

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARSULEX ENVIRONMENTAL TECHNOLOGIES,	:	CIVIL NO.: 1:15-CV-00269
	:	
	:	
Plaintiff,	:	
v.	:	(Chief Magistrate Judge Schwab)
	:	
SELIP S.P.A.,	:	
	:	
	:	
Defendant.	:	

ORDER

March 27, 2017

Upon consideration of Defendant's second motion to dismiss, and for the reasons set forth in the accompanying memorandum (*doc. 49*), **IT IS HEREBY ORDERED** that said motion (*doc. 42*) is **GRANTED IN PART AND DENIED IN PART**. To the extent that Selip moves to dismiss the amended complaint in its entirety, the motion is **DENIED**. Provision 27 of the terms and conditions to the parties' Purchase Order is not an exculpatory clause; it is a limitation of liability clause. The provision does not exempt or otherwise immunize either party from any particular cause or causes of action. Rather, it merely limits the type of damages that the parties can recover against one another. To the extent, however, that Selip moves to dismiss Count I of the amended complaint, the motion is

GRANTED. Plaintiff may not recover in tort for economic losses suffered as a result of harm or injury to property that it does now own. Thus, Count I of the amended complaint, alleging strict liability, is **DISMISSED** from this action.

S/Susan E. Schwab

Susan E. Schwab

United States Chief Magistrate Judge