent would generally be appropriate when the information is less sensitive. Consent can also be given by an authorized representative (such as a legal guardian or a person having power of attorney).

3.3 Generally, each Ballard Company will seek consent for the Use or Disclosure of Personal Information at the time of Collection. In certain circumstances, consent with respect to the Use or Disclosure of Personal Information may be sought after the information has been collected but before the Personal Information is used (for example, when a Ballard Company wants to use information for a purpose not previously identified). In obtaining consent, the Ballard Companies shall use reasonable efforts to ensure that a Customer or Employee is advised of the identified

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purposes for which Personal Information will be used or disclosed.

3.4 In certain circumstances Personal Information may be collected, used or disclosed without the knowledge and consent of the individual. For example, a Ballard Company may collect, use or disclose Personal Information without the knowledge or consent of an Employee where required for the purposes of establishing, managing, or terminating the employment relationship with that Employee.

3.5 Individuals can give consent in many ways. For example:

- an application form may be used to seek consent, collect information, and inform the individual how their Personal Information will be used. By completing and signing the form, the individual is giving consent to the collection and the specified uses;
- a check-off box may be used to allow individuals to request that their names and addresses not be given to other organizations. Individuals who do not check the box are assumed to consent to the transfer of this information to Third Parties; or
- consent may be given orally when information is collected over the telephone.

3.6 An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. Ballard will inform the individual of the implications of such withdrawal.

3.7 Generally, the use of products and services by a Customer, or the acceptance of employment or benefits by an Employee, constitutes implied consent for the Ballard Companies to collect, use and disclose Personal Information for all identified purposes.

PRINCIPLE 4 - LIMITING COLLECTION

The collection of Personal Information shall be limited to that which is necessary for the purposes identified by Ballard. Personal Information shall be collected by fair and lawful means.

4.1 The Ballard Companies will not collect Personal Information indiscriminately. Both the amount and the type of information collected shall be limited to that which is necessary to fulfill the purposes identified. Each Ballard Company shall specify the type of information collected as part of its information-handling policies and practices, in accordance with the Openness principle (Principle 8).

4.2 The requirement that Personal Information be collected by fair and lawful means is intended to prevent a Ballard Company from collecting information by misleading or deceiving individuals about the purpose for which information is being collected. Consent to the collection of Personal Information must not be obtained through deception.

PRINCIPLE 5 - LIMITING USE, DISCLOSURE AND RETENTION

Personal Information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal Information shall be retained only as long as necessary for the fulfillment of the purposes for which it was collected.

5.1 Ballard Company may disclose the Personal Information of its Employees:

- to human resources, payroll, benefits, information management, medical and security personnel;
- to Third Party service providers for the purposes of administering payroll and benefits programs;
- to other Ballard Companies;

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- to internal or external legal counsel and auditors;
- to the Privacy Officers of each Ballard Company;
- to the management personnel of each Ballard Company;
- in the context of providing references regarding current or former Employees in response to requests from prospective employers and/or financial institutions;
- to prospective parties in the context of a transactional due diligence review; and/or
- where disclosure is required by law.

5.2 Ballard Company may disclose the Personal Information of its Customers:

- to Third Party service providers;
- to internal or external legal counsel and auditors;
- to the Privacy Officers of each Ballard Company;
- to the management personnel of each Ballard Company;
- to Third Parties for the development, enhancement or marketing of Ballard products or services;
- to an agent retained by the Ballard Companies in connection with the collection of the Customer's account;
- to credit grantors and reporting agencies;
- to a Third Party or parties, where the Customer consents to such disclosure;
- to prospective parties in the context of a transactional due diligence review; and/or
- where disclosure is required by law.

5.3 Except as required or permitted by law, when disclosure is made to a party other than a Ballard Company or a Third Party provider of Personal Information processing services, the consent of the individual shall be obtained and reasonable steps shall be taken to ensure that any such Third Party has Personal Information privacy procedures and policies in place that are at least comparable to those implemented by the Ballard Companies.

5.4 Personal Information shall be kept only as long as it remains necessary or relevant for the identified purposes or as required by law. Depending on the circumstances, where Personal Information has been used to make a decision about a Customer or an Employee, the relevant Ballard Company shall retain, for a period of time that is reasonably sufficient to allow for access by the Customer or Employee, either the actual information or the rationale for making the decision.

5.5 Ballard will develop guidelines and implement procedures with respect to the retention of Personal Information. These guidelines will include minimum and maximum retention periods. Ballard may be subject to legislative requirements with respect to retention periods.

5.6 Personal Information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous. Ballard will review and revise the Records Retention Policy to ensure that it governs the destruction of Personal Information.

PRINCIPLE 6 - ACCURACY

Personal Information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used.

6.1 Personal Information used by the Ballard Companies shall be sufficiently accurate, complete and up-to-date to minimize the possibility that inappropriate information may be used to make a decision about the individual Customer or Employee. The extent to which Personal Information will be accurate, complete and up-to-date will depend upon the use of the information, taking into account the interests of the individual.

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6.2 The Ballard Companies will not, however, routinely update Personal Information, unless this is necessary to fulfill the purposes for which the information was collected. Personal Information about Customers and Employees shall be updated only as and when necessary to fulfill the identified purposes or upon notification by the individual.

