

**SAMBANOVA SYSTEMS, INC.**  
**FAST API PROGRAM – TERMS OF SERVICE**

BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT FOR AN ENTITY, SUCH AS THE COMPANY YOU WORK FOR, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO SIGN FOR AND BIND SUCH ENTITY TO THE TERMS OF THIS AGREEMENT.

This *Fast API Program – Terms of Service* (“Agreement”) is entered into by SambaNova Systems, Inc., a Delaware corporation, with offices at 2200 Geng Road, Suite 100, Palo Alto, CA 94303 (“SambaNova”, “us” or “we”), and the entity or person agreeing to these terms (“Customer” or “you”). This Agreement includes any Order Forms that reference this Agreement, including any attachments, addenda or exhibits thereto, and governs your access to and use of the Services. The “Effective Date” of this Agreement is the date of the first Order Form referencing this Agreement.

We may modify this Agreement from time to time. Unless otherwise specified by us, such changes become effective for you upon renewal of a Subscription Term or entry into a new Order Form, which renewal or Order Form may require you to accept or otherwise agree to the most recent version of this Agreement, or such other terms and conditions applicable to such Order Form.

## **1. USE OF SERVICE**

1.1. Service Provision and Access. We will make the Service available to you for the Subscription Term solely for use by Customer, including its authorized Users, in accordance with this Agreement, the Documentation, and the Order Form. Any use of the Service by a User must be solely for the benefit of Customer, and Customer shall be responsible for each User’s compliance with this Agreement. You must implement and use reasonable and appropriate measures to help secure your use of the Services. If you discover any vulnerabilities or breaches, you must promptly inform us and provide us details of such.

1.2. Compliance with Applicable Laws; Personal Data. As a generally available cloud compute service, we will provide the Services in accordance with our obligations under laws applicable to our Services generally, and without regard to your specific and particular use of the Services. If you use the Services to process personal data, or any other specified types of data requiring compliance with any applicable laws or regulations, you represent to us that you have established and maintained any such compliance, and have provided all applicable privacy notices and obtained necessary consents to process such data using the

Services, and that you are processing such data using the Services in accordance with all applicable law. You understand and agree that we are not responsible for establishing, providing, obtaining, or maintaining any such compliance, notices and/or consents, and that we may not have done so.

1.3. General Restrictions. Customer, including any User, will not (and will not permit any third party to): (a) copy, modify, or create a derivative work of the Services; (b) reverse engineer, disassemble or decompile any Service or otherwise seek to obtain the source code of any software included in the Service (except to the extent such restriction is prohibited by applicable law); (c) sell, resell, rent, sublicense, transfer or otherwise make available any Service to a third party or in a service bureau or outsourced offering; (d) remove or obscure any proprietary or other notices contained in any Service; (e) use the Services in violation of any applicable law; (f) access or use the Services for the purposes of designing or developing a competing product or service; or (g) without our prior written consent, publish or disclose information or results relating to capabilities, performance, performance comparisons or other “benchmarking” activities relating to the Services or our infrastructure.

## **2. CUSTOMER CONTENT**

2.1. Customer Content. As between the parties, Customer or its licensors retain all right, title and interest in and to the Customer Content. You will ensure that Customer Content and its use in our Services do not violate any applicable law or breach any applicable contract or license. Subject to the terms of this Agreement, you hereby grant to SambaNova and its Affiliates a non-exclusive, worldwide, royalty-free right to process the Customer Content solely to the extent necessary to provide the Services to you or as may be required by law. You represent and warrant to us that you have all rights in Customer Content necessary to grant the rights contemplated herein.

2.2. Customer is responsible for any consents and notices required to permit Customer’s use and receipt of the Services and our accessing, storing and processing of any content or data provided by you under this Agreement.

### 3. PRICING; FEES & PAYMENT; TAXES

3.1. Pricing. Pricing for Services is typically structured as a finite amount of “compute credits” or “tokens” that must be consumed during a Subscription Term. Any compute credits or tokens not consumed by the end of the Subscription Term will expire. Additional or different terms may apply, which, if any, will be included in the Order Form.

3.2. Fees & Payment. All Fees and payment terms are as set forth herein or in the applicable Order Form. Except as expressly set forth in this Agreement, all payment obligations are non-cancelable, and Fees are non-refundable. Any purchase orders issued by you are for your internal purposes only, and SambaNova rejects any such purchase orders. Late payments may bear interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) from the payment due date until fully paid. Customer will be responsible for all reasonable expenses (including attorneys’ fees) incurred by us in collecting any delinquent amounts.

3.3. Taxes. Fees do not include Taxes. Customer is responsible for paying all Taxes associated with its purchases, and will pay SambaNova for Services without any reduction for Taxes. If SambaNova is obligated to pay or collect Taxes, the Taxes will be invoiced to Customer and Customer will pay such Taxes, unless Customer provides SambaNova with a timely and valid tax exemption certificate. If required under applicable law, Customer will provide SambaNova with applicable tax identification information to ensure its compliance with applicable laws and regulations.

### 4. TERM; TERMINATION; SUSPENSION

4.1. Term of Agreement. The “Term” of this Agreement begins on the Effective Date and will remain in effect until terminated in accordance with the terms herein. If there is no Order Form in effect, either party may terminate this Agreement upon written notice to the other party. Each Order Form will terminate upon expiration of the applicable Subscription Term, unless expressly stated otherwise in the Order Form or this Agreement.

4.2. Term of Order Form. The initial term of an Order Form begins on its subscription start date, as indicated in the Order Form, and ends on the last day of the subscription duration. Compute credits and tokens are non-transferrable and expire at the end of the applicable Subscription Term. Unused compute credits or tokens do not rollover to subsequent Subscription Terms (if any are agreed to). Additional compute credits or tokens may be purchased for a then current Subscription Term or for future Subscription Terms (if any are agreed to) by entering into additional Order Forms.

4.3. Termination for Cause. Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay Fees) within 30 days after written notice; (b) ceases

operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors’ arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party and is not dismissed within 60 days.

4.4. Effect of Termination. Upon termination or expiration of this Agreement or an applicable Order Form, (a) all rights and access to the Services shall cease and terminate, and (b) all Fees owed by you to SambaNova are immediately due upon receipt of the final invoice by Customer.

4.5. Survival. The following Sections will survive any expiration or termination of this Agreement: 1.3 (General Restrictions), 3 (Pricing; Fees & Payment; Taxes), 4 (Term & Termination), 5 (Intellectual Property), 6 (Confidential Information), 7.2 (Disclaimer), 9 (Indemnification), 10 (Limitation of Liability), 11 (General Terms), and 12 (Definitions).

4.6. Suspension of Service. We may suspend provision of Services if (a) you are 30 days or more overdue on a payment, (b) we deem such suspension necessary as a result of your breach of the terms of this Agreement, (c) we reasonably determine suspension is necessary to avoid material harm to us or our other customers, or (d) such action is required by law or at the request of governmental entities.

### 5. INTELLECTUAL PROPERTY

5.1. SambaNova Technology. Except for the express limited rights set forth in this Agreement, no right, title or interest in any SambaNova intellectual property is granted to Customer, implied or otherwise. Customer acknowledges that the Services are offered as an online, hosted solution, and that Customer has no right to obtain a copy of the underlying computer code for any Service.

5.2. Service Usage Data. We may collect and use query logs, and any data (but not Customer Content) relating to the operation, support and/or use of the Services (“Service Usage Data”) to provide administration services, develop, improve, support, and operate our products and services, or to investigate fraud, abuse or violations of this Agreement.

**6. CONFIDENTIAL INFORMATION.** You may be given Confidential Information of SambaNova, its affiliates or other third parties. Customer agrees to use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by us in writing, limit access to Confidential Information to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with Customer containing protections not less protective of the Confidential Information than those herein. If Customer is required by law or court order to disclose

Confidential Information, then Customer shall, to the extent legally permitted, provide us with advance written notification and cooperate in any effort to obtain confidential treatment of the Confidential Information. Customer acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such violation by Customer, we will be entitled to seek appropriate equitable relief in addition to any other remedies available at law.

## 7. REPRESENTATIONS & WARRANTIES

7.1. Mutual Representations & Warranties. Each party represents and warrants that (a) it has validly entered into this Agreement and has the legal power to do so; and (b) it will comply with all laws and regulations applicable to its provision, receipt, or use of the Services, as applicable.

7.2 Disclaimer. THE SERVICES ARE PROVIDED “AS IS.” SAMBANOVA, INCLUDING ITS AFFILIATES AND PERSONNEL, MAKES NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ERROR-FREE OR UNINTERRUPTED USE OF THE SERVICES OR THAT ANY CUSTOMER CONTENT WILL BE SECURE OR NOT LOST, DESTROYED OR ALTERED.

## 8. MARKETING; FEEDBACK.

8.1. Marketing. Customer agrees that we may use Customer’s name, logo and trademarks to identify Customer as a customer of ours for marketing or promotional purposes. Customer and SambaNova may, at their sole discretion, participate in joint marketing efforts, including but not limited to web marketing, social media outreach, joint collateral and documentation development, and event participation.

8.2. Feedback. In our efforts to continually improve our offerings, during the Term and upon our reasonable request, Customer agrees to provide feedback and suggestions to SambaNova on the Fast API Program and the Services. We may use such feedback and suggestions without any restriction or obligation to you.

