Duty to not Make Misrepresentation

We have prepared this document to assist you to understand important issues relating to your insurances.

DUTY TO MAKE A MISPRESENTATION – (CONSUMER INSURANCE CONTRACT ONLY)

Duty to not make a misrepresentation - (consumer insurance contracts only)
*(Note: if you are **renewing, applying for, or varying an existing consumer insurance contract**, which is an insurance policy obtained wholly or predominately in relation to personal, domestic or household insurance purposes, you must answer the specific questions asked by the insurer truthfully and accurately. In answering those questions, you must tell the insurer all information that is known to you and that a reasonable person would be expected to provide in answer to the questions).*

You have a duty under the *Insurance Contracts Act 1984* (**ICA**) to take reasonable care not to make a misrepresentation to the insurer (**your duty**).

Your duty applies only in respect of a policy that is a consumer insurance contract, which is a term defined in the ICA.

Your duty applies before you enter into the policy, and also before you renew, extend, vary, or reinstate the policy.

Before you do any of these things, you may be required to answer questions and the insurer will use the answers you provide in deciding whether to insure you, and anyone else to be insured under the policy, and on what terms. To ensure you meet your duty, your answers to the questions must be truthful, accurate and complete.

If you fail to meet your duty, the insurer may be able to cancel your contract or reduce the amount it will pay if you make a claim, or both.

If your failure is fraudulent, the insurer may be able to refuse to pay a claim and treat the contract as if it never existed.

DUTY OF DISCLOURSE – (NON-CONSUMER INSURANCE CONTRACT ONLY)

Your duty of disclosure

Before you enter into an insurance contract, you have a duty to tell the insurer anything that you know, or could reasonably be expected to know, that may affect the insurer's decision to insure you and on what terms.

You have this duty until the insurer agrees to insure you.

You have the same duty before you renew, extend, vary, or reinstate an insurance contract.
You do not need to tell the insurer anything that:

- reduces the risk they insure you for; or
- is common knowledge; or
- the insurer knows, or should know; or
- the insurer waives your duty to tell them about.

<u>If you do not tell the insurer something</u>

If you do not tell the insurer anything you are required to, they may cancel your contract or reduce the amount they will pay you if you make a claim or both.

If your failure to tell the insurer is fraudulent, they may refuse to pay a claim and treat the contract as if it never existed.

NON-DISCLOSURE

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce their liability under the

contract in respect of a claim or may cancel the contract.

If your non-disclosure was fraudulent, the underwriters may also have the option of avoiding the contract

from its beginning.

UTMOST GOOD FAITH

Insurance contracts are subject to the doctrine of utmost good faith, and this is embodied in the ACT. Utmost

Good Faith must be strictly adhered by both parties - Insured and Insurer - and failure by the Insured to do so

may prejudice the claim.

The Insured has a legal obligation to reveal to the Insurers any material fact which might affect their

judgment in acceptance of the Insurance and/or assessing the premium. Failure to do so could avoid any

contract from inception. Claims must be notified immediately as late notification may cause denial of liability

in some instances.