6.3 Each Ballard Company shall use commercially reasonable efforts to ensure that Personal Information that is used on an ongoing basis, including information that is disclosed to Third Parties, is generally accurate and up-to-date, unless limits to the requirement for accuracy are clearly set out.

PRINCIPLE 7 - SAFEGUARDS

Personal Information shall be protected by security safeguards appropriate to the sensitivity of the information.

7.1 Each Ballard Company will implement security safeguards to protect Personal Information against loss or theft, as well as unauthorized access, disclosure, copying, use or modification, regardless of the format in which the information is held.

7.2 The nature of the safeguards will vary depending on:

- the sensitivity of the information that has been collected,
- the amount, distribution and format of the information, and
- the method of storage.

7.3 In accordance with the Ballard Confidentiality and Information Handling Policy, each Ballard Company has adopted physical measures such as locked filing cabinets and restricted access to offices, organizational measures such as security clearances and limiting access on a “need-to-know” basis, and technological measures such as the use of passwords and encryption.

7.4 Each Employee of a Ballard Company shall be made aware of the importance of maintaining the confidentiality of Personal Information.

7.5 Personal Information disclosed to Third parties shall be protected by contractual agreement stipulating the confidentiality of the information and the purposes for which it is to be used.

7.6 Care will be taken in the disposal or destruction of Personal Information to prevent unauthorized parties from gaining access to the information

PRINCIPLE 8 – OPENNESS

The Ballard Companies shall make readily available to its Customers and Employees specific information about its policies and practices relating to the management of Personal Information.

8.1 Each Ballard Company will be open about its policies and practices with respect to the management of Personal Information.

8.2 Such information shall be made available without unreasonable effort and shall include:

- the name/title, and the address, of each Privacy Officer;
- the means of gaining access to Personal Information held by each Ballard Company;

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- a description of the type of Personal Information held by each Ballard Company including a general account of its use;
- copies of any brochures or other information that explain the Ballard Companies' policies, standards or codes relating to Personal Information; and
- a description of what Personal Information is made available to related organizations (e.g. subsidiaries).

PRINCIPLE 9 - INDIVIDUAL ACCESS

Upon request, an individual shall be informed of the existence, use and disclosure of his or her Personal Information and shall be given access to that information except where a Ballard Company is permitted or required by law not to disclose Personal Information to the individual Customer or Employee. An individual Customer or Employee shall be able to challenge the accuracy and completeness of the information disclosed to him or her and have it amended as appropriate.

9.1 Upon request, an individual Customer or Employee shall be informed whether Ballard holds Personal Information about that individual (except where permitted or required by law not to disclose Personal Information) and shall afford the individual a reasonable opportunity to review the Personal Information in his or her file. The Ballard Company shall provide an account of the use that has been made or is being made of the Personal Information and an account of the Third Parties to which the Personal Information has been disclosed. Where reasonably possible, the Ballard Company shall indicate the source of the Personal Information.

9.2 A Ballard Company may choose to make sensitive medical information available through a medical practitioner.

9.3 An individual may be required to provide sufficient information to permit Ballard to provide an account of the existence, use, and disclosure of personal information. The information provided will only be used for this purpose.

9.4 A Ballard Company will respond to an individual's request within a reasonable time and at minimal or no cost to the individual. The requested information will be provided or made available in a form that is generally understandable.

9.5 In certain situations, the Ballard Companies may not be able to provide access to all of the Personal Information that they hold about a Customer or Employee. For example, the Ballard Companies may not be required to provide access to information if disclosure would reveal confidential commercial information, if the information is protected by solicitor-client privilege, if the information was generated in the course of a formal dispute resolution process, or if the information was collected in relation to the investigation of a breach of an agreement or a contravention of a federal or provincial law. If access to Personal Information cannot be provided, the Ballard Companies shall provide the reasons for denying access upon request.

9.6 In providing an account of Third Parties to which it has disclosed Personal Information about a Customer or an Employee, the Ballard Company shall attempt to be as specific as possible.

9.7 When an individual successfully demonstrates the inaccuracy or incompleteness of Personal Information, Ballard will amend the information as required. Depending upon the nature of the information challenged, amendment will involve the correction, deletion, or addition of information. Where appropriate, the amended information will be transmitted to Third Parties having access to the information in question.

9.8 When a challenge is not resolved to the satisfaction of the individual, the substance of the unresolved challenge will be recorded by Ballard in the individual's file. When appropriate, the existence of the unresolved challenge will be transmitted to Third Parties having access to the information in question.

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PRINCIPLE 10 - CHALLENGING COMPLIANCE

An individual Customer or Employee shall be able to address a challenge concerning compliance with the principles in this Privacy Policy to his or her designated Privacy Officer.

10.1 The Ballard Companies shall maintain procedures for addressing and responding to all inquiries or complaints from its Customers and Employees about the companies' handling of Personal Information.

10.2 The Ballard Companies will inform their Customers and Employees about the existence of these procedures as well as the availability of complaint procedures.

10.3 The Ballard Companies shall investigate all complaints concerning compliance with this Privacy Policy. If a complaint is found to be justified, the relevant Ballard Company shall take appropriate measures to resolve the complaint including, if necessary, amending its policies and procedures. A Customer or Employee shall be informed of the outcome of the investigation regarding his or her complaint.

10.4 If an individual is not satisfied with the response from the Privacy Officer, he or she may have recourse to additional remedies under applicable privacy legislation.

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