9. **INDEMNIFICATION.** Customer will defend SambaNova against any claim arising from or relating to Customer’s use of the Services, any Customer Content or Customer specifications and requirements used in connection with the Service, and any breach by Customer of the terms of this Agreement, and will indemnify and hold harmless SambaNova from and against any damages and costs (including reasonable attorneys’ fees) resulting from any such claims.

10. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW: (A) SAMBANOVA, NOR ITS AFFILIATES, SHALL BE LIABLE TO CUSTOMER OR ITS AFFILIATES FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES OF ANY KIND, OR LOSS OF USE, LOST OR INACCURATE DATA, INTERRUPTION OF BUSINESS, COSTS OF DELAY, OR LOST PROFITS, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE; (B) SAMBANOVA’S AND ITS AFFILIATES’ TOTAL AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO SAMBANOVA DURING THE 3 MONTH PERIOD BEFORE THE EVENT GIVING RISE TO LIABILITY AND; (C) THIS SECTION 10 WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

## 11. GENERAL TERMS

11.1. Assignment. This Agreement will bind and inure to the benefit of each party’s permitted successors and assigns. Neither party may assign this Agreement without the advance written consent of the other party, except that either party may assign this Agreement in its entirety in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of such party’s assets or voting securities to such party’s successor; and SambaNova may assign this Agreement in its entirety to any Affiliate. Each party shall promptly provide notice of any such assignment. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section will be null and void.

11.2. Severability. If any provision of this Agreement is deemed to be unenforceable or invalid, the rest of the Agreement will remain in effect.

11.3. Governing Law; Jurisdiction and Venue. This Agreement will be governed by California law, without regard to conflicts of laws provisions thereof. The jurisdiction and venue for litigation related to the subject matter hereof will be the state and federal courts located in Santa Clara County, California and both parties hereby submit to the personal jurisdiction of such courts.

11.4. Notice. Any notice or communication required or permitted under this Agreement will be in writing to the parties at the addresses set forth in this Agreement or at such other address as may be given in writing by either party to the other in accordance with this Section and will be deemed to have been received by the addressee: (a) if given by hand, immediately upon receipt; (b) if given by overnight courier service, the first business day following dispatch; (c) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail; or (d) if given by email, immediately upon receipt of the email by such recipient.

11.5. Amendments; Waivers. No supplement, modification, or amendment of this Agreement will be binding unless executed in

writing by a duly authorized representative of each party to this Agreement, except as otherwise expressly set forth in this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative of the party providing the waiver.

11.6. Entire Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

11.7. Third Party Beneficiaries. There are no third-party beneficiaries under this Agreement.

11.8. Force Majeure. Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay Fees) if the delay or failure results from any cause beyond such party's reasonable control, including but not limited to acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, public health emergencies pandemics and epidemics), acts or orders of government, acts of terrorism, or war.

11.9. Independent Contractors. The parties to this Agreement are independent contractors. No agency, partnership, or joint venture is created between the parties under this Agreement.

11.10. Export Control. Customer agrees to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (i) Customer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (ii) Customer will not (and will not permit any third parties to) access or use any Service in violation of any U.S. export embargo, prohibition or restriction, and (iii) Customer will not submit to any Service any information that is controlled under the U.S. International Traffic in Arms Regulations.

**12. DEFINITIONS.** Terms not otherwise defined in this Agreement shall have the following meanings:

"Affiliate" means an entity that, directly or indirectly, owns or controls, is owned or is controlled by, or is under common ownership or control with a party.

"Confidential Information" shall mean all information that is identified as confidential at the time of disclosure or should be reasonably known to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. All SambaNova Technology will be

deemed Confidential Information of SambaNova without any marking or further designation.

"Customer Content" means software, data, text, audio, video or images, or any artificial intelligence or machine learning model or algorithm that you or any User transfers to us for processing, storage or hosting by the Services and any computational results that you or your Users derive from the foregoing through their use of the Services, including machine learning model weights and biases you derive via model training on the Services.

"Documentation" means our technical documentation for the applicable Service.

"Fees" means the fees payable by Customer for the applicable Service, as set forth in an Order Form.

"Order Form" means the SambaNova ordering document (and/or an SOW, if applicable) executed by the parties, which specifies the Services being provided by us and is governed by this Agreement. Without limiting the foregoing, an Order Form may be created by means of a click-through agreement incorporating these terms and conditions.

"Service" means a SambaNova software-as-a-service offering made generally available and ordered by Customer as set forth in an Order Form.

"Subscription Term" means the set time period designated on an Order Form for the provision of a Service.

"Taxes" means taxes, levies, duties or similar governmental assessments of any nature, including, for example, any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, or assessed by any jurisdiction, but excluding any taxes based on net income, property, or employees of SambaNova.

"User" means the persons designated and granted access to the Service by or on behalf of Customer.