TERMS AND CONDITIONS OF THE SALE

Thank you for attending the 2016 Diamond-McNabb Ranch Horse Sale. Please be aware of the following Terms and Conditions of the Sale, which will apply to all sales and which provisions are deemed accepted in their entirety by all prospective attendees, bidders and buyers.

1) Inspection. All horses will be made available for viewing and inspection prior to sale. PLEASE EXAMINE HORSES PRIOR TO BIDDING. All horses will have passed a basic veterinary exam prior to entry in the sale.
   a. A qualified veterinarian will be on site to answer questions and assist with examination if requested. If the requested veterinarian assistance results in any fee, it will be due and payable from the prospective buyer at the time the assistance is rendered, regardless of whether the horse is purchased by the prospective buyer.
   b. Although efforts have been made to assure accurate representations of the horses’ current condition, history and performance record, all horses are sold “as-is” and “where-is”, except as otherwise expressly stated herein.

2) Representations. EXCEPT TO THE EXTENT EXPRESSLY STATED HEREIN, DIAMOND-MCNABB AND INVITED CONSIGNORS HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THOSE SPECIFICALLY DESCRIBED HEREIN. Diamond-McNabb or the consignor, whichever is the Seller of a given horse, represents as follows:
   a. Good title to the horse is held by Seller and will pass to Buyer.
   b. The horse is sound of limb, heart, eyes and wind as of sale day.
   c. The horse is not a cribber.
   d. The horse does not have a MAJOR pre-existing condition. Minor injuries or conditions may exist and are accepted by the highest bidder.
   e. The horse is accurately described as to age and sex. In the case of stallions, this means that both testicles are descended on sale day.
   f. The horse has passed a Coggins test (obtained a negative result) in the 6 months prior to sale day. Coggins papers will be given to Buyer upon payment.

CORRECTIONS OR CONDITIONS ANNOUNCED AT SALE TIME TAKE PRECEDENCE OVER CATALOG DESCRIPTIONS, AND THEREFORE CONDITIONS ANNOUNCED IN THE RING ARE ACCEPTED BY BUYER AND WILL NOT VOID, OR ALTER THE TERMS OF, ANY SALE. PLEASE PAY CAREFUL ATTENTION TO ANNOUNCEMENTS.

3) Bidding and Sales. The Sale is complete, and the risk of loss and responsibility for the horse pass to Buyer, when the gavel knocks.
   a. The Buyer is the highest bidder as recognized by the Auctioneer. If the Auctioneer believes a legitimate dispute may exist between multiple bidders, the horse will immediately be opened to further bids from those bidders in dispute only. If no higher bid is made, the horse will be sold to the high bidder who was last recognized by the Auctioneer. The decision of the Auctioneer will be final.
   b. All Diamond-McNabb horses will sell unless withdrawn prior to entering the sale ring, subject to the following:
      i. A minimum bid of $2,000 will be imposed at the Sale. Minimum bids will apply to started horses age 3 and older. Any such horse that receives no bid of $2,000 or more will remain the property of the seller.
      ii. Please see also item 9 regarding younger horses.
c. If payment is not made by Buyer, then Seller and/or Diamond-McNabb may pursue any legal remedy, including enforcement of the transaction by specific performance.

d. The Buyer grants Seller a security interest in the horse until such time as payment in full has been received by Seller. Title may be withheld by Seller until payment in full has been received.

4) Payment. Payment for all horse purchases and any related fees should be made to Diamond-McNabb, LLC. Personal checks, money orders, cashier’s checks and some major credit cards are accepted. Please have personal identification available. All payment will be made in U. S. currency. Thank you.

a. AQHA registration transfers will be processed by Diamond-McNabb. A $20 fee will be assessed to Buyer. Transfers for other associations will be the responsibility of Buyer.

b. For any payments returned by the bank or paying institution, Buyers will pay a return processing fee of $20.

c. Successful Buyers using the online auction service will pay an additional service fee equal to 2% of their winning bid.

5) Guarantees of Soundness and Good Fit. Diamond-McNabb, LLC wants to run an honest sale of quality horses. In an effort to help Buyers obtain the right horse for them, we offer the following Guarantees.

a. All horses will have a Soundness Guarantee (limb, heart, eyes and wind) for 48 hours after the gavel knocks. In the event of unsoundness of limb, heart, eyes, or wind, Buyer must provide notice to Diamond-McNabb, LLC within the 48 hour period, and after Buyer returns the horse and its condition is verified and the return is approved by Diamond-McNabb, LLC, Buyer will receive a full refund of the purchase price.

b. All horses age 3 and older will have a Good Fit Guarantee for 30 days after the gavel knocks. In the event that a Buyer is dissatisfied with the horse’s performance (not soundness) during the 30-day period, he or she may contact Diamond-McNabb, LLC during the 30-day period and return the horse for credit toward our sale of the following year, subject to the following:

i. The horse must be delivered to Diamond-McNabb within 72 hours of approval to return the horse, and must arrive in sound condition.

ii. Sale credit will be given up to the amount of the purchase price (excluding service fees, taxes and registration fees, if any) of the horse returned.

iii. Sale credit must be used in the following year and may not be carried forward to future years.

iv. Sale credit is not transferable to other parties.

v. Unused sale credit will not be refundable by Diamond-McNabb, LLC whether a new horse is purchased or not.

1. For example, if a Buyer acquires a horse in 2016 for $8,000 and returns it under this guarantee, and subsequently purchases a horse using sale credit in 2017 with a winning bid of $7,000, then the Good Fit Guarantee is completed; no further credit or refund will be due.

Notwithstanding anything to the contrary in this section 5, Diemer True or Ken McNabb shall retain sole discretion and final authority to determine whether any claim under the Soundness Guarantee and the Good Fit Guarantee will be approved.

6) Attendee Risks. Attendees agree that they are present on the premises and attend the sale at their own risk. Hazards associated with horses, weather and numerous other conditions are unavoidable and accepted by attendees. Neither Diamond McNabb, LLC, Diamond Land & Livestock, LLC, Diamond Ranches, LLC, Ken McNabb Horsemanship, LLC, the Auctioneer, nor any other vendor nor supplier shall have liability for accidents or injuries to person or property that occur on the premises or that are associated with inspections or attending the sale.
7) **Exclusive Sale, No Alley Trading.** The premises are for the exclusive use of the Diamond-McNabb Ranch Horse Sale. No other horses will be permitted on the grounds; any horse found on the grounds will be subject to going through the sale ring, and incurring a sale commission and a catalog fee, plus an unconsigned selling fee of $250.

8) **Miscellaneous.** These Terms and Conditions shall be binding upon and shall inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns. This Agreement shall be controlled, construed and enforced in accordance with the laws of the State of Wyoming. Venue for any action between the parties shall be in the Seventh Judicial District, Natrona County, Wyoming. Time is of the essence in the performance of the rights, remedies and obligations contained herein. These Terms and Conditions contain the entire understanding of the parties and supersede all previous and contemporaneous statements, negotiations, agreements, representations or understandings, whether written or oral.

9) **Production Horse Amendments.** The following two conditions apply to all sale horses age 2 years and younger only:

   i. The Seller may “no-sale” or “pass-out” the horse, electing to retain the horse rather than sell it, if he does so before the horse leaves the sale ring.

   ii. Neither Diamond-McNabb nor other Sellers will offer a Good Fit Guarantee on these young horses. They may not be returned under this Guarantee.

**Additional Notice:**

Please be aware that Wyoming law recognizes that there is “inherent risk” associated with equine activities, and that risk is assumed by the participant rather than the provider of the equine activity.

“Any person who takes part in any sport or recreational opportunity assumes the inherent risks in that sport or opportunity, whether those risks are known or unknown, and is legally responsible for any and all damage, injury or death to himself or other persons or property that results from the inherent risks in that sport or recreational opportunity.”

WS 1-1-121, 122 and 123.