

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EUROTEC VERTICAL FLIGHT	§	
SOLUTIONS, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 3:15-CV-3454-B
	§	
TURBOMECA, S.A., TURBOMECA	§	
USA, INC., TURBOMECA CANADA,	§	
INC., SAFRAN S.A., and SAFRAN	§	
USA, INC.,	§	
	§	
Defendants.	§	

ORDER

Before the Court is Defendants' Motion to Compel Arbitration and Stay Proceedings (Doc. 24) [hereinafter Defs.' Mot.] and Plaintiff's Motion to Refer Issues of Arbitrability to Arbitration and Stay Action Pending Arbitrators' Decision on Arbitrability (Doc. 34) [herinafter Pl.'s Mot. and Resp.]. For the following reasons, the Court: (1) **GRANTS** Defendants' Motion; and (2) **GRANTS** in part and **DENIES** in part Plaintiff's Motion.

The parties base their arguments on an arbitration provision found in the Maintenance Authorization Agreement (MAA) signed by Plaintiff EuroTec Vertical Flight Solutions, LLC (EuroTec) and Defendant Turbomeca USA, Inc.¹ The parties agree that in the relevant contract

¹ Doc. 24-1, MAA 11. Although only Turbomeca USA, Inc. entered into the MAA, all Defendants have joined in Defendants' Motion to Compel Arbitration. Doc. 31, Defs. Turbomeca S.A., Safran S.A., and Turbomeca Canada, Inc.'s Mot. to Dismiss 16; Doc. 38, Defs.' Resp. 2 n.2. And, as Defendants note, the issue of whether non-signatories fall under the applicability of the arbitration provision is a matter to be determined by the arbitration panel. Doc. 34, Defs.' Mot. 8.

there is an agreement to arbitrate, the arbitration agreement is valid and enforceable, there is a delegation clause in the arbitration agreement, and the case should be stayed and referred to arbitration. Doc. 34, Pl.'s Mot. and Resp. 2–3; Doc. 38, Defs.' Resp. 2–3. Their disagreement concerns the effect of the delegation clause.

Before turning to the parties' arguments, the Court first concludes that there is a valid and enforceable delegation clause directing the Court to compel issues of arbitrability to arbitration. In *Kubala v. Supreme Production Services*, the Fifth Circuit compared the language of an arbitration agreement to the language analyzed by the Supreme Court in *Rent-A-Center, W., Inc. v. Jackson*. —F.3d—, No. 15-41507, 2016 WL 3923866, at *4 (5th Cir. July 20, 2016) (citing *Rent-A-Center, W., Inc. v. Jackson*, 561 U.S. 63, 66 (2010)). It determined that the parties had a valid and enforceable delegation clause because the language used was similar. *Id.* After comparing the MAA with the language in *Kubala* and *Rent-A-Center*, the Court similarly determines that the arbitration provision contains a valid and enforceable delegation clause.²

Regarding the effect of the delegation clause, both parties rely on *Kubala*, which found that if there is a valid delegation clause in a contract, a court is required “to refer a claim to arbitration to allow the arbitrator to decide gateway arbitrability issues.” 2016 WL 3923866, at *2 (citing *Rent-A-Center*, 561 U.S. at 68–69). Plaintiff asserts that *Kubala* stands for the proposition that a court can

² In *Rent-A-Center*, the Supreme Court held the following was a valid delegation clause: “The Arbitrator . . . shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, [or] enforceability . . . of this Agreement.” 561 U.S. at 66. In *Kubala*, the Fifth Circuit came to the same conclusion with this clause: “The arbitrator shall have the sole authority to rule on his/her own jurisdiction, including any challenges or objections with respect to the existence, applicability, scope, enforceability, construction, validity and interpretation of this Policy.” 2016 WL 3923866, at *4. Here, the language in the MAA includes: “[T]he interpretation or validity . . . including the determination of the scope of applicability of this Agreement to arbitrate, shall be finally determined by binding arbitration.”

initially refer only arbitrability issues when there is a valid delegation clause. Doc. 34, Pl.'s Mot. and Resp. 6. Defendants, on the other hand, contend that the process is less complex in that arbitrability is one issue among many that must be referred to arbitration when a court is faced with a valid delegation clause. Doc. 38, Defs.' Resp. and Reply 5-6.

The Court agrees with Defendants. Thus, the Court **ORDERS** the parties to submit their dispute to the American Arbitration Association as provided by the arbitration clause contained in the April 30, 2010 Maintenance Authorization Agreement that EuroTec signed with Turbomeca USA, Inc. The action is **STAYED**, and the Clerk of Court is instructed to administratively close this case pending arbitration. The Parties are **ORDERED** to provide joint status updates every four months, with the first report due on **December 29, 2016**.

SO ORDERED

SIGNED: September 29, 2016.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE