

AGREEMENT made on/...../20__ between TONIC HEALTH MEDIA LIMITED of Level 7, Suite 702, 10-14 Waterloo Street, Surry Hills, NSW, 2010 (ABN 48 147 968 885) (Tonic) and:

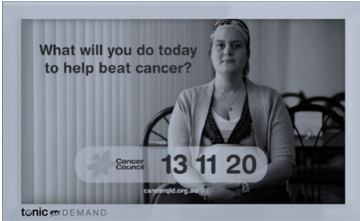


Practice/Organisation Name:

trading as: (the Practice/Organisation and you) ACN/ABN:

Street Address: Suburb: State: Postcode:

Telephone: Fax: Email Address:

TONIC PRODUCTS (tick one or more)

<p><input type="radio"/> Tonic TV Standard Tonic TV size is 32". Larger screens may be installed dependent on waiting room size, or on contract term selected</p> 	<p><input type="radio"/> Tonic Brochure Board <i>(in metro areas, Tonic Digital Panel must also be selected with this option)</i> Tonic branded brochure board displayed in waiting room containing print brochures and posters.</p> 	<p><input type="radio"/> Tonic Digital Panel <i>(only available in metro areas)</i> A silent digital panel that is mounted on the Tonic Brochure Board displaying slide-based content including posters, practice information, sponsored content and health information.</p> 
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Contract Term (select one): 3 years (32" screens); 4 years (43" screens); 5 years (50+" screens) (if none selected term will be 4 years)

Business name(s) and address(es) where Tonic Products will be displayed:
(if different to the above details)

Primary Contact/Practice Manager:

IT Contact (name, email & phone number): **How did you hear about Tonic?**

By signing this Agreement, you represent and warrant to Tonic that you have the full right, power and authority to enter into this Agreement and to perform the acts required of you and the execution of this Agreement by you, and the performance of your obligations do not and will not violate any agreement to which you are a party or by which you are otherwise bound. You also represent and warrant that the person that has signed for and on behalf of the Practice/Organisation has been properly authorised to legally bind the Practice/Organisation to the terms of this Agreement. The Practice/Organisation agrees that it will adhere to all of the terms in this Agreement.

.....
Signed for and on behalf of the Practice/Organisation by

.....
Signed for and on behalf of Tonic by

.....
Name & Office/Position

.....
Name & Office/Position

This Agreement will commence on the day it is signed by you and will continue for the term nominated above. It will be automatically extended, at the end of the initial term and each extended term, for successive further terms equal to the original term, unless either party gives written notice to the other party within the last two (2) months prior to the end of the initial term or any of the further terms. However, if Tonic, at any time during each such two month window, provides written notice to you that it wishes to extend this Agreement for a further term equal to the initial term, you agree that such two month window will immediately expire and that consequently you will not have any right to terminate this Agreement under this provision until the next two month window commences.

NOTE: Words that are *Capitalised* are defined in the Definitions section of this Agreement.

1. WHAT DOES TONIC AGREE TO DO?

Tonic agrees to:

- a. provide *Tonic Products* to you for the term of this agreement, FREE OF CHARGE, with installation, maintenance and service costs to be covered by Tonic;
- b. allow you to use *Tonic Products* for promotion of your service opening hours and your services, (time allocation is outlined further in the *Practice Advertising Guidelines*);
- c. respond promptly to issues or complaints with *Tonic Products* and provide feedback to the Practice/Organisation in keeping with our *Feedback Policy*;
- d. endeavor to provide content via *Tonic Products* that is evidence-based (where information is clinical or health related);
- e. provide Customer Care to you via phone and email during business hours; and
- f. ensure that the installation of *Tonic Products* is conducted in a professional manner.
- g. A Tonic Health Media Customer Care Specialist will contact your Practice representative to co-ordinate an installation time and date and to collect relevant Practice information
- h. Provide free of charge a Practice listing on Tonics Mydoctor.com.au website

2. WHAT ARE YOUR OBLIGATIONS?

You agree to:

- a. provide Tonic's installation contractor(s) with all access and assistance required for the installation, operation and maintenance of *Tonic Products*. They will be installed in accordance with our *Installation & Operating Procedures*.
- b. supply all power required to operate *Tonic Products* 24 hours per day throughout the year, at your sole expense;
- c. in the case of Tonic TV, ensure that the audio level set by Tonic is always maintained. For Tonic to provide Tonic TV free of charge to you, sound must be audible to ensure that health messaging reaches patients, and that sponsors recognise the full benefits of broadcast. Audio levels will be agreed and set on the day of installation with our installers and your Practice Manager. Where issues with audio levels are experienced, you agree to contact Tonic for support and resolution of the issue.
- d. in the case of Tonic TV and Tonic Digital Panel (if required), supply a stable internet connection at a minimum download and upload speed specified by Tonic, at your sole expense;
- e. The Clinic takes full responsibility in the care of Tonic equipment, ensuring that all provisions are made to ensure the equipment is not damaged, altered, removed or interfered with and *The Clinic* holds adequate contents and public liability insurance to cover loss or damage to *Tonic Products* and for personal injury or damage to property involving *Tonic Products* whilst they are on your premises;
- f. ensure that no *Competitor Product* is installed or operates at a premises where *Tonic Products* are installed under this Agreement or that may conflict with the operation of *Tonic Products*. If a *Competitor Product* is in place at the time of installation of any *Tonic Products*, you must remove that *Competitor Product* within 5 days; and
- g. notify Tonic promptly if you are dissatisfied, unhappy or have technical issues with *Tonic Products*.

3. GENERAL TERMS

- a. Tonic may alter the mix of content provided via *Tonic Products* at any time without consultation or approval from you. *Tonic Products*, where applicable, are controlled by Tonic's systems and Tonic will aim to turn them on and off in keeping with your opening and closing hours. You must keep *Tonic Products* on and operational during your business hours. Tonic remotely monitors *Tonic Products* for faults and may contact you directly for assistance in the resolution of faults. You agree to provide this assistance on request.

- b. *Tonic Products* are licensed to you by Tonic for use only under the terms of this Agreement at the location(s) specified on page 1. *Tonic Products* remain the property of Tonic and Tonic reserves all rights not expressly granted to you in this Agreement. The terms of this Agreement will govern any upgrades that replace and/or supplement *Tonic Products*.
- c. You must not reverse engineer, disassemble, modify, add to, delete, create derivative works, reproduce or duplicate any content supplied through *Tonic Products* or otherwise *Tonic Products* themselves. You must not lease, redistribute or sublicense *Tonic Products* or any part thereof. You must not connect any equipment to *Tonic Products*.
- d. TONIC will not be obliged to repaint, refinish or make good any damage to the wall on which the Tonic Brochure Board was located
- e. Tonic is entitled to serve a rectification notice on you if you fail to comply with an essential term of this Agreement, fail to comply with a non-essential term of this Agreement, become insolvent or bankrupt, close or change ownership or any person attending your premises causes *Tonic Products* to be damaged. Tonic must outline the alleged non-compliance in the rectification notice. On receiving that notice you have (2) two weeks to rectify the alleged breaches. Tonic is entitled to terminate this Agreement if the alleged breaches have not been remedied within two (2) weeks after your receipt of the notice. On the termination of this Agreement, you must cease all use of *Tonic Products* and provide Tonic with access to your premises to remove *Tonic Products*. Tonic reserves the right to pass on all associated costs (including but not limited to labor and hardware costs) of the removal of *Tonic Products* to you if you request its removal prior to the end of the term of this Agreement and/or this Agreement is terminated by Tonic due to a breach by you.
- f. If you terminate this Agreement, or Tonic terminates this Agreement due to a breach by you, then without prejudice to any other rights or remedies Tonic may have, you will pay Tonic on demand for all costs related to de-installation of each site. This provision survives the termination of this Agreement.
- g. From time to time additional services may be offered by Tonic for which a fee may be payable. These services will be optional and will not affect the operation of *Tonic Products*.
- h. Tonic and its agents disclaim any representations or warranties about *Tonic Products* including but not limited to: (a) implied warranties of merchantability and fitness for purpose; (b) the accuracy, reliability or currency of *Tonic Products*; and (c) the satisfactory compliance with government regulations in relation to goods and services displayed via *Tonic Products*. You agree to release and hold harmless and continue to release and hold harmless Tonic (its officers, employees and agents) from any loss or damage that may arise from content supplied via *Tonic Products* to any person. Tonic (its officers, employees and agents) will not be liable for any liability, loss, injury or damage, whether direct or indirect (including consequential loss and loss of profits) arising from anyone's use, inability to use or reliance on *Tonic Products* or any content delivered via *Tonic Products*. At no time shall Tonic's total liability to you exceed the cost of installing or supplying *Tonic Products* under this Agreement.
- i. This Agreement replaces all previous agreements in place between parties. No variation or waiver of any terms of this Agreement is valid unless in writing and signed by both parties. You must not assign, transfer or novate any part of this Agreement. Any clause or part of a clause of this Agreement which is void, illegal or unenforceable in any jurisdiction is void, illegal or unenforceable only to that extent in that jurisdiction. Where any clause or part of that clause is void, illegal or unenforceable it may be severed without affecting any other part of this agreement. If ownership of the Practice/Organisation changes the obligations of the Practice/Organisation under this agreement will transfer to the new owner(s). Tonic may assign, transfer or novate its rights or obligations under this Agreement and the Practice/Organisation provides its consent for Tonic to do so. Any termination of this Agreement does not affect any accrued rights or liabilities of either party, nor does it affect any provision of this Agreement that is expressly or by implication intended to continue in force after such termination. A reference to a party includes that party's employees, invitees, contractors, representatives, agents, workmen,

