UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE PROTECT DEMOCRACY PROJECT, INC., *Plaintiff*, v. OFFICE OF THE NATIONAL CYBER DIRECTOR, et al., *Defendants*.	Civil Action No.

DECLARATION OF TOM CHAVEZ IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

I, Tom Chavez, declare as follows pursuant to 28 U.S.C. § 1746:

I. BACKGROUND AND QUALIFICATIONS

1. I am a Founding General Partner of super{set}, a startup studio headquartered in San Francisco, California, that conceives, co-founds, builds, and invests in companies centered on data management and artificial intelligence. I make this declaration in my personal capacity and in my capacity as a general partner of super{set}, based on my personal knowledge and more than twenty-five years of experience building and investing in data and AI companies. If called as a witness, I could and would testify competently to the matters stated herein.

2. Before co-founding super{set}, I was the co-founder and chief executive of two data-technology companies that were acquired by major public companies: Rapt, acquired by Microsoft in 2008, and Krux, acquired by Salesforce in 2016. I also co-founded Habu, a data-collaboration company acquired by LiveRamp in 2024. At super{set}, I am responsible for

deciding at the earliest stage whether an AI business should be created, based on whether the team, technology, market, and timing justify committing capital and years of work to building it.

3. This declaration takes no position on what substantive AI policy the federal government should adopt or on the conduct of any company. It explains, from the vantage point of an investor and repeat founder in the AI sector, why the ability to understand the actual regulatory landscape is a precondition to investing properly, why the secrecy of the federal framework at issue makes that precondition impossible to satisfy today, and why, based on my own experience operating under demanding but public regulatory regimes, capital demands clarity and abhors secrecy.

II. INVESTING IN AI COMPANIES REQUIRES UNDERSTANDING THE ACTUAL REGULATORY LANDSCAPE

4. Every serious investment in this sector begins with underwriting the environment the company will operate in. At super{set}, that analysis happens at the moment of conception. One of the core questions we must answer before founding any company is the timing thesis — why now — which requires understanding, among other things, what rules govern the technology the company will build on, what approvals or reviews stand between its product and its customers, and how those requirements are trending. We commit capital and people to a company for a horizon of many years, and the regulatory landscape is a critical factor in that analysis.

5. Companies of the kind super{set} builds sit atop the frontier models that the federal framework governs. Their products are built on top of those models, and their viability depends on the models' continued availability, capability, and terms of access. The regulatory landscape that matters to our investment decisions is therefore not only the rules that would apply to our companies directly, but the regime that governs the platforms beneath them.

III. I HAVE BUILT COMPANIES UNDER DEMANDING REGULATION. THIS IS DIFFERENT.

6. My career has spanned the modern data-regulation era. The companies I built and led operated through the arrival of sweeping data-privacy regimes in Europe and the United States. Those regimes imposed substantial obligations on exactly the kind of data businesses I ran. They were also public: their texts were published, their requirements could be read, their trajectories could be analyzed, and businesses could be designed to meet them. Entrepreneurs and investors are creative. They can work in markets with published regulations. They cannot function in markets with rules that are unknown.

7. Public rules do not merely permit investment; they create it. Entire categories of companies, including some that I co-founded, exist because published regulatory requirements defined a problem the market could organize to solve. When a rule is public, a company can be built to help others comply with it, measure against it, or serve the customers it protects. When a rule is secret, none of that is possible. There is no specification to build to, no requirement to serve, and no way to know whether the business you are conceiving is aligned with the regime or unknowingly in conflict with it.

8. In more than twenty-five years in this industry, I have never before been asked to make investment or company-creation decisions in a sector whose operative federal framework cannot be read by anyone outside government and a set of undisclosed participants. Regulation is a normal input to my work. Secret regulation is not regulation as investors understand the term, and therefore cannot be subject to analysis.

