



INSTITUT D'ESTUDIS ESPACIALS DE CATALUNYA

REGULATIONS ON INTELLECTUAL AND INDUSTRIAL PROPERTY

November 2020

CONTENTS

CONTENTS.....	2
PREAMBLE.....	3
TITLE I. PURPOSE AND DEFINITIONS.....	5
Article 1. Purpose and scope of application	5
Article 2. Definitions	5
TITLE II. OWNERSHIP OF RESEARCH RESULTS, THE INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS ARISING FROM THEM, AND EXPLOITATION RIGHTS	6
CHAPTER I. IEEC'S OWN RESEARCH	6
Article 3. Ownership of the Institute's Research Results	6
Article 4. Ownership of Industrial Property rights	6
Article 5. Ownership of Intellectual Property rights	6
Article 6. Moral rights of authorship of the Institute's Research Staff.....	7
Article 7. Obligation to acknowledge the Institute.....	7
CHAPTER II. RESEARCH PROJECTS DEVELOPED JOINTLY WITH OTHER ENTITIES OR UNITS	8
Article 8. Research Results obtained through Research projects developed in collaboration with third parties	8
Article 9. Research Results obtained with the participation of Affiliated Staff.....	8
TITLE III. MANAGEMENT AND EXPLOITATION OF RESEARCH RESULTS	8
Article 10. Management of the protection of Research Results	8
Article 11. Notification and cooperation by IEEC Research Staff.....	9
Article 12. Confidentiality and disclosure of Research Results	9
Article 13. Relinquishment of Industrial or Intellectual Property rights	10
TITLE IV. EXPLOITATION OF RESEARCH RESULTS	10
CHAPTER I. METHODS OF EXPLOITING RESEARCH RESULTS	10
Article 14. Methods of exploiting Research Results.....	10
CHAPTER II. DISTRIBUTION OF PROFITS FROM THE EXPLOITATION OF RESEARCH RESULTS.....	11
Article 15. Distribution of profits from the exploitation of Research Results	11
TITLE V. FINAL PROVISIONS.....	12
FIRST. INTERPRETATION OF THE REGULATIONS	12
SECOND. ENTRY INTO FORCE	12
ANNEX I	13

PREAMBLE

The Institut d'Estudis Espacials de Catalunya (hereinafter, "IEEC" or the "Institute", interchangeably) is a foundation established in 1996 by the Fundació Catalana per a la Recerca. It forms part of the public sector and is attached to the Generalitat de Catalunya. Its purpose is to promote space-related activities in Catalonia in the fields of training, research and the transfer of knowledge and technology. IEEC's ultimate purpose is to collaborate and participate in the development, promotion and dissemination of all types of activities, studies and projects related to space technology and scientific research from and about space, for the benefit of society.

In addition to its own research activities, IEEC works extensively with other public and private entities to develop specific research projects.

The latest reform of the regulation of public research, introduced with the approval of the new Law 14/2011 of 1 June on Science, Technology and Innovation, has had a significant impact on Intellectual and Industrial Property, establishing the legal framework applicable to this matter at public research centres. Account must also be taken of the changes arising from the Patents Act (Law 24/2015 of 24 July), which entered into force on 1 April 2017, and its implementing Regulations, approved by Royal Decree 316/2017 of 31 March.

Furthermore, the approval of Law 7/2011 of 27 July on fiscal and financial measures, which establishes the legal regime of the Research Centres of Catalonia (CERCA), aims to strengthen research, development and innovation as key elements of the new model of economic transformation and cohesion, with the intention of establishing Catalonia as a reference point for the advancement of knowledge. In this respect, IEEC is recognised as a Research Centre of Catalonia, identified as a CERCA centre, and is subject to the legal regime established in Law 7/2011 of 27 July on fiscal and financial measures, its Eighth Additional Provision, and other specific research regulations issued by the Generalitat de Catalunya.

Therefore, to further the Institute's promotion of research activities within its field, it is considered necessary to define an appropriate legal framework for the Institute's research activities, both in their generation and exploitation phases.

With this regulatory text, and in relation to research staff at Research Centres covered by both the catalogue of duties and that of rights provided for in the aforementioned Law 14/2011, a dual objective is pursued: first, to promote research activities while seeking to increase the legal certainty needed by the parties involved in their development; and second, to involve the Institute's staff in these activities, not only by recognising their participation in developing new knowledge and technologies, but also by enabling them to share in the returns obtained from the commercial exploitation of the results of their research activities.

