

**MACEWAN STUDENT CENTRE /
MACEWAN HALL**

**LICENSE OF OCCUPATION,
OPERATING AND MANAGEMENT
AGREEMENT**

December, 1999

MACEWAN STUDENT CENTRE / MACEWAN HALL

LICENSE OF OCCUPATION, OPERATING AND MANAGEMENT AGREEMENT

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**MACEWAN STUDENT CENTRE / MACEWAN HALL
LICENSE OF OCCUPATION, OPERATING AND MANAGEMENT AGREEMENT**

THIS AGREEMENT made effective the 10th day of December, 1999.

BETWEEN:

THE GOVERNORS OF THE UNIVERSITY OF CALGARY, a corporation created pursuant to the Universities Act, RSA 1980 C. U-5 (hereinafter called the "Governors")

OF THE FIRST PART

- and -

THE STUDENTS' UNION, THE UNIVERSITY OF CALGARY, a body corporate created pursuant to the Universities Act, RSA 1980 C. U-5 (hereinafter called the "Union")

OF THE SECOND PART

WHEREAS the Governors own certain lands in northwest Calgary on which is located the campus of the University of Calgary;

AND WHEREAS the original MacEwan Hall and an expansion thereof to form the existing MacEwan Student Centre has been constructed on a portion of the Governor's lands at the University of Calgary and has been operational for a number of years and has jointly housed some operations of the Governors and all the Union's operations;

AND WHEREAS the Union has substantially contributed to the funding of the initial construction of the existing MacEwan Student Centre and various renovations and alterations thereto and has assisted the Governors in obtaining capital grants from the government of the Province of Alberta;

AND WHEREAS the operation of existing MacEwan Student Centre was governed by an agreement between the parties hereto dated September 23, 1991. Notwithstanding that the term thereof has expired, the parties have been generally carrying on their respective activities in the existing MacEwan Student Centre pursuant to the provisions of such operating agreement;

AND WHEREAS the parties are desirous of replacing the aforesaid operating agreement with a more comprehensive agreement dealing with all of the foregoing matters.

AND WHEREAS it is proposed that a new building be constructed on further lands at the University of Calgary owned by the Governors to be known as MacEwan Hall, with the initial construction costs of MacEwan Hall to be funded substantially by the Union and partially by the Governors;

AND WHEREAS the primary purpose of the existing MacEwan Student Centre and the new MacEwan Hall is to accommodate the legislative, executive and administrative arms of the Union, to deliver services to the students and staff of the University of Calgary, to provide facilities for student clubs, societies and the organizations and their undertakings, to accommodate social, recreational and cultural activities, and to symbolize the non-academic aspects of university experience;

AND WHEREAS a secondary purpose of the existing MacEwan Student Centre and the new MacEwan Hall is to conduct, or to allow third parties to conduct, commercial activities for the use and convenience of students and staff and to generate revenue from such commercial activities for the purposes of the Union and Governors, such revenue shall be used to partially fund the cost of operating the Buildings;

AND WHEREAS ownership of the Governors land at the University of Calgary, the leasing of portions thereof and the operations of the parties are governed by the provisions of the Universities Act (Alberta), the regulations thereunder and the policies established from time to time by the Governors;

AND WHEREAS it is intended that the Governors and the Union will have the right to occupy certain defined spaces within the existing MacEwan Student Centre and the new MacEwan Hall (once the latter is constructed);

AND WHEREAS in consideration of the substantial funding which has heretofore been provided by the Union in respect of the existing MacEwan Student Centre and the substantial funding of a portion of the cost of the new MacEwan Hall construction, the Governors have agreed to grant to the Union for the term of this agreement, the right to occupy certain defined spaces in the existing MacEwan Student Centre and the new MacEwan Hall, the right to retain the revenues (other than occupancy costs) from the use of such space for commercial activities, the right to the use of the portions of such allocated space which are not used for commercial activities without the requirement to pay rent or occupancy costs, and the right to provide certain management services in respect of both the existing MacEwan Student Centre and the new MacEwan Hall;

NOW, THEREFORE, THIS AGREEMENT WITNESSTH THAT in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purposes of this agreement, the following words or phrases shall have the meaning hereinafter set forth:

- (a) "Agreement", "this Agreement", "the Agreement", "hereto", "hereof", "herein", "hereby", "hereunder" and similar expressions mean or refer to this Agreement as amended from time to time and any agreement supplemental hereto and the expressions "Article" "Section", "Subsection", "Paragraph" and "Subparagraph" followed by number or letter mean or refer to the specified article, section, subsection, paragraph or subparagraph of this Agreement;
- (b) "Allocated Space" means either or both of the Governors Allocated Space and the Union Allocated Space, as the context may require;
- (c) "Buildings" means MacEwan Student Centre and MacEwan Hall, collectively;
- (d) "Capital Expenditure" means an expenditure incurred in respect of the replacement or repair of a structural, mechanical or electrical component of any of the Buildings, including, without restricting the generality of the forgoing, exterior wall, roofs, footing and foundation, boilers, elevators and HVAC units;
- (e) "Commercial Activities" means the retail provision of services or retail sale of goods, including goods or services provided by a Commercial Tenant to members of the University community and the public at large, by a club or society of the Union

or by a department of the Governors to members of the University community and the public at large;

