

Hercules Capital, Inc.  
Form POS EX  
April 30, 2019

As filed with the Securities and Exchange Commission on April 30, 2019

Securities Act File No. 333-231089

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U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

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FORM N-2

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Check appropriate box or boxes)

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Pre-Effective Amendment No.

Post-Effective Amendment No. 1

Hercules Capital, Inc.

(formerly known as Hercules Technology Growth Capital, Inc.)

(Exact name of Registrant as specified in charter)

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400 Hamilton Avenue, Suite 310

Palo Alto, CA 94301

**(Address of Principal Executive Offices)**

**Registrant's Telephone Number, including Area Code: (650) 289-3060**

**Scott Bluestein**

**Interim Chief Executive Officer**

**Hercules Capital, Inc.**

**400 Hamilton Avenue, Suite 310**

**Palo Alto, CA 94301**

**(Name and address of agent for service)**

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***COPIES TO:***

**Ian Hartman**

**Jay Alicandri**

**Dechert LLP**

**1095 Avenue of the Americas**

**New York, NY 10036**

**APPROXIMATE DATE OF PROPOSED PUBLIC OFFERING:**

From time to time after the effective date of this Registration Statement.

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If any securities being registered on this form will be offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933, other than securities offered in connection with a dividend reinvestment plan, check the following box.

It is proposed that this filing will become effective (check appropriate box):      when declared effective pursuant to section 8(c).



**EXPLANATORY NOTE**

This Post-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-231089) of Hercules Capital, Inc. (the "Registration Statement") is being filed pursuant to Rule 462(d) under the Securities Act of 1933, as amended (the "Securities Act"), solely for the purpose of refiling exhibit n.2 to correct an error in the dating of the exhibit. Accordingly, this Post-Effective Amendment No. 1 consists only of a facing page, this explanatory note and Part C of the Registration Statement on Form N-2 setting forth the exhibits to the Registration Statement. This Post-Effective Amendment No. 1 does not modify any other part of the Registration Statement. Pursuant to Rule 462(d) under the Securities Act, this Post-Effective Amendment No. 1 shall become effective immediately upon filing with the Securities and Exchange Commission. The contents of the Registration Statement are hereby incorporated by reference

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## **PART C—OTHER INFORMATION**

### **Item 25. Financial Statements and Exhibits**

#### *1. Financial Statements*

The consolidated financial statements as of December 31, 2018 and December 31, 2017 and for each of the three years in the period ended December 31, 2018 and management’s assessment of the effectiveness of internal control over financial reporting (which is included in Management’s Report on Internal Control over Financial Reporting) as of December 31, 2018 have been incorporated by reference in this registration statement in “Part A—Information Required in a Prospectus.”

#### *2. Exhibits*

##### **Exhibit**

##### **Description**

##### **Number**

- |     |   |
|-----|---|
| a.1 | Articles of Amendment and Restatement. <sup>(2)</sup>   |
| a.2 | Articles of Amendment, dated March 6, 2007. <sup>(10)</sup>                                   |
| a.3 | Articles of Amendment, dated April 5, 2011. <sup>(17)</sup>                                   |
| a.4 | Articles of Amendment, dated April 3, 2015. <sup>(29)</sup>                                   |
| a.5 | Articles of Amendment, dated February 23, 2016. <sup>(34)</sup>                               |
| b   | Amended and Restated Bylaws of Hercules Capital, Inc. <sup>(34)</sup>                         |
| d.1 | Specimen certificate of the Company’s common stock, par value \$.001 per share <sup>(3)</sup> |
| d.2 | Form of Indenture and related exhibits. <sup>(18)</sup>                                       |
| d.3 | Form of Warrant Agreement. <sup>(18)</sup>  |