Accordingly, IEEC's Board of Trustees has deemed it appropriate to approve these Industrial and Intellectual Property Regulations, which shall provide comprehensive and consistent regulation of this entire field, with the aim of achieving a secure framework supporting research activities generated within IEEC's environment.

TITLE I. PURPOSE AND DEFINITIONS

Article 1. Purpose and scope of application

These regulations aim to establish a legal framework governing the following matters:

- Ownership and management of the industrial and/or intellectual property rights inherent in the results arising from research, development and innovation activities (hereinafter, “Research”) carried out as a consequence of research duties, whether as part of the Institute’s own activities or in collaboration with third-party persons or entities.
- Recognition of moral rights in the results, and the management and allocation regime of their economic rights.
- The procedures to be followed to protect the aforementioned results of the Institute’s research activities.

Article 2. Definitions

For the purposes of these regulations, the following definitions shall apply:

- a) Research Staff: staff employed by the Institute who hold the qualifications required in each case and carry out research activities, understood as creative work undertaken systematically to increase the body of knowledge, the use of such knowledge to create new applications, and its transfer and dissemination.
- b) Affiliated Staff: affiliated research staff from associated units belonging to the trustee institutions (Universitat de Barcelona, Universitat Autònoma de Barcelona, Universitat Politècnica de Catalunya and the Spanish National Research Council), who maintain their employment or civil service relationship with their home institution and carry out activities at IEEC under an affiliation agreement with that institution.
- c) Research Results: any technology, knowledge, know-how, processes or results developed or obtained as a consequence of Research activities carried out by IEEC’s Research Staff and Affiliated Staff.

d) Works: Research Results eligible for protection under Intellectual Property rights, including, by way of example but without limitation, books, publications, academic lectures, conferences, multimedia works, databases and computer programs (software).

e) Inventions: Research Results eligible for protection under Industrial Property rights, including, by way of example but without limitation, patents, utility models, topographies of semiconductor products and industrial designs.

TITLE II. OWNERSHIP OF RESEARCH RESULTS, THE INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS ARISING FROM THEM, AND EXPLOITATION RIGHTS

CHAPTER I. IEEC'S OWN RESEARCH

Article 3. Ownership of the Institute's Research Results

The Institute shall own, and hold the exploitation rights to, the Research Results developed by its Research Staff as a consequence of their Research activities.

Article 4. Ownership of Industrial Property rights

The Institute shall own, and hold the exploitation rights to, the Industrial Property rights over Inventions arising from the Research Results described in Article 3 above.

Article 5. Ownership of Intellectual Property rights

a) Ownership of Intellectual Property rights

The Institute's Research Staff shall be the authors of Works created as a consequence of their Research activities at the Institute, except in the cases expressly provided for in these Regulations.

The exploitation rights to Works produced within the framework of those Research activities shall belong to the Institute, under the terms and to the extent provided for in Intellectual Property legislation. Nevertheless, the Institute shall endeavour to agree with Research Staff on the assignment to the Institute of any exploitation rights to Works generated in the Institute's Research activities that might remain owned by Research Staff.

b) Ownership of Intellectual Property rights in specific cases**1. Computer programs (Software)**

Where a Work developed by any member of the Institute's Research Staff in the course of their Research activities at IEEC is software, ownership of the exploitation rights to it shall belong exclusively to IEEC.

Where software has been developed collectively at the Institute's initiative and under its coordination, authorship and ownership of the exploitation rights to that Work shall belong to the Institute if it publishes and disseminates it under its own name, unless otherwise agreed.

2. Collective works

Where a Work has been created collectively at the Institute's initiative and under its coordination, authorship and ownership of the exploitation rights to that Work shall belong to the Institute if it publishes and disseminates it under its own name, unless otherwise agreed.

3. Databases

Ownership of the exploitation rights to databases which constitute intellectual creations by reason of the selection or arrangement of their contents, in accordance with applicable legislation, and which are developed by the Institute's Research Staff in the course of their Research activities at IEEC, shall belong to IEEC, without prejudice, where applicable, to any rights that may subsist in those contents.

