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*Proposed Counsel to the Official Committee
of Unsecured Creditors*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

BENITAGO INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-11394 (SHL)

Jointly Administered

**CERTIFICATE OF NO OBJECTION REGARDING THE MOTION OF THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS FOR ENTRY OF AN ORDER
ESTABLISHING INFORMATION SHARING PROCEDURES IN COMPLIANCE WITH
SECTIONS 105(A), 107(B), 1102(B)(3) AN 1103(C) OF THE BANKRUPTCY CODE**

Pursuant to 28 U.S.C. § 1746 and Rule 9075-2 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”), the Official Committee of Unsecured Creditors (the “**Committee**”) certifies as follows:

1. On or about August 30, 2023, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) each filed a voluntary petition under chapter 11 of title

¹ The last four digits of Benitago Inc.’s tax identification number are 4084. Due to the large number of debtors in these chapter 11 cases, a complete list of the debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' claims and noticing agent at <https://cases.stretto.com/benitago>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 1 Liberty Street, Ste. 320, New York, New York 10006.

11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York.(the “**Court**”).

2. On October 11, 2023, the Committee filed the *Motion for Entry of an Order Establishing Information Sharing Procedures in Compliance with Sections 105(a), 107(b), 1102(b)(3) And 1103(c) of the Bankruptcy Code* [Dkt. No. 85] (the “**Motion**”) with a notice of hearing setting the hearing to consider the Motion for October 30, 2023 (the “**Notice of Hearing**”).

3. On October 11, 2023, true and correct copies of the Notice of Hearing, the Motion, and a proposed order approving the Motion attached as Exhibit A to the Motion were served, as reflected in the *Certificate of Service* [Dkt. No. 86] filed by the Committee.

4. Objections or responses to the Motion and the relief requested therein were due on or before October 23, 2023 at 4:00 p.m. (prevailing Eastern Time) (the “**Objection Deadline**”).

5. Local Rule 9075-2 provides that a motion may be granted without a hearing if (a) no objections or other responsive pleadings have been filed or served on or before 48 hours after the relevant objection deadline, and (b) the attorney for the entity that filed the motion complies with the relevant procedural and notice requirements.

6. As of the filing of this Certificate, more than forty-eight (48) hours have elapsed since the Objection Deadline, and, to the best of my knowledge, no responsive pleading to the Motion has been: (a) filed with the Court on the docket of the above-captioned chapter 11 cases; or (b) served on or received by the Committee or its proposed counsel.

7. Accordingly, the Committee respectfully requests entry of an order, substantially in the form of the proposed order attached hereto as **Exhibit A**, granting the relief requested in the Motion at the Court’s earliest convenience.

Dated: October 26, 2023
New York, New York

Respectfully submitted,

/s/ Douglas Mannal

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*Proposed Counsel to the Official Committee of
Unsecured Creditors*

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

BENITAGO INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-11394 (SHL)

Jointly Administered

**ORDER ESTABLISHING INFORMATION SHARING PROCEDURES FOR
COMPLIANCE WITH SECTION 1102(B)(3) OF THE BANKRUPTCY CODE BY THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

Upon consideration of the *Motion of the Official Committee of Unsecured Creditors for Entry of an Order Establishing Information Sharing Procedures in Compliance with Sections 105(a), 107(b), 1102(b)(3) and 1103(c) of the Bankruptcy Code* (the “**Motion**”);² and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that notice of the Motion was reasonable and sufficient under the circumstances, and it appearing that there is good cause to grant the relief requested therein; it is HEREBY ORDERED that:

1. Notice of the Motion as provided for therein is sufficient and further notice is waived pursuant to Fed. R. Bankr. P. 9006.

