



**TITLE: Privacy Policy**

Revision Record

<b>Rev</b>	<b>CO</b>	<b>Description</b>	<b>Revised by</b>	<b>Date</b>
0A	CO06442	New Privacy Policy	Hannah King	January 12, 2004
0B	CO11755	Annual review and revision including additional language to section 2.0, 3.0 and 4.0	Hannah King	September 13, 2006
0C	CO13612	Amended and Restated Privacy Policy	Wendy Pitt-Brooke	July 26, 2007
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Created by: Hannah King

Date: January 12, 2004

Approved by: Kerry Hillier


Date: September 17, 2019

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**INTRODUCTION**

Canadian and European Union (“EU”) privacy laws applicable to Ballard Power Systems Inc. (“Ballard”) and its subsidiaries require (collectively, the “Ballard Companies”), generally, that the informed, positive consent of an Individual be obtained for the Collection, Use or Disclosure of his or her Personal Information, that steps be taken to protect Personal Information in the control of a Ballard Company, and that one or more individuals be appointed to monitor compliance with the provisions of applicable law.

The Ballard Companies are committed to controlling the Collection, Use and Disclosure of Personal Information provided by the Customers and Employees and have adopted this Privacy Policy to ensure the accuracy, confidentiality and integrity of such Personal Information.

**APPLICATION**

Ballard Companies are in the business of designing, developing and manufacturing zero-emission proton exchange membrane fuel cells and providing related services (the “Business”). This Privacy Policy applies to Personal Information that a Ballard Company Collects, Uses or Discloses in respect of any Individual in the course of carrying on the Business.

The application of this Privacy Policy is subject to the requirements of all applicable privacy law. Various factors independent of this Privacy Policy will determine whether the privacy laws of Canada, British Columbia, the EU, Denmark, or the People’s Republic of China applies to the Personal Information that a particular Ballard Company Collects, Uses or Discloses.

In the event of a conflict between this Privacy Policy and the law of the jurisdiction in which a particular Ballard Company operates, the law of the jurisdiction in which a particular Ballard Company operates takes precedence. In the event of an inconsistency between this Privacy Policy and the law of the jurisdiction in which a particular Ballard Company operates, the provision providing the Individual with the greatest control over his or her Personal Information or the greatest protection of Personal Information will govern.

**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 positive, voluntary agreement with the Collection, Use or Disclosure of Personal Information for the purposes stated when consent is requested.

**Customer** – means an Individual who:

- uses, or applies to use, the products or services of a Ballard Company; or
- 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, independent contractor, volunteer or other Individual assigned or previously assigned to a Ballard Company and, for the purposes of this Privacy Policy, includes:

- the officers and directors of Ballard; and
- Candidates.

**Individual** – means an identifiable natural person and includes Employees and Customers.

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**Lawful Basis** – means one of the following bases for the Collection, Use or Disclosure of Personal Information: Consent; contractual necessity; compliance with legal obligation; or a vital interest of the Individual to which the Personal Information applies.

**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 employment files, performance appraisals and medical and benefits information.

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

**Third Party** – means a legal or nature person other than the Customer, Employee, or his or her agent or a Ballard Company.

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

**PRIVACY PRINCIPLES**

This Privacy Policy is modeled after the *Canadian Standards Association Model Code for the Protection of Personal Information*, CAN/CSA-Q830-96. 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.

As an overarching principle, no Ballard Company will Collect, Use or Disclose Personal Information without a Lawful Basis.

**PRINCIPLE 1 - ACCOUNTABILITY**

***Each Ballard Company is responsible for the Personal Information under its control and will designate one or more individuals who will 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, Use or Disclosure of Personal Information. The Privacy Officer may, from time to time, designate one or more individuals within the particular Ballard Company to act on his or her behalf.

1.2 The contact information for the Privacy Officer for each Ballard Company will be made available on the Ballard website at [www.ballard.com](http://www.ballard.com) and the Ballard Intranet site and will otherwise be made available upon request.

1.3 Each Ballard Company will be responsible for the Personal Information in its possession or custody, including information that has been transferred to another Ballard Company or Third Party for processing. Each Ballard Company will 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;

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- establishing procedures to receive and respond to complaints and inquiries regarding Personal Information; and
- training and communicating to staff information about 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 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 the Business; and
  - To meet requirements imposed by applicable law.
- 2.4 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
  - To meet requirements imposed by applicable law.
- 2.5 The purposes for which the Personal Information of a Candidate is Collected may include, but is not limited to:
- To verify previous employment;
  - To investigate employment references;
  - To verify education;
  - To determine credit history and verify identification; and
  - To determine criminal background.
- 2.6 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 retain Personal Information for a reasonable period in the event that an appropriate position becomes available or that the Candidate re-applies to Ballard.

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2.7 The identified purposes for which Personal Information is collected will 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 Personal Information is collected, this will be done orally or in writing, but in either case will be documented.

2.8 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 a requirement of applicable law or Consent is otherwise not required pursuant to applicable law, Consent of the Individual will be obtained before the Personal Information is used for the new purpose.

2.9 Individuals responsible for Collecting Personal Information on behalf of a Ballard Company will explain to Individuals the purposes for which the information is being collected.