successors and permitted assigns. Each party warrants that it has been given the opportunity to seek independent legal advice in relation to this Agreement, and that it has either received such advice or declined to receive it, and in either event freely enters into this agreement in complete understanding of all of its terms and the effect of its terms. This Agreement shall be governed by the laws of New South Wales. You consent to the jurisdiction of the courts of New South Wales.

4. DEFINITIONS

Competitor Product: Any print, digital, audio, visual, audio-visual, TV broadcasts, displays or communication with respect to health, medicine, lifestyle, the community sector, government, NGO or other local advertising, sponsored or syndicated content, whether invented now or in the future, that may compete with *Tonic Products* for sound and viewing positions, including free to air televisions, digital panels and competitor products, at a premises where *Tonic Products* are displayed.

Ethical Advertising Guidelines: Tonic aims to supply content via *Tonic Products* in line with its Ethical Advertising Guidelines. Tonic aims for such content to meet the expectations of medical, pharmacy and other health professionals. Tonic will endeavor to not play content that promotes unhealthy lifestyle choices or products. Those Guidelines are available on our website and are subject to change.

Feedback Policy: Tonic agrees to review your feedback against its Feedback Policy, respond to the feedback by outlining the course of action to be taken, and provide you with the reasons for a final determination. You agree that where Tonic determines that no action will be taken, or where you do not agree with the actions taken, that you cannot use this as a reason to terminate this Agreement. That Policy is available on request and is subject to change.

Free of Charge No cost to the Practice

Installation & Operating Procedures: Our team will work with you to determine the optimal viewing position for *Tonic Products*. This will be an area that is highly visible to your patients. Tonic may provide more than one *Tonic TV* where the Practice is larger or where it is beneficial to customer viewing. Tonic installers will need to connect the *Tonic Products* to the internet service provided by you, if applicable. You will need to provide network passwords and other relevant network settings. Additionally, you will need to inform Tonic of any setting/password changes in advance or on request throughout the term of the Agreement. Where internet connectivity is lost by *Tonic Products* (due to network outages, network setting or password changes, or other causes), you agree to make available any required IT services and relevant passwords to reconnect *Tonic Products* to your internet service. You agree that Tonic must not be held liable for any additional fees or costs charged by your internet service provider that may have been caused by the operation of *Tonic Products*. The *Tonic Products* can only be installed and removed by a Tonic representative. Tonic reserves the right to decline installation and remove any of the *Tonic Products* if any of the following occurs:

- the Practice has less than 250 patient visits per week;
- the Practice is not open a minimum 9am to 5pm Monday to Friday inclusive; or
- if a prominent position for *Tonic Products* cannot be agreed upon by the Practice/Organisation and Tonic.

On receipt of this Agreement, a Tonic representative will contact you to gather additional information required prior to installation, including but not limited to:

- your contact details including for your IT representative;
- demographics including but not limited to estimated percentage of Patients who are female, under 15 years old, over 60 years and non-English speaking; and
- your operating hours and other information.

Practice Advertising Guidelines: You may apply to Tonic to advertise your products or services via *Tonic Products*. The terms of such advertisement will be determined at Tonic's discretion. Further details are provided in the *Practice Advertising Guidelines* which are available any time on request. Those Guidelines are subject to change.

Tonic Brochure Board: The Tonic Brochure Board (approx. 1300mm x 900mm) is attached to a highly visible and accessible wall of the Practice waiting room displaying patient information brochures and slide based content including

posters, practice information, sponsored content and health information for Practice/Organisation patients. There is no charge for the installation of the Tonic Brochure Board or the on-going visits, supply and restocking of brochures by Tonic.

Tonic Digital Display: A small-medium sized digital display (approximately 18-20" in size orientated in portrait format) that presents health information, education, news and weather, slide or animated content (without sound), and is installed as part of the Tonic Brochure Board. This product is only available free of charge in select metropolitan areas.

Tonic Products: Any one or more of *Tonic TV*, *Tonic Brochure Board* and/or *Tonic Digital Display* that we provide to you.

Tonic TV: Tonic TV is a full sight and sound, evidence-based patient education and entertainment channel broadcast via large format TV. The TV, which Tonic supplies and maintains free of charge, displays health and lifestyle content designed to increase health literacy in patients as well as advertising and sponsored content that pays for the service to be provided to you for free.