2. The Motion is granted, as set forth herein.

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² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

3. The following Information Sharing Procedures are approved and deemed in satisfaction of the obligations of the Committee, its members and their respective advisors, representatives, affiliates, counsel, and advisors (the “**Committee Parties**”), under section 1102(b)(3) of the Bankruptcy Code:

- a. The Committee will cause such information that it deems necessary to keep unsecured creditors informed of the status of these Chapter 11 Cases to be made available at the website maintained by the Debtors’ Claims and Noticing Agent: **<https://cases.stretto.com/benitago/>**. The website will serve as a source for unsecured creditors to obtain information and enable the Committee to solicit and receive comments from unsecured creditors.
- b. The Committee will also establish and maintain a designated email address at **BenitagoDechertTeam@dechert.com**, to be monitored by the Committee’s counsel, to enable unsecured creditors to submit questions or comments regarding these Chapter 11 Cases.
- c. If an unsecured creditor (a “**Requesting Creditor**”) submits a written request to the Committee for the Committee to disclose information (an “**Information Request**”), the Committee shall as soon as practicable under the circumstances, but no more than twenty (20) calendar days after receipt of the Information Request, provide a response to the Information Request. The Response will provide access to the information requested and/or, where applicable, state why the Committee will not provide all, or a subset, of the information requested. The Response will be made by the Committee’s counsel. As part of the Information Sharing Procedures, the Committee and its counsel will not provide individualized legal

advice to a Requesting Creditor and any response provided to an Information Request will not be intended as individual professional counsel or advice and should not be used as such.

- d. If an Information Request implicates Confidential Information of the Debtors (or of any other entity) and the Committee agrees that such Information Request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to unsecured creditors, the Committee may make a demand (a “**Demand**”) for the benefit of the unsecured creditors as follows: (i) if the Confidential Information is information of the Debtors, by submitting a written request to the Debtors; counsel, requesting that such information be disclosed; and (ii) if the Confidential Information is information of another party, by submitting a written request to such party and its counsel of record requesting that such information be disclosed, with a copy to the Debtors’ counsel. If the Debtors or the party to which the Demand is directed do not agree in writing within ten (10) calendar days after receipt of the Demand to disclose such information, the Committee or the Requesting Creditor may file a motion (under Bankruptcy Rule 2004 or other appropriate basis) seeking a ruling with respect to the Demand, with respect to which the Debtors and/or the party receiving the Demand (as applicable) reserve all rights. The Debtors or such party, as applicable, may file an objection to such motion, including on the basis that any information provided to creditors should be done so only pursuant to an order of the Court requiring that such information remain confidential.

4. The Committee is not authorized or required to provide creditors with access to Confidential information or Privileged information.

a. The term “**Confidential Information**” shall mean all (a) information, documents, and matters disclosed to the Committee Parties, whether oral or written, which (x) constitute or contain nonpublic proprietary or confidential, technical, business, financial, personal or other information of a nature that can be protected under the Federal Rules of Bankruptcy Procedure or the Federal Rules of Civil Procedure or (y) are subject by law or by contract to a legally protected right of privacy; (b) information or documents generated by the Committee Parties for the sole use of or dissemination to the Committee; and (c) Committee discussions and any memorialization thereof. Notwithstanding the foregoing, Confidential Information shall not include any information (i) that is available to or was in the possession of the Committee on a non-confidential basis prior to the receipt of such information or (ii) that is or becomes publicly available.

b. The term “**Privileged Information**” shall mean any information subject to the attorney-client or other privilege, whether such privilege is controlled by the Committee or another party.

5. The Committee Parties shall not incur any liability to any entity (including the Debtors) for acts taken or omitted with respect to its obligations under section 1102(b)(3) of the Bankruptcy Code as long as the Committee has acted in compliance with the procedures set forth herein, any applicable confidentiality agreement, and the Protective Order; provided, however, that the foregoing shall not preclude or limit the right of any creditor to move before the Court for an order requiring the production of other or further information, to the extent available, and

provided further that nothing herein shall limit the Committee's liability for acts or omissions constituting gross negligence or willful misconduct.

6. Entry of this Order is without prejudice to the rights of the Committee to seek a further order of the Court addressing any additional relief concerning compliance with section 1102(b)(3) of the Bankruptcy Code.

7. The Committee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

8. Nothing in this Order shall diminish or otherwise modify the obligations of the Committee or its members under the Protective Order.

9. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: _____, 2023
New York, New York

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE