SECURITIES AND EXCHANGE COMMISSION

# FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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## FILER

**CARDIOGENESIS CORP /CA**

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Mailing Address
*11 MUSICK*
*IRVINE CA 92618*

Business Address
*11 MUSICK*
*IRVINE CA 92618*
*9494201800*

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# UNITED STATES SECURITIES AND EXCHANGE COMMISSION
**Washington, D.C. 20549**

# FORM 10-Q

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended March 31, 2009.**

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from__________to__________**

**Commission file number 0-28288**

# CARDIOGENESIS CORPORATION
(Exact name of registrant as specified in its charter)

| **California** | **77-0223740** |
|---|---|
| (State of incorporation or organization) | (I.R.S. Employer Identification Number) |

**11 Musick**
**Irvine, California 92618**
(Address of principal executive offices)

**(949) 420-1800**
(Issuer' s telephone number)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes ☑ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☐ (Do not check if a smaller reporting company) Smaller reporting company ☑

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes ☐ No ☑

As of April 30, 2009, there were 46,694,357 shares of the registrant' s common stock, no par value, outstanding.

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**Item 1. Financial Statements**

**CARDIOGENESIS CORPORATION**

**CONDENSED CONSOLIDATED BALANCE SHEETS**
**(in thousands)**

| | March 31, 2009 (unaudited) | December 31, 2008 (audited) |
|---|---|---|
| ASSETS | | |
| Current assets: | | |
| Cash and cash equivalents | $ 2,773 | $ 2,907 |
| Accounts receivable, net of allowance for doubtful accounts of $0 and $20, respectively | 1,425 | 1,330 |
| Inventories | 1,125 | 1,164 |
| Investments in marketable securities | – | 75 |
| Prepaids and other current assets | 363 | 395 |
| Total current assets | 5,686 | 5,871 |
| Property and equipment, net | 353 | 382 |
| Other assets, net | 18 | 18 |
| Total assets | $ 6,057 | $ 6,271 |
| LIABILITIES AND SHAREHOLDERS' EQUITY | | |
| Current liabilities: | | |
| Accounts payable | $ 222 | $ 200 |
| Accrued liabilities | 1,130 | 1,103 |
| Deferred revenue | 796 | 800 |
| Current portion of capital lease obligations | 9 | 6 |
| Total current liabilities | 2,157 | 2,109 |
| Capital lease obligations, less current portion | 21 | 13 |
| Total liabilities | 2,178 | 2,122 |
| Commitments and Contingencies | | |
| Shareholders' equity: | | |
| Preferred stock: no par value; 5,000 shares authorized; none issued and outstanding | – | – |
| Common stock: no par value; 75,000 shares authorized; 45,487 and 45,487 shares issued and outstanding, respectively | 174,043 | 173,999 |
| Accumulated deficit | (170,164) | (169,850 ) |
| Total shareholders' equity | 3,879 | 4,149 |
| Total liabilities and shareholders' equity | $ 6,057 | $ 6,271 |

See accompanying notes.



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**CARDIOGENESIS CORPORATION**

**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**
**(in thousands, except per share amounts)**
**(unaudited)**

| | Three months ended March 31, 2009 | 2008 |
|---|---|---|
| Net revenues | $2,852 | $2,982 |
| Cost of revenues | 536 | 525 |
| Gross profit | 2,316 | 2,457 |
| Operating expenses: | | |
| Research and development | 288 | 216 |
| Sales and marketing | 1,469 | 1,527 |
| General and administrative | 856 | 751 |
| Total operating expenses | 2,613 | 2,494 |
| Operating loss | (297) | (37) |
| Other income (expense): | | |
| Interest expense | (10) | (20) |
| Interest income | 1 | 21 |
| Total other (expense) income, net | (9) | 1 |
| Loss before income taxes | (306) | (36) |
| Provision for income taxes | 8 | – |
| Net loss | $(314) | $(36) |
| Net loss per share: | | |
| Basic | $(0.01) | $– |
| Diluted | $(0.01) | $– |
| Weighted average shares outstanding: | | |
| Basic | 45,487 | 45,274 |
| Diluted | 45,487 | 45,274 |

See accompanying notes.



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**CARDIOGENESIS CORPORATION**

**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**
**(in thousands)**
**(unaudited)**

| | Three months ended March 31, | |
|---|---|---|
| | 2009 | 2008 |
| Cash flows from operating activities: | | |
| Net loss | $(314) | $(36) |
| Adjustments to reconcile net loss to net cash (used in) provided by operating activities: | | |
| Depreciation and amortization | 75 | 81 |
| Stock-based compensation expense | 44 | 26 |
| Changes in operating assets and liabilities: | | |
| Accounts receivable | (95) | 495 |
| Inventories | 11 | 105 |
| Prepaids and other current assets | 32 | 97 |
| Accounts payable | 22 | 88 |
| Accrued liabilities | 27 | (418) |
| Deferred revenue | (4) | 30 |
| Net cash (used in) provided by operating activities | (202) | 468 |
| Cash flows from investing activities: | | |
| Acquisition of property and equipment | (6) | (22) |
| Redemption (purchase) of investments in marketable securities | 75 | (350) |
| Net cash provided by (used in) investing activities | 69 | (372) |
| Cash flows from financing activities: | | |
| Payments on capital lease obligations | (1) | (3) |
| Net cash used in financing activities | (1) | (3) |
| Net (decrease) increase in cash and cash equivalents | (134) | 93 |
| Cash and cash equivalents at beginning of period | 2,907 | 2,824 |
| Cash and cash equivalents at end of period | $2,773 | $2,917 |
| Supplemental schedule of cash flow information: | | |
| Interest paid | $1 | $1 |
| Taxes paid | $5 | $5 |
| Supplemental schedule of non-cash financing activities: | | |
| Financing of property and equipment | $12 | $− |
| Reclassification of inventories to property and equipment | $28 | $5 |

See accompanying notes.



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## CARDIOGENESIS CORPORATION

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

### 1. Nature of Operations:

Cardiogenesis Corporation ("Cardiogenesis" or the "Company") was founded in 1989 to design, develop, and distribute surgical lasers and single-use fiber optic laser delivery systems ("handpieces") for the treatment of cardiovascular disease. Currently, Cardiogenesis' emphasis is on the development of products for transmyocardial revascularization ("TMR"), a treatment for cardiac ischemia in patients with severe angina.

Cardiogenesis markets its products for sale primarily in the United States and operates in a single segment.

### 2. Summary of Significant Accounting Policies:

*Interim Financial Information:*

The accompanying unaudited condensed consolidated financial statements have been prepared by the Company in accordance with accounting principles generally accepted in the United Sates of America for interim financial information, and pursuant to the instructions to Form 10-Q and Article 8 of Regulation S-X promulgated by the Securities and Exchange Commission ("SEC"). Accordingly, they do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statement presentation. In the opinion of management, all adjustments (consisting primarily of normal recurring accruals) considered necessary for a fair presentation have been included. These unaudited condensed consolidated financial statements should be read in conjunction with the Company' s audited consolidated financial statements and notes thereto for the year ended December 31, 2008, contained in the Company' s Annual Report on Form 10-K, as filed with the SEC.

These unaudited condensed consolidated financial statements contemplate the realization of assets and the satisfaction of liabilities in the normal course of business. Cardiogenesis has incurred significant losses and as of March 31, 2009 it had an accumulated deficit of $170.2 million. Management believes its cash balance as of March 31, 2009 and expected results of operations are sufficient to meet the Company' s capital and operating requirements for the next 12 months.

However, the Company may require additional financing in the future if revenues are not as expected or the Company' s costs exceed its estimates. There can be no assurance that the Company will be able to obtain additional debt or equity financing if and when needed or on terms acceptable to the Company. Any additional debt or equity financing may involve substantial dilution to the Company' s stockholders, restrictive covenants or high interest costs. The failure to raise needed funds on sufficiently favorable terms could have a material adverse effect on the Company' s business, operating results and financial condition. The Company' s long term liquidity also depends upon its ability to increase revenues from the sale of its products and achieve consistent profitability. The failure to achieve these goals could have a material adverse effect on the business, operating results and financial condition.