Article 6. Moral rights of authorship of the Institute's Research Staff

The Institute shall always respect the right of its Research Staff to be recognised as inventors or authors, as applicable, of the Inventions and Works they have developed, in accordance with current Industrial and Intellectual Property legislation, without prejudice to the regime established in these Regulations.

Article 7. Obligation to acknowledge the Institute

In all cases, unless the Institute indicates otherwise, any Invention or Work involving IEEC Research Staff, produced as a direct or indirect consequence of their Research activities at the Institute, must acknowledge its connection with IEEC. In this respect, all Works owned by the Institute shall visibly indicate their

connection with the Institute, referring to it as “Institut d'Estudis Espacials de Catalunya”.

CHAPTER II. RESEARCH PROJECTS DEVELOPED JOINTLY WITH OTHER ENTITIES OR UNITS

Article 8. Research Results obtained through Research projects developed in collaboration with third parties

For any commissioned Research work or project undertaken by the Institute's Research Staff, regardless of the branch of knowledge concerned, efforts shall be made to enter into the corresponding collaborative research agreement.

The ownership regime for rights to Research Results obtained in the performance of the collaborative research agreement, together with the distribution of the corresponding exploitation rights arising from it, shall be provided for in that agreement, without prejudice to its allowing the determination of their distribution to be deferred.

Article 9. Research Results obtained with the participation of Affiliated Staff

The ownership regime for Research Results developed with the participation of Affiliated Staff, as well as any research staff with whom IEEC has no employment or civil service relationship, shall be determined in accordance with the agreement with the Research Staff's home or host institution, as applicable, or an analogous document regulating the conditions of affiliation.

In all cases, Affiliated Staff must comply with the obligations laid down for Research Staff in these Regulations and in any relevant agreement.

TITLE III. MANAGEMENT AND EXPLOITATION OF RESEARCH RESULTS

Article 10. Management of the protection of Research Results

Tasks relating to the protection of Research Results arising from IEEC's own projects shall be carried out by IEEC's Transfer Office (hereinafter, the Transfer Office), which may engage external professionals to assist in its work.

For Research Results arising from projects undertaken in collaboration with other public and/or private entities or associated units,

protection shall be carried out in accordance with the provisions of the agreements signed between the collaborating entities.

Article 11. Notification and cooperation by IEEC Research Staff

If IEEC Research Staff develop a Research Result that may be eligible for protection, they must notify the Transfer Office immediately and provide all information concerning the Work or Invention developed that enables IEEC, if it deems it appropriate, to initiate the procedures for its legal protection.

The authors or inventors of the Research Result must cooperate with IEEC or with the body or entity carrying out management tasks in all matters necessary to obtain adequate protection of Intellectual and/or Industrial Property rights and, where applicable, their transfer.

In particular, the duty to cooperate may extend to signing appropriate public or private documents, particularly before any national or foreign Office competent in Intellectual and/or Industrial Property matters (including, by way of example but without limitation, Patent and/or Trademark Offices, Intellectual Property Registers, etc.), so that IEEC is recorded as or becomes, as applicable, the owner of the Intellectual and Industrial Property rights to the Research Result and can fully exercise the rights arising from its ownership.

Article 12. Confidentiality and disclosure of Research Results

IEEC Research Staff and Affiliated Staff, and any other personnel participating in Research activities within IEEC's environment, must treat information relating to any research developed in that environment as confidential and use their best efforts to ensure its confidentiality, in order to preserve the rights of IEEC or of third parties collaborating in the Research activities.

Once the procedure for protecting the Research Results has been defined, the researcher responsible shall agree with the Transfer Office on the timing of disclosure of their research and the corresponding requests for any permissions deemed necessary from third parties, where applicable. They shall undertake not to make any disclosure until agreed, so as not to prejudice its legal protection.

When Research projects are developed jointly with other entities, IEEC shall endeavour to include its policies on the confidentiality of the Research Results developed in the respective governing agreements.

Article 13. Relinquishment of Industrial or Intellectual Property rights

If IEEC is not interested in owning any title or international extension of an Industrial or Intellectual Property right over a Result, or decides to abandon its application or maintenance, it shall inform its inventors or authors. If they are interested, IEEC may transfer those rights to them under the conditions agreed between IEEC and the inventors or authors.

