

**Before Tel Aviv
District Court**

**CL 30593-09-19
Before Honorable President Justice A. Ornstein**

**Re: Companies Ordinance [new version], 5733-1983
Companies Law, 5759-1999
Companies Regulations (Request for Compromise or Settlement), 5762-2002,
and**

**Re: Habima National Theater Ltd. PBC 514628247 (In a stay of proceedings order),
and**

The company

**Re: Adv. Dorit Levy Tyller
Levy Tyller, Nardia, Har Zvi, Baraz & Co.
From 150 Menachem Begin Rd., Tel Aviv 6492105
Tel.: 03-5272164 Fax: 03-5272166**

**CPA Chen Berdichev
Avidor, Berdichev, Gazit - CPA
From 12 Habonim St., Ramat Gan 5246215
Tel.: 03-5750241 Fax: 03-5753512**

The Trustees

And

**Re: Supervisor of Insolvency Law (Official Receiver)
From 3 HaShlosha St., Tel Aviv 6706054**

The Official Receiver

Proposal for a settlement agreement between the Company and its creditors

Introduction:

This settlement proposal is rooted in an existential constraint. The proposal is submitted to the esteemed court, and with its approval to convene assemblies, of the creditors of the Habima National Theater, which is on the verge of fatal collapse. The approval of this settlement is essential for the continuation of theater's life - to the extent of its absolute termination. The great difficulty inherent in the proposed settlement is a mutual and close dependence between its various components. Only a joint effort by all of them jointly and their joint mutual approval - will allow the execution of this settlement. Please note: The execution of the settlement has the

potential to provide a real solution for the creditors of the theater, and ensure its future existence. On the other hand, failed fulfillment of even one element of the terms of the settlement is enough to bring down the proposed settlement and, in fact, bring down the entire theater.

In normal times the trustees would have been able to promote the various elements:

- To promote the formation of joint management and funding between the State and the public entity
- To promote the consent of all the major creditors: The State, the secured creditor, the preferential creditors.

And indeed, prior to the outbreak of the Corona crisis, the trustees arranged meetings for the purpose of advancing the terms of the settlement and obtaining the creditor's consent, yet the crisis turned the tables around, and the meetings obviously did not take place. The Trustees' hopes that the esteemed court's approval of the publication of the settlement and the invitation to the virtual meetings will constitute an "engine" for advancing the outline and fusing its various components into one whole.

Definitions

The "Settlement" -	The proposed settlement detailed in this document.
"The Company" or "Habima" -	Habima National Theater Ltd. PBC 514628247 (In a stay of proceedings order)
The "Registrar"	Corporate Authority - Endowments Registrar
The "Court"	Tel Aviv District Court (Honorable President Justice A. Ornstein), reviewing the Company's insolvency case (Chapter 30593-09-19).
The "Insolvency case" -	CL 30593-09-19 in which on November 25, 2019 an order was issued against the Company for a stay of proceedings.
The "Effective date"	November 25, 2019 - The date on which a stay of proceedings was issued in the insolvency case.
"Past debt" -	All the Company's debts, of any kind and type, which cause is prior to the effective date, whether their due date has passed or not yet arrived on the effective date.
"Creditors" -	Secured creditors and/or preferential creditors and/or legally ordinary creditors.
"Secured creditor" -	A creditor holding a secured lien on the company's assets, up to the value of his secured debt entitlement, and has presented proofs of debt, as per all legal requirements.

"New Corporation" -	A PBC established for the needs of the settlement, to which the activities of the Habima National Theater will be transferred.
"Preferential creditors" -	Individuals or corporations to which funds are owed by the Company in the status of preferential debts, and which presented proofs of debt, as per all legal requirements.
"Ordinary creditors" -	Individuals and corporations to which funds are owed by the Company in the status of ordinary debts, and which presented proofs of debt, as per all legal requirements.
"Settlement approval" -	Court approval for this settlement proposal.
The "Trustees" -	The Trustees proposed for the execution of the creditors' settlement agreement - Dorit Levy Tyller and CPA Chen Berdichev.
"Settlement fund" -	The Trustees' bank account for the Company's insolvency proceedings.