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- d.4 Form of Subscription Agent Agreement.<sup>(18)</sup>
- d.5 Form of Subscription Certificate.<sup>(18)</sup>
- d.6 Statement of Eligibility of Trustee on Form T-1.<sup>(64)</sup>
- d.7 Indenture, dated March 6, 2012 between the Registrant and U.S. Bank National Association.<sup>(19)</sup>
- d.8 First Supplemental Indenture, dated April 17, 2012 between the Registrant and U.S. Bank, National Association.<sup>(19)</sup>
- d.9 Second Supplemental Indenture, dated as of September 24, 2012, between the Registrant and U.S. Bank, National Association.<sup>(21)</sup>
- d.10 Third Supplemental Indenture, dated as of July 14, 2014, between the Registrant and U.S. Bank, National Association.<sup>(26)</sup>
- d.11 Form of 7.00% Senior Note due 2019, dated as of April 17, 2012 (Existing April 2019 Note) (included as part of Exhibit (d)(8)).<sup>(19)</sup>
- d.12 Form of 7.00% Senior Note due 2019, dated as of July 6, 2012 (Additional April 2019 Note).<sup>(20)</sup>
- d.13 Form of 7.00% Senior Note due 2019, dated as of July 12, 2012 (Over-Allotment April 2019 Note).<sup>(23)</sup>

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Exhibit Number	Description
d.14	Form of 7.00% Senior Note due 2019, dated as of September 24, 2012 (September 2019 Note) (included as part of Exhibit (d)(9)). <sup>(21)</sup>
d.15	Form of 7.00% Senior Note due 2019, dated as of October 2, 2012 (Over-Allotment September 2019 Note). <sup>(22)</sup>
d.16	Form of 7.00% Senior Note due 2019, dated as of October 17, 2012 (Over-Allotment II September 2019 Note). <sup>(24)</sup>
d.17	Form of 6.25% Note due 2024, dated July 14, 2014 (July 2024 Note) (included as part of Exhibit (d)(10)). <sup>(26)</sup>
d.18	Form of 6.25% Note due 2024, dated August 11, 2014 (Over-Allotment July 2024 Note). <sup>(27)</sup>
d.19	Form of 6.25% Note due 2024, dated May 2, 2016 (Additional July 2024 Note). <sup>(38)</sup>
d.20	Form of 6.25% Note due 2024, June 27, 2016 (Additional July 2024 Note). <sup>(39)</sup>
d.21	Form of 6.25% Note due 2024, July 5, 2016 (Additional July 2024 Note). <sup>(40)</sup>
d.22	Form of 6.25% Note due 2024, October 11, 2016 (Additional July 2024 Note). <sup>(43)</sup>
d.23	Indenture, dated January 25, 2017, between Hercules Capital, Inc. and U.S. Bank, National Association, as Trustee. <sup>(45)</sup>
d.24	Form of 4.375% Convertible Note Due 2022 (included as part of Exhibit d.23). <sup>(45)</sup>
d.25	Fourth Supplemental Indenture, dated as of October 23, 2017, between the Registrant and U.S. Bank, National Association. <sup>(48)</sup>
d.26	Form of 4.625% Note due 2022, dated October 23, 2017 (included as part of Exhibit (d)(25)). <sup>(48)</sup>
d.27	Fifth Supplemental Indenture, dated as of April 26, 2018, between the Registrant and U.S. Bank, National Association. <sup>(53)</sup>
d.28	Form of 5.25% Note due 2025, dated April 23, 2018 (included as part of Exhibit (d)(27)). <sup>(53)</sup>
d.29	Sixth Supplemental Indenture, dated as of September 24, 2018, between the Registrant and U.S. Bank, National Association. <sup>(57)</sup>
d.30	Form of 6.25% Note due 2033, dated September 24, 2018 (included as part of Exhibit (d)(29)). <sup>(57)</sup>
e	Form of Dividend Reinvestment Plan. <sup>(4)</sup>
f.1	

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Loan Sale Agreement between Hercules Funding LLC and Hercules Technology Growth Capital, Inc. dated as of August 1, 2005.<sup>(5)</sup>

f.2 Indenture between Hercules Funding Trust I and U.S. Bank National Association dated as of August 1, 2005.<sup>(5)</sup>

f.3 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.<sup>(5)</sup>

f.4 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 March 6, 2006.<sup>(6)</sup>