However, if IEEC has entered into a contract with a third party granting that party a preferential right to assume ownership of the Industrial or Intellectual Property rights to Research Results in the event of relinquishment by IEEC, the provisions of that contract shall apply.

Relinquishment of any Industrial or Intellectual Property title shall require a resolution of the Board of Trustees, or the express approval of IEEC's Director if that power has been delegated to them.

Where IEEC has relinquished its rights in favour of the inventor or author, that person may commercialise the Research Results provided that the commercial activity does not conflict with IEEC's guiding principles.

IEEC shall reserve the right to receive a percentage of the profits obtained from exploiting the Research Results assigned to the inventors or authors, whether they exploit them themselves or license or transfer them to third parties. IEEC shall also always reserve the right to use the Research Results for non-commercial purposes through a non-exclusive, non-transferable, royalty-free licence for teaching and research activities.

In the cases provided for in this article, IEEC may establish any mechanisms it deems appropriate to recover or offset the expenses incurred in studying, commercialising, applying for, processing and maintaining the corresponding Industrial or Intellectual Property title.

TITLE IV. EXPLOITATION OF RESEARCH RESULTS**CHAPTER I. METHODS OF EXPLOITING RESEARCH RESULTS****Article 14. Methods of exploiting Research Results**

IEEC, through its Transfer Office, may plan and commercially exploit Research Results in the manner it considers most appropriate to fulfil its purposes and, as far as possible, in agreement with the Research Staff and Affiliated Staff who are their authors or inventors. In all cases, it shall seek the widest possible public access to new knowledge and technologies, either by exploiting them itself or by assigning its exploitation rights to third parties. The distribution of

returns shall follow the formulae in Annex I, which also take account of the collaboration agreements with each associated unit.

CHAPTER II. DISTRIBUTION OF PROFITS FROM THE EXPLOITATION OF RESEARCH RESULTS

Article 15. Distribution of profits from the exploitation of Research Results

The profits obtained by IEEC from commercially exploiting one or more Research Results (exploited jointly or evidently related to one another) must be distributed according to the proportion of participating staff and the provisions of the agreements with the different units. IEEC shall distribute part of the research profits accruing to it among the units and researchers according to the formulae established in Annex I.

In the specific case where the commercial exploitation of Research Results is carried out through a spin-off in which Research Staff or Affiliated Staff hold an ownership stake exceeding 10%, the percentage of the profits from exploiting the Research Results to which those staff are entitled shall be reduced by 75% relative to the percentage provided for in the preceding paragraphs. The amount of the reduction shall accrue to IEEC, without prejudice to the Shareholders' Agreement for establishing the IEEC spin-off providing for a smaller reduction.

Where there is more than one author or inventor, IEEC shall pay the corresponding amount personally to each researcher, according to a written document from all parties concerned establishing each inventor's percentage contribution, or a court decision or arbitral award determining each person's participation.

Notwithstanding the above, in the specific case of publications and articles, the profits obtained from their commercial exploitation shall belong entirely to their authors.

The economic rights recognised for authors or inventors of Research Results may not be assigned to third parties who did not participate in carrying out the project that generated the Research Results, nor to legal entities, unless expressly agreed with IEEC in accordance with current legislation, or required by a legal provision or judicial or administrative decision.

For the purposes of this article, "profits" shall mean the difference between the following items:

- The gross income obtained by IEEC from exploiting the Research Results, including payments received from the company exploiting them and

income arising from any relinquishment by the joint owners of the Research Results;

- Less remuneration equivalent to five per cent (5%) of the gross income, reserved by IEEC as remuneration for its management activities;
- And less expenses directly attributable to protecting, valuing and developing the Research Results and management costs (including, by way of example but without limitation, expenses for intermediary services, lawyers, patent agents, etc.).

The distribution of profits obtained from commercially exploiting Research Results developed in projects undertaken jointly with other public and/or private entities or with external researchers acting in a personal capacity shall be determined contractually between the entities involved in the project. In the absence of such provisions, it shall follow the parties' agreement, always respecting their contribution to obtaining and protecting the Research Results.

In all cases, the distribution of profits provided for in this article shall comply with any financial limitations established by applicable legislation.

TITLE V. FINAL PROVISIONS

FIRST. INTERPRETATION OF THE REGULATIONS

The Board of Trustees shall be responsible for resolving any doubts concerning the interpretation of these Regulations.