*Net Earnings (Loss) Per Share:*

Basic earnings (loss) per share ("BEPS") is computed by dividing the net income (loss) by the weighted average number of common shares outstanding for the period. Diluted earnings (loss) per share ("DEPS") is computed giving effect to all dilutive potential common shares that were outstanding during the period. Dilutive potential common shares consist of incremental shares issuable upon the exercise of stock options and warrants using the "treasury stock" method and convertible notes payable using the "if-converted method." The computation of DEPS does not assume conversion, exercise or contingent exercise of securities that would have an anti-dilutive effect on earnings.

For the three months ended March 31, 2009, there were no potentially dilutive shares. For the three months ended March 31, 2008, there were approximately 63,000 potentially dilutive shares that were excluded from diluted loss per share as their effect would have been anti-dilutive for the period then ended.



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*Use of Estimates:*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates made in preparing the consolidated financial statements include (but are not limited to) the determination of the allowance for bad debt, valuation of inventories, valuation allowance relating to deferred tax assets, warranty reserve, the assessment of future cash flows in evaluating long-lived assets for impairment and assumptions used in fair value determination of stock-based compensation.

*Reclassifications:*

Certain reclassifications have been made to prior period amounts to conform to the current period presentation.

*Risks and Concentrations:*

Cardiogenesis sells its products primarily to hospitals and other healthcare providers in North America, Europe and Asia. Cardiogenesis performs ongoing credit evaluations of its customers and generally does not require collateral. Although Cardiogenesis maintains allowances for potential credit losses that it believes to be adequate, a payment default on a significant sale could materially and adversely affect its operating results and financial condition. At March 31, 2009, one customer individually accounted for 22% and another customer individually accounted for 15% of gross accounts receivable. At December 31, 2008, one customer individually accounted for 21% of gross accounts receivable. For the year ended March 31, 2009, one customer individually accounted for 12% and another customer individually accounted for 11% of net revenues. For the three months ended March 31, 2008, two customers individually accounted for 12% of net revenues.

As of March 31, 2009, approximately $969,000 of the Company' s cash and cash equivalents were maintained in mutual funds, and approximately $1,901,000 of the Company' s cash and cash equivalents were maintained at a major financial institution in the United States. At times, deposits held with the financial institution may exceed the amount of insurance provided on such deposits. Generally, these deposits may be redeemed upon demand and, therefore, are believed to bear low risk. Effective October 3, 2008, the Emergency Economic Stabilization Act of 2008 raised the Federal Deposit Insurance Corporation deposit coverage limits to $250,000 per owner from $100,000 per owner. This program is currently available through December 31, 2009.

Effective September 19, 2008, the U.S. Treasury commenced its Temporary Guarantee Program for Money Market Mutual Funds. This program, which is offered to all money market mutual funds that are regulated under Rule 2A-7 of the Investment Company Act of 1940, guarantees the share price of any publicly offered eligible money market fund that applies for and pays a fee to participate in the program. The current termination date for this program is September 18, 2009.

After giving effect to the increased FDIC insurance and the Temporary Guarantee Program, at March 31, 2009, the Company' s uninsured cash totaled approximately $1,729,000.

The Company outsources the manufacturing and assembly of its handpiece systems to a single contract manufacturer. The Company also outsources the manufacturing of its laser systems to a different single contract manufacturer.

Certain components of laser units and fiber-optic handpieces are generally acquired from multiple sources. Other laser and fiber-optic components and subassemblies are purchased from single sources. Although the Company has identified alternative vendors, the qualification of additional or replacement vendors for certain components or services is a lengthy process. Any significant supply interruption would have a material adverse effect on the Company' s ability to manufacture its products and, therefore, would harm its business. The Company intends to continue to qualify multiple sources for components that are presently single sourced.



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*Revenue Recognition:*

Cardiogenesis recognizes revenue on product sales upon shipment of the products when the price is fixed or determinable and when collection of sales proceeds is reasonably assured. Where purchase orders allow customers an acceptance period or other contingencies, revenue is recognized upon the earlier of acceptance or removal of the contingency.

Revenues from sales to distributors and agents are recognized upon shipment when there is evidence of an arrangement, delivery has occurred, the sales price is fixed or determinable and collection of the sales proceeds is reasonably assured. The contracts regarding these sales do not include any rights of return or price protection clauses.

The Company frequently loans lasers to hospitals in accordance with its loaned laser programs. Under certain loaned laser programs, the Company charges the customer an additional amount (the "Premium") over the stated list price on its handpieces in exchange for the use of the laser or collects an upfront deposit that can be applied towards the purchase of a laser. These arrangements meet the definition of a lease and are recorded in accordance with Statement of Financial Accounting Standards ("SFAS") No. 13, *Accounting for Leases* ("SFAS No. 13"), as they convey the right to use the lasers over the period of time the customers are purchasing handpieces. Based on the provisions of SFAS No. 13, the loaned lasers are classified as operating leases and are transferred from inventory to fixed assets upon commencement of the loaned laser program. In addition, the Premium is considered contingent rent under SFAS No. 29, *Determining Contingent Rentals,* and therefore, such amounts allocated to the lease of the laser should be excluded from minimum lease payments and should be recognized as revenue when the contingency is resolved. In these instances, the contingency is resolved upon the sale of the handpiece.

Cardiogenesis enters into contracts to sell its products and services and, while the majority of its sales agreements contain standard terms and conditions, there are agreements that contain multiple elements or non-standard terms and conditions. As a result, significant contract interpretation is sometimes required to determine the appropriate accounting, including whether the deliverables specified in a multiple element arrangement should be treated as separate units of accounting for revenue recognition purposes and, if so, how the contract value should be allocated among the deliverable elements and when to recognize revenue for each element. The Company recognizes revenue for such multiple element arrangements in accordance with Emerging Issues Task Force Issue ("EITF") No. 00-21, *Revenue Arrangements with Multiple Deliverables.* For arrangements that involve multiple elements, such as sales of lasers and handpieces, revenue is allocated to each respective element based on its relative fair value and recognized when revenue recognition criteria for each element have been met.

In addition to the standard product warranty, the Company periodically offers extended warranties to its customers in the form of product maintenance services. Service agreements on its equipment are typically sold separately from the sale of the equipment. Revenues on these service agreements are recognized ratably over the life of the agreement, typically one to three years, in accordance with Financial Accounting Standards Board ("FASB"), Technical Bulletin 90-1, *Accounting for Separately Priced Extended Warranty and Product Maintenance Contracts.*

*Segment Disclosures:*

The Company operates in one segment. The principal markets for the Company' s products are in the United States. International sales occur primarily in Europe, Canada and Asia and amounted to approximately $73,000 and $36,000 for the three months ended March 31, 2009 and 2008, respectively. International sales represented 3% and 1% of total sales for the three months ended March 31, 2009 and 2008, respectively. The majority of international sales are denominated in U.S. Dollars. All of the Company' s long-lived assets are located in the United States.

*Recent Accounting Pronouncements:*

In December 2007 the FASB issued SFAS No. 141R, *Business Combinations,* which establishes principles and requirements for how the acquirer of a business recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree. SFAS No. 141R also provides guidance for recognizing and measuring the goodwill acquired in the business combination and determines



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what information to disclose to enable users of the financial statement to evaluate the nature and financial effects of the business combination. SFAS No. 141R is effective for financial statements issued for fiscal years beginning after December 15, 2008. Accordingly, any business combinations the Company engages in will be recorded and disclosed according to SFAS No. 141, *Business Combinations*, until January 1, 2009. The Company has concluded that the application of SFAS No. 141R did not have a material impact on its consolidated financial position and results of operations as of and for the period ended March 31, 2009.

In June 2008, the Emerging Issues Task Force of the FASB published EITF Issue 07-5 *Determining Whether an Instrument is Indexed to an Entity' s Own Stock* ("EITF 07-5"), to address concerns regarding the meaning of "indexed to an entity' s own stock" contained in FASB SFAS No. 133 *Accounting for Derivative Instruments and Hedging Activities*. This related to the determination of whether a free-standing equity-linked instrument should be classified as equity or debt. If an instrument is classified as debt, it is valued at fair value, and this value is re-measured on an ongoing basis, with changes recorded in earnings in each reporting period. EITF 07-5 is effective for years beginning after December 15, 2008 and earlier adoption is not permitted. Although EITF 07-5 is effective for fiscal years beginning after December 15, 2008, any outstanding instrument at the date of adoption will require a retrospective application of the accounting through a cumulative effect adjustment to retained earnings upon adoption. The Company has concluded that the application of EITF 07-5 did not have a material impact on its consolidated financial position and results of operations as of and for the period ended March 31, 2009.