A. General

Habima Theater has been operating continuously since its establishment in Moscow in 1917. In 1928 the members of the theater arrived at the port of Jaffa, and since then it has been operating in Israel. Since 1945 the theater resides in Beit Habima in Tel Aviv. In 1958 the government has announced Habima as the National Theater of Israel.

Until the late 1960s, the theater was run by a collective of actors who were responsible for the artistic, managerial and financial aspects alike. In 1969 the theater was incorporated as a public benefit endowment - "Habima National Theater Trust, under the "Charity purposed endowments ordinance", and after the ordinance has been canceled by virtue of the Trusts Law 5739-1979.

The goals of the Habima endowment are to promote, encourage and develop Habima National Theater and manage its affairs. The endowment's Board of Trustees managed the theater.

In April 2008, following Habima's financial difficulties and the appointment of the Public Trustee as a trustee for the Company, the Supreme Court approved a letter of endowment for Habima stating that the members of the endowment must invest their best efforts to yield a structural change in the Company and transfer the theater's activities, including its liabilities and rights, to a public benefit company. The Articles of the public benefit company defined Habima's objectives as a national theater.

In accordance with the Supreme Court decision, Habima National Theater Corporation Ltd. (PBC) was founded in June 2011, and in March 2012 a Board of Directors was appointed for the PBC. Habima began its activities as

a PBC in January 2013, and later the endowment's liabilities and rights were transferred to the PBC.

After Habima accumulated great debts to its creditors and breached its liabilities to a significant extent, a request for liquidation was filed in this case. On November 25, 2019 the court ordered the issuance of an order for stay of legal proceedings in relation to the Company and the appointment of Adv. Dorit Levy Tyller and CPA Chen Berdichev as trustees of the Company. The court authorized the trustees to run the theater and instructed them to formulate a recovery program for the Company.

This settlement proposal is brought before the creditors and if it is to be lawfully approved by them, it shall be filed to the court for approval under Section 350 to the Companies Law.

C. **The Company's balance of indebtedness:**

Following is the company's balance of indebtedness, as at this time. It should be emphasized that the data regarding the balance of indebtedness rely on the debt claims submitted to the trustees' office, as well as on the assessment of the preferential debt entitlement of the company's employees. At this stage, the data are merely an assessment and are subject to the completion of the examinations and the availability of any final decisions in the submitted debt claims:

1. Secured creditor (Bank Leumi): A total of approx. NIS 12 million; (NIS 1.2 million in secured debt entitlement and the balance as ordinary debt entitlement);
2. Preferential creditors (including employees and provident funds): A total of approx. NIS 21.5 million.
3. Ordinary creditors (including the debt claim filed by the State): A total of approx. NIS 65 million. In addition to approx. NIS 10.8 million, ordinary debt entitlement of Bank Leumi and in total approx. NIS 76 million.

For the avoidance of doubt, it is hereby clarified that the balance of indebtedness is not final and will be finalized only after all the decisions of the trustees in the debt claims are final, and subject to any law.

D. **Sources for the settlement:**

The following is a list of the sources that can serve the settlement, subject to their collection to the creditors' settlement fund:

1. **Company activity**: The company continues to operate the theater business and it is estimated that it will be able to transfer to the creditors' settlement fund, annually, an amount constituting 1.5% of its total annual turnover (estimated at NIS 1 million per year and hoped to increase), over a period of 10 years.

2. **Claims against third parties:** The (net) gains from claims against third parties who can be held liable for the Company's situation. This procedure is conditional upon the conduct of the required investigations and inspections, and subject to their results. The Trustees will submit an application to appoint an attorney who specializes in this field to handle this matter.
3. **Dedicated earnings from hall rental arrangements:** Earnings to be collected throughout the years of the settlement from the hall rental arrangements to Bank Leumi for its debt entitlement.
4. Payment from the State in the amount of NIS 4.2 million for support to distressed establishments.

E. Principles of the proposed creditors' settlement agreement:

The proposed creditors' settlement agreement will be executed in the existing corporation, or in a new corporation, at the same time with the liquidation of the Company under Section 350 to the Companies Law and the transfer of its activities to a new corporation that is free of any past debts - except for the liabilities included in this settlement. In any case the amounts to be paid to creditors will be the same in any scenario.

The shares of the new corporation will be held in trust by the Trustees until the structure of its management is regulated, unless ordered otherwise by the court.

E- 1.