- (f) "Commercial Lease" means a lease of a portion of either of the Buildings to a third party which conducts Commercial Activities therefrom;
- (g) "Commercial Tenant" means a tenant pursuant to a Commercial Lease;
- (h) "Common Area" means the portion of the Buildings, which is comprised of neither Governors Allocated Space or Union Allocated Space;
- (i) "Fiscal Year" means the period of twelve months ended on March 31 in each year;
- (j) "Government Authority" means any municipal, provincial, federal, administrative or other authority created by legislation which applies to the Governors and its property, or any department or agency thereof;
- (k) "Governors" means the University of Calgary as established pursuant to the Universities Act RSA 1980 C. U-5, its successors and permitted assigns;
- (l) "Governors Allocated Space" means the space within the Buildings referred to in section 2.1 (a) hereof, or as may be determined in accordance with section 2.2 (c);
- (m) "MacEwan Hall" means the proposed new building to be located on the Governors lands in the area shown crosshatched on the sketch plan attached as Schedule "A" hereto;

- (n) "MacEwan Student Centre" means the existing buildings on the Governors' lands bearing such name and shown shaded on the sketch plan attached as Schedule "A" hereto;

- (o) "Occupancy Costs" means, without duplication, all costs (excluding debt service and any costs which are separately metered) to operate, maintain, repair, replace, or preserve the Buildings including, without limitation, the costs of:
 - (i) landscaping, gardening, exterior cleaning, window cleaning, snow removal and maintenance services;

 - (ii) operating, repairing and servicing elevators;

 - (iii) maintaining heating, cooling and ventilating units which are the property of the Governors and not the property of a Commercial Tenant;

 - (iv) electricity and power including lighting and other utilities and services;

 - (v) cleaning, maintaining and servicing all electric lighting fixtures and replacing light bulbs, tubes, relays, starters and ballasts in Common Areas;

 - (vi) caretaking, cleaning, painting and sanitary control;

 - (vii) security;

 - (viii) insurance premiums for fire, liability, loss of rent, elevator and boiler, and other risks for which the Governors considers insurance to be necessary;

- (ix) administration directly related to the provision of those items which are included as Occupancy Costs;
 - (x) repairing and maintaining Common Areas; and
 - (xi) any additions or modifications to the Buildings that are required by any Government Authority or that are incurred to reduce (or to slow the rate of increase of) any of the forgoing costs;
- (p) "Operating Agreement" means the agreement between the Governors and the Union dated September 23, 1991 relating to the operation of MacEwan Student Centre;
- (q) "Renovations and Alterations" mean renovation and alterations to the components of the Buildings as referenced in the definition "Capital Expenditure";
- (r) "Space Improvements" means improvement, alterations, partitions or fixtures from time to time installed by the Governors in the Governors Allocated Space, or by the Union in the Union Allocated Spaces, or by a Commercial Tenant in its leased premises;
- (s) "Union" means The Students' Union, The University of Calgary, its successors and permitted assigns;
- (t) "Union Allocated Space" means the space within the Buildings referred to in section 2.1 (b) hereof , or as may be determined in accordance with section 2.2 (c);
- (u) "Term" means the period referred to in section 3.1.

1.2 Interpretation

Grammatical variations of any terms defined herein have similar meanings, words importing the singular number shall include the plural and vice versa, and words importing the masculine gender shall also include the feminine and neutral genders. The division of this Agreement into separate articles, sections, subsections, paragraphs and subparagraphs, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 Severability

If any covenant, obligation, or agreement herein, or the application thereof to any person or circumstance shall, to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such a covenant, obligation or agreement to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation and agreement hereof shall be separately valid and enforceable to the fullest extent permitted by law.

1.4 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta.

ARTICLE 2
PREMISES

2.1 Allocated Space

The Governors and the Union recognize that while they have joint responsibility for the Buildings, expediency, efficiency and historical developments dictate that certain spaces are currently designated for providing services by either the Governors or the Union. Accordingly:

- (a) the Governors shall be entitled to the use of the portions of MacEwan Student Centre shown crosshatched on the plans of MacEwan Student Centre attached hereto and marked as Schedule "B". The Governors shall be entitled to the use of those portions of MacEwan Hall, upon completion of its construction, being generally those areas shown crosshatched on the plans of MacEwan Hall attached hereto and marked as Schedule "C"; and

- (b) The Union shall be entitled to the use for the Term of the portions of MacEwan Student Centre shown shaded on the plans of MacEwan Student Centre attached hereto and marked as Schedule "B". The Union shall be entitled to the use for the Term of those portions of MacEwan Hall, upon completion of its construction, being those generally shown shaded on the plans of MacEwan Hall attached hereto and marked as Schedule "C"

