

[INSERT TRAVEL RENTAL COMPANY'S NAME AND ADDRESS]	[INSERT YOUR NAME AND ADDRESS]
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Date:

Dear [INSERT NAME]

**My Holiday Booking & COVID19**

I am writing to you about the booking I made with you for a holiday to your cottage/holiday home starting on [INSERT DATE] to [INSERT DATE] The total cost of the holiday is [INSERT HOLIDAY £ COST].

I paid a deposit for this holiday on [INSERT DATE] which you have acknowledged.

I have paid the full balance for this holiday on [INSERT DATE] for which you have confirmed receipt.

**Force Majeure & our Contract:**

[DELETE THIS PARA IF NOT APPROPRIATE: I have read your terms and conditions and cannot find any clauses which deals with any force majeure or frustration of contract issues. Any attempt by you to seek to impliedly rely on such conditions are not accepted by me because I consider what is happening now as unavoidable and exceptional circumstances and to now seek to reply on implied conditions in the operation of my contract with you would be considered to be unfair]

[DELETE THIS PARA IF NOT APPROPRIATE: I have read your terms and conditions and note that you may seek to rely on your force majeure clause. Force Majeure is designed to help the parties to deal with unexpected major events and to recognise that the contract may not be capable of delivery. In such circumstances, the purpose of Force Majeure is to return the parties to their 'pre-contract' state where the contract has not been delivered. Any attempt to avoid such a benefit will not accepted by me because I consider what is happening now is classed as 'unavoidable and exceptional circumstances' and would be considered to be unfair]

**COVID19 & Our Contract:**

The presence of COVID19 is not only unfortunate but as we have all experienced, disruptive in all of our planning. To that end, it is important to note the advices given out by the UK Government on restriction of Travel whether it is outside of the UK or within the UK. For travel outside the UK, the government has held that they are advising all UK Citizens not to travel abroad, except for essential travel for an indefinite period. From a domestic perspective, the UK government has imposed a severe lockdown on movements and travel. This is in my opinion an intervening event, which severely affects the viability and operation of my holiday contract booking and is not the fault of any party]

Given the unusual circumstances attached to the COVID19 crisis, along with the fact that it will be impossible for my holiday contract to be delivered, I consider that until this matter is resolved between us, you are holding any monies given to you by me, on Trust until either we resolve this matter or the product or service is delivered without any limitations imposed as a result of the

crisis. If you seek to impose any limitations, I cannot accept such limitations, as they were not within our contemplation at the time I made this contract with you. Such limitations could include changes of times or duration, the inability to freely travel within my chosen destination or changes in costs or location; this list is not intended to be exhaustive.

### **Formal Request for Refund:**

Given the limitations on Travel at this time and for the foreseeable future, which prevents my booking from either taking place or being substantially limited, I am making this formal request for the return of my deposit/full refund of all monies paid without any penalties being applied. I would be grateful if you could refund these monies to me within 14 days of the date of this letter.

### **Additional Issues on our Contract:**

I have noted the Ts&Cs of our contract. In addition to these, I think that it is important to set out important additional issues that are clearly relevant to our contract as a result of COVID19.

Irrespective of the Force Majeure issues I have raised above, in my view the contract fails because of:

The **uncertainty** in the contract;

The **unfairness or injustice** now evident within the contract;

The **implied terms** you may seek to rely on, whatever about your Ts&Cs - in other words there is a common implication, where a state of affairs at the time the contract was made would continue or expected to be able to continue (in other words I rent the property, you agree to rent the property and neither of us could contemplate or foresee the current situation) - we would ordinarily have both expected our agreement to continue without threat or interruption and that would be the normal implication;

The **circumstances that currently exist are so dramatic** that they couldn't be held to be in the minds of either of us at the time we made the Agreement;

This dramatic event is leading to the situation whereby the **you are potentially achieving a greater benefit** than I will;

I believe that the constituents are there to argue that there has been a **frustration of contract**;

A frustration of contract is defined as:

*"Frustration occurs whenever the law recognises that without default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different that which was undertaken"*

In other words, we cannot continue with the contract in the current circumstances and there is now an injustice in the contract and justice would require that the contract no longer exists;

Another alternative to Frustration is that the **Contract has become impossible to Perform**.

This could arise as a result of a Natural Disaster (which is what this is), or by government making a law (or arguably providing strong advisories akin to a legal direction), both making the performance of the contract impossible or illegal;

Another possibility would be that it would be implied, that a **'Force Majeure'** clause exists in the contract, where one does not exist, which could offer a similar relief. Force Majeure clauses identify future risks which govern the parties actions;

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I would like you to know that on these three latter points alone, they could be used to argue a Breach of Contract has occurred, but I would also ask you to note my other points above;

Surely the ultimate goal is to place the parties back in the position they were at the start of the deal?

**Conclusion:**

In the circumstances, I would ask that you refund all the monies owed for this holiday booking, according to any Consumer Rights I may possess or through any other Rights that I hold within Contract.

I look forward to hearing from you.

Yours Sincerely,