

CorMedix Inc.
Form SC 13D/A
March 06, 2015

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 13D
(RULE 13D - 101)

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT TO 13d-1(a) AND AMENDMENTS
THERE TO FILED PURSUANT TO 13d-2(a)

(Amendment No. 1)*

Cormedix Inc.
(Name of Issuer)

Common Stock, par value \$0.001
(Title of Class of Securities)

21900C100
(CUSIP Number)

Stephen M. Schultz, Esq.
Kleinberg, Kaplan, Wolff & Cohen, P.C.
551 Fifth Avenue, New York, New York 10176
(212) 986-6000

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

March 3, 2015
(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(e), 13d-1(f) or 13d-1(g), check the following box [x].

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

1. NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

Elliott Associates, L.P.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)

(b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS
REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH:

7. SOLE VOTING POWER

2,127,289 (1)

8. SHARED VOTING POWER

0

9. SOLE DISPOSITIVE POWER

2,127,289 (1)

10. SHARED DISPOSITIVE POWER

0

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH
REPORTING PERSON

2,127,289 (1)

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11)
EXCLUDES CERTAIN SHARES
13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
8.6% (2)
14. TYPE OF REPORTING PERSON
PN

(1) Includes 1,345,849 shares of Common Stock issuable upon the conversion or exercise, as the case may be, of certain convertible securities based on a pro-rata conversion or exercise of such securities between the Reporting Persons in accordance with the Ownership Limitation. See Item 5(a).

(2) Calculated in accordance with the Ownership Limitation based on a pro-rata conversion or exercise between the Reporting Persons of certain convertible securities held by the Reporting Persons. See Item 5(a).

1. NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

Elliott International, L.P.

2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)

(b)

3. SEC USE ONLY

4. SOURCE OF FUNDS

WC

5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS
REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

6. CITIZENSHIP OR PLACE OF ORGANIZATION

Cayman Islands, British West Indies

NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH:

7. SOLE VOTING POWER

0

8. SHARED VOTING POWER

332,119 (1)

9. SOLE DISPOSITIVE POWER

0

10. SHARED DISPOSITIVE POWER

332,119 (1)

11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH
REPORTING PERSON

332,119 (1)

12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11)
EXCLUDES CERTAIN SHARES
13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)
1.3% (2)
14. TYPE OF REPORTING PERSON
PN

(1) Includes 332,119 shares of Common Stock issuable upon the conversion or exercise, as the case may be, of certain convertible securities based on a pro-rata conversion or exercise of such securities between the Reporting Persons in accordance with the Ownership Limitation. See Item 5(a).

(2) Calculated in accordance with the Ownership Limitation based on a pro-rata conversion or exercise between the Reporting Persons of certain convertible securities held by the Reporting Persons. See Item 5(a).

1. NAMES OF REPORTING PERSONS
I.R.S. IDENTIFICATION NOS. OF ABOVE PERSONS (ENTITIES ONLY)

Elliott International Capital Advisors Inc.
 2. CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP

(a)
(b)
 3. SEC USE ONLY
 4. SOURCE OF FUNDS

OO
 5. CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)
 6. CITIZENSHIP OR PLACE OF ORGANIZATION

Delaware
- NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH:
7. SOLE VOTING POWER

0
 8. SHARED VOTING POWER

332,119 (1)
 9. SOLE DISPOSITIVE POWER

0
 10. SHARED DISPOSITIVE POWER

332,119 (1)
 11. AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

332,119 (1)
 12. CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11)

EXCLUDES CERTAIN SHARES

13. PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

1.3% (2)

14. TYPE OF REPORTING PERSON

CO

(1) Includes 332,119 shares of Common Stock issuable upon the conversion or exercise, as the case may be, of certain convertible securities based on a pro-rata conversion or exercise of such securities between the Reporting Persons in accordance with the Ownership Limitation. See Item 5(a).

(2) Calculated in accordance with the Ownership Limitation based on a pro-rata conversion or exercise between the Reporting Persons of certain convertible securities held by the Reporting Persons. See Item 5(a).

The following constitutes Amendment No. 1 (“Amendment No. 1”) to the Schedule 13D filed by the undersigned on February 17, 2015 (the “Schedule 13D”). This Amendment No. 1 amends the Schedule 13D as specifically set forth herein.

Item 4. Purpose of Transaction.

Item 4 is hereby amended to add the following:

On March 3, 2015, Manchester Securities Corp., a subsidiary of Elliott (“Manchester”), entered into a backstop agreement with the Issuer (the “Backstop Agreement”). Pursuant to the terms of the Backstop Agreement, Manchester has agreed to make a backstop financing commitment in the form of a senior convertible note (the “Note”) equal to \$4,500,000 less the aggregate proceeds received by the Issuer in connection with the exercise of outstanding warrants of the Issuer by April 30, 2015 that were issued in connection with the Issuer’s initial public offering. As consideration for the backstop financing commitment, the Issuer has agreed (i) to issue to Manchester warrants to acquire 200,000 shares of Common Stock with an exercise price of \$7.00 per share and that expire on March 3, 2020 (the “\$7.00 Warrants”), (ii) to exchange a warrant to acquire 390,720 shares of Common Stock expiring on March 24, 2015 for a new warrant providing for a cashless exercise option and extension of the expiration date to March 24, 2016, along with certain other technical changes (the “Amended March Warrant”) and (iii) to exchange a warrant to acquire 500,000 shares of Common Stock expiring on May 30, 2019 for a new warrant reflecting certain immaterial and technical changes (the “Amended May Warrant”). The following descriptions of the Backstop Agreement, the \$7.00 Warrant, the Amended March Warrant and the Amended May Warrant are qualified in their entirety by reference to the Backstop Agreement, \$7.00 Warrant, the Amended March Warrant and the Amended May Warrant, respectively, which are attached as Exhibit 99.8, Exhibit 99.9, Exhibit 99.10 and Exhibit 99.11 hereto, respectively, and are incorporated herein by reference.

In connection with the transactions contemplated by the Backstop Agreement, pursuant to a letter agreement, the Issuer granted Manchester the right to appoint up to two board members to the Issuer’s board of directors and/or board observers to attend Board meetings in a non-voting capacity. The Issuer also agreed to give Manchester the right to approve one or more investment banks engaged by the Issuer for the purpose of exploring strategic alternatives of the Issuer in order to maximize shareholder value.

In addition, pursuant to a registration rights agreement entered into with the Issuer on March 3, 2015 (the “Registration Rights Agreement”), the Issuer has agreed to give Manchester customary demand registration rights in connection with the shares of Common Stock exercisable or convertible, as applicable, under the Note, the Amended March Warrant, the Amended May Warrant and the \$7.00 Warrant. The following description of the Registration Rights Agreement is qualified in its entirety by reference to the Registration Rights Agreement, which is attached as Exhibit 99.12 hereto and is incorporated herein by reference.

ITEM 5. Interest in Securities of the Issuer.

Item 5 is hereby amended and restated in its entirety to read as follows:

(a) As of the date hereof, Elliott, Elliott International and EICA collectively may be deemed to beneficially own 2,459,408 shares of Common Stock, including 1,677,968 shares of Common Stock issuable upon the conversion or exercise, as the case may be, of certain convertible securities constituting approximately 9.9% of the shares of Common Stock outstanding calculated in accordance with the Ownership Limitation (as defined below) and based on a pro-rata conversion or exercise of such securities between the Reporting Persons.

The aggregate percentage of Common Stock reported owned by each person named herein is based upon 22,383,101 shares of Common Stock outstanding as of November 10, 2014, which is the total number of shares of Common Stock outstanding as reported in the Issuer's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 13, 2014.

As of the date hereof, Elliott may be deemed to beneficially own 2,127,289 shares of Common Stock, including 1,345,849 shares of Common Stock issuable upon the conversion or exercise, as the case may be, of certain convertible securities constituting approximately 8.6% of the shares of Common Stock outstanding, calculated in accordance with the Ownership Limitation and based on a pro-rata conversion or exercise of such securities between the Reporting Persons.

As of the date hereof, Elliott International may be deemed to beneficially own 332,119 shares of Common Stock, including 332,119 shares of Common Stock issuable upon the conversion or exercise, as the case may be, of certain convertible securities constituting approximately 1.3% of the shares of Common Stock outstanding, calculated in accordance with the Ownership Limitation and based on a pro-rata conversion or exercise of such securities between the Reporting Persons. EICA, as the investment manager of Elliott International may be deemed to beneficially own the 332,119 shares of Common Stock beneficially owned by Elliott International, constituting approximately 1.3% of the shares of Common Stock outstanding calculated in accordance with the Ownership Limitation and based on a pro-rata conversion or exercise of such securities between the Reporting Persons.

Each of Elliott Associates, Elliott International and EICA may be deemed to beneficially own shares of Common Stock underlying certain securities currently convertible or exercisable, as the case may be, as of the date hereof. Such securities contain restrictions on exercise and conversion, as the case may be, such that they may not be exercised or converted if the number of shares of Common Stock to be issued pursuant to such exercise or conversion would result in the holder beneficially owning (as determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended, and the rules thereunder ("Section 13(d)")) in excess of 9.99% of all of the Common Stock outstanding at such time (the "Ownership Limitation"). Elliott Associates, Elliott International and EICA each disclaims beneficial ownership of any and all shares of Common Stock issuable upon any conversion or exercise, as the case may be, of such securities if such conversion would cause Elliott Associates', Elliott International's and EICA's, as applicable, aggregate beneficial ownership to exceed or remain above the Ownership Limitation.

(b) Elliott has the power to vote or direct the vote of, and to dispose or direct the disposition of, the shares of Common Stock owned directly by it.

Elliott International has the shared power with EICA to vote or direct the vote of, and to dispose or direct the disposition of, the shares of Common Stock owned directly by Elliott International. Information regarding each of Elliott International and EICA is set forth in Item 2 of this Schedule 13D and is expressly incorporated by reference herein.

(c) Except as set forth in Item 4 of this Amendment No. 1, the Reporting Persons have not effected any transactions in the securities of the Issuer reported hereunder during the past 60 days.

(d) No person other than Elliott has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, the shares of Common Stock beneficially owned by Elliott.

No person other than Elliott International and EICA has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, the shares of Common Stock beneficially owned by Elliott International and EICA.

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships With Respect to Securities of the Issuer.

Item 6 is hereby amended and restated in its entirety to read as follows:

Elliott, through Manchester, owns Amended March Warrants exercisable for 390,720 shares of Common Stock and that expire on March 24, 2016. The terms and conditions of the Amended March Warrants are qualified in their entirety by reference to the full text of such document, which is attached as Exhibit 99.10 hereto and is incorporated herein by reference.

Elliott, through Manchester, owns Amended May Warrants exercisable for 500,000 shares of Common Stock and that expire on May 30, 2019. The terms and conditions of the Amended May Warrants are qualified in their entirety by reference to the full text of such document, which is attached as Exhibit 99.11 hereto and is incorporated herein by reference.

Elliott owns warrants exercisable for 262,500 shares of Common Stock and that expire on October 22, 2019 (the “October Warrants”). Elliott International owns October Warrants exercisable for 487,500 shares of Common Stock. The terms and conditions of the October Warrants are qualified in their entirety by reference to the full text of such document, which is attached as Exhibit 99.4 to the Schedule 13D and is incorporated herein by reference.

Elliott, through Manchester, owns warrants exercisable for 1,000,000 shares of Common Stock with an exercise price of \$0.40 per share and that expire on September 20, 2017.

Elliott owns 52,500 shares of Series C-2 Non-Voting Convertible Preferred Stock, par value \$0.001 per share (the “Series C-2 Preferred Stock”). Elliott International owns 97,500 shares of Series C-2 Preferred Stock. The terms and conditions of the Series C-2 Preferred Stock are qualified in their entirety by reference to the Amended and Restated Certificate of Designations of the Series C-2 Preferred Stock, which is attached as Exhibit 99.5 to the Schedule 13D and is incorporated herein by reference.

Elliott, through Manchester, owns 73,962 shares of Series D Non-Voting Convertible Preferred Stock, par value \$0.001 per share (the “Series D Preferred Stock”). The terms and conditions of the Series D Preferred Stock are qualified in their entirety by reference to the Amended and Restated Certificate of Designations of the Series D Preferred Stock, which is attached as Exhibit 99.6 to the Schedule 13D and is incorporated herein by reference.

Elliott, through Manchester, owns 89,623 shares of Series E Non-Voting Convertible Preferred Stock, par value \$0.001 per share (the “Series E Preferred Stock”). The terms and conditions of the Series E Preferred Stock are qualified in their entirety by reference to the Amended and Restated Certificate of Designations of the Series E Preferred Stock, which is attached as Exhibit 99.7 to the Schedule 13D and is incorporated herein by reference.

Elliott, through Manchester, owns \$7.00 Warrants exercisable for 200,000 shares of Common Stock and that expire on March 3, 2020. The terms and conditions of the \$7.00 Warrants are qualified in their entirety by reference to the full text of such document, which is attached as Exhibit 99.9 hereto and is incorporated herein by reference.

On March 3, 2015, Manchester, a subsidiary of Elliott, entered into the Backstop Agreement, Letter Agreement and Registration Rights Agreement as described in Item 4 above.

Each of the securities described in this Item 6 are subject to the Ownership Limitation (as described in Item 5 above). Elliott Associates, Elliott International and EICA each disclaims beneficial ownership of any and all shares of Common Stock issuable upon any conversion or exercise, as the case may be, of such securities if such conversion would cause Elliott Associates’, Elliott International’s and EICA’s, as applicable, aggregate beneficial ownership to exceed or remain above the Ownership Limitation.

Item 7. Material to be Filed as Exhibits.

Exhibit 99.8 – Backstop Agreement (incorporated herein by reference to Exhibit 10.1 of the Issuer’s Current Report on Form 8-K filed March 4, 2015) (File No. 001-34673)

Exhibit 99.9 – Form of \$7.00 Warrant (incorporated herein by reference to Exhibit 4.1 of the Issuer’s Current Report on Form 8-K filed March 4, 2015) (File No. 001-34673)

Exhibit 99.10 – Form of Amended March Warrant (incorporated herein by reference to Exhibit 4.2 of the Issuer’s Current Report on Form 8-K filed March 4, 2015) (File No. 001-34673)

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Exhibit 99.11 – Form of Amended May Warrant (incorporated herein by reference to Exhibit 4.3 of the Issuer’s Current Report on Form 8-K filed March 4, 2015) (File No. 001-34673)

Exhibit 99.12 – Registration Rights Agreement (incorporated herein by reference to Exhibit 4.5 of the Issuer’s Current Report on Form 8-K filed March 4, 2015) (File No. 001-34673)

SIGNATURES

After reasonable inquiry and to the best of its knowledge and belief, each of the undersigned certifies that the information with respect to it set forth in this statement is true, complete, and correct.

Dated: March 6, 2015

ELLIOTT ASSOCIATES, L.P.