In April 2009, the FASB issued FASB Staff Position ("FSP") FAS 107-1 and Accounting Principles Board ("APB") 28-1, *Interim Disclosures about Fair Value of Financial Instruments* ("FSP FAS 107-1" and "ABP 28-1," respectively), which amends SFAS No. 107, *Disclosures about Fair Value of Financial Instruments*, and APB Opinion No. 28, *Interim Financial Reporting*, to require disclosures about fair value of financial instruments in interim and annual reporting periods. FSP FAS 107-1 and APB 28-1 are effective for interim reporting periods ending after June 15, 2009, which for the Company is the second quarter of fiscal 2009. The Company does not expect this pronouncement to have a material effect on its financial position and results of operations.

In April 2009, the FASB issued FSP SFAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly,* which provides additional guidance for estimating fair value in accordance with FASB Statement No. 157, *Fair Value Measurements*, when the volume and level of activity for the asset or liability have significantly decreased. This FSP also includes guidance on identifying circumstances that indicate a transaction is not orderly. This pronouncement is effective for periods ending after June 15, 2009. The Company does not expect this pronouncement to have a material effect on its financial position and results of operations.

Other recent accounting pronouncements issued by the FASB (including the EITF) and the American Institute of Certified Public Accountants did not or are not believed by management to have a material impact on the Company' s present or future consolidated financial statements.

**3. Inventories:**

Inventories are stated at the lower of cost (first-in, first-out) or market and consist of the following (in thousands):

| | March 31, 2009 (unaudited) | December 31, 2008 (audited) |
|---|---|---|
| Raw materials | $ 138 | $ 139 |
| Work-in-process | 131 | 70 |
| Finished goods | 856 | 955 |
| Total | $ 1,125 | $ 1,164 |



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**4. Stock-Based Compensation:**

Effective January 1, 2006, the Company adopted SFAS No. 123(R), *Share-Based Payment,* ("SFAS 123(R)"). SFAS 123(R) requires all share-based payments to employees, including grants of employee stock options and restricted stock grants, to be recognized in the financial statements based upon their fair values. The Company uses the Black-Scholes option pricing model to estimate the grant-date fair value of share-based awards under SFAS 123(R). Fair value is determined at the date of grant. In accordance with SFAS 123(R), the financial statement effect of forfeitures is estimated at the time of grant and revised, if necessary, if the actual effect differs from those estimates.

***Description of Plans***

The Company' s Stock Option Plan and Director Stock Option Plan provide for grants of options to employees and directors of the Company to purchase the Company' s shares at the fair value of such shares on the grant date (based on the closing price of the Company' s common stock on the trading day immediately prior thereto). The options vest immediately or up to four years beginning on the grant date and have a 10-year term. The terms of the option grants are determined by the Company' s Board of Directors. As of March 31, 2009, the Company is authorized to issue up to 12,125,000 shares under these plans.

The Company' s 1996 Employee Stock Purchase Plan (the "ESPP") was adopted in April 1996 and amended in July 2005. A total of 1,500,000 common shares are reserved for issuance under the ESPP, as amended. The ESPP permits employees to purchase common shares at a price equal to the lower of 85% of the fair market value of the common stock at the beginning of each offering period or the end of each offering period. The ESPP has two offering periods, the first one from May 16 through November 15 and the second one from November 16 through May 15. Employee purchases are nonetheless limited to 15% of eligible cash compensation, and other restrictions regarding the amount of annual purchases also apply.

The Company has treated the ESPP as a compensatory plan.

During the three month periods ended March 31, 2009 and 2008, there were no purchases of shares under the ESPP.

***Summary of Assumptions and Activity***

The fair value of stock-based awards to employees and directors is calculated using the Black-Scholes option pricing model, even though the model was developed to estimate the fair value of freely tradable, fully transferable options without vesting restrictions, which differ significantly from the Company' s stock options. The Black-Scholes model also requires subjective assumptions, including future stock price volatility and expected time to exercise, which greatly affect the calculated values. The expected term of options granted is derived from historical data on employee exercises and post-vesting employment termination behavior. The risk-free rate selected to value any particular grant is based on the U.S. Treasury rate that corresponds to the term of the grant effective as of the date of the grant. The expected volatility is based on the historical volatility of the Company' s stock price. These factors could change in the future, affecting the determination of stock-based compensation expense in future periods.

The weighted-average fair value of stock-based compensation is based on the single option valuation approach. Forfeitures are estimated and it is assumed no dividends will be declared. The estimated fair value of stock-based compensation awards to employees is amortized using the straight-line method over the vesting period of the options.



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The Company' s fair value calculations for stock-based compensation awards to employees under its stock option plans for the three months ended March 31, 2009 and 2008 were based on the following assumptions:

| | Three Months Ended | |
|---|---|---|
| | March 31, 2009 | March 31, 2008 |
| Expected term | 6.35 years | 4 years |
| Expected volatility | 104.82 -105.51% | 92.57 % |
| Risk-free interest rate | 1.63 - 2.03% | 2.24 - 2.69% |
| Expected dividend yield | – | – |

Compensation expense under the ESPP is measured as the fair value of the employees' purchase rights during the "look-back" option period as calculated under the Black-Scholes option pricing model. The weighted average assumptions used in the model are outlined in the following table:

| | Three Months Ended | |
|---|---|---|
| | March 31, 2009 | March 31, 2008 |
| Expected term | 0.50 years | 0.50 years |
| Expected volatility | 104.82 -105.51% | 92.57 % |
| Risk-free interest rate | 1.63 - 2.03% | 2.24 - 2.69% |
| Expected dividends | – | – |

A summary of option activity as of March 31, 2009 and changes during the three months then ended, is presented below (in thousands except per share data):

| | Shares | Weighted Average Exercise Price | Weighted Average Remaining Contractual Term (Years) | Aggregate Intrinsic Value |
|---|---|---|---|---|
| Options outstanding at January 1, 2009 | 3,295 | $0.66 | 5.7 | $ – |
| Options granted | 535 | $0.13 | – | $ – |
| Options exercised | – | $– | – | $ – |
| Options forfeited/canceled | (100 ) | $0.34 | – | $ – |
| Options outstanding and expected to vest at March 31, 2009 | 3,730 | $0.60 | 5.9 | $ 76 |
| Options exercisable at March 31, 2009 | 2,374 | $0.80 | 4.0 | $ – |

The aggregate intrinsic value is calculated as the difference between the exercise price of the stock options and the quoted price of the Company' s common stock. At March 31, 2009, there were no exercisable stock options that were in-the-money. During the three months ended March 31, 2009, there were no options exercised and therefore, the aggregate intrinsic value of options exercised was zero.

The weighted average grant date fair value of options granted during the three months ended March 31, 2009 and 2008 was $0.11 and $0.24 per option, respectively.

As of March 31, 2009, there was approximately $190,000 of total unrecognized compensation cost related to employee and director stock option compensation arrangements. That cost is expected to be recognized over the weighted average vesting period of approximately 2.2 years**.** For the three months ended March 31, 2009 and 2008, the amount of stock-based compensation expense related to stock options was approximately $32,000 and $24,000, respectively. For the three months ended March 31, 2009 and 2008, the amount of stock-based compensation expense related to ESPP contributions was approximately $12,000 and $2,000, respectively.