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Exhibit Number	Description
f.5	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. <sup>(6)</sup>
f.6	Warrant Participation Agreement between the Company and Citigroup Global Markets Realty Corp. dated as of August 1, 2005. <sup>(7)</sup>
f.7	Second Amendment to Warrant Participation Agreement dated as of October 16, 2006. <sup>(7)</sup>
f.8	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 December 6, 2006. <sup>(8)</sup>
f.9	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. <sup>(11)</sup>
f.10	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. <sup>(12)</sup>
f.11	Amended and Restated Note Purchase Agreement by and among Hercules Funding Trust I, Hercules Funding I LLC, Hercules Technology Growth Capital, Inc. and Citigroup Global Markets, Inc. dated as of May 2, 2007. <sup>(12)</sup>
f.12	First Amendment to Amended and Restated Note Purchase Agreement by and among Hercules Funding Trust I, Hercules Funding I LLC, Hercules Technology Growth Capital, Inc. and Citigroup Global Markets, Inc. dated as of May 7, 2008. <sup>(14)</sup>
f.13	Second Amendment to Amended and Restated 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., Citigroup Global Markets Inc., and Deutsche Bank AG dated as of May 7, 2008. <sup>(14)</sup>
f.14	Form of SBA Debenture. <sup>(15)</sup>
f.15	Amended and Restated Loan and Security Agreement by and among Hercules Funding II, LLC, the Lenders thereto and Wells Fargo Capital Finance, LLC, dated as of June 29, 2015. <sup>(31)</sup>
f.16	Amended and Restated Sales and Servicing Agreement among Hercules Funding II, LLC, Hercules Technology Growth Capital, Inc. and Wells Fargo Capital Finance, LLC, dated as of June 29, 2015. <sup>(31)</sup>
f.17	Amended and Restated Loan and Security Agreement by and between Hercules Technology Growth Capital, Inc. and Union Bank, N.A. dated November 2, 2011. <sup>(16)</sup>
f.18	

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Indenture by and between Hercules Capital Funding Trust 2012-1 and U.S. Bank National Association, dated as of December 19, 2012.<sup>(25)</sup>

f.19 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.<sup>(25)</sup>

f.20 Sale and Servicing Agreement by and between 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.<sup>(25)</sup>

f.21 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.<sup>(25)</sup>

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Exhibit Number	Description
f.22	Note Purchase Agreement by and between 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. <sup>(25)</sup>
f.23	Administration Agreement by and 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. <sup>(25)</sup>
f.24	Indenture by and among Hercules Capital Funding Trust 2014-1 and U.S. Bank National Association, dated as of November 13, 2014. <sup>(28)</sup>
f.25	Amended and Restated Trust Agreement by and among Hercules Capital Funding 2014-1 LLC and Wilmington Trust, National Association, dated as of November 13, 2014. <sup>(28)</sup>
f.26	Sale and Servicing Agreement by and among Hercules Capital Funding Trust 2014-1, Hercules Technology Growth Capital, Inc., Hercules Capital Funding 2014-1 LLC and U.S. Bank National Association, dated as of November 13, 2014. <sup>(28)</sup>
f.27	Sale and Contribution Agreement by and among Hercules Technology Growth Capital, Inc. and Hercules Capital Funding 2014-1 LLC, dated as of November 13, 2014. <sup>(28)</sup>
f.28	Note Purchase Agreement among Hercules Technology Growth Capital, Inc., Hercules Capital Funding 2014-1 LLC, Hercules Capital Funding Trust 2014-1 and Guggenheim Securities, LLC, dated as of November 4, 2014. <sup>(28)</sup>
f.29	Administration Agreement among Hercules Technology Growth Capital, Inc., Hercules Capital Funding Trust 2014-1, Wilmington Trust National Association and U.S. Bank National Association, dated November 13, 2014. <sup>(28)</sup>
f.30	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. <sup>(33)</sup>
f.31	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. <sup>(32)</sup>
f.32	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. <sup>(35)</sup>
f.33	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. <sup>(36)</sup>