IV. THE UNDISCLOSED FEDERAL REVIEW REGIME

9. Based on public reporting and government statements, I understand the following: (a) an executive order issued June 2, 2026 established a framework under which “covered frontier models” are identified through a classified benchmarking process and reviewed by federal agencies before release; (b) an administration official has stated that a voluntary disclosure and

pre-release review framework required by that order was completed by August 1, 2026, but the government has declined to release the framework's text, the identity of participating companies, or its legal basis; (c) in June 2026, export-control directives resulted in worldwide suspension of public access to leading frontier models, with restored access to one model initially limited to approximately 100 organizations identified in a non-public annex; and (d) a multi-agency initiative announced July 14, 2026 ("GOLD EAGLE") coordinates AI-related cybersecurity information sharing between the government and industry under undisclosed terms of participation.

V. CONCRETE EFFECTS ON INVESTMENT AND COMPANY CREATION

10. First, conception-stage decisions are being made blind. The timing thesis that must precede founding any AI company now includes an unanswerable question: what does the operative federal framework require of the models this company will depend on, and could this company or its model provider be subjected to review, restriction, or selective access under criteria no one can read? As an example, my firm has conceived and launched a new offering for model routing and optimization, essential software for businesses in sectors like healthcare, consumer packaged goods, and financial services seeking to apply the right frontier model to the right task in real time. The technology critically depends on awareness and understanding of the models themselves — their inputs, outputs, benchmarks, and performance. The opacity created since June 2026 severely impedes our ability, and the ability of our competitors, to deliver this critical AI infrastructure for enterprises urgently crying out for it. Importantly, a single frontier model cannot reliably deliver this capability because, by its very design, the solution requires a spanning approach to interoperate across all frontier models in the emerging oligopoly.

11. Second, the executive actions in June 2026 converted this from an abstract concern into a demonstrated event risk. A directive removed leading frontier models from the worldwide

market on roughly ninety minutes' notice; access to one model was then restored only to approximately 100 organizations on a non-public list. Every company we build on top of a frontier model now carries the risk that its foundational input can be shut off or selectively rationed without warning, under undisclosed criteria. There is no diligence method that prices that. The June 2026 suspension has hampered the product planning functions in super{set}'s portfolio companies. We need clarity and precision to operate effectively, and we need it now.

12. The third effect is the one I would most emphasize as someone whose business is creating new companies: a secret regime structurally favors incumbents over new entrants. The companies that know the framework's contents are, by definition, the established participants inside it. The organizations on the non-public access list were selected through a process no outsider can compete in, because no outsider can see the criteria. Early-stage startups do not have government-relations departments or seats at undisclosed tables. When the rules of a sector are distributed privately to insiders, capital formation for challengers is chilled in a way that published regulation never produces. The result, over time, is a sector whose structure is set by access rather than by fair market competition. That is bad for investors, worse for founders, and worst for the customers new entrants would otherwise serve. The historical record is clear: such Soviet-era methods stifle innovation, freeze capital, and stall markets.

VI. WHY DISCLOSURE IS URGENT

13. Company creation does not wait. super{set} is evaluating and committing to new company concepts on an ongoing basis. Financing and build decisions across our portfolio proceed on timelines of weeks and months, *particularly in the fast-moving AI era*, and public reporting indicates frontier model releases are moving through the secret framework's review now, while the statutory authorities underlying related programs face a September 30, 2026 sunset absent congressional reauthorization. We are on the cusp of financing two new AI-first,

seed-stage companies and forming a new company in our studio to help enterprises create and deploy custom AI solutions — well before ordinary FOIA timelines produce these records. Operating in the dark, as we are now, is not sustainable.

14. Decisions of this kind are not reversible. A company not founded because its regulatory environment could not be underwritten is simply never founded; a build committed to the wrong assumptions cannot recover the lost years. Disclosure that arrives after the sector's formative period cannot restore the decisions made blind in the interim. We cannot claim revenue or capital from the government as companies affected by this Administration's tariffs have done after they were rescinded. For the work I do, delayed disclosure is not a lesser remedy, it's the deprivation of one.

15. No party to this litigation compensated super{set} or me for this declaration, and its contents are my own.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 31st, 2026, at San Francisco, California.

Signed by:
Tom Chavez
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Tom Chavez
Founding General Partner, super{set}