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The following table summarizes stock-based compensation expense related to stock options and ESPP purchases under SFAS No. 123R for the three months ended March 31, 2009 and 2008 which was allocated as follows (in thousands):

| | Three Months Ended | |
|---|---|---|
| | March 31, 2009 | March 31, 2008 |
| Stock-based compensation expense included in: | | |
| Research and development | $2 | $2 |
| Sales and marketing | 23 | 13 |
| General and administrative | 19 | 11 |
| Total | $44 | $26 |

On March 31, 2009, the Company granted awards of restricted stock to each of its employees totaling approximately 1,208,000 shares. As of March 31, 2009, since none of the shares have vested, all shares have been excluded from the issued and outstanding shares and basic earnings per share computations. The shares vest as to 33% of the shares on the first anniversary of the grant date, 33% of the shares on the second anniversary of the grant date and 34% of the shares on the third anniversary of the grant date. As of March 31, 2009 all shares were unvested and no compensation expense was recognized. As of March 31, 2009, there was approximately $302,000 of total unrecognized compensation cost related to restricted stock that is expected to be recognized over the vesting period of 3 years.

The following table summarizes the restricted stock activity for the three months ended March 31, 2009 (in thousands):

| | March 31, 2009 |
|---|---|
| Restricted Stock Outstanding at January 1, 2009 | – |
| Granted | 1,208 |
| Forfeited | – |
| Vested | – |
| Restricted Stock Outstanding at March 31, 2009 | 1,208 |

**5. Legal Matters:**

As previously reported, Cardiofocus, Inc. ("Cardiofocus") filed a complaint in the United States District Court for the District of Massachusetts (Case No. 1.08-cv-10285) against the Company and a number of other companies. In the complaint, Cardiofocus alleges that Cardiogenesis and the other defendants have violated patent rights allegedly held by Cardiofocus.

On June 13, 2008, Cardiogenesis filed requests for reexamination of the patents being asserted against Cardiogenesis with the U.S. Patent and Trademark Office and asserted that prior art had been identified that raised substantial new issues of patentability with respect to the inventions claimed by Cardiofocus' patents. In August 2008, the U.S. Patent and Trademark Office granted Cardiogenesis' reexamination requests. Reexamination requests filed by other named defendants were also granted.

Because the reexamination requests were granted and substantial new issues of patentability raised, Cardiogenesis, along with other named defendants, moved to stay the litigation until the reexamination of Cardiofocus' asserted patents is completed. On October 14, 2008, an order was issued by the court staying the present litigation for one year or until the reexamination is completed, which ever occurs sooner. After one year, if the reexamination continues, the court will consider further extensions of the stay, for a period not to exceed one additional year, upon good cause shown by the defendants.

Cardiogenesis intends to continue to vigorously defend itself. However, any litigation involves risks and uncertainties and the likely outcome of the case cannot be determined at this time. Except as described above, the Company is not a party to any material legal proceeding.



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**6. Related Party Transactions:**

The Company provided unrestricted educational grants of $40,000 in February 2008 and $40,000 in June 2008 to the University of Arizona Sarver Heart Center to support the research of cardiovascular disease and stroke. Dr. Marvin Slepian, a member of the Company' s board of directors, is Director of Interventional Cardiology at Sarver Heart Center. The Company is not legally bound to provide any additional funding for such research but may choose to do so in the future.

The Company entered into a consulting agreement with Paul McCormick, the Company' s Chairman of the Board, effective January 15, 2009. Pursuant to the Agreement, Mr. McCormick will provide consulting services relating to corporate strategy development and execution, financing and investor relations up to 16 hours per week. In consideration for such services, the Company will pay Mr. McCormick $8,000 per month and reimburse Mr. McCormick for healthcare insurance coverage up to $15,600 per year. The agreement has a term of 18 months, but may be terminated by either party upon 60 days written notice.

The Company entered into a consulting agreement with Dr. Marvin Slepian, a member of the Company' s board of directors, dated February 27, 2009 and effective as of January 1, 2009. Pursuant to the agreement, Dr. Slepian will provide consulting services relating to basic and clinical scientific initiatives as well as development of certain scientific and educational materials. In consideration for such services, the Company will pay Dr. Slepian $50,000 for the year ended December 31, 2009. The agreement expires December 31, 2009, but may be terminated by either party upon 10 days written notice.

## Item 2. Management' s Discussion and Analysis of Financial Condition and Results of Operations

Management' s Discussion and Analysis of Financial Condition and Results of Operations contains certain statements relating to future results, which are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements are identified by words such as "believes," "anticipates," "expects," "intends," "plans," "will," "may" and similar expressions. In addition, any statements that refer to our plans, expectations, strategies or other characterizations of future events or circumstances are forward-looking statements. These forward-looking statements are based on the beliefs of management, as well as assumptions and estimates based on information available to us as of the dates such assumptions and estimates are made, and are subject to certain risks and uncertainties that could cause actual results to differ materially from historical results or those anticipated, depending on a variety of factors, including those factors discussed in the section titled "Risk Factors" contained in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2008. Should one or more of those risks or uncertainties materialize adversely, or should underlying assumptions or estimates prove incorrect, actual results may vary materially from those described. Those events and uncertainties are difficult or impossible to predict accurately and many are beyond our control. Except as may be required by applicable law, we assume no obligation to publicly release the result of any revisions that may be made to any forward-looking statements to reflect events or circumstances after the date of such statements or to reflect the occurrence of anticipated or unanticipated events. Our business may have changed since the date hereof and we undertake no obligation to update these forward looking statements. The following discussion should be read in conjunction with the unaudited condensed consolidated financial statements and notes thereto included in this Quarterly Report on Form 10-Q.

### Overview

We are a California corporation, incorporated in 1989, and we primarily design, develop and distribute laser-based surgical products and disposable fiber-optic accessories for the treatment of cardiac ischemia associated with advanced cardiovascular disease through laser myocardial revascularization. This therapeutic procedure can be performed surgically as transmyocardial revascularization, or TMR. TMR is a procedure used to relieve severe angina, or chest pain, in very ill patients who aren' t candidates for bypass surgery or PCI. TMR is a laser-based heart treatment in which transmural channels are made in the heart muscle. Many scientific experts believe these procedures encourage new vessel formation, or angiogenesis. Typically, TMR is performed by a cardiac surgeon while the patient is under general anesthesia as an adjunctive procedure to coronary bypass, or may be performed on a stand-alone basis through a small left anterior thoracotomy incision in the chest.



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In May 1997, we received CE Mark approval for our TMR System. We have also received CE Mark approval for our minimally invasive Port Enabled Angina Relief with Laser, or PEARL, handpieces and our PHOENIX handpieces, in November 2005 and October 2006, respectively. The CE Mark allows us to commercially distribute these products within the European Union and is an international symbol of adherence to quality assurance standards and compliance with applicable European medical device directives. In February 1999, we received approval from the U.S. Food and Drug Administration, or FDA, for the marketing of our TMR products for treatment of patients suffering from chronic, severe angina. Effective July 1999, the Centers for Medicare and Medicaid Services, implemented a national coverage decision for Medicare coverage for any TMR procedure as a primary and secondary procedure. As a result, hospitals and physicians are eligible to receive Medicare reimbursement for TMR equipment and procedures on indicated Medicare patients.

In December 2004, we received FDA approval for the Solargen 2100s laser system, the advanced laser console for TMR. In addition, in November 2007 we received FDA approval for the PEARL 5.0 robotic handpiece delivery system, which is designed for delivering TMR therapy with surgical robotic systems. We are in the process of completing the Investigational Device Exemption trial for the PEARL 8.0 thoracoscopic handpiece delivery system, and are supporting the initial clinical application of the PHOENIX handpiece at prominent cardiac centers in the European Union and other international locations.

As of March 31, 2009, we had an accumulated deficit of $170.2 million. We may continue to incur operating losses. The timing and amounts of our expenditures will depend upon a number of factors, including the efforts required to develop our sales and marketing organization, the timing of market acceptance of our products and the status and timing of regulatory approvals.

**Results of Operations**

*Net Revenues*

We generate our revenues primarily through the sale of our TMR System laser base units, related handpieces and related services. The handpieces are a single-use product and disposable. In addition, we frequently loan lasers to hospitals in accordance with our loaned laser programs. Under certain loaned laser programs we charge the customer an additional amount over the stated list price on our handpieces in exchange for the use of the laser or we collect an upfront deposit that can be applied towards the purchase of a laser.