2.2 Amendments to Space Allocations

- (a) The parties acknowledge that the allocation of space to the Governors and to the Union in MacEwan Hall is based solely on the plans thereof as MacEwan Hall is not yet constructed and as a result of the final construction details of MacEwan Hall, there may be a requirement of amendment of the respective space allocations. The parties hereto shall, upon finalization of the plans of MacEwan Hall, attempt to agree to any such amendments and failing such agreement, the matter shall be referred to the Joint Liason Committee for attempted resolution in accordance with the provisions of Article 10 hereof;
- (b) The parties recognize that in conjunction with the construction of MacEwan Hall, it is proposed to effect a significant re-configuration of the Governors Allocated Space and the Union Allocated Space within the MacEwan Student Centre. Details of the agreed reconfiguration are attached in Schedule "C".
- (c) The parties further acknowledge that as a result of future changes in their space requirements and respective operations, it may be mutually advantageous for them to amend their respective allocation of space, but any such reallocation shall require the mutual approval of the parties hereto. Due to the potential frequency of such reallocations, the Governors and the Union agree that it shall not be necessary to formally amend this Agreement each time a reallocation is mutually agreed upon, and that an exchange of correspondence or other written evidence of such agreement which sets out or appends the area(s) of reallocation and is executed by an authorized representative of each party shall suffice. In the event of any reallocation of space in accordance with either subparagraphs 2.2 (b) or 2.2 (c), the definition of "Governors Allocated Space" "Union Allocated Space" shall be deemed to be amended accordingly.

ARTICLE 3

TERM

3.1 Term

The term of this agreement shall be for a period of five years commencing on the 10th day of December, 1999 and ending on the 9th day of December, 2004, subject to early termination pursuant to section 3.2 hereof and subject to renewal in accordance with section 3.3 hereof.

3.2 Early Termination

This Agreement shall terminate and be of no further force or effect upon the happening of any of the following events:

- (a) The mutual agreement of the parties hereto;
- (b) An act of Government Authority which terminates, without succession, the legal existence of the Governors or the Union, or if the Governors and the Union cease to be separate entities;
- (c) The bankruptcy, insolvency or winding up of the Union; or
- (d) At the option of the Governors, in the event that the Union is in default under the provisions of this Agreement and such default has not been cured within ninety (90) days of notice of such default from the Governors to the Union, or, if such default is not capable of being cured within such ninety (90) day period, if the Union does not forthwith commence the curing of such default and thereafter pursue such cure with reasonable diligence.

3.3 Renewal

Provided that the Agreement remains in full force and effect at the end of the Term, and the Union is not then in material default hereunder, then the Union shall have the right, upon at least six months prior written notice, to renew the Term for two (2) successive periods of five years each, all upon the same terms and conditions as herein contained. If, at the end of the second renewal term and at the end of each Fiscal Year thereafter that this Agreement remains in force, neither party notifies the other party at least sixty (60) days prior to the end of the then current Fiscal Year that this Agreement shall terminate, then this Agreement shall be deemed to be renewed for a further one year term; provided that on the expiry of the fifth year after the expiry of the second renewal term, this agreement shall terminate unless the parties mutually agree in writing as to a further extension.

ARTICLE 4
LEASE OF SPACE TO COMMERCIAL TENANTS

4.1 Commercial Leases in the Buildings

- (a) All Commercial Leases for MacEwan Student Centre and MacEwan Hall shall be executed by the Governors as owner of the Buildings and by the Union as manager,
- (b) The terms and conditions of all Commercial Leases must be consistent with the terms of this Agreement.
- (c) The Governors shall not unreasonably withhold approval and execution of Commercial Leases proposed for MacEwan Student Centre and MacEwan Hall by the Union.
- (d) All other agreements or contracts between either party and any other person or group regarding the use or operation of any facility in MacEwan Student Centre and MacEwan Hall must be consistent with the terms and conditions of this Agreement.

4.2 Triple Net Leases

Any Commercial Lease entered into with respect to any space in either of the Buildings shall be fully net.

ARTICLE 5
PROVISIONS RELATING TO USE AND OCCUPANCY
OF ALLOCATED SPACE

5.1 Quiet Enjoyment

Subject to the rights of the Union in its management capacity pursuant to Article 7, the Governors and the Union intend the occupants of space within the Buildings to have quiet enjoyment of the space assigned to them and such occupants shall be provided access and services that allow reasonable use of such space.

5.2 Revenue from Allocated Space

Subject to Article 6 hereof, all revenues from any Commercial Leases or Commercial Activities on the Governors Allocated Space shall be for the benefit of the Governors and all revenue from Commercial Leases or Commercial Activities on the Union Allocated Space shall be for the benefit of the Union.

The Union shall encourage university and student group activities in the Union Allocated Space, for those functions that are for the benefit of students. Such functions shall not be assessed a rental charge, except that the Union will be free to levy a charge on the users to recover the costs of services, particularly where the user group levies a charge at or for the function. However, if the use by any of these groups exceed reasonable levels, then such use by such groups may be subject to rental charges and considered to be Commercial Activity.