SECOND. ENTRY INTO FORCE

These Regulations shall enter into force on the day following their approval by IEEC's Board of Trustees.

ANNEX I

The calculation of the distribution of profits among the various possible beneficiaries under these Regulations on Industrial and/or Intellectual Property legislation shall be carried out in several steps. R is the total profit generated; f_{IEEC} is the participation fraction of inventors or authors employed by IEEC; and f_{Inst_i} is the participation fraction of inventors or authors affiliated to each trustee institution:

$$f_{IEEC} + f_{TOTAL_{Inst}} = f_{IEEC} + \sum_{i=1}^4 f_{Inst_i} = 1$$

1) The profits for trustee institutions under their agreements ($R^A_{Inst_i}$) shall be calculated in proportion to the joint owners participating from each institution (n_{Inst_i}), relative to all participants (N_{TOTAL}), and the fraction of Industrial and/or Intellectual Property retained by each institution under its agreement with IEEC (α_{Inst_i}).

$$R^A_{Inst_i} = R f_{Inst_i} \alpha_{Inst_i}$$

2) IEEC shall receive profits according to the proportional share of Industrial and/or Intellectual Property assigned by the trustee institutions under the corresponding agreement with IEEC.

$$R^A_{IEEC} = R \sum_{i=1}^4 f_{Inst_i} (1 - \alpha_{Inst_i})$$

3) The direct profits (R^D_{TOTAL}) generated by joint owners employed by IEEC shall be calculated in proportion to the total number of joint owners.

$$R^D_{TOTAL} = R f_{IEEC}$$

4) The profits R^D_{TOTAL} shall be divided into two equal parts.

5) One of these parts of IEEC's direct profits (one half) shall be partially returned to the trustee institutions ($R^D_{Inst_i}$), according to the complement of the percentage established in the respective agreements and the participating joint owners from each institution.

$$R^D_{Inst_i} = \frac{1}{2} R^D_{TOTAL} \frac{f_{Inst_i}}{f_{TOTAL_{Inst}}} (1 - \alpha_{Inst_i})$$

6) The other part (the other half), together with the complementary fraction of the amount returned to the trustee institutions, shall remain with IEEC.

$$R^D_{IEEC} = \frac{1}{2} R^D_{TOTAL} \left(1 + \sum_{i=1}^4 \frac{f_{Inst_i}}{f_{TOTAL_{Inst}}} \alpha_{Inst_i} \right)$$

7) Finally, the total profits for each trustee institution shall be:

$$R_{Inst_i} = R_{Inst_i}^A + R_{Inst_i}^D = R f_{Inst_i} \left(\alpha_{Inst_i} + \frac{1}{2} \frac{f_{IEEC}}{f_{TOTALInst}} (1 - \alpha_{Inst_i}) \right)$$

8) For IEEC they shall be:

$$R_{IEEC} = R_{IEEC}^A + R_{IEEC}^D = \frac{1}{2} R f_{IEEC} \left[1 + \sum_{i=1}^4 \left(\frac{2f_{Inst_i}}{f_{IEEC}} (1 - \alpha_{Inst_i}) + \frac{f_{Inst_i}}{f_{TOTALInst}} \alpha_{Inst_i} \right) \right]$$

9) IEEC's total profits (R_{IEEC}) shall in turn be distributed as follows:

a) 50% of the total amount shall be profits for IEEC.

b) 50% of the total amount shall be distributed in equal shares among all joint owners of the results, both affiliated staff and those employed by IEEC.