Once the settlement is executed, the company, or the newly established corporation - shall be free of debts, indebted to the liabilities arising from the creditors' settlement agreement and all the activities and assets of the theater in its new format, shall free of any debt. To the extent that a new corporation is established, it shall be jointly owned by the State and another public entity, in equal parts and on the basis of joint financing of both owners (Matching), and it must be clarified that the settlement can also be maintained in the existing corporation, all as to be agreed between the trustees, the authorities and the entity which participation in the management and ownership of the theater - is to be formulated.

The Trustees are in the midst of advanced negotiations regarding these matters.

E-2.

Under the proposed creditors' settlement agreement, the repayment to the creditors will be as follows:

1. **Secured creditor (Bank Leumi):** The theater will continue to serve as the Bank's Retirees Club, as it served prior to the appointment of the Trustees, for a period of 10 years from the date of the approval of this settlement, at no cost, as a dividend substitute to the secured creditor (the value of the

dividend substitute, according to the principles of the past agreement, is approx. NIS 7 million. In respect of the balance of its debt, it shall be entitled to distribution as an ordinary creditor, provided that the two sources jointly do not exceed its debt.

2. **Company employees** - The employees' debt claims shall be paid in accordance with Chapter H of the National Insurance Law and will be legal creditors regarding any amounts beyond the ceiling they are entitled to from the National Insurance Institute.
3. **"Preferential creditors"** - The status of the preferential creditors, with the exception of the Company's employees, will be restored to the status of ordinary debt entitlement.
4. **The State of Israel (ordinary law)**: The debt to the State will have the status of a deferred debt.
5. **"Ordinary creditors"** - The ordinary creditors will be repaid from the amounts in the settlement fund, after the payment of the settlement expenses and the repayment of the Company's preferential debts to its employees.

To the extent that this settlement is approved, with all its parts, the status of the debt entitlement will be updated, as follows: The State's debt claim, in the amount of approx. NIS 30 million, will be deducted from the ordinary debt entitlement.

The debt claims of the creditors claiming the status of preferential creditors (excluding the employees) in the estimated amount of approx. NIS 18.5 million, will be deducted from the balance of preferential indebtedness and transferred to the balance of ordinary indebtedness.

F. **Execution of the creditors' settlement agreement**

Payments to creditors will be made in accordance with and subject to the directives of the court and while taking into account the appeals that may be filed against the decisions of the Trustees in the debt claims.

Payment to creditors will be made on the dates and in the amounts that accommodate the availability of the resources in the settlement fund, subject to the collection of the funds to the settlement fund and their actual receipt.

G. **Trustees for the execution of a creditors' settlement agreement**

Adv. Dorit Levy Tyller and CPA Chen Berdichev will be appointed as Trustees for the execution of the creditors' settlement agreement, and in this context, they will be given the powers involved in its execution.

The trustees will act in accordance with the provisions of this settlement and in accordance with the instructions they will receive from the court from time to time.

H. **Fees**

The Trustees' fees will be determined by the court in accordance with the Companies Regulations (Rules regarding the appointment of receivers and liquidators and their salaries), 5741-1981.

The settlement fund shall bear the fees of the Trustees as approved by the court, as aforesaid, as settlement expenses prioritized before any distribution to the settlement's creditors.

I. **Debt Claims Mechanism**

1. The details of the debts used to carry out the creditors' settlement agreement will be as determined by the Trustees in accordance with what is detailed below.
2. The provisions of the freeze procedure set out that the deadline for submitting the proofs of debt is by January 9, 2020, with the Trustees being served various requests for extensions. In accordance with and beyond the letter of the law, all debt claims submitted by the date of the convening of the creditors' meeting, will be deemed as claims submitted on time.
3. Except for an ordinary debt claim by the National Insurance Institute, in respect of the payment of benefits to the Company's employees, any debt claims submitted after the date of the convening the meetings will not be accepted and these debt claim submitters will have no right to present any claim and/or demand against the Company and/or Trustees and/or the settlement fund.
4. The Trustees will be entitled to request documents and/or data they may require, at their sole discretion, for the purpose of deciding the debt claim, and if these are not submitted within the set date, the Trustees will be entitled to decide the debt claim according to the data and/or documents available to them or reject the debt claim, in whole or in part, as they see fit.
5. The trustees will submit their decision on the debt claims regarding the classification of the debt entitlement and the amount of the debt for distribution purposes within 90-120 days from the date of the approval of the settlement agreement by the court, or from the date on which all the data and/or documents they find to be necessary for the purpose of deciding the debt claims are produced, whichever is later.
6. A creditor that is interested in appealing the decision of the Trustees will be entitled to do so within 30 days from the date on which it received the decision of the Trustees. An appeal filed after that date will not be accepted unless the court orders otherwise. An appeal against the decision of the Trustees in the debt claims will be submitted to the Tel Aviv District Court.