5.3 Compliance with Regulations

In the use of any portion of the Union Allocated Space, the Union agrees to comply in all respect with all rules and regulations and policies of the Governors regarding use of space on the Governors land at the University of Calgary and in the conducting, sponsoring or underwriting any events, shall ensure that same do not tarnish the reputation or image of the University of Calgary, and that same comply with all rules and regulations of the Governors and are not expected to cause extraordinary damage to the Buildings.

5.4 Taxes

To the extent that any of the activities on the Union Allocated Space, whether by the Union or Commercial Tenants, results in the levying or assessment of any form of tax, then same shall be the responsibility of the Union unless such tax is fully paid, where applicable, by a Commercial Tenant. To the extent that any actions on Governors Allocated Space, whether by the Governors or Commercial Tenants results in the levying or assessment of any form of tax, the same shall be the responsibility of the Governors unless such tax is fully paid, where applicable, by a Commercial Tenant.

5.5 Insurance Premium Increases

Should the activities of a Commercial Tenant on the Union Allocated Space result in an increase to the Governors' insurance premiums, then such increase is to be the responsibility of such Commercial Tenant, and the Commercial Lease shall so indicate. Subject to the Union's insurance obligations as set forth in clause 8.2, this section 5.5 shall not apply to a Commercial Activity being conducted by the Union.

5.6 Applicable Laws

The Union and the Governors shall comply with and shall cause its Commercial Tenants to comply with all laws as enacted by any Government Authority having jurisdiction over the Buildings and operations contained therein.

5.7 Repairs, Renovations, Alterations, Furnishings and Equipment

- (a) To the extent that the Governors desire to effect repairs or replacements to the structural components of the Buildings or to the infrastructure of the Buildings and to make Capital Expenditures as a result thereof, or to make Renovations or Alterations to the Governors Allocated Space or to purchase or replace furnishings or equipment, or is required to repair any damage to same, the Governors shall consult with the Union prior to effecting same, but may ultimately proceed and bear all such costs associated herewith.

- (b) To the extent that the Union desires to make repairs, alterations, renovations or improvements to the Union Allocated Space, or to purchase or replace furnishings or equipment or is required to repair any damage to same and no structural, mechanical, electrical or HVAC components of the Buildings are affected, the Union shall be entitled to proceed with its alterations and shall bear all such costs associated therewith. If the structural, mechanical, electrical or HVAC components of the Buildings will be altered, then the prior approval of the Governors to such repairs, alterations, renovations or improvements shall be required. Any repairs, alterations, renovations or improvements to the Union Allocated Space shall be coordinated with the Governors.

- (c) To the extent that the Governors and the Union desire to effect repairs or replacements to the Common Areas, or to purchase or replace furnishings or equipment, the costs shall be equally shared unless otherwise agreed by the parties and such repairs and replacements shall be coordinated with the Governors.
- (d) The Governors and the Union shall consult with respect to the nature, extent, costs and cost sharing of maintenance, repairs, renovations, alterations, furnishings and equipment in the Buildings in an effort to maximize opportunities, maintain standards and improve efficiencies.
- (e) The party responsible for paying the costs of any repairs, or Renovations or Alterations shall ensure that all accounts are paid when due and to the extent that a builder's lien is filed as a result of any such work, the party responsible for such payment covenants and agrees to forthwith cause the removal of any such lien within a reasonable period of time given the provisions of the Builder's Lien Act (Alberta).

5.8 Change of Use

Prior to changing the use of any space for the purposes of conducting a Commercial Activity on either a regular or occasional basis, the Governors and the Union agree to consult with each other and obtain concurrence of the other party, such concurrence not to be unreasonably withheld.

ARTICLE 6
OCCUPANCY COSTS

6.1 Calculation and Payment of Occupancy Costs

- (a) The Governors shall set a budget for Occupancy costs for each Fiscal Year prior the commencement thereof which budget shall be allocated as to a dollar per square metre amount which budget shall reflect the allocation of Occupancy Costs in accordance with the formulae attached as Schedule "D". Initially, the budget shall relate only to MacEwan Student Centre but once MacEwan Hall is constructed, the budget shall include MacEwan Hall. To the extent that the Governors consider, it is sole but reasonable discretion, that Occupancy Costs are substantially different between MacEwan Student Centre and MacEwan Hall, the University shall be entitled to budget for a separate Occupancy Cost for each of the two Buildings. Upon finalization of the budget, the Governors shall be entitled to receive the dollar per square metre budgeted amount of Occupancy Costs from the portion of the Union Allocation Space which has been leased to Commercial Tenants. All such Occupancy Costs shall be paid to the Governors on an annual basis. For the sake of clarity, it is acknowledged that the Occupancy Cost payments shall be based initially upon the budget, but adjustments to the budgeted amounts may be made at any time during a Fiscal Year where such adjustments results from any special service requirements of a particular Commercial Activity or other special circumstances as is agreed to by both parties.