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- f.34 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.<sup>(37)</sup>
- f.35 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.<sup>(37)</sup>
- f.36 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.<sup>(41)</sup>
- f.37 Fourth 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 3, 2017.<sup>(46)</sup>
- f.38 Second Amendment to the Loan and Security Agreement, dated as of May 25, 2018, 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.<sup>(55)</sup>

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Exhibit Number	Description
f.39	Indenture, dated as of November 1, 2018, between Hercules Capital Funding Trust 2018-1, as Issuer, and U.S. Bank National Association, as Trustee. <sup>(59)</sup>
f.40	Amended and Restated Trust Agreement, dated as of November 1, 2018, between Hercules Capital Funding 2018-1 LLC, as Trust Depositor, and Wilmington Trust, National Association, as Owner Trustee. <sup>(59)</sup>
f.41	Indenture, dated as of January 22, 2019, between Hercules Capital Funding Trust 2019-1, as Issuer, and U.S. Bank National Association, as Trustee. <sup>(61)</sup>
f.42	Amended and Restated Trust Agreement, dated as of January 22, 2019, between Hercules Capital Funding 2019-1 LLC, as Trust Depositor, and Wilmington Trust, National Association, as Owner Trustee. <sup>(61)</sup>
f.43	Fifth Amendment to the Amended and Restated Loan and Security Agreement, dated as of July 31, 2018, by and among Hercules Funding II LLC as borrower, Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), as Administrative Agent, and the Lenders party thereto from time to time. <sup>(58)</sup>
f.44	Sixth Amendment to the Amended and Restated Loan and Security Agreement, dated as of October 26, 2018, by and among Hercules Funding II LLC as borrower, Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), as Administrative Agent, and the Lenders party thereto from time to time. <sup>(58)</sup>
f.45	Seventh Amendment to the Amended and Restated Loan and Security Agreement, dated as of January 11, 2019, by and among Hercules Funding II LLC as borrower, Wells Fargo Capital Finance, LLC (f/k/a Wells Fargo Foothill, LLC), as Administrative Agent, and the Lenders party thereto from time to time. <sup>(60)</sup>
f.46	Sale and Servicing Agreement, dated as of November 1, 2018, by and among Hercules Capital Funding Trust 2018-1, as Issuer, Hercules Capital, Inc., as Seller and Servicer, Hercules Capital Funding 2018-1 LLC, as Trust Depositor, and U.S. Bank National Association, as Trustee, Backup Servicer, Custodian and Paying Agent. <sup>(59)</sup>
f.47	Sale and Contribution Agreement, dated as of November 1, 2018, between Hercules Capital, Inc., as Seller, and Hercules Capital Funding 2018-1 LLC, as Trust Depositor. <sup>(59)</sup>
f.48	Note Purchase Agreement, dated as of October 25, 2018, by and among Hercules Capital, Inc., as Originator and Servicer, Hercules Capital Funding 2018-1 LLC, as Trust Depositor, Hercules Capital Funding Trust 2018-1, as Issuer, and Guggenheim Securities, LLC, as Initial Purchaser. <sup>(59)</sup>
f.49	Administration Agreement, dated November 1, 2018, by and among Hercules Capital, Inc., as Administrator, Hercules Capital Funding Trust 2018-1, as Issuer, Wilmington Trust, National Association, as Owner Trustee, and U.S. Bank National Association, as Trustee. <sup>(59)</sup>
f.50	Sale and Servicing Agreement, dated as of January 22, 2019, by and among Hercules Capital Funding Trust 2019-1, as Issuer, Hercules Capital, Inc., as Seller and Servicer, Hercules Capital Funding 2019-1 LLC, as Trust Depositor, and U.S. Bank National Association, as Trustee, Backup Servicer, Custodian and Paying Agent. <sup>(61)</sup>

- f.51 Sale and Contribution Agreement, dated as of January 22, 2019, between Hercules Capital, Inc., as Seller, and Hercules Capital Funding 2019-1 LLC, as Trust Depositor.<sup>(61)</sup>
- f.52 Note Purchase Agreement, dated as of January 14, 2019, by and among Hercules Capital, Inc., as Originator and Servicer, Hercules Capital Funding 2019-1 LLC, as Trust Depositor, Hercules Capital Funding Trust 2019-1, as Issuer, and Guggenheim Securities, LLC, as Initial Purchaser.<sup>(61)</sup>
- f.53 Administration Agreement, dated January 22, 2019, by and among Hercules Capital, Inc., as Administrator, Hercules Capital Funding Trust 2019-1, as Issuer, Wilmington Trust, National Association, as Owner Trustee, and U.S. Bank National Association, as Trustee.<sup>(61)</sup>
- f.54 Loan and Security Agreement, dated as of February 20, 2019, by and among Hercules Funding IV LLC, as borrower, MUFG Union Bank, N.A., as the arranger and administrative agent, and the lenders party thereto from time to time.<sup>(63)</sup>

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Exhibit Number	Description
f.55	Sale and Servicing Agreement, dated as of February 20, 2019, by and among Hercules Funding IV LLC, as borrower, Hercules Capital, Inc., as originator and servicer, and MUFG Union Bank, N.A., as agent. <sup>(63)</sup>
h.1	Form of Equity Underwriting Agreement. <sup>(30)</sup>
h.2	Form of Debt Underwriting Agreement. <sup>(30)</sup>
h.3	Equity Distribution Agreement, dated as of September 8, 2017, by and among the Registrant and JMP Securities LLC. <sup>(47)</sup>
h.4	Underwriting Agreement, dated as of June 22, 2016, by and among the Registrant and the Underwriters named therein. <sup>(39)</sup>
h.5	Debt Distribution Agreement, dated as of October 11, 2016, by and among the Registrant and FBR Capital Markets & Co. <sup>(43)</sup>
h.6	Underwriting Agreement, dated as of October 18, 2017, by and among the Registrant and the Underwriters named therein. <sup>(48)</sup>
h.7	Underwriting Agreement, dated as of April 23, 2018, by and among the Registrant and the Underwriters named therein. <sup>(53)</sup>
h.8	Underwriting Agreement, dated as of June 12, 2018, by and among the Registrant and the Underwriters named therein. <sup>(56)</sup>
h.9	Underwriting Agreement, dated as of September 19, 2018, by and among the Registrant and the Underwriters named therein. <sup>(57)</sup>
i.1	Hercules Capital, Inc. Amended and Restated 2004 Equity Incentive Plan. <sup>(44)</sup>
i.2	Hercules Technology Growth Capital, Inc. 2006 Non-Employee Director Plan (2007 Amendment and Restatement). <sup>(13)</sup>
i.3	Form of Incentive Stock Option Award under the 2004 Equity Incentive Plan. <sup>(2)</sup>
i.4	Form of Nonstatutory Stock Option Award under the 2004 Equity Incentive Plan. <sup>(2)</sup>
i.5	Form of Restricted Stock Award Agreement. <sup>(44)</sup>
i.6	Form of Performance Restricted Stock Unit Award Agreement. <sup>(44)</sup>
i.7	Form of Retention Performance Stock Unit Award Agreement. <sup>(54)</sup>
i.8	Form of Cash Retention Bonus Award Agreement. <sup>(54)</sup>

- i.9 Hercules Capital, Inc. Amended and Restated 2018 Equity Incentive Plan.<sup>(62)</sup>
- i.10 Hercules Capital, Inc. 2018 Non-Employee Director Plan.<sup>(62)</sup>
- i.11 Form of Restricted Stock Unit Award Agreement.<sup>(62)</sup>
- i.12 Form of Restricted Stock Award Agreement (2018 Equity Incentive Plan).<sup>(62)</sup>
- i.13 Form of Restricted Stock Award Agreement (Director Plan).<sup>(62)</sup>

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