



PURCHASING AND SUPPLY SERVICES

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APPENDIX Q - Digital Accessibility Agreement (DAA)

Required for all digital tools (as identified in Appendix L - Page 1)

DIGITAL ACCESSIBILITY AGREEMENT

This Digital Accessibility Agreement (“DAA”) is part of the Agreement and ensures that digital technology is accessible to individuals with disabilities.

Capitalized terms used in this DAA have the meanings ascribed to them in this DAA. Other capitalized terms used but not defined in this DAA have the meaning ascribed to them in the Agreement.

Vendor agrees to the following terms:

1. The educational product or service was selected by PGCPS for its pedagogical value and PGCPS represents that it has the right to provide and make accessible such digital technology to individuals with disabilities for pedagogical purposes only. Vendor is expected to maintain or improve the pedagogical value of the product or service it provides to PGCPS throughout the term of the Agreement.
2. In addition to a signed copy of this contract, Vendor shall provide a signed copy of the “Vendor Letter of Commitment to Accessibility Compliance,” which is being defined as “a commitment to make continuous improvement in their product’s compliance with digital accessibility requirements outlined in Section 508 of the Rehabilitation Act of 1973, as revised and the Web Content digital accessibility Guidelines (WCAG), version 2.1, levels A and AA. PGCPS is required by the Maryland State Department of Education (MSDE) to certify that “the digital tool vendor has submitted ... [a] Letter of commitment to digital accessibility compliance....” MSDE is the regulatory agency for Education Article, § 7-910, Annotated Code of Maryland (“Commitment Letter”). The Commitment Letter shall be signed and delivered contemporaneously with the signing of this DAA.
3. To meet legislative and regulatory requirements, PGCPS is required to submit annual reports and other documentation to the Maryland State Department of Education regarding how digital tools purchased by PGCPS comply with state-level equivalent access requirements. Additionally, PGCPS is subject to the Title II rule of the Americans with Disabilities Act (ADA), titled, “Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities.” Because of these state and federal requirements, Vendors must provide PGCPS with the following information prior to the beginning of the contract:
 - a. A current and accurate Accessibility Conformance Report (ACR) as outlined in item 5 below.
 - b. A current and accurate Digital Accessibility Roadmap, as outlined in item 6b below.
 - c. A “Vendor Letter of Commitment (LOC) to Accessibility Compliance,” as outlined above. The LOC includes:
 - i. An acknowledgement that PGCPS is legislatively required to evaluate products for accessibility and that digital accessibility evaluations may require the inspection of code rendered to the Document Object Model (DOM).
 - ii. Vendor agrees that they will not initiate any repercussions or loss of licenses for DOM-level code inspection conducted during the course of an accessibility evaluation conducted by PGCPS employees or contractors.

Act (ADA), titled, “Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities.” Therefore, Vendor agrees to make annual progress toward compliance with the digital accessibility requirements in these statutes and regulations.

- a. “Digital tool” is defined in Education Article, § 7-910, Annotated Code of Maryland, as follows:
 - i. An online platform
 - ii. An online course
 - iii. Information and communication technology services, including software and operating systems, that are directly connected to student instruction
 - iv. Digital Content
 - v. Other digital technologies not requiring sight in an equally effective and integrated manner”
 - b. Progress will be measured by the Vendor’s Accessibility Conformance Report (ACR) and annual Digital Accessibility Roadmap (DAR).
5. During the term of the Agreement, for the aforementioned digital tools, Vendor shall provide PGCPs with a current, complete, and accurate Accessibility Conformance Report (ACR), using the latest version of the [International VPAT](#) from the Information Technology Industry Council (ITI). The ACR must:
- a. Be updated annually.
 - i. If there is a major release (e.g., version 1.1 to version 2.0) within the contract period, the ACR must be updated again within sixty (60) days of the release.
 - b. Reflect the version of the product being purchased as part of the contract.
 - c. Explain how the product was tested for digital accessibility, including testing with assistive technologies.
 - d. Represent all types of pages and functionality, including the digital accessibility of 3rd-party tools embedded in or used with the product.
 - e. If the ACR is being updated from a previously submitted version, it should demonstrate the elimination of digital accessibility barriers from the previous ACR.
 - f. Relevant documents should be submitted to ACR.VPAT@PGCPS.ORG.
6. The Maryland State Department of Education (MSDE) requires PGCPs to certify that “the digital tool vendor has submitted [a] detailed timeline for the product being made accessible, [and] an accessibility roadmap or plan of action with measurable milestones.” To meet this requirement, Vendor shall demonstrate their efforts toward ongoing maintenance and support for digital accessibility by:
- a. Conducting annual accessibility audits for conformance to:
 - i. WCAG 2.1, Levels A and AA or higher
 - ii. Requirements outlined under Section 508 of the U. S. Rehabilitation Act

of 1973, as revised.