- (b) Within thirty (30) days of the end of each Fiscal Year, the Union shall provide the Governors with a report on any changes in Allocated Space, any additions to or deletions from the list of Commercial Tenants and any changes that have occurred to space used for Commercial Activities during such Fiscal Year. The Governors shall thereafter prepare a reconciliation of actual Occupancy Costs incurred and those paid based upon the Budget and a reconciliation of such actual Occupancy Costs payable pursuant to the formula set forth in Schedules "D" having regard to the Union's report on changes to space allocations and Commercial Tenants. The Governors and the Union shall make the appropriate monetary payments based upon such reconciliation and, in the case of an adjustment payment owed by the Union to the Governors, upon receipt of any invoice to accompany the reconciliation statement.
- (c) Any revenues from Commercial Leases or Commercial Activities on Common Areas (excluding all revenues from the sources identified in Schedule "E") shall be applied to reduce the Occupancy Costs of the Building as agreed to by the Governors and the Union with respect to such revenues.

**ARTICLE 7
MANAGEMENT**

7.1 Appointment of Manager

The Governors hereby appoint and authorize the Union to act as the manager to supervise certain of the day to day operations of the Buildings to the extent specifically set forth in Section 7.2. The Union hereby accepts this appointment for the Term unless otherwise terminated in accordance with the provisions of Article 3.

The Governors and the Union may from time to time enter into further agreements respecting the management of particular services in the Buildings and the allocation of any revenues derived therefrom and expenses relating thereto.

As manager, the Union shall have the right of access to all portions of the Buildings, and the right to control the services to the Buildings and the operations thereof; provided that the Union shall use all reasonable efforts not to adversely affect access to the Governors Allocated Space, access by Commercial Tenants to their respective leased premises, or the supply of services to the Buildings necessary for the normal operation thereof.

7.2 Management Services Performed by the Union

The Union shall have the primary responsibility for the operation of the Buildings, and in this regard shall be responsible for communication as between the Governors, facilities personnel of the Governors providing the services set forth in section 7.3 (a), the occupants of the buildings and the Commercial Tenants.

The Union shall, in carrying out such responsibilities, perform such duties as are normally carried out by a manager in respect of the management of buildings similar to the Buildings, including without limitation, the following duties:

- (a) Establish and maintain a suitable scheme of liaison between Commercial Tenants and the Governors, including coordination of moving in and out, approval of Space Improvements and the giving and receiving of all notices required to be provided to or from the Commercial Tenants;
- (b) For and behalf of, and for the account of the Governors, collect all revenues paid by Commercial Tenants (if any) leasing space within the Governors Allocated Space, and to remit monthly to the Governors all such revenue inclusive of Occupancy Costs, it being understood and agreed that all revenues, exclusive of Occupancy Costs, paid in respect of all Commercial Activities, which are derived from or attributable to Union Allocated Space shall be for the benefit of and the account of the Union;
- (c) The Union's management and operation of the Buildings shall be subject always to such general policies as may from time to time be made by the Governors and the Union;
- (d) Subject to 7.2(c) above, the Union may enact and enforce such rules and regulations as the Union may deem reasonably necessary for the proper management and operation of the Buildings;
- (e) Any Common Areas shall be managed by the Union within the terms of this Agreement.

7.3 Management Functions Retained by the Governors

Notwithstanding Section 7.2 hereof, the Union acknowledges that the following matters will remain the responsibility of the Governors unless otherwise agreed to by the parties:

- (a) the provision of cleaning service, janitorial service, security service, landscaping service, electrical and mechanical service, elevator service and all other services physically necessary to provide for the maintenance and operation of the Buildings;
- (b) the handling of the Governors insurance program; and
- (c) the setting of the Occupancy Costs budget pursuant to Section 6.1

The Governors acknowledge that, notwithstanding that its personnel may provide certain of the services as set forth above, the Governors shall not implement changes to such services, implement new services or alter the operations of any portion of the Buildings (even if entirely within Governors Allocated Space) without the input of the Union in its capacity as Manager.

**ARTICLE 8
INSURANCE**

8.1 Governors Insurance

The Governors shall maintain such property, liability and other insurance in such amounts and for such insurable hazards in keeping with standard practice and the cost of such policy shall be included as an Occupancy Cost. This policy of insurance may form part of the Governors global policy of insurance but shall have the forgoing specific provisions relating to the Buildings.

8.2 Union Insurance

The Union shall obtain and maintain, liability insurance in such amounts as the Governors may determine in its sole but reasonable discretion (such amount at the commencement of the Term shall be Five Million (\$5,000,000.00) Dollars), and the Union may obtain property and other insurance on the Union Allocated Space and on any fixtures, equipment and Space Improvements that it or Commercial Tenants may own within the Union Allocated Space. The Governors shall be a named insured under the foregoing policies.

8.3 Consultation re: Insurance

The Governors and the Union agree to consult with each other from time to time to ensure that their respective insurance obligations under this Article 8 have been adequately complied with and to make all reasonable attempts to avoid duplication of coverage.

8.4 **Governors Self Insurance**

The Union acknowledges that the existing Governors' policy has a One Hundred Thousand (\$100,000.00) Dollar deductible and that the Governors may in the future determine to increase such deductible or to entirely self insure against risks which are currently insured against, and that the Governors shall be entitled to so self insure when it determines in its sole discretion that it desires to do so. Unless the Governors determine not to rebuild any Building that has been substantially destroyed by fire or other peril, then such Building shall be repaired and the cost thereof shall be a Capital Expenditure.

