



Ballard Power Systems
Policy – POL5100023

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TITLE: Privacy Policy

Rev	CO	Description	Date
0A	CO06442	New Privacy Policy	January 12, 2004
0B	CO11755	Annual review and revision including additional language to section 2.0, 3.0 and 4.0	September 13, 2006
0C	CO13612	Amended and Restated Privacy Policy	July 26, 2007
0D	CO29251	Amendments for EU General Data Protection Regulation (GDPR)	September 16, 2019
0E	CO42430	Amendments for GDPR and Canadian privacy law updates	June 12, 2024

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TITLE: Privacy Policy

INTRODUCTION

Canadian and European Union (“**EU**”) privacy laws applicable to Ballard Power Systems Inc. (“**Ballard**”) and its subsidiaries (collectively, the “**Ballard Companies**”) generally require that the informed, positive consent of an Individual be obtained for the Collection, Use or Disclosure of their 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 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 legislation. 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 or inconsistency between this Privacy Policy and mandatory applicable law, mandatory applicable law takes precedence.

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 to 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 person and includes Employees and Customers.

Lawful Basis – means Collection, Use or Disclosure of Personal Information in accordance with applicable privacy legislation.

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 whom related complaints or inquiries can be forwarded, and includes a data protection officer.

Third Party – means a legal or natural person other than the Customer, Employee, or that person’s agent, or a Ballard Company.

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

Words of similar import will have the same meanings.

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. This is furthermore complemented by the EU’s General Data Protection Regulation (GDPR).

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 the Privacy Officer’s 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/privacy-policy 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. Personal Information will not be Disclosed to another Ballard Company or Third Party except as described in this Policy, with Consent of the individual or as required or permitted by law. Each Ballard Company will use contractual or other appropriate means to limit the retention, Use and Disclosure of Personal Information by any other Ballard Company or Third Party, solely for the purpose of carrying out the contracted services and to ensure a comparable level of protection while the information is being processed by a Third Party.

1.4 The Ballard Companies may, from time to time, transfer Personal Information to another Ballard Company or Third Party located outside of Canada and/or the EU. While the Ballard Companies will ensure that security and privacy standards (in accordance with applicable Canadian or EU privacy legislation and this Privacy Policy) are applied in respect of all Personal Information stored and processed outside of Canada and/or the EU, Personal Information processed and stored outside Canada may be accessible to foreign government agencies, including law enforcement and national security authorities.

1.5 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 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;



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- 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 Ballard Companies may Collect Employee Personal Information of any potential, current or former Employee for the purposes of establishing, managing or terminating the employment relationship, or managing the post-employment relationship including, but not limited to:

- hiring, promotion and compensation;
- compliance with legal requirements and obligations;
- compliance with requirements of applicable professional governing bodies;
- provision and administration of health and welfare benefits and programs;
- human resources and payroll administration;
- professional development and performance management;
- enforcement of the Company’s policies and procedures; or
- where required or permitted by applicable privacy legislation.

2.5 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, and may include but is not limited to:

- verifying previous employment;
- investigating employment references;
- verifying education; and
- verifying identification

For Candidates who are not offered or do not accept a position, Ballard Companies retain Personal Information for a period following the application or offer as required by applicable privacy legislation or otherwise for a reasonable period of time in the event that an appropriate position becomes available or that the Candidate re-applies to Ballard.

2.6 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. In general, the Ballard Companies will only Collect information directly from the Individual to which it applies. However, the Ballard Companies may Collect information from other people with the Consent of the Individual to whom the information applies, or as authorized by law.

2.7 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.

2.8 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. In this context, it will also be disclosed what legal basis or grounds the processing is built upon.

PRINCIPLE 3 - CONSENT

Where the knowledge and Consent of the Individual are required for the Collection, Use or Disclosure of Personal Information.

3.1 In obtaining an Individual's Consent to the Collection, Use or Disclosure of their 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 Where required, 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. Where Personal Information of a current Employee will be Collected, Used or Disclosed without the knowledge or Consent of the Employee, the Ballard Company will provide the Employee with notice that their Personal Information will be Collected, Used or Disclosed, including the purposes for which the information will be Collected, Used or Disclosed, where required by applicable privacy laws.

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.



Consent may also be implied in cases where an Individual volunteers Personal Information for an obvious purpose.

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

3.7 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 the withdrawal.

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 Lawful 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 Lawful 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 No Ballard Company will Collect Personal 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.

4.3 In general, Ballard will only Collect information directly from the Individual to which it applies. However, Ballard may Collect information from other people with the Consent of the Individual to whom the information applies, or as authorized by applicable privacy legislation.

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 privacy legislation. Personal Information will be retained only as long as necessary for the fulfillment of the purposes for which it was Collected.

5.1 Each Ballard Company will Use and Disclose Personal Information only for the purposes for which the information was Collected, except as authorized by applicable privacy legislation. If a Ballard Company wishes to Use or Disclose Personal Information for a new purpose, it will ask for Consent unless Consent is not required by applicable privacy legislation. A Ballard Company may Use or Disclose the Personal Information of its Employees for the purposes of establishing, managing or terminating the employment relationship, or managing the post-employment relationship as indicated in Section 2.4, including where Use or Disclosure is required or permitted by applicable law.

5.2 Except as required or permitted by applicable privacy legislation, 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. For EU citizens, Personal Information will only be transferred to secure third countries or third countries where a Data Protection



Impact Assessment (TIA) has been conducted and Standard Contractual Clauses (SCC) have been established.

5.3 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 or as otherwise required by applicable privacy legislation, the Personal Information and the rationale for making the decision.

5.4 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.

5.5 Personal Information that is no longer required to fulfill the identified purposes or, subject to applicable privacy legislation, for legal or business purposes, will be destroyed, erased, or made anonymous.

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.

6.3 An Individual may request a correction if there is an error or omission in their Personal Information in accordance with Section 9.4.

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 / misuse or modification, destruction or disposal, 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 methods to protect the Personal Information in its possession including: 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 agreements 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 Individuals will be provided with information about the policies and practices of each Ballard Company without unreasonable effort. Information regarding the policies and practices made available to an Individual will include:

- the name, title, and contact information of each Privacy Officer;
- the means of gaining access to Personal Information held by each Ballard Company;
- 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 their Personal Information and will be given access to that information. A Customer or Employee will be able to challenge the accuracy and completeness of their Personal Information in the possession or control of a Ballard Company 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 without undue delay and at least within 30 days, or such shorter or longer period as provided for by applicable privacy legislation, whether Personal



Information about that Individual is in the custody or control of Ballard and will afford the Individual a reasonable opportunity to review the Personal Information in their file. Sufficient information must be provided in the access request to allow the Ballard Company to identify the information the Individual is seeking. 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 and provide the Individual with any notices required by applicable law. This information will be provided or made available, subject to applicable privacy legislation, at minimal or no cost and in a form using plain language. If the Individual's request is subject to the EU's General Data Protection Regulation (GDPR), the information will be provided or made available at no cost.

9.2 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 on request. In some cases where exceptions to access apply, the Ballard may withhold that information and provide the remainder of the information.

9.3 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.

9.4 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 the Third Party.

9.5 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.

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

9.7 Where required by applicable privacy legislation, 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.

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

9.9 If an Individual wishes to exercise any of its rights, they should use the contact details provided by the Ballard Company which has informed them about the Collection, Use and Disclosure of their Personal Information. If the Collection, Use and Disclosure of an Individual's Personal Information is subject to the EU's General Data Protection Regulation (GDPR), the Individual will have the following rights:



- (a) Right of access: An Individual has the right to be granted access to their Personal Information, including information on how their Personal Information is processed, the sources, etc.
- (b) Right of rectification: An Individual has the right to have incorrect Personal Information about them rectified.
- (c) Right of deletion: Under certain conditions, an Individual has the right to have their Personal Information deleted before it otherwise would be according to Ballard's general records retention procedures.
- (d) Right of restriction of processing: Under certain conditions, an Individual has the right to have the Collection, Use and Disclosure of their Personal Information restricted.
- (e) Right of data portability: An Individual has the right to data portability to the extent that Ballard's Collection, Use and Disclosure of their Personal Information is based on Consent or an agreement, and the Collection, Use and Disclosure take place automatically. This right implies that an Individual is entitled to have their Personal Information forwarded in a structured, generally applied and machine-readable format, which they may transfer to another service provider.
- (f) Right of objection: Under certain conditions, an Individual has the right to object to Ballard's Collection, Use and Disclosure of their Personal Information.
- (g) Right of withdrawal of consent: To the extent that Ballard's Collection, Use and Disclosure is based on Consent, an Individual is entitled to withdraw their Consent wholly or partly. The withdrawal of Consent will not affect the lawfulness of the Collection, Use and Disclosure made by Ballard until withdrawal.

If an Individual makes use of their rights as described above, Ballard will also possess Personal Information relating to receiving and responding to the inquiry. If there is doubt about the Individual's identity, the applicable Ballard Company has the right to request more information necessary to confirm their identity. In such cases, Ballard will process additional information about the Individual for the purpose of knowing their correct identity.

PRINCIPLE 10 - CHALLENGING COMPLIANCE

A Customer or Employee will be able to address a challenge concerning compliance with the principles in this Privacy Policy and/or the applicable privacy legislation to the designated Privacy Officer for the applicable Ballard Company.

10.1 The Ballard Companies will maintain procedures for addressing and responding to all inquiries or complaints from its Customers and Employees about the Ballard 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 and applicable privacy legislation. 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



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policies and procedures. A Customer or Employee will be informed of the outcome of the investigation regarding their complaint.

10.4 If an Individual is not satisfied with the response from the Privacy Officer, they may have recourse to additional remedies under applicable privacy legislation, as informed by the applicable Ballard Company.

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