Net revenues of $2,852,000 for the quarter ended March 31, 2009 decreased $130,000, or 4%, when compared to net revenues of $2,982,000 for the quarter ended March 31, 2008. We attribute the decrease in sales for the three months ended March 31, 2009 primarily to the decrease in the number of disposable handpieces sold.

For the quarter ended March 31, 2009, domestic handpiece revenue decreased by $381,000, or 18%, and domestic laser revenue increased by $144,000, or 23%, when compared to the quarter ended March 31, 2008. In the first quarter of 2009, domestic handpiece revenue included $111,000 in sales of product to customers operating under our loaned laser program. Sales of handpieces to customers not operating under the loaned laser program were $1,588,000. In the first quarter of 2008, domestic handpiece revenue included $195,000 in sales of product to customers operating under our loaned laser program. Sales of handpieces to customers not operating under the loaned laser program were $1,885,000.

International sales, accounting for less than 3% of net revenues for the quarter ended March 31, 2009 increased $37,000 from the prior year period. We define international sales as sales to customers located outside of the United States. In addition, service and other revenue of $316,000 increased $70,000 for the quarter ended March 31, 2009, when compared to $246,000 for the quarter ended March 31, 2008.



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*Gross Profit*

For the quarter ended March 31, 2009, gross margin decreased to 81% of net revenues as compared to 82% of net revenues for the quarter ended March 31, 2008. The decrease in gross margin for the three month period is primarily attributable to a $29,000 inventory obsolescence charge related to PEARL 8.0 product and an increase in international sales which have a lower gross margin.

*Research and Development*

Research and development expense represents expenses incurred in connection with the development of technologies and products including the costs of third party studies, salaries and stock-based compensation associated with research and development personnel.

For the quarter ended March 31, 2009, research and development expenditures of $288,000 increased $72,000, or 33%, when compared to $216,000 for the quarter ended March 31, 2008. As a percentage of revenues, research and development expenditures were 10% during the quarter ended March 31, 2009 as compared to 7% for the prior year period. The dollar increase for the three months ended March 31, 2009 was attributed primarily to an increase in activities supporting clinical trials and studies.

*Sales and Marketing*

Sales and marketing expense represents expenses incurred in connection with the salaries, stock-based compensation, commissions, taxes and benefits for sales, marketing and service employees and other sales, general and administrative expenses directly associated with the sales, marketing and service departments.

For the quarter ended March 31, 2009, sales and marketing expenditures of $1,469,000 decreased $58,000, or 4%, when compared to $1,527,000 for the quarter ended March 31, 2008. As a percentage of revenues, sales and marketing expenditures were 52% during the quarter ended March 31, 2009 as compared to 51% for the prior year period. The increase as a percentage of revenues in sales and marketing expenditures for the three month period was primarily a result of a lower revenue base in the current period.

*General and Administrative*

General and administrative expenditures represent all other operating expenses not included in research and development or sales and marketing expenses. For the quarter ended March 31, 2009, general and administrative expenditures totaled $856,000, or 30% of net revenues, as compared to $751,000, or 25% of net revenues during the quarter ended March 31, 2008. This represents an increase of $105,000, or 14%. The increase as a percentage of revenues in general and administrative expenditures was primarily a result of a smaller revenue base in the current period.

**Liquidity and Capital Resources**

At March 31, 2009, we had cash and cash equivalents of $2,773,000 compared to $2,907,000 at December 31, 2008, a decrease of $134,000. During the three months ended March 31, 2009, we had a net loss of $314,000 and net cash used in operating activities of $202,000 primarily from an increase in accounts receivable offset by an increase in accounts payable and accrued liabilities.

Cash provided by investing activities during the three months ended March 31, 2009 was $69,000 primarily due to the redemption of investments in marketable securities. Cash used in investing activities during the three months ended March 31, 2008 was $372,000 due to property and equipment and marketable securities purchases.

We have incurred significant operating losses and as of March 31, 2009 we had an accumulated deficit of $170.2 million. Our ability to maintain current operations is dependent upon maintaining our sales at least at the same levels achieved in the prior year. Currently, our primary goal is to achieve and sustain profitability at the operating level and our actions have been guided by this initiative. Our focus is upon core and critical activities, thus operating expenses that are nonessential to our core operations have been reduced or eliminated.



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We believe our cash balance as of March 31, 2009, our projected cash flows from operations and actions we have taken to reduce general and administrative expenses will be sufficient to meet our capital, debt and operating requirements through the next twelve months. However, our actual future capital requirements will depend on many factors, including the following:

- the success of the commercialization of our products;
- sales and marketing activities, and expansion of our commercial infrastructure, related to our approved products and product candidates;
- the results of our clinical trials and requirements to conduct additional clinical trials;
- the rate of progress of our research and development programs;
- the time and expense necessary to obtain regulatory approvals;
- activities and payments in connection with potential acquisitions of companies, products or technology; and
- competitive, technological, market and other developments.

We believe that if revenues from sales or new funds from debt or equity instruments are insufficient to maintain the current expenditure rate, it will be necessary to significantly reduce our operations until an appropriate solution is implemented.

We will have a continuing need for new infusions of cash if we incur losses or are otherwise unable to generate positive cash flow from operations in the future. We plan to increase our sales through increased direct sales and marketing efforts on existing products and achieving regulatory approval for other products. If our direct sales and marketing efforts are unsuccessful or we are unable to achieve regulatory approval for our products, we will be unable to significantly increase our revenues and may have to obtain additional financing to continue our operations or scale back our operations. Due to the recent global economic crisis, it has become very difficult for companies to obtain debt or equity financing on reasonable terms, if at all. As a result, we may not be able to obtain additional financing if required, or even if we were to obtain any financing, it may contain burdensome restrictions on our business, in the case of debt financing, or result in significant dilution, in the case of equity financing.

**Critical Accounting Policies and Estimates**

The preparation of our financial statements requires that we make estimates and assumptions that affect the reported amounts of assets and liabilities and related disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. On an ongoing basis, we evaluate these estimates and assumptions, which are based on historical experience and on other assumptions that we believe to be reasonable. In the event that any of our estimates and assumptions are inaccurate in any material respect, it could have a material adverse effect on our reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. A summary of our critical accounting policies is included in Item 7 (Management' s Discussion and Analysis of Financial Condition and Results of Operations) of Part II, of our Annual Report on Form 10-K for the fiscal year ended December 31, 2008. There have been no material changes to the critical accounting policies disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008.

**Item 4(T). Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures**

An evaluation was carried out under the supervision and with the participation of our management, including our President and our Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of March 31, 2009. Based upon that evaluation, the President and the Chief Financial Officer concluded that the design and operation of these disclosure controls and procedures at March 31, 2009 were effective in timely alerting them to the material information relating to us (or to our consolidated subsidiaries) required to be included in our periodic filings with the SEC, such that the information relating to us, required to be disclosed in SEC reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (ii) is



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accumulated and communicated to our management, including our President and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

**Inherent Limitations on Effectiveness of Controls**

All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective may not prevent or detect misstatements and can provide only reasonable assurance with respect to financial statement preparation and presentation. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

**Changes in internal control over financial reporting**

There were no changes in our internal control over financial reporting that occurred during the quarter ended March 31, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.



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## Part II Other Information

### Item 6. Exhibits

The exhibits below are filed or incorporated herein by reference.

| Exhibit No. | Description |
|---|---|
| 10.1 (1) | Consulting Agreement dated January 15, 2009 by and between the Company and Paul McCormick. |
| 10.2 (2) | Consulting Agreement, dated February 27, 2009, by and between the Company and Dr. Marvin Slepian. |
| 10.3 (3) | Form of Restricted Stock Purchase Agreement under Stock Option Plan. |
| 10.4 (4) | Stock Option Plan, as amended through March 2009. |
| 10.5 (5) | Director Stock Option Plan, as amended through May 2009. |
| 10.6 (5) | Form of Stock Option Agreement for Directors under the Director Stock Option Plan, as amended through February 2009. |
| 31.1 (5) | Certification of the Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934. |
| 31.2 (5) | Certification of the Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934. |
| 32.1 (5) | Certification of the Chief Executive Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350. |
| 32.2 (5) | Certification of the Chief Financial Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350. |

---

(1) Incorporated by reference to Exhibit 10.1 to the Company' s Current Report on Form 8-K filed with the SEC on January 15, 2009.

(2) Incorporated by reference to Exhibit 10.1 to the Company' s Current Report on Form 8-K filed with the SEC on March 5, 2009.

(3) Incorporated by reference to Exhibit 10.1 to the Company' s Current Report on Form 8-K filed with the SEC on April 3, 2009.

(4) Incorporated by reference to Exhibit 10.2 to the Company' s Current Report on Form 8-K filed with the SEC on April 3, 2009.

(5) Filed herewith.



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**SIGNATURES**

Pursuant to the requirements 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.

**CARDIOGENESIS CORPORATION**
Registrant

Date: May 14, 2009

/s/ Richard P. Lanigan
Richard P. Lanigan
President
(Principal Executive Officer)

Date: May 14, 2009

/s/ William R. Abbott
William R. Abbott
Senior Vice President, Chief Financial Officer, Secretary and Treasurer
(Principal Financial and Accounting Officer)



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## Exhibit Index

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**Exhibit 10.5**

CARDIOGENESIS CORPORATION
DIRECTOR STOCK OPTION PLAN

(AS AMENDED THROUGH FEBRUARY 2009)

1. Purpose of the Plan. The purposes of this Director Stock Option Plan are to attract and retain the best available personnel for service as Directors (as defined herein) of the Company, to provide additional incentive to the Directors of the Company to serve as Directors, and to encourage their continued service on the Board.

All options granted hereunder shall be nonstatutory stock options.

2. Definitions. As used herein, the following definitions shall apply:

(a) "Board" means the Board of Directors of the Company.

(b) "Code" means the Internal Revenue Code of 1986, as amended.

(c) "Common Stock" means the Common Stock of the Company.

(d) "Company" means Cardiogenesis Corporation, formerly known as Eclipse Surgical Technologies, Inc., a California corporation.

(e) "Continuous Status as a Director" means the absence of any interruption or termination of service as a Director.

(f) "Director" means a member of the Board.

(g) "Employee" means any person, including officers and Directors, employed by the Company or any Parent or Subsidiary of the Company. The payment of a Director' s fee by the Company shall not be sufficient in and of itself to constitute "employment" by the Company.

(h) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(i) "Fair Market Value" means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation The Nasdaq National Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such stock (or the closing, bid, if no sales were reported) as quoted on such exchange or system for the last market trading day prior to the time of determination, as reported in The Wall Street Journal or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, the Fair Market Value of a Share of Common Stock, shall be the mean between the high bid and low asked prices for the Common Stock on the date of determination, as reported in The Wall Street Journal or such other source as the Board deems reliable, or;

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(iii) In the absence of an established market for the Common Stock, the Fair Market Value thereof, shall be determined in good faith by the Board.

(j) "Option" means a stock option granted pursuant to the Plan.

(k) "Optioned Stock" means the Common Stock subject to an Option.

(l) "Optionee" means an Outside Director who receives an Option.

(m) "Outside Director" means a Director who is not an Employee.

(n) "Parent" means a "parent corporation," whether now or hereafter existing, as defined in Section 424(e) of the Code.

(o) "Plan" means this Director Stock Option Plan.

(p) "Share" means a share of the Common Stock, as adjusted in accordance with Section 10 of the Plan.

(q) "Subsidiary" means a "subsidiary corporation," whether now or hereafter existing, as defined in Section 424(f) of the Code.

3. Stock Subject to the Plan. Subject to the provisions of Section 10 of the Plan, the maximum aggregate number of Shares which may be optioned and sold under the Plan is 1,025,000 Shares of Common Stock (the "Pool"). The Shares may be authorized, but unissued, or reacquired Common Stock.

If an Option expires or becomes unexercisable without having been exercised in full, the unpurchased Shares which were subject thereto shall become available for future grant or sale under the Plan (unless the Plan has terminated); provided however, that Shares that have actually been issued under the Plan shall not be returned to the Plan and shall not become available for future distribution under the Plan.

4. Administration and Grants of Options under the Plan.

(a) Procedure for Grants. The provisions set forth in this Section 4(a) shall not be amended more than once every six months, other than to comport with changes in the Code, the Employee Retirement Income Security Act of 1974, as amended, or the rules thereunder. All grants of Options to Outside Directors under this Plan shall be automatic and nondiscretionary and shall be made strictly in accordance with the following provisions:

(i) No person shall have any discretion to select which Outside Directors shall be granted Options or to determine the number of Shares to be, covered by Options granted to Outside Directors.

(ii) Each Outside Director elected to the Board after February 23, 2009, shall be automatically granted an Option to purchase 50,000 Shares (a "First Option").



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(iii) Each Outside Director shall be automatically granted an Option to purchase 50,000 Shares (a "Subsequent Option") on the date of such Outside Director' s annual re-election to the Board, if on such date, he or she shall have served on the Board for at least six (6) months.

(iv) The terms of a First Option granted hereunder shall be as follows:

(A) the term of the First Option shall be ten (10) years;

(B) the exercise price per Share shall be the Fair Market Value per Share on the date of grant of the First Option; and

(C) the First Option shall become exercisable as to 1/3rd of the Shares subject to the First Option on each of the first, second and third anniversaries of the date of grant.

(v) The terms of a Subsequent Option granted hereunder shall be as follows:

(A) the term of the Subsequent Option shall be ten (10) years;

(B) the exercise price per Share shall be the Fair Market Value per Share on the date of grant of the Subsequent Option; and

(C) the Subsequent Option shall become exercisable as to all of the Shares subject to the Subsequent Option on the first anniversary of its date of grant.

(vi) In the event that any Option granted under the Plan would cause the number of Shares subject to outstanding Options plus the number of Shares previously purchased under Options to exceed the Pool, then the remaining Shares available for Option grant shall be granted under Options to the Outside Directors on a pro rata basis. No further grants shall be made until such time, if any, as additional Shares, become available for grant under the Plan through action of the shareholders to increase the number of Shares which may be issued under the Plan or through cancellation or expiration of Options previously granted hereunder.

5. Eligibility. Options may be granted only to Outside Directors. All Options shall be automatically granted in accordance with the terms of Section 4 hereof. An Outside Director who has been granted an Option may, if he or she is otherwise eligible, be granted an additional Option or Options in accordance with such term.

Neither the Plan nor any Option shall confer upon an Optionee any right to be nominated or continue to serve as a Director, nor shall they interfere in any way with any right that the Director or the Company may have to terminate the Directors directorship at any time.

6. Term of Plan. The Plan shall become effective upon the earlier to occur of the Plan' s adoption by the Board or it' s approval by the shareholders of the Company as described in Section 16 of the Plan; provided, however, that the Plan shall be null and void if an underwritten, initial public offering of the Company' s Common Stock does not occur before April 1, 1997. This Plan shall continue in effect until March 31, 2015 unless sooner terminated under Section 11 of the Plan.



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Termination of this Plan shall not affect rights and obligations heretofore granted under this Plan and then in effect.

7. Form of Consideration. The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall consist of (i) cash, (ii) check, (iii) promissory note, (iv) other shares which (x) in the case of Shares acquired upon exercise of an Option, have been owned by the Optionee for more than six (6) months on the date of surrender, and (y) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which said Option shall be exercised, (v) delivery of a properly executed exercise notice together with such other documentation as the Company and the broker, if applicable, shall require to affect an exercise of the Option and delivery to the Company of the sale or loan proceeds required to pay the exercise price, or (vi) any combination of the foregoing methods of payment.

8. Exercise of Option.

(a) Procedure for Exercise; Rights as a Shareholder. Any Option granted hereunder shall be exercisable at such times as are set forth in Section 4 hereof; provided, however, that no Options shall be exercisable until shareholder approval of the Plan in accordance with Section 16 hereof has been obtained.

An Option may not be exercised for a fraction of a Share.

An Option shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option by the person entitled to exercise the Option and fall payment for the Shares with respect to which the Option is exercised has been received by the Company. Full payment may consist of any consideration and method of payment allowable under Section 7 of the Plan. Until the issuance (as evidenced by the appropriate, entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. A share certificate for the number of Shares so acquired shall be issued to the Optionee as soon as practicable after exercise of the Option. No adjustment shall be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 10 of the Plan.