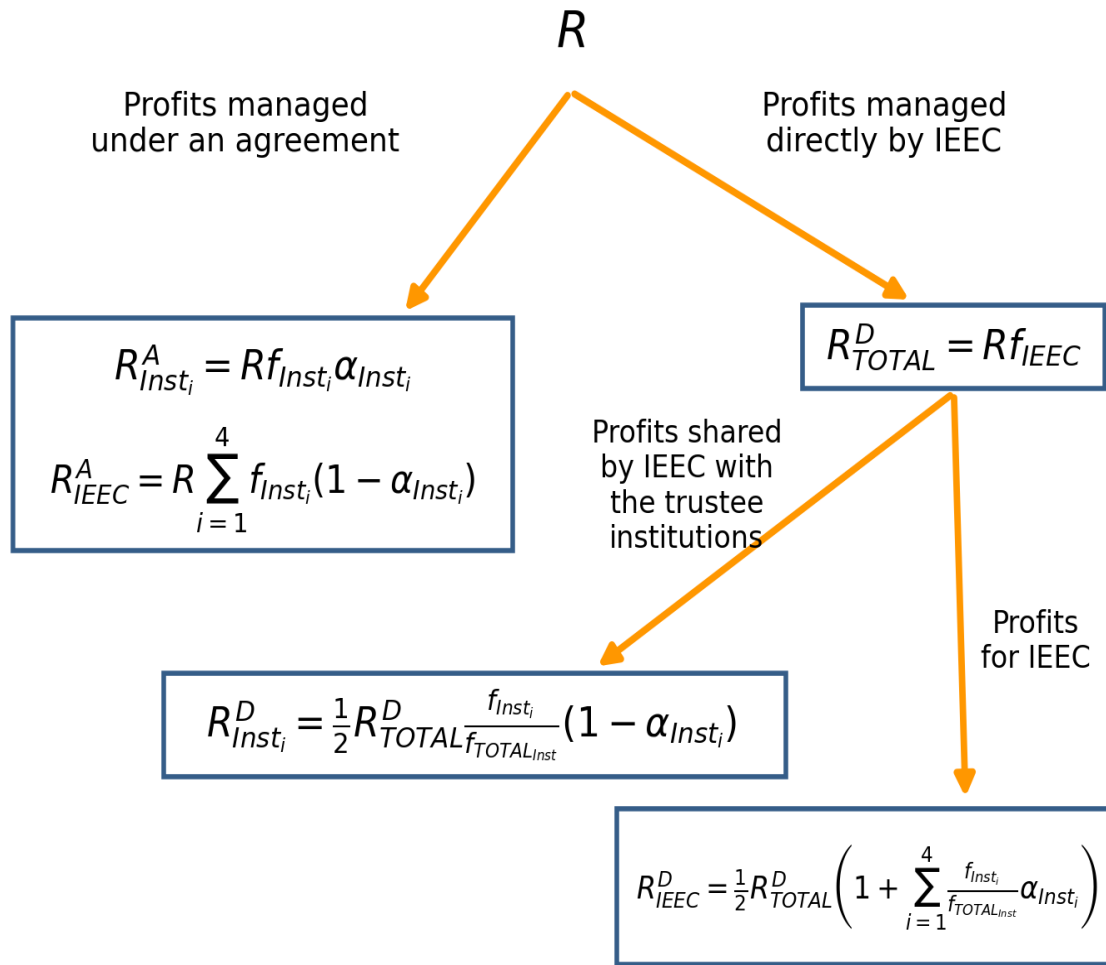
Definitions:

- R = total profit generated.
- α_{Inst_i} = the fraction of intellectual or industrial property rights retained by each institution through an agreement with IEEC.
- f_{IEEC} is the participation fraction of inventors or authors employed by IEEC, and f_{Inst_i} is the participation fraction of inventors or authors affiliated to each trustee institution.

$$f_{IEEC} + f_{TOTALInst} = f_{IEEC} + \sum_{i=1}^4 f_{Inst_i} = 1$$

- The equations apply only if $f_{TOTALInst} \neq 0$ (researchers from the trustee institutions are inventors or authors); otherwise, all profits belong to IEEC.

Diagram and formulae on the following page.



Total profits for each trustee institution:

$$R_{Inst_i} = R_{Inst_i}^A + R_{Inst_i}^D = R f_{Inst_i} \left(\alpha_{Inst_i} + \frac{1}{2} \frac{f_{IEEC}}{f_{TOTAL_{Inst}}} (1 - \alpha_{Inst_i}) \right)$$

Total profits for IEEC:

$$R_{IEEC} = R_{IEEC}^A + R_{IEEC}^D = \frac{1}{2} R f_{IEEC} \left[1 + \sum_{i=1}^4 \left(\frac{2 f_{Inst_i}}{f_{IEEC}} (1 - \alpha_{Inst_i}) + \frac{f_{Inst_i}}{f_{TOTAL_{Inst}}} \alpha_{Inst_i} \right) \right]$$