By: Elliott Capital Advisors, L.P., as General Partner

By: Braxton Associates, Inc., as General Partner

By: /s/ Elliot Greenberg
Elliot Greenberg,
Vice President

ELLIOTT INTERNATIONAL, L.P.

By: Elliott International Capital Advisors Inc.,

as Attorney-in-Fact

By: /s/ Elliot Greenberg
Elliot Greenberg,
Vice President

ELLIOTT INTERNATIONAL CAPITAL ADVISORS INC.

By: /s/ Elliot Greenberg
Elliot Greenberg,
Vice President

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\$

7,986

\$

24,164

\$

(16,170

)

\$

(6,247

)

\$

9,732

- (1) Stock and warrants are generally non-income producing and restricted. The principal amount for debt is shown in the Consolidated Schedule of Investments as of December 31, 2016.
- (2) Represents the total amount of interest or dividends credited to income for the year an investment was an affiliate or control investment.
- (3) Gross additions include increases in the cost basis of investments resulting from new portfolio investments, paid-in-kind interest or dividends, the amortization of discounts and closing fees and the exchange of one or more existing securities for one or more new securities.
- (4) Gross reductions include decreases in the cost basis of investments resulting from principal repayments or sales and the exchange of one or more existing securities for one or more new securities. Gross reductions also include previously recognized depreciation on investments that become control or affiliate investments during the period.
- (5) In June 2016, the Company's investments in SkyCross, Inc. became classified as a control investment as a result of obtaining more than 50% representation on a portfolio company's board. In June 2016 the Company also acquired 100% ownership of the equity of Achilles Technology Management Co II, Inc. and classified it as a control investment in accordance with the requirements of the 1940 Act. In June 2016, Achilles Technology Management Co II, Inc. acquired the assets of a global antenna company that produces radio frequency system solutions as part of an article 9 consensual foreclosure and public auction for total consideration in the amount of \$4.0 million. In September and November 2016 the Company made a \$1.0 million and \$250,000 debt investment, respectively, in Achilles Technology Management II to provide working capital under the terms of a loan servicing agreement. The Company's investments in Achilles Technology Management Co II, Inc. are carried on the consolidated statement of assets and liabilities at fair value.

3. Exhibits

Please note that the agreements included as exhibits to this Form 10-K are included to provide information regarding their terms and are not intended to provide any other factual or disclosure information about us or the other parties to the agreements. The agreements contain representations and warranties by each of the parties to the applicable agreement that have been made solely for the benefit of the other parties to the applicable agreement and may not describe the actual state of affairs as of the date they were made or at any other time.

Exhibit

Number Description

- 3(a) Articles of Amendment and Restatement.⁽³⁾
- 3(b) Articles of Amendment, dated March 6, 2007.⁽⁷⁾
- 3(c) Articles of Amendment, dated April 5, 2011.⁽²²⁾
- 3(d) Articles of Amendment, dated April 6, 2015.⁽⁴³⁾
- 3(e) Articles of Amendment, dated February 25, 2016.⁽⁴⁹⁾
- 3(f) Amended and Restated Bylaws.⁽⁴⁹⁾
- 4(a) Specimen certificate of the Company's common stock, par value \$.001 per share.⁽⁶⁰⁾
- 4(b) Form of Dividend Reinvestment Plan.⁽¹⁾
- 4(c) Indenture between Hercules Funding Trust I and U.S. Bank National Association, dated as of August 1, 2005.⁽²⁾
- 4(d) Indenture between Hercules Technology Growth Capital, Inc. and U.S. Bank National Association, dated as of April 15, 2011.⁽²³⁾
- 4(e) Form of Note under the Indenture, dated as of April 15, 2011.⁽²³⁾
- 4(f) Indenture between the Registrant and U.S. Bank National Association, dated as of March 6, 2012.⁽²⁶⁾
- 4(g) First Supplemental Indenture between the Registrant and U.S. Bank National Association, dated as of April 17, 2012.⁽²⁶⁾
- 4(h) Second Supplemental Indenture between the Registrant and U.S. Bank National Association, dated as of September 24, 2012.⁽²⁹⁾
- 4(i) Third Supplemental Indenture between the Registrant and U.S. Bank National Association, dated as of July 14, 2014.⁽³⁹⁾

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- 4(j) Form of 7.00% Senior Note due 2019, dated as of April 17, 2012 (Existing April 2019 Note) (included as part of Exhibit 4(g)).⁽²⁶⁾
- 4(k) Form of 7.00% Senior Note due 2019, dated as of July 6, 2012 (Additional April 2019 Note).⁽²⁷⁾
- 4(l) Form of 7.00% Senior Note due 2019, dated as of July 12, 2012 (Over-Allotment April 2019 Note).⁽²⁸⁾
- 4(m) Form of 7.00% Senior Note due 2019, dated as of September 24, 2012 (September 2019 Note) (included as part of Exhibit 4(h)).⁽²⁹⁾
- 4(n) Form of 7.00% Senior Note due 2019, dated as of October 2, 2012 (Over-Allotment September 2019 Note).⁽³⁰⁾
- 4(o) Form of 7.00% Senior Note due 2019, dated as of October 17, 2012 (Over-Allotment II September 2019 Note).⁽³¹⁾
- 4(p) Form of 6.25% Note due 2024, dated as of July 14, 2014 (July 2024 Note) (included as part of Exhibit 4(i)).⁽³⁹⁾
- 4(q) Form of 6.25% Note due 2024, dated as of August 11, 2014 (Over-Allotment July 2024 Note).⁽⁴⁰⁾
- 4(r) Form of 6.25% Note due 2024, dated May 2, 2016 (Additional July 2024 Note).⁽⁵²⁾
- 4(s) Form of 6.25% Note due 2024, June 27, 2016 (Additional July 2024 Note).⁽⁵³⁾
- 4(t) Form of 6.25% Note due 2024, July 5, 2016 (Additional July 2024 Note).⁽⁵⁴⁾
- 4(u) Form of 6.25% Note due 2024, October 11, 2016 (Additional July 2024 Note).⁽⁵⁶⁾
- 4(v) Indenture, dated January 25, 2017, between Hercules Capital, Inc. and U.S. Bank, National Association, as Trustee.⁽⁵⁷⁾
- 4(w) Form of 4.375% Convertible Note Due 2022 (included as part of Exhibit 4(v)).⁽⁵⁷⁾

Exhibit

Number Description

- 10(a) Credit Agreement between Hercules Technology Growth Capital, Inc. and Alcmene Funding, L.L.C., dated as of April 12, 2005.⁽³⁾
- 10(b) Pledge and Security Agreement between Hercules Technology Growth Capital, Inc. and Alcmene Funding, L.L.C., dated as of April 12, 2005.⁽³⁾
- 10(c) First Amendment to Credit and Pledge Security Agreement between Hercules Technology Growth Capital, Inc. and Alcmene Funding L.L.C., dated as of August 1, 2005.⁽²⁾
- 10(d) Second Amendment to Credit and Pledge and Security Agreement by and among Hercules Technology Growth Capital, Inc. and Alcmene Funding, L.L.C., as lender and administrative agent for the lenders, dated as of March 6, 2006.⁽¹²⁾
- 10(e) Loan Sale Agreement between Hercules Funding LLC and Hercules Technology Growth Capital, Inc., dated as of August 1, 2005.⁽²⁾
- 10(f) Sale and Servicing Agreement among Hercules Funding Trust I, Hercules Funding LLC, Hercules Technology Growth Capital, Inc., U.S. Bank National Association and Lyon Financial Services, Inc., dated as of August 1, 2005.⁽²⁾
- 10(g) Note Purchase Agreement among Hercules Funding Trust I, Hercules Funding I LLC, Hercules Technology Growth Capital, Inc. and Citigroup Global Markets Realty Corp., dated as of August 1, 2005.⁽²⁾
- 10(h) Hercules Capital, Inc. Amended and Restated 2004 Equity Incentive Plan.⁽¹⁰⁾
- 10(i) Hercules Technology Growth Capital, Inc. 2006 Non-Employee Director Plan (2007 Amendment and Restatement).⁽¹¹⁾
- 10(j) Form of Custody Agreement between the Company and Union Bank of California.⁽³⁾
- 10(k) Form of Restricted Stock Unit Award Agreement.⁽¹⁰⁾
- 10(l) Subscription Agreement by and among the Company and the subscribers named therein, dated as of March 2, 2006.⁽¹⁷⁾
- 10(m) Form of Incentive Stock Option Award under the 2004 Equity Incentive Plan.⁽³⁾
- 10(n) Form of Nonstatutory Stock Option Award under the 2004 Equity Incentive Plan.⁽³⁾
- 10(o) Form of Registrar Transfer Agency and Service Agreement between the Company and American Stock Transfer & Trust Company.⁽³⁾
- 10(p) Warrant Agreement, dated as of June 22, 2004, between the Company and American Stock Transfer & Trust Company, as warrant agent.⁽⁹⁾
- 10(q)

Subscription Agreement, dated as of February 2, 2004, between the Company and the subscribers named therein.⁽³⁾

- 10(r) Lease Agreement, dated as of June 13, 2006, between the Company and 400 Hamilton Associates.⁽⁴⁾
- 10(s) Third Amendment to Sale and Servicing Agreement among Hercules Funding Trust I, Hercules Funding LLC, Hercules Technology Growth Capital, Inc., U.S. Bank National Association and Lyon Financial Services, Inc., dated as of July 28, 2006.⁽⁵⁾
- 10(t) Second Omnibus Amendment by and among Hercules Funding Trust I, Hercules Funding I LLC, Hercules Technology Growth Capital, Inc., U.S. Bank National Association, Lyon Financial Services, Inc. and Citigroup Global Markets Realty Corp., dated as of December 6, 2006.⁽⁶⁾
- 10(u) Fifth Amendment to Sale and Servicing Agreement by and among Hercules Funding Trust I, Hercules Funding I, LLC, Hercules Technology Growth Capital, Inc., U.S. Bank National Association, Lyon Financial Services, Inc. and Citigroup Global Markets Realty Corp., dated as of March 30, 2007.⁽¹³⁾
- 10(v) Amended and Restated Sale and Servicing Agreement by and among Hercules Funding Trust I, Hercules Funding I LLC, the Company, U.S. Bank National Association, Lyon Financial Services, Inc., Citigroup Global Markets Inc., and Deutsche Bank AG, dated as of May 2, 2007.⁽¹⁴⁾
- 10(w) Fourth Amendment to the Warrant Participation Agreement by and among Hercules Technology Growth Capital, Inc. and Citigroup Global Markets Realty Corp., dated as of May 2, 2007.⁽¹⁵⁾
- 10(x) Amended and Restated Note Purchase Agreement by and among the Company, Hercules Funding Trust I, Hercules Funding I LLC, and Citigroup Global Markets, Inc., dated as of May 2, 2007.⁽¹⁵⁾

Exhibit

Number Description

- 10(y) First Amendment to Amended and Restated Note Purchase Agreement by and among the Company, Hercules Funding Trust I, Hercules Funding I LLC, and Citigroup Global Markets, Inc., dated as of May 7, 2008.⁽¹⁶⁾
- 10(z) Second Amendment to Amended and Restated Sale and Servicing Agreement by and among Hercules Funding Trust I, Hercules Funding I LLC, the Company, U.S. Bank National Association, Lyon Financial Services, Inc., Citigroup Global Markets Inc., and Deutsche Bank AG, dated as of May 7, 2008.⁽¹⁶⁾
- 10(aa) Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Foothill, LLC, dated as of August 25, 2008.⁽¹⁸⁾
- 10(bb) Sale and Servicing Agreement among Hercules Funding II LLC, the Company, Lyon Financial Services, Inc., and Wells Fargo Foothill, LLC, dated as of August 25, 2008.⁽¹⁸⁾
- 10(cc) Form of SBA Debenture.⁽¹⁹⁾
- 10(dd) First Amendment to Loan and Security Agreement by and among Hercules Funding II, LLC and Wells Fargo Foothill, LLC, dated as of April 30, 2009.⁽²⁰⁾
- 10(ee) Loan and Security Agreement by Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of February 10, 2010.⁽²¹⁾
- 10(ff) Amended and Restated Loan and Security Agreement between the Company and Union Bank, N.A., dated as of November 2, 2011.⁽²⁵⁾
- 10(gg) Second Amendment to Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of June 20, 2011.⁽²⁴⁾
- 10(hh) First Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of March 30, 2012.⁽³²⁾
- 10(ii) Third Amendment to Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of August 1, 2012.⁽³³⁾
- 10(jj) Second Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of September 17, 2012.⁽³⁴⁾
- 10(kk) Third Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of December 17, 2012.⁽³⁶⁾
- 10(ll) First Omnibus Amendment by and among Hercules Funding Trust I, Hercules Funding I, LLC, Hercules Technology Growth Capital, Inc., U.S. Bank National Association, Lyon Financial Services, Inc. and Citigroup Global Markets Realty Corp., dated as of March 6, 2006.⁽¹²⁾
- 10(mm) Intercreditor Agreement among Hercules Technology Growth Capital, Inc., Alcmene Funding, L.L.C. and Citigroup Global Markets Realty Corp., dated as of March 6, 2006.⁽¹²⁾

- 10(nn) Warrant Participation Agreement between the Company and Citigroup Global Markets Realty Corp., dated as of August 1, 2005.⁽³⁵⁾
- 10(oo) Indenture by and between Hercules Capital Funding Trust 2012-1 and U.S. Bank National Association, dated as of December 19, 2012.⁽³⁶⁾
- 10(pp) Amended and Restated Trust Agreement by and between Hercules Capital Funding 2012-1 LLC and Wilmington Trust, National Association, dated as of December 19, 2012.⁽³⁶⁾
- 10(qq) Sale and Servicing Agreement by and Among Hercules Capital Funding 2012-1 LLC, Hercules Capital Funding Trust 2012-1 LLC, Hercules Technology Growth Capital, Inc. and U.S. Bank National Association, dated as of December 19, 2012.⁽³⁶⁾
- 10(rr) Sale and Contribution Agreement by and between Hercules Technology Growth Capital, Inc. and Hercules Capital Funding 2012-1 LLC, dated as of December 19, 2012.⁽³⁶⁾
- 10(ss) Note Purchase Agreement among the Hercules Technology Growth Capital, Inc., Hercules Capital Funding 2012-1 LLC, as Trust Depositor, Hercules Capital Funding Trust 2012-1, as Issuer, and Guggenheim Securities, LLC, as Initial Purchaser, dated as of December 12, 2012.⁽³⁶⁾

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- 10(tt) Administration Agreement between Hercules Capital Funding Trust 2012-1LLC, Hercules Technology Growth Capital, Inc., Wilmington Trust, National Association, and U.S. Bank National Association, dated as of December 19, 2012.⁽³⁶⁾
- 10(uu) Third Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of December 19, 2012.⁽³⁶⁾
- 10(vv) Fourth Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of December 2, 2013.⁽³⁷⁾
- 10(ww) Fifth Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and MUFG Union Bank, N.A., dated as of January 31, 2014.⁽³⁷⁾
- 10(xx) Sixth Amendment to Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and MUFG Union Bank, N.A., dated as of July 8, 2014.⁽³⁸⁾
- 10(yy) Second Amended and Restated Loan and Security Agreement by and among Hercules Technology Growth Capital, Inc. and Union Bank, N.A., dated as of August 14, 2014.⁽⁴¹⁾
- 10(zz) Fifth Amendment to Loan and Security Agreement by and among Hercules Funding II, LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of August 8, 2014.⁽⁴²⁾
- 10(aaa) Form of Amended and Restated Indemnification Agreement.⁽⁵⁹⁾
- 10(bbb) Seventh Amendment to Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of May 6, 2015.⁽⁴⁴⁾
- 10(ccc) Amended and Restated Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of June 29, 2015.⁽⁴⁵⁾
- 10(ddd) Amended and Restated Sale and Servicing Agreement by and among Hercules Funding II LLC, Hercules Technology Growth Capital, Inc., and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of June 29, 2015.⁽⁴⁵⁾
- 10(eee) First Amendment and Waiver to Second Amended and Restated Loan and Security Agreement by and among Hercules Technology Growth Capital, Inc. and MUFG Union Bank, N.A., dated as of November 3, 2015.⁽⁴⁷⁾
- 10(fff) First Amendment to Amended and Restated Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of December 16, 2015.⁽⁴⁸⁾
- 10(ggg) Second Amendment to Amended and Restated Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as

of March 8, 2016.⁽⁵⁸⁾

- 10(hhh) Third Amendment to Amended and Restated Loan and Security Agreement by and among Hercules Funding II LLC and Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), dated as of April 7, 2016.⁽⁵⁰⁾
- 10(iii) Loan and Security Agreement by and among Hercules Funding III, LLC, as borrower, MUFG Union Bank, N.A., as the arranger and administrative agent, and the lenders party thereto from time to time, dated as of May 5, 2016.⁽⁵¹⁾
- 10(jjj) Sale and Servicing Agreement by and among Hercules Funding III LLC, as borrower, Hercules Capital, Inc., as originator and servicer, and MUFG Union Bank, N.A., as agent, dated as of May 5, 2016.⁽⁵¹⁾
- 10(kkk) First Amendment to Loan and Security Agreement by and among Hercules Funding III LLC, as borrower, MUFG Union Bank, N.A., as the arranger and administrative agent, and the lenders party thereto from time to time, dated as of July 14, 2016.⁽⁵⁵⁾
- 10(III) Form of Performance Restricted Stock Unit Award Agreement.⁽¹⁰⁾
- 11.1 Computation of per share earnings (included in the notes to the audited financial statements included in this report).
- 14.1 Code of Ethics.⁽⁸⁾
- 14.2 Code of Business Conduct and Ethics.⁽⁴⁶⁾
- 21.1* List of Subsidiaries.
- 23.1* Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.

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Number Description

- 31.1* Certification of Chief Executive Officer Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended.
- 31.2* Certification of Chief Financial Officer Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, as amended.
- 32.1* Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350), as amended.
- 32.2* Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. 1350), as amended.

- (1) Previously filed as part of Pre-Effective Amendment No. 2, as filed on June 8, 2005 (Registration No. 333-122950), to the Registration Statement on Form N-2 of the Company.
- (2) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on August 5, 2005.
- (3) Previously filed as part of Pre-Effective Amendment No. 1, as filed on May 17, 2005 (File No. 333-122950) to the Registration Statement on Form N-2 of the Company.
- (4) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on August 1, 2006.
- (5) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on August 3, 2006.
- (6) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on December 6, 2006.
- (7) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on March 9, 2007.
- (8) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on July 13, 2015.
- (9) Previously filed as part of the Registration Statement on Form N-2 of the Company (File No. 333-122950), as filed on February 22, 2005.
- (10) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on January 5, 2017.
- (11) Previously filed as part of the Securities to be Offered to Employees in Employee Benefit Plans on Form S-8, as filed on October 2, 2007.
- (12) Previously filed as part of the Post-Effective Amendment No. 3, as filed on March 9, 2006 (File No. 333-126604), to the Registration Statement on Form N-2 of the Company.
- (13) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on April 3, 2007.
- (14) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on May 4, 2007.
- (15) Previously filed as part of the Pre-Effective Amendment No. 1, as filed on May 15, 2007 (File No. 333-141828), to the Registration Statement on Form N-2 of the Company.
- (16) Previously filed as part of Pre-Effective Amendment No. 2, as filed on June 5, 2008 (File No. 333-150403), to the Registration Statement on Form N-2 of the Company.
- (17) Previously filed as part of the Post-Effective Amendment No. 3, as filed on March 9, 2006 (File No. 333-126604), to the Registration Statement on Form N-2 of the Company.
- (18) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on August 27, 2008.
- (19) Previously filed as part of the Annual Report on Form 10-K of the Company, as filed on March 16, 2009.
- (20) Previously filed as part of the Quarterly Report on Form 10-Q of the Company, as filed on May 11, 2009.
- (21) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on February 17, 2010.
- (22) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on April 11, 2011.
- (23) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on April 18, 2011.
- (24) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on June 24, 2011.
- (25)

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Previously filed as part of the Current Report on Form 8-K of the Company, as filed on November 4, 2011.