Exercise of an Option in any manner shall result in a decrease in the number of Shares which thereafter may be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) Rule 16b-3. Options granted to Outside Directors must comply with the applicable provisions of Rule 16b-3 promulgated under the Exchange Act or any successor thereto and shall contain such additional conditions or restrictions as may be required thereunder to qualify Plan transactions, and other transactions by Outside Directors that otherwise could be matched with Plan transactions, for the maximum exemption from Section 16 of the Exchange Act.

(c) Disability of Optionee. In the event Optionee' s Continuous Status as a Director terminates as a result of total and permanent disability (as defined in Section 22(e)(3) of the Code) or such disability occurs within sixty (60) days following the termination of Optionee' s Continuous Status as a Director, the Optionee may exercise his or her Option, but only within twelve



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(12) months from the date of such termination, and only to the extent that the Optionee was entitled to exercise it on the date of such termination (but in no event later than the expiration of its ten (10) year term). To the extent that the Optionee was not entitled to exercise an Option on the date of termination, or if he or she does not exercise such Option (to the extent otherwise so entitled) within the time specified herein, the Option shall terminate.

(d) Death of Optionee. In the event of an Optionee' s death during or within sixty (60) days of the termination of Optionee' s Continuous Status as a Director, the Optionee' s estate or a person who acquired the right to exercise the Option by bequest or inheritance may exercise the Option, but only within twelve (12) months following the date of death, and only to the extent that the Optionee was entitled to exercise it on the date of death (but in no event later than the expiration of its ten (10) year term). To the extent that the Optionee was not entitled to exercise an Option on the date of death, and to the extent that the Optionee' s estate or a person who acquired the right to exercise such Option does not exercise such Option (to the extent otherwise so entitled) within the time specified herein, the Option shall terminate.

9. Non-Transferability of Options. The Option may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised, during the lifetime of the Optionee, only by the Optionee.

10. Adjustments Upon Changes in Capitalization, Dissolution, Merger, Asset Sale or Change of Control.

(a) Changes in Capitalization. Subject to any required action by the shareholders of the Company, the number of Shares covered by each outstanding Option, the number of Shares which have been authorized for issuance under the Plan but as to which no Options have yet been granted or which have been returned to the Plan upon cancellation or expiration of an Option, the price per Share covered by each such outstanding Option, and the number of Shares issuable pursuant to the automatic grant provisions of Section 4 hereof shall be proportionately adjusted for any increase or decrease in the number of issued Shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the number of issued Shares effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of Shares subject to an Option.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, to the extent that an Option has not been previously exercised, it shall terminate immediately prior to the consummation of such proposed action.

(c) Merger or Asset Sale. In the event of a merger of the Company with or into another corporation, or the sale of substantially all of the assets of the Company, each outstanding option may be assumed or an equivalent option may be substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation does not agree to assume the Option or to substitute an equivalent option, each outstanding Option shall become fully vested and exercisable, including as to Shares as to which it would not otherwise be exercisable. If an Option becomes fully vested and exercisable upon a merger or sale of assets, the



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Board shall notify the Optionee that the Option shall be fully exercisable for a period of thirty (30) days from the date of such notice, and the Option shall terminate upon the expiration of such period. For the purpose of this paragraph, an Option shall be considered assumed if, following, the merger or sale of assets, the Option confers the right to purchase or receive, for each Share of Optioned Stock subject to the Option immediately prior to the merger or sale of assets, the consideration (whether stock, cash, or other securities or property) received in the merger or sale of assets by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares).

11. Amendment and Termination of the Plan.

(a) Amendment and Termination of the Plan. Except as set forth in Section 4, the Board may at any time amend, alter, suspend, or discontinue the Plan, but no amendment, alteration, suspension, or discontinuation shall be made which would impair the rights of any Optionee under any grant theretofore made, without his or her consent. In addition, to the extent necessary and desirable to comply with Rule 16b-3 under the Exchange Act (or any other applicable law or regulation), the Company shall obtain shareholder approval of any Plan amendment in such a manner and to such a degree as required.

(b) Effect of Amendment or Termination. Any such amendment or termination of the Plan shall not affect Options already granted, and such Options shall remain in full force and effect as if this Plan had not been amended or terminated.

(c) Shareholder Approval Required. Unless approved by the holders of a majority of the shares present and entitled to vote at a duly convened meeting of shareholders, the Company shall not: (i) grant any stock option, including a stock appreciation right, with an exercise price that is less than 100% of the fair market value of the underlying stock on the date of grant; or (ii) reduce the exercise price of any stock option, including a stock appreciation right, outstanding or to be granted in the future; cancel and re-grant options at a lower exercise price (including entering into any "6 month and 1 day" cancellation and re-grant scheme), whether or not the cancelled options are put back into the available pool for grant; replace underwater options with restricted stock in an exchange, buy-back or other scheme; or replace any options with new options having a lower exercise price or accelerated vesting schedule in an exchange, buy-back or other scheme. This Section 11(c) may not be further amended or repealed without the affirmative vote of the holders of a majority of the shares present and entitled to vote at a duly convened meeting of shareholders.

12. Time of Granting Options. The date of grant of an Option shall, for all purposes, be the date determined in accordance with Section 4 hereof.

13. Conditions Upon Issuance of Shares. Shares shall not be issued pursuant to the exercise of an Option unless the exercise of such Option and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, the Exchange Act, the rules and regulations promulgated thereunder, state securities laws, and the requirements of any stock exchange upon which the Shares may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.



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As a condition to the exercise of an Option, the Company may require the person exercising such Option to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares, if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned relevant provisions of law.

The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company' s counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

14. Reservation of Shares. The Company, during the term of this Plan, shall at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

15. Option Agreement. Options shall be evidenced by written option agreements in such form as the Board shall approve.

16. Shareholder Approval. Continuance of the Plan shall be subject to approval by the shareholders of the Company at or prior to the first annual meeting of shareholders held subsequent to the granting, of an Option hereunder. Such shareholder approval shall be obtained in the degree and manner required under applicable state and federal law.



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**Exhibit 10.6**

**CARDIOGENESIS CORPORATION**
**DIRECTOR STOCK OPTION PLAN**
**STOCK OPTION AGREEMENT**

(AS AMENDED THROUGH FEBRUARY 2009)

1. **Grant of Option**. The Plan Administrator of Cardiogenesis Corporation, a California corporation (the "Company"), hereby grants to the person (the "Optionee") named in the "Notice of Grant" to which this Stock Option Agreement is attached, an option (the "Option") to purchase the number of Shares set forth in the Notice of Grant. The Option is being granted on the date (the "Grant Date") set forth in the Notice of Grant at the exercise price per share set forth in the Notice of Grant (the "Exercise Price"). The Option is subject to the terms and conditions of the Company' s Director Stock Option Plan as amended through February 2009 (the "Plan"), which is incorporated herein by reference. In the event of a conflict between the terms and conditions of the Plan and the terms and conditions of this Stock Option Agreement, the terms and conditions of the Plan shall prevail. Unless otherwise defined herein, the terms defined in the Plan shall have the same defined meanings in this Stock Option Agreement.

If designated in the Notice of Grant as an Incentive Stock Option ("ISO"), this Option is intended to qualify as an Incentive Stock Option under Section 422 of the Code. However, if this Option is intended to be an Incentive Stock Option, to the extent that it exceeds the $100,000 rule of Code Section 422(d) it shall be treated as a Non-statutory Stock Option ("NSO").

2. **Exercise of Option**.

(a) Right to Exercise. This Option may be exercised, in whole or in part, in accordance with the following schedule:

This Option is exercisable during its term in accordance with such vesting schedule and the applicable provisions of the Plan and this Stock Option Agreement; provided, however, that the Option shall not be exercised for less than twenty percent (20%) of the initial number of shares of Optioned Stock unless it is exercised for all of the shares of Optioned Stock which are able to then be acquired by exercise of the Option. In the event of Optionee' s death, Disability or other termination of Optionee' s employment or consulting relationship, the exercisability of the Option is governed by the applicable provisions of the Plan and this Stock Option Agreement.

