



NISSAN NORTH AMERICA, INC.

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To: Dealer Principals, Service Managers, Parts Managers

Re: **Non-Genuine Parts**

Nissan, like many high profile brands, is subject to market intrusion by sellers of similarly or identically branded products often claiming to be identical and/or "Genuine". Additionally, as Nissan vehicle and parts sales increase and the Nissan brand grows in strength, Nissan becomes an increasingly attractive commercial target.

In the United States, Nissan North America, Inc. ("NNA") is the sole authorized distributor of Nissan branded vehicles, parts and accessories. As defined by NNA in its Dealer Sales and Service Agreement ("DSSA"), only products sold by NNA to its authorized Nissan dealers are considered Genuine Nissan parts and accessories. Further, only "Genuine" parts are warranted by NNA, only "Genuine" parts may be used (and, in fact, are required to be used under the DSSA) by authorized Nissan dealers in warranty repairs, and only "Genuine" parts purchased by a dealer from NNA are eligible for obsolescence return.

Thus, this description of parts as "Genuine" refers not only to the physical product itself, but also to these important intangibles surrounding the products. A part or accessory that was not originally sold by NNA to an authorized dealer is not "Genuine" in the United States market no matter its source (even if it is a Nissan supplier or another Nissan distributor in another country), its specifications, or its quality. It carries no NNA warranty, and representing it to a customer as "Genuine" (and thus having the attributes of "Genuine" such as an NNA warranty) can be fraudulent and misleading.

Additionally, parts imported from other markets, even if manufactured for "Nissan", are also not always "identical" to parts made for the US market even if they superficially appear as such. They may be made to specifications that differ from those in the United States, which may give rise to parts failures, customer satisfaction issues, and even potential safety concerns. For these reasons as well, parts obtained from sources other than NNA cannot and should not be treated as "Genuine" Nissan parts in the United States market.

Service parts and accessory products not sold by regionally authorized OEM distributors (like NNA) in OEM or OEM-like branded packaging generally fall into one of four categories:

1. **Counterfeit parts:** Counterfeit parts are products produced by non-original equipment manufacturers, typically outside of the USA and generally without compliance with OE specification, with markings and in packaging that are intentionally and deceptively very similar to OEM markings and packaging. Such products often not only do not meet OEM specifications, but they can be of poor quality and may pose a risk to vehicle safety.

The sale of such products under the "Nissan" brand, or the passing off of such products as "Genuine," can be fraudulent, misleading, and in violation of various trademark and other laws governing the protection of intellectual property.

Nissan is working in close collaboration with United States Customs to identify and seize counterfeit parts at United States border points of entry. NNA is also working closely with its

parent, Nissan Motor Co., Ltd. (“NML”) to address the branded counterfeit parts problem on a larger basis. This issue is not unique to NNA or the United States. NML has created an intellectual property and trademark protection group with a particular focus on service parts.

More recently, the U.S. Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) has issued a consumer safety advisory to alert vehicle owners and repair professionals to the dangers of counterfeit air bags, and urged vehicle owners and repair professionals to use only certified, original equipment replacement parts. “We expect all motor vehicle equipment to meet federal safety standards — and air bags, in particular, play a central role in keeping drivers and passengers safe in the event of a crash,” said NHTSA Administrator David Strickland. “That’s why it’s critical that vehicle owners work with their automotive dealers and repair professionals to ensure they use the appropriate, original equipment parts in the event they need to replace their air bag.”

2. **“Grey Market” parts:** These are products sold by other OEM distributors in markets outside of the United States for those markets, and subsequently imported into the United States, typically by parts brokers. These products may not be designed for this market, and may differ in specification although they appear identical or similar. They are not warranted by NNA, and may not be used by dealers for warranty repairs.
3. **Unauthorized “overrun” parts:** These are products manufactured by original equipment suppliers (OES) and packaged without OEM authorization in actual OEM packaging, and sold through aftermarket channels. Sales of such products are often in violation of OES contractual obligations to the OEM. Such parts may also be characterized as grey market products, are not warranted by NNA, and may not be used by dealers for warranty repairs. To the extent they are sold under the Nissan brand, they can also unlawfully infringe on Nissan’s trademarks and other intellectual property.
4. **Redistributed OEM parts:** These are products sold by OEM’s (like NNA) within their own market area to authorized dealers that are subsequently redistributed by dealers to other dealers or third parties.

NNA is committed to doing what it can to ensure that only actual “Genuine” parts are described and sold as such to consumers. This includes taking legal action where appropriate to prevent the deception of consumers, harm to our dealers’ businesses, or the infringement of Nissan’s intellectual property rights. This task can be challenging, however, as it can be very difficult to commercially or physically identify the category and origin of the different classes of non-genuine products. Frequently it requires engineering analysis to identify and classify non-genuine branded products.

Finally, NNA is working closely with its dealers on this issue, seeking to educate them on the important differences between Nissan “Genuine” parts and all others. Non-genuine branded parts are potentially dangerous to vehicle drivers and damaging to the Nissan brand. Dealers can best serve themselves by becoming informed, understanding the risks, and by placing their trust in only true Nissan “Genuine” parts supplied by NNA.