- (26) Previously filed as part of Post-Effective Amendment No. 1, as filed on April 17, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.
- (27) Previously filed as part of Post-Effective Amendment No. 2, as filed on July 6, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.
- (28) Previously filed as part of Post-Effective Amendment No. 3, as filed on July 12, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.
- (29) Previously filed as part of Post-Effective Amendment No. 5, as filed on September 24, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.
- (30) Previously filed as part of Post-Effective Amendment No. 7, as filed on October 2, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.
- (31) Previously filed as part of Post-Effective Amendment No. 8, as filed on October 17, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.
- (32) Previously filed as part of the Quarterly Report on Form 10-Q of the Company, as filed on May 8, 2012.
- (33) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on August 2, 2012.
- (34) Previously filed as part of Post-Effective Amendment No. 4, as filed on September 19, 2012 (File No. 333-179431), to the Registration Statement on Form N-2 of the Company.

- (35) Previously filed as part of the Pre-Effective Amendment No. 1, as filed on October 17, 2006 (File No. 333-136918), to the Registration Statement on Form N-2 of the Company.
- (36) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on December 20, 2012.
- (37) Previously filed as part of the Annual report on Form 10-K of the Company, as filed on February 27, 2014.
- (38) Previously filed as part of Post-Effective Amendment No. 4, as filed on July 11, 2014 (File No. 333-187447), to the Registration Statement on Form N-2 of the Company.
- (39) Previously filed as part of Post-Effective Amendment No. 5, as filed on July 14, 2014 (File No. 333-187447), to the Registration Statement on Form N-2 of the Company.
- (40) Previously filed as part of Post-Effective Amendment No. 6, as filed on August 11, 2014 (File No. 333-187447), to the Registration Statement on Form N-2 of the Company.
- (41) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on August 19, 2014.
- (42) Previously filed as part of the Quarterly Report on Form 10-Q of the Company, as filed on November 6, 2014.
- (43) Previously filed as part of the Registration Statement on Form N-2 of the Company (File No. 333-203511), as filed on April 20, 2015.
- (44) Previously filed as part of the Quarterly Report on Form 10-Q of the Company, as filed on May 7, 2015.
- (45) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on June 30, 2015.
- (46) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on July 13, 2015.
- (47) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on November 13, 2015.
- (48) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on December 18, 2015.
- (49) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on February 25, 2016.
- (50) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on April 11, 2016.
- (51) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on May 10, 2016.
- (52) Previously filed as part of Post-Effective Amendment No. 3, as filed on May 2, 2016 (File No. 333-203511), to the Registration Statement on Form N-2 of the Company.
- (53) Previously filed as part of Post-Effective Amendment No. 6, as filed on June 27, 2016 (File No. 333-203511), to the Registration Statement on Form N-2 of the Company.
- (54) Previously filed as part of Post-Effective Amendment No. 7, as filed on July 5, 2016 (File No. 333-203511), to the Registration Statement on Form N-2 of the Company.
- (55) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on July 19, 2016.
- (56) Previously filed as part of the Post-Effective Amendment No. 10, as filed on October 14, 2016 (File No. 333-203511), to the Registration Statement on Form N-2 of the Company.
- (57) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on January 25, 2017.
- (58) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on March 8, 2016.
- (59) Previously filed as part of the Current Report on Form 8-K of the Company, as filed on July 22, 2016.
- (60) Previously filed as part of the Annual report on Form 10-K of the Company, as filed on February 25, 2015.

* Filed herewith

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

HERCULES CAPITAL, INC.

Date: February 23, 2017 By: /S/ MANUEL A. HENRIQUEZ
 Manuel A. Henriquez
 Chief Executive Officer

In accordance with the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the following capacities on February 23, 2017.

Signature	Title	Date
/S/ MANUEL A. HENRIQUEZ Manuel A. Henriquez	Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)	February 23, 2017
/S/ MARK HARRIS Mark Harris	Chief Financial Officer (Principal Accounting Officer)	February 23, 2017
/S/ ROBERT P. BADAVAS Robert P. Badavas	Director	February 23, 2017
/S/ THOMAS J. FALLON Thomas Fallon	Director	February 23, 2017
/S/ JOSEPH F. HOFFMAN Joseph F. Hoffman	Director	February 23, 2017
/S/ SUSANNE D. LYONS Susanne D. Lyons	Director	February 23, 2017
/S/ DOREEN WOO HOO	Director	February 23, 2017

Doreen Woo Ho

/S/ ALLYN C. WOODWARD, JR Director
Allyn C. Woodward, Jr.

February
23, 2017

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Number Descriptions

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- 31.2 Certification of Chief Financial Officer pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of Sarbanes-Oxley Act of 2002, as amended.
- 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of Sarbanes-Oxley Act of 2002, as amended.
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