J. **Conditional exemption to the State:**

Subject to the approval of this settlement and the fulfillment of its terms, and subject to the state committing to support the Habima National Theater of the State of Israel, in a matching with another public entity, and subject to the State waiving the Company's debts to it, as set forth in the debt claim on its behalf - all creditors of the Company hereby declare and confirm that they do not have, will not have, and irrevocably waive any right, cause, action or argument towards the State, in any matter related to the Habima Theater.

K. General provisions of the terms of the settlement agreement

1. The proposed creditors' settlement will be brought before the Company's creditors meetings. The decision is to be made by the creditors themselves, by the majority required by law, in accordance with the advantages and disadvantages of the proposed settlement as the creditors see them and at their discretion. The Trustees and/or those on their behalf may not decide for the creditors, and the decision is to be made by the creditors themselves, by the majority required by law.
2. After and subject to the legal approval of the creditors' settlement agreement by the Company's creditors, the creditors' settlement will be presented for approval by the court, in accordance with Section 350 to the Companies Law.
3. All of the above is an estimate and conditional upon the actual collection to the settlement fund of the funds, from the due settlement's sources. Accordingly, the distribution of the funds is subject, inter alia, to changes relating to the debt claims approved by the Trustees, the payments received under this settlement, and any applicable tax liabilities, all subject to the provisions of this settlement agreement.
4. This settlement does not specify the dates for the payment of dividends under the settlement and the payment will be made in accordance with the availability of the sources in the settlement fund and the discretion of the Trustees.
5. Upon the approval of this settlement agreement and subject to its provisions, all Company's creditors of any kind and/or type, including ordinary creditors, preferential creditors, secured creditors, employees and/or any other type of creditor, including creditors to which a debt or liability, current or future, certain or conditional, is owed by the Company prior to the effective date, or to be owed by it in the future due to a liability originated prior to the date of the order, due to any argument and/or demand and/or claim against the Company and/or the Trustees.
6. Any foreclosure on the Company's assets and rights (or any part thereof), and/or any other proceeding in relation to the Company's assets and/or rights, if any, will be removed immediately after the approval of the creditors' settlement agreement by the Court.
7. Lawsuits and legal proceedings of any kind and type, including

enforcement proceedings, filed/initiated in respect of any debts formed prior to the date of the order by any of the Company's creditors against the Company in respect of the Company's debts will be dismissed. The Trustees will be entitled to submit to the relevant courts' motions in this matter.

8. All the Company's creditors hereby declare that they do not have, will not have, and irrevocably waive any right, cause, action, or argument against the Trustees and/or their staff, in respect of or in connection with any matter relating to the Company and/or their actions in connection with the Company, including in respect of this settlement agreement, its execution and all that is involved in or related to it, either directly or indirectly.
9. The Trustees will be entitled to sign any document that required to carry out this settlement agreement.
10. This settlement is subject to the approval of the creditors' meetings to be held online via the submission of voting forms, as well as to the approval of the Court, in accordance with the provision of Section 350 to the Companies Law.
11. Voting rights in the creditors' meetings shall be granted to creditors which presented proofs of debt, as per all legal requirements.
12. A report on the results of the meetings will be submitted by the Trustees to the Court, attached with the Trustees' recommendation for the approval of the settlement, if and to the extent that the proposed settlement is approved by the meetings.
13. The Tel Aviv District Court alone will be empowered to hear any matter related to this settlement.
14. It is hereby agreed that what is stated in this settlement agreement is for compromise purposes only and that it will not be used, and what is stated in it will not bind, any of the parties, in the event that the settlement is not approved by the Court.
15. It is hereby expressly clarified that the settlement described above and below is subject to modifications and the binding settlement agreement is the one to be approved by the Court.

The End