

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**STIPULATED ELECTION AGREEMENT**

**THE NEW MUSEUM OF CONTEMPORARY ART**

**Case 02-RC-233642**

The parties **AGREE AS FOLLOWS:**

**1. PROCEDURAL MATTERS.** The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

**2. COMMERCE.** The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The New Museum of Contemporary Art, the Employer herein, a New York 501(c)(3) corporation with an office and place of business located at 231 and 235 Bowery, New York, NY, the only facility involved herein, is engaged in the business of operating an art museum. Annually, in the course and conduct of its business operations, the Employer derives gross revenues in excess of \$1,000,000 and purchases good and materials valued in excess of \$5,000 directly from firms outside the State of New York.

**3. LABOR ORGANIZATION.** The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

**4. ELECTION.** A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

**DATE:** January 24, 2019      **HOURS:** 12:00 noon to 3:00 p.m.  
**PLACE:** The theater in the basement at the Employer's facility located at  
235 Bowery, New York, NY

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

**5. UNIT AND ELIGIBLE VOTERS.** The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

**INCLUDED:** All full-time and regular part-time employees\* employed by the Employer at its facility located at 231 and 235 Bowery, New York, NY.

**EXCLUDED:** All other employees, including maintenance department employees, confidential employees, temporary employees, and guards, and supervisors as defined in the Act.

\*Part-time employees eligible to vote are those employees who have worked an average of 4 or more hours per week in the 13 weeks prior to the payroll eligibility date. Intermittent employees eligible to vote are those employed by the

Initials:

Employer during two installations for a total of five working days over a 1-year period or for at least 15 days over a 2-year period.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending January 15, 2019**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

**6. VOTER LIST.** Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

**7. THE BALLOT.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by Technical Office and Professional Union Local 2110 United Automobile Workers?" The choices on the ballot will be "Yes" or "No"

**8. NOTICE OF ELECTION.** The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

**9. NOTICE OF ELECTION ONSITE REPRESENTATIVE.** The following individual will serve as the Employer's designated Notice of Election onsite representative: Lisa Philips,

Initials: 

Director (or her designee), 235 Bowery, New York, NY 10002; [LPhilips@newmuseum.org](mailto:LPhilips@newmuseum.org); fax - 212-431-5328

**10. ACCOMMODATIONS REQUIRED.** All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

**11. OBSERVERS.** Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

**12. TALLY OF BALLOTS.** Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

**13. POSTELECTION AND RUNOFF PROCEDURES.** All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

The New Museum of Contemporary Art  
(Employer)

Technical Office and Professional Union  
Local 2110 United Automobile Workers  
(Petitioner)

By [Signature] 1/15/19  
(Name) (Date)  
Frank Birchfield

By [Signature] 01/15/2019  
(Name) (Date)  
Olga Brudastova

Recommended: [Signature] 1/15/19  
STEPHEN L. BERGER, Field Examiner  
(Date)

Date approved: 1/15/19

[Signature] by [Signature]  
, Regional Director, Region 02  
National Labor Relations Board