

For the following questions, please refer to the General Technology Certificate of Incorporation and Preferred Stock Resolution on the class website.

1. Certificate of Incorporation

- (a) Read Articles 4(a) and 4(b) of GenTech's Certificate of Incorporation. In the absence of this provision, what would GenTech have to do to issue preferred shares?
- (b) Where else have you seen before this type of provision? Corporations?
- (c) Read the "RESOLVED" paragraph of the GenTech BOD resolution. What is happening?

2. Voting Rights.

- (a) Does the GenTech Series A Preferred Stock (Series A) have voting rights? (4(d)(3)).
- (b) In regular corporate matters, is that right significant?
- (c) For which matters does the Series A have a class vote? (4(d)(3)(a)).
- (d) When can the Series A elect its own directors? (4(d)(3)(b)(i)) and (4(d)(3)(c)(i)).
- (e) When do these rights end? (4(d)(3)(b)(v)) and (4(d)(3)(c)(v)).
- (f) Can the Series A elect 4 directors in the case of both dividend and redemption arrearages? (4(d)(3)(c)(i)).
- (g) What is the need for DGCL §242(b)(2)? How does it help to protect preferred shareholders?

3. Dividend Rights

- (a) What dividends are the holders of the Series A entitled to? (4(d)(2)).
- (b) Are the dividends obligatory? (4(d)(2)).
- (c) What happens if the dividends are skipped? (4(d)(3)(b)(i)).
- (d) Non-cumulative preferred: Will a court imply a right to a dividend if there are otherwise sufficient profits?

Here we are interpreting a contract into which uncoerced men entered. Nothing in the wording of that contract would suggest to an ordinary wayfaring person the existence of a contingent or inchoate right to arrears of dividends. The notion that such a right was promised is, rather, the invention of lawyers or other experts, a notion stemming from considerations of fairness, from a policy of protecting investors in those

securities. But the preferred stockholders are not—like sailors or idiots or infants— wards of the judiciary. As courts on occasions have quoted or paraphrased ancient poets, it may not be inappropriate to paraphrase a modern poet, and to say that ‘a contract is a contract is a contract.’
Guttmann v. Ill. Cen. RR, 189 F.2d 927 (2d. Cir. 1951)

4. Liquidation Preference

- (a) What is the Series A liquidation preference? 4(d)(6)).
- (b) Does this give a Series A much protection? What will generally be the financial and economic state of the corporation when a liquidation occurs?
- (c) Is a merger or sale of substantially all of the assets of the corporation a deemed liquidation? 4(d)(6)).

5. Redemption Rights

- (a) Under what circumstances would it be beneficial for a corporation to have a right of redemption?
- (b) Is GenTech obligated to redeem the Series A shares? If so, at what price? (4(d)(7)).
- (c) Can GenTech redeem more shares than it's obligated to redeem? If so, at what price? (4(d)(7) and 4(d)(8)).
- (d) Are there any limits to the optional redemption in 4(d)(8)? (4(d)(8)(a) and (b), skim only).
- (e) Can GenTech purchase Series A shares in the open market? (4(d)(13)).
- (f) What does funds legally available mean in 4(d)(7)? See DGCL §160 and *SVIP v. ThoughtsWorks* (Del. Ch. 2010) on the class web page. See also (d)(12).
- (g) What are other situations in which GenTech can redeem the Series A shares? (4)(d)(9).

6. Convertible Preferred

Series C Preferred Stock of Integrated Ventures 10-Q (Nov. 2024):

Effective January 14, 2021, the Company filed a Certificate of Designation of the Series C Convertible Preferred Stock with the Nevada Secretary of State. The Company has authorized the issuance of an aggregate of 3,000 shares of the Series C preferred stock. Each share of Series C preferred stock has a par value of \$0.001 per share and a stated value of \$1,100 per share. The shares of Series C preferred stock are

convertible into shares of the Company's common stock at a conversion price of \$8.50 per share.

- (a) What is the conversion price?
- (b) What is the conversion ratio?