- b. Provide PGCPSS with an annual Digital Accessibility Roadmap (DAR) that is based on the results of annual accessibility audits, as outlined in 6a. At a minimum, the following information must be provided in the DAR:
 - i. A description of the digital accessibility issue(s) to be addressed, including:
 1. The associated WCAG 2.1, Level A and AA success criteria.
 2. Location(s) within the product where the issue(s) exists.
 3. Current resolution status. Please choose one of the following:
 - a. Remediation of the issue is already in progress.
 - b. Research is being conducted to find a solution.
 - c. Other (please explain).
 - ii. Remediation timeline that:
 1. Defines quantifiable milestones for remediating the targeted digital accessibility issue(s) within the product.
 2. Anticipated dates when each milestone will be achieved.
 3. The DAR must be submitted to ACR.VPAT@PGCPS.ORG annually, on or before the last day of the PGCPSS fiscal year (June 30th).
7. Within 18 months after purchasing or renewing a digital tool, if PGCPSS finds that the tool fails to meet the equivalent access standards in accordance with the Agreement, PGCPSS will send a written notice to the Vendor of their failure to comply with the equivalent access standards required under the Agreement. Upon receipt of notice, Vendor, at Vendor's expense, will modify the digital tool to meet the required equivalent access standards. The timeframe for completing the modifications will be determined by PGCPSS and Vendor and will be based on the types of violations identified.
8. Vendor acknowledges that in addition to Maryland's state requirements for equivalent access, PGCPSS is subject to federal statutes and regulations governing the provision of accessible educational materials (AEM).
 - a. [NIMAS](#) stands for the National Instructional Material Accessibility Standard and is a "packaging mechanism for the delivery of print instructional materials in accessible formats for blind and other persons with print disabilities."
 - b. The federal [Individuals with Disabilities Education Act \(IDEA\)](#) has provisions to improve the quality and delivery of accessible formats and defines the types of materials for which NIMAS files can be requested.
 - c. The U.S. Department of Education's (USDOE) [2020 Final Notice](#) of Interpretation of NIMAS and Digital Materials states that digital instructional materials in the form of structured documents or publications can be accepted as NIMAS files into the National Instructional Materials Access Center (NIMAC). The National Center for Accessible Educational Materials states that [Applicable Materials](#) are "documents or publications that are formatted similar to print books, such as sections with headings, a linear reading order, and static text and images ... [and]

are not primarily or substantially composed of interactive or audiovisual content."

9. For any digital instructional materials in the form of structured documents or publications that are part of product, Vendor agrees to annually provide proof to PGcps that NIMAS-formatted files have been uploaded to the NIMAC for conversion to accessible formats. This proof must include:
 - a. The NIMAC certification for each product
 - b. The NIMAS identifier number
10. Vendor agrees to indemnify, defend and hold harmless PGcps from any costs, expenses, liabilities, or obligations arising from digital accessibility-related issues involving the digital tools provided under the Agreement. This indemnification includes the defense of any legal action or proceedings alleging non-compliance with federal or State of Maryland digital accessibility laws and regulations and payment of any resulting liabilities. This DAA will survive the termination of the Agreement.
11. Vendor understands that failing to meet the equivalent access standards established under Subsection (a)(2) of Section 508 of the federal Rehabilitation Act of 1973 or WCAG version 2.1, levels A and AA may face civil penalties stated in the Education Article, § 7-910, Annotated Code of Maryland as follows:
 - a. For a first offense, a fine not exceeding \$5,000; or
 - b. For a subsequent offense, a fine not exceeding \$10,000.
12. Vendor acknowledges that supplying third-party technology and/or content does not exempt Vendor from ensuring product compliance with the equivalent access standards established in this DAA. This includes requirements under Subsection (a)(2) of Section 508 of the federal Rehabilitation Act of 1973 and WCAG version 2.1, levels A and AA. Vendor bears sole responsibility for determining the digital accessibility of such technology and must ensure that it can be edited or remediated as necessary to comply with required digital accessibility standards and the equivalent access requirements outlined in Education Article, § 7-910, Annotated Code of Maryland and the Title II rule of the Americans with Disabilities Act (ADA), titled, "Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities."
13. In the event Vendor is in breach of any terms of this DAA, PGcps may terminate the Agreement.
14. Vendor agrees that this DAA governs the relationship between Vendor and PGcps with respect to digital technology and supersedes any Vendor DAA policies.

IN WITNESS WHEREOF, the undersigned agrees to be bound by the requirements outlined in this Digital Accessibility Agreement:

Name of Vendor Representative: _____

Title: _____

Name of Company: _____

Name of Product: _____

Date: _____

Signature: _____

For Internal Use Only

Reviewed and accepted by:

Name of PGCPS Employee: _____

Signature of PGCPS Employee: _____