**ARTICLE 9
ASSIGNMENT**

9.1 Governors Assigns

This Agreement shall ensure to the benefit of and be binding upon the Governors and its successors and assigns.

9.2 Union Assigns

This Agreement shall be binding upon and shall ensure to the benefit of the Union and its respective successors and permitted assigns. No assignment of all or any portion of this Agreement by the Union shall be effective without the prior written approval of the Governors, which approval may be arbitrarily withheld.

ARTICLE 10
JOINT LIAISON COMMITTEE

- 10.1 There shall be established a committee (hereinafter called "the Joint Liaison Committee") composed of three members appointed by the Governors (at least one of whom shall be a member of the Board of Governors of the University of Calgary) and three members appointed by the Union (two of whom shall be members of the Executive Cabinet of the Union) and two ex-officio members, from each of the Union and the Governors.
- 10.2 The Joint Liaison Committee shall appoint a Chairperson from among its own members. The Chair shall rotate annually between the parties to this Agreement.
- 10.3 Amendments, additions or clarifications of MacEwan Hall / MacEwan Student Centre Operating Agreement, shall be agreed upon between the parties and failing agreement, shall be referred to the Joint Liaison Committee for attempted resolution.
- 10.4 Matters relating to the management and operation of MacEwan Hall / MacEwan Student Centre shall be agreed upon between the parties and failing agreement, shall be referred to the Joint Liaison Committee for attempted resolution.
- 10.5 The Union and the Governors may consult through the Joint Liaison Committee on matters affecting the physical status of common areas or involving shared expenditures.
- 10.6 The Union shall report annually, not later than March 31st in each year, on the management and operation of MacEwan Hall / MacEwan Student Centre through the Joint Liaison Committee to the Governors and the Students' Legislative Council.

- 10.7 The Governors or Union representatives on the Joint Liaison Committee may require the Chairperson to convene a meeting by presenting a written request for the meeting. The requested meeting shall be held within thirty (30) days of receipt by the chairperson of the request.

ARTICLE 11
LIMITS OF LIABILITY AND INDEMNIFICATION

- 11.1 The Governors shall not be liable to the Union for direct, indirect or consequential damage or damages which may arise by reason of the temporary interruption, suspension, discontinuance or failure of heating, electrical power or water supply (including, without limitation, power surges in the delivery of electricity) or any other utility or service supplied by the Governors to the Buildings pursuant to this Agreement, provided always that the Governors shall take reasonable steps to restore the supply of such utilities or services.
- 11.2 The Union hereby agrees to indemnify and save harmless the Governors from and against any and all liabilities, debts, actions, causes of action, suits, damages, costs, expenses or other claims which the Governors may suffer or incur directly or indirectly arising from the use and occupation by the Union of the Union Allocated Space or of the Common Areas and in particular, without restricting the generality of the foregoing, arising from the operation of any business, activity, event or service carried on by or through the Union in respect thereto; and further in respect to any matter directly or indirectly from any default or breach by the Union of any of the provisions of this Agreement, provided, however, that such indemnification shall not extend to any such liability, debt, actions, causes of action, suits, damages, costs, expenses or other claims which arise, directly or indirectly from the negligence, wilful omission or commission of the Governors, its employees or agents.
- 11.3 Except as otherwise expressly contemplated by Section 11.1, the Governors hereby agree to indemnify and save harmless the Union from and against any and all liabilities, debts, actions, causes of action, suits, damages, costs, expenses or other claims which the Union may suffer or incur directly or indirectly arising from the operation of any activity, event or service carried on by or through the Governors in respect of the Union Allocated

Space; and further in respect of any matter directly or indirectly arising from any default or breach by the Governors of any of the provisions of this Agreement, provided, however, that such indemnification shall not extend to any such liability, debt, actions, causes of action, suits, damages, costs, expenses or other claims which arise, directly or indirectly from the negligence, wilful omission or commission of the Union, its employees or agents.

ARTICLE 12
GENERAL MATTERS

12.1 Further Assurances

Each of the Governors and the Union shall from time to time execute and deliver, at the request of the other, all such further documents or instruments, do or cause to be done such further acts and things, and give such further assurances as may be necessary to give full force and effect of this Agreement in accordance with its purpose and tenor

12.2 Notices

Any notice required or contemplated by any provision of this Agreement shall be deemed sufficiently given if contained in writing and delivered in a sealed envelope to the parties at their respective addresses as follows:

to the Governors:

Office of the Vice President (Finance and Services)
University of Calgary
2500 University Drive N.W.
Calgary, Alberta
T2N 1N4

to the Union:

Office of the President – The Students' Union
University of Calgary
2500 University Drive N.W.
Calgary, Alberta
T2N 1N4

12.3 Termination of Operating Agreement

This Agreement entirely supersedes the Operating Agreement.

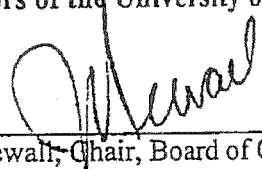
12.4 Time of Essence

Unless otherwise expressed herein, time shall be of the essence of this agreement.