(b) Method of Exercise. This Option is exercisable by delivery of an exercise notice, in the form attached as Exhibit A (the "Exercise Notice"), which shall state the election to exercise the Option, the number of Shares in respect of which the Option is being exercised (the "Exercised Shares"), and such other representations and agreements as may be required by the Company pursuant to the provisions of the Plan. The Exercise Notice shall be signed by the Optionee and shall be delivered in person or by certified mail to the Secretary of the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by such aggregate Exercise Price.

No Shares shall be issued pursuant to the exercise of this Option unless such issuance and exercise complies with all relevant provisions of law and the requirements of any stock exchange or quotation service upon which the Shares are then listed. Assuming such compliance, for income

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tax purposes the Exercised Shares shall be considered transferred to the Optionee on the date the Option is exercised with respect to such Exercised Shares.

3. **Method of Payment**. Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

(a) cash; or

(b) check; or

(c) delivery of a properly executed exercise notice together with such other documentation as the Administrator and a stock broker, if applicable, shall require to effect an exercise of the Option and delivery to the Company of the sale or loan proceeds required to pay the exercise price from the sale of some or all of the exercised Shares by a stock broker; or

(d) surrender of other Shares which (i) in the case of Shares acquired upon exercise of an option, have been owned by the Optionee for more than six (6) months on the date of surrender, and (ii) have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Exercised Shares.

4. **Non-Transferability of Option**. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by the Optionee. The terms of the Plan and this Stock Option Agreement shall be binding upon the executors, administrators, heirs, personal representatives, successors and permitted assigns of the Optionee.

5. **Term of Option**. This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Stock Option Agreement.

6. **Tax Consequences**. Some of the federal and state tax consequences relating to this Option, as of April 24, 1996, the date of adoption of the Plan, are set forth below. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS MAY HAVE ALREADY CHANGED SINCE APRIL 24, 1996, AND ARE SUBJECT TO CHANGE AFTER THE GRANT DATE. THE COMPANY DISCLAIMS ANY DUTY TO UPDATE THE TAX CONSEQUENCES DESCRIBED IN THIS SECTION OF THE STOCK OPTION AGREEMENT. THE OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THIS OPTION OR DISPOSING OF THE SHARES.

(a) Exercising the Option.

(i) Nonstatutory Stock Option. The Optionee may incur regular federal income tax and state income tax liability upon exercise of a NSO. The Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the Fair Market Value of the Exercised Shares on the date of exercise over their aggregate Exercise Price. If the optionee is an Employee or a former Employee, the Company will be required to withhold from his or her compensation or collect from Optionee and pay to the applicable taxing authorities an amount in cash equal to a percentage of this compensation income at the time of



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exercise. The Company may refuse to honor the exercise and refuse to deliver Shares if such withholding amounts are not delivered at the time of exercise.

(ii) Incentive Stock Option. If this Option qualifies as an ISO, the optionee will have no regular federal income tax or state income tax liability upon its exercise, although the excess, if any, of the Fair Market Value of the Exercised Shares on the date of exercise over their aggregate Exercise Price will be treated as an adjustment to alternative minimum taxable income for federal tax purposes and may subject the optionee to alternative minimum tax in the year of exercise. In the event that the optionee undergoes a change of status from Employee to Consultant, any Incentive Stock Option of the Optionee that remains unexercised shall cease to qualify as an Incentive Stock Option and will be treated for tax purposes as Nonstatutory Stock Option on the ninety-first (91st) day following such change of status.

(b) Disposition of Shares.

(i) NSO. If the Optionee holds NSO Shares for at least one year, any gain realized on disposition of the Shares will be treated as long-term capital gain for federal income tax purposes.

(ii) ISO. If the Optionee holds ISO Shares for at least one year after exercise and two years after the Grant Date, any gain realized on disposition of the Shares will be treated as long-term capital gain for federal income tax purposes. If the Optionee disposes of ISO Shares within one year after exercise or two years after the Grant Date, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates) to the extent of the excess, if any, of the lesser of (A) the difference between the Fair Market Value of the Shares acquired on the date of exercise and the aggregate Exercise Price, or (B) the difference between the sale price of such Shares and the aggregate Exercise Price.

(c) Notice of Disqualifying Disposition of ISO Shares. If the Optionee sells or otherwise disposes of any of the Shares acquired pursuant to an ISO on or before the later of (i) two years after the Grant Date, or (ii) one year after the exercise date, the Optionee shall immediately notify the Company in writing of such disposition. The Optionee agrees that he or she may be subject to income tax withholding by the Company on the compensation income recognized from such early disposition of ISO Shares by payment in cash or out of the current earnings paid to the Optionee.

7. **Entire Agreement and Governing Law**. The Plan is incorporated herein by reference. The Plan, this Stock Option Agreement, and the Notice of Grant constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the optionee' s or the Company' s interests except by means of a writing signed by the Company and optionee. This Option Agreement is governed by California law except for that body of law pertaining to conflict of laws.



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8. **NO GUARANTEE OF EMPLOYMENT**. OPTIONEE ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER, AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS AN EMPLOYEE OR CONSULTANT FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE WITH OPTIONEE' S RIGHT OR THE COMPANY' S RIGHT TO TERMINATE OPTIONEE' S EMPLOYMENT OR CONSULTING RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE.

9. **Effect of Executing Notice of Grant**. By the signature of Optionee and the signature of the Company' s representative on the Notice of Grant, Optionee and the Company agree that this Option is granted under and governed by the terms and conditions of the Plan, this Stock Option Agreement, and the Notice of Grant. Optionee hereby certifies that Optionee has reviewed the Plan, this Option Agreement, and the Notice of Grant in their entirety, has had an opportunity to obtain the advice of counsel prior to executing the Notice of Grant, and fully understands all provisions of the Plan, this Stock Option Agreement, and the Notice of Grant. Optionee hereby agrees to accept as binding, conclusive, and final all decisions or interpretations of the Administrator upon any questions relating to the Plan, this Stock Option Agreement, and the Notice of Grant. Optionee further agrees to notify the Company upon any change in the residence address indicated in the Notice of Grant.



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**EXHIBIT 31.1**

**CERTIFICATION**

I, Richard P. Lanigan, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cardiogenesis Corporation;

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant' s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant' s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;

   (d) disclosed in this report any change in the registrant' s internal control over financial reporting that occurred during the registrant' s most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant' s internal control over financial reporting; and

5. The registrant' s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant' s auditors and the audit committee of registrant' s board of directors (or persons performing the equivalent function):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant' s ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant' s internal controls over financial reporting.

/s/ Richard P. Lanigan

Richard P. Lanigan
*President*
*(Principal Executive Officer)*
May 14, 2009

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**EXHIBIT 31.2**

# CERTIFICATION

I, William R. Abbott, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cardiogenesis Corporation;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant' s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and we have:
   - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
   - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   - (c) evaluated the effectiveness of the registrant' s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
   - (d) disclosed in this report any change in the registrant' s internal control over financial reporting that occurred during the registrant' s most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant' s internal control over financial reporting; and
5. The registrant' s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant' s auditors and the audit committee of registrant' s board of directors (or persons performing the equivalent function):
   - (a) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant' s ability to record, process, summarize and report financial information; and
   - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant' s internal controls over financial reporting.

/s/ William R. Abbott

William R. Abbott
*Chief Financial Officer*
May 14, 2009

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**EXHIBIT 32.1**

# CERTIFICATION

I, Richard P. Lanigan, certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 that:

(1) The Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009 (the "Quarterly Report") complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 780(d)); and

(2) The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 14, 2009

By: /s/ Richard P. Lanigan
Richard P. Lanigan
President

This certification accompanies the Quarterly Report pursuant to Rule 13a-14(b) or Rule 15d-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934.

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**EXHIBIT 32.2**

## CERTIFICATION

I, William R. Abbott, certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 that:

(1) The Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009 (the "Quarterly Report") complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 780(d)); and

(2) The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 14, 2009

By: /s/ William R. Abbott
William R. Abbott
Chief Financial Officer

This certification accompanies the Quarterly Report pursuant to Rule 13a-14(b) or Rule 15d-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934.

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