

TERMINATION NOTICE

This Termination Notice is issued in accordance with Schedule 6, 3.1. of the FM Rail Track Access Agreement dated 27 May 2005. The effect of this Notice is the application of the requirements and provisions of:

- 6.3.4 of the Agreement, under the heading "Effect of Termination Notice"; and of
- 6.4 of the Agreement, under the heading "Consequences of Termination".

This Notice is dated 29 February 2008

The Track Access Agreement shows "Rights to Terminate" under 6.3.1. as follows:

Network Rail's right to terminate

Network Rail may serve a Termination Notice on the Train Operator:

- (a) where the Train Operator fails to comply with any material restriction in a Suspension Notice;
- (b) where the Train Operator fails to comply with its obligations under paragraph 2.5.3;
- (c) where the Train Operator Event of Default specified in paragraph 1.1(a) has occurred and is continuing; or
- (d) where the Train Operator Event of Default specified in a Suspension Notice served by Network Rail is not capable of being remedied and three months have elapsed from the service of that Suspension Notice.

On the basis that the FM Rail Event of Default shown under (d) above:

- is not capable of being remedied, with FM Rail's Freight Operating Licence having been formally revoked by the Office of Rail Regulation
- is continuing

it is Network Rail's decision to terminate the Agreement.

I therefore advise you that the FM Rail Track Access Agreement dated 27 May 2005 is Terminated with effect from 00.01 on Tuesday 4 March 2008

Gordon Cox
Network Rail
Customer Relationship Executive
29 February 2008