IN WITNESS WHEREOF the parties have hereto executed these presents as of the date first above written.

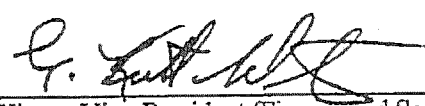
The Governors of the University of Calgary

Per:



J. E. (Ted) Newall, Chair, Board of Governors

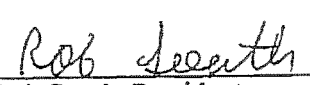
Per:



G. Keith Winter, Vice-President (Finance and Services)

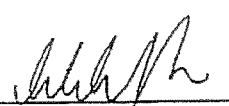
The Students' Union, The University of Calgary

Per:



Rob South, President

Per:

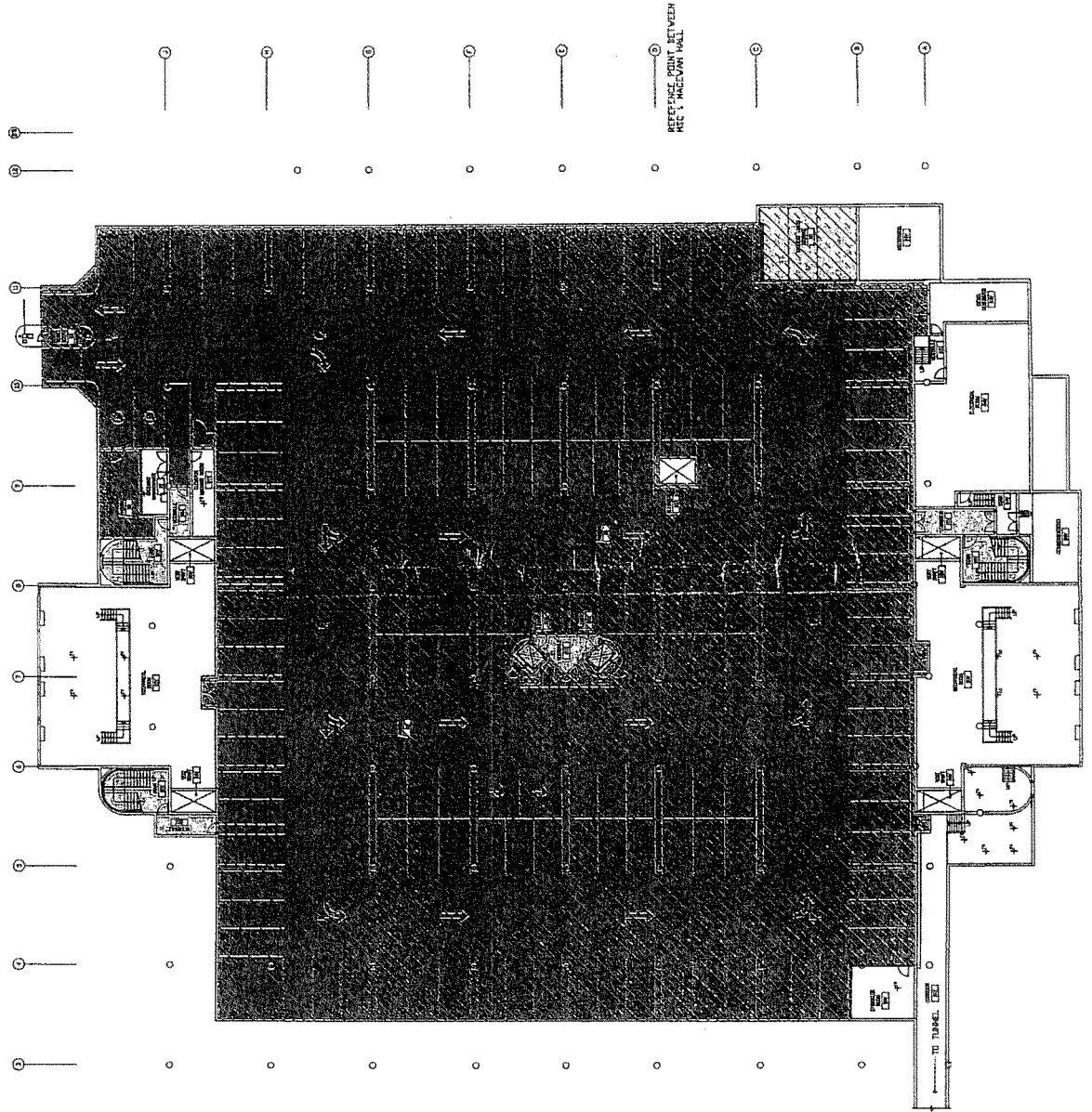


Amanda Affonso, Vice-President

Operations & Finance

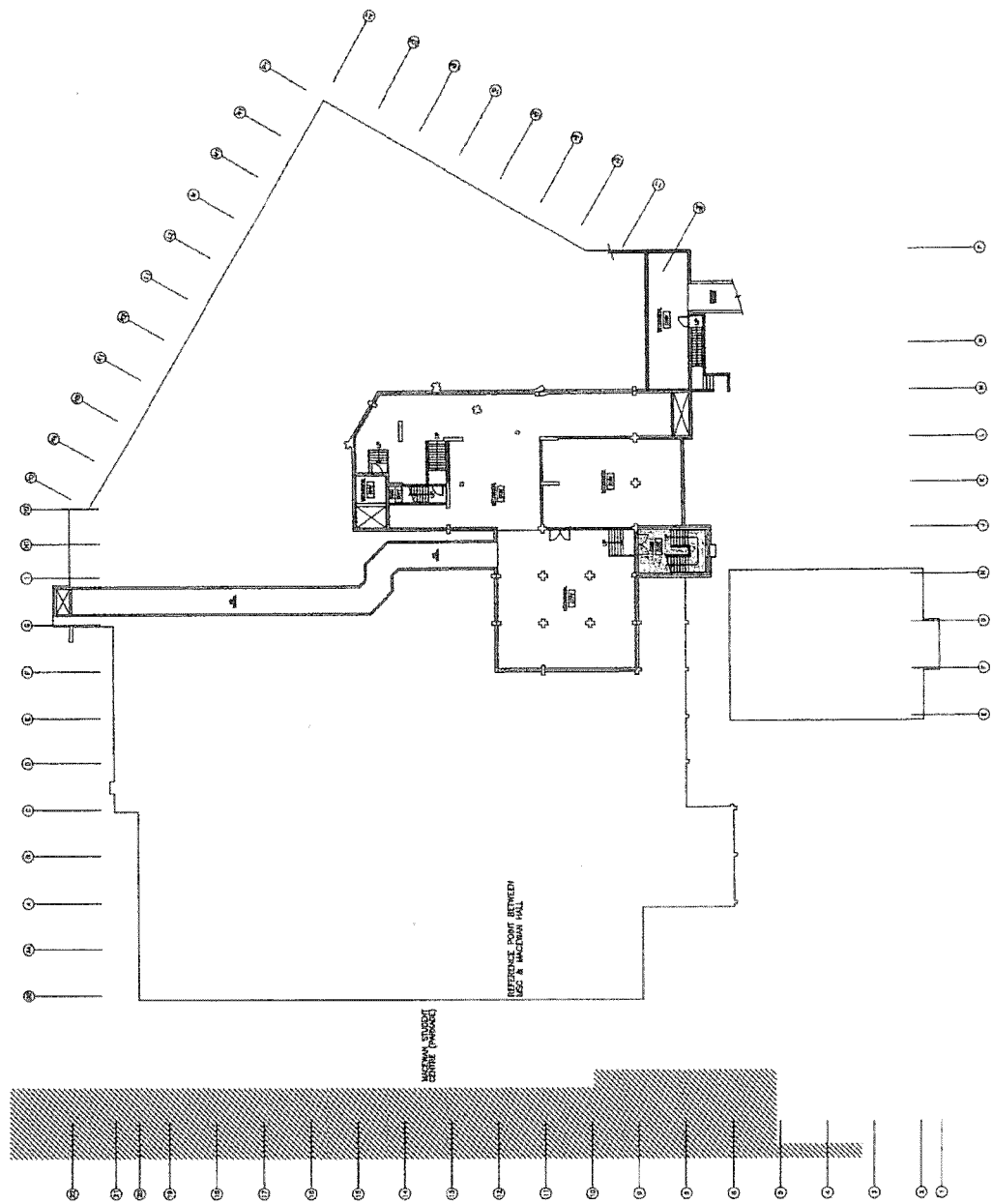


- LEGEND:**
- 1. ADMINISTRATION
 - 2. SCIENCE A
 - 3. SCIENCE B
 - 4. ROCKIMIE LIBRARY BLOCK A)