**PRINCIPLE 3 - CONSENT**

***The knowledge and consent of the Individual are required for the Collection, Use or Disclosure of Personal Information.***

3.1 This principle requires “knowledge and consent”. Accordingly, in obtaining an Individual’s consent to the Collection, Use or Disclosure of his or her Personal Information, a Ballard Company will advise 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 may vary depending on:

- The sensitivity of the information;
- The type of information; and
- The reasonable expectations of the Individual.

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).

3.4 In certain circumstances Personal Information may be Collected, Used or Disclosed without the knowledge and consent of the Individual, provided that there is a Lawful Basis for the Collection, Use or Disclosure. 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. The application form would contain a separate for the Individual to provide Consent, such as a distinct checkbox, to be completed by the Individual; or
- consent may be given orally when information is collected over the telephone.

3.6 Requiring an Individual to opt-out of consenting to the use of their Person Information is not considered Consent.

3.7 An Individual may withdraw Consent at any time. Ballard will inform the Individual of the implications of such withdrawal.

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**PRINCIPLE 4 - LIMITING COLLECTION**

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

4.1 No Ballard Company will collect Personal Information without a Legal Basis. Both the amount and the type of Personal Information collected will be limited to that which is necessary to fulfill the purposes identified when Consent is obtained or as is otherwise reasonable given the Legal Basis. Each Ballard Company will specify the type of information collected as part of its information-handling policies and practices, in accordance with the Openness principle (see 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 will not be Used or Disclosed for purposes other than those for which it was Collected, except with the Consent of the Individual or as permitted by applicable law. Personal Information will be retained only as long as necessary for the fulfillment of the purposes for which it was Collected.***

5.1 Except as required or permitted by applicable law, when Disclosure is made to a Third Party other than a Ballard Company or a Third Party provider of Personal Information processing services, the Consent of the Individual will be obtained and reasonable steps will 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.

5.2 Personal Information will be kept only as long as it remains necessary or relevant for the identified purposes or as required by applicable 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 will retain, for a period of time that is reasonably sufficient to allow for access by the Customer or Employee, the Personal Information and the rationale for making the decision.

5.3 Each Ballard Company will develop guidelines and implement procedures with respect to the retention of Personal Information. These guidelines will include minimum and maximum retention periods.

5.4 Personal Information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous.

5.5 A 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;
- 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
- where disclosure is required by applicable law.

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**PRINCIPLE 6 - ACCURACY**

***Personal Information will 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 will 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. The extent to which Personal Information will be confirmed to be accurate, complete and up-to-date will depend upon the use of the information, taking into account the interests of the Individual.

6.2 Each Ballard Company will use its reasonable efforts to ensure that Personal Information that is used on an ongoing basis is accurate and up-to-date, unless limits to the requirement for accuracy are clearly set out.

**PRINCIPLE 7 - SAFEGUARDS**

***Personal Information will 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 Personal Information is held. Personal Information will only be transferred as necessary for fulfilling the Lawful Basis on which the Personal Information was Collected.

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 will be made aware of the importance of maintaining the confidentiality of Personal Information.

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

7.6 The utmost 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**

***Each Ballard Company will 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 Personal Information of an Individual will be made available to that Individual without unreasonable effort and will 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 other Ballard Companies and Third Parties, if any.

**PRINCIPLE 9 - INDIVIDUAL RIGHTS**

***Upon request, an Individual will be informed of the Collection, Use and Disclosure of his or her Personal Information and will be given access to that information. A Customer or Employee will be able to challenge the accuracy and completeness of Personal Information in the possession or control of a Ballard Company regarding him or her and have the Personal Information amended as appropriate or ask that the Personal Information be deleted.***

9.1 Upon request, an Individual will be informed within 30 days whether Ballard holds Personal Information about that Individual and will afford the Individual a reasonable opportunity to review the Personal Information in his or her file. The Ballard Company will 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, how long the Ballard Company plans to retain the data, and provide the Individual with any notices required by applicable law.

9.2 An Individual may be required to provide Personal Information to permit Ballard to provide an account of the Collection, Use, or Disclosure of the Personal Information of the Individual. The Personal Information provided by the Individual for such purposes will only be used for this purpose.

9.3 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 using plain language.

9.4 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 will provide the reasons for denying access upon request.

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

9.6 When an Individual demonstrates the inaccuracy or incompleteness of Personal Information, Ballard will amend the Personal Information to correct the inaccuracy or incompleteness. Where Personal Information is Disclosed to a Third Party, the amended Personal Information will be transmitted to Third Party.

9.7 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.

9.8 No Ballard Company will use entirely computer made decisions regarding Individuals based on Personal Information.

9.9 A Ballard Company that is subject to a data breach involving Personal Information will notify the applicable supervising authority and the Individuals whose Personal Information has been impacted within 72 hours of becoming aware of the data breach.

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9.10 No Ballard Company will transfer or make available Personal Information to a Third Party for valuable consideration (i.e. sell personal information).

**PRINCIPLE 10 - CHALLENGING COMPLIANCE**

***A Customer or Employee will 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 will 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 will investigate all complaints concerning compliance with this Privacy Policy. If a complaint is found to be justified, the relevant Ballard Company will take appropriate measures to resolve the complaint including, if necessary, amending its policies and procedures. A Customer or Employee will 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.