 - 5. PHYSICAL EDUCATION (BLOCK B)
 - 6. CRAIGIE HALL
 - 7. DINING CENTER
 - 8. ENGINEERING
 - 9. HEATING AND COOLING
 - 10. MACEVAN HALL
 - 11. EDUCATION
 - 12. KANANASKIS HALL
 - 13. RUNDLA HALL
 - 14. SOCIAL SCIENCES
 - 15. MATHEMATICS
 - 16. PHYSICAL PLANT
 - 17. GROUNDS
 - 18. BIOLOGICAL SCIENCES
 - 19. EARTH SCIENCES
 - 20. VARSITY COURTS
 - 21. MACEVAN LIBRARY TOWER
 - 22. MUSEUM
 - 23. NICKLE ARTS MUSEUM
 - 24. REEVE THEATRE
 - 25. HEALTH SCIENCES
 - 26. MORGAN HALL
 - 27. BREWSTER HALL
 - 28. CASTLE HALL
 - 29. ROTUNDA
 - 30. PHYSICAL EDUCATION (BLOCK B)
 - 31. OLYMPIC DVAL
 - 32. GLACIER HALL
 - 33. MACEVAN STUDENT CENTER
 - 34. ART BUILDINGS
 - 35. SERVICES BUILDING
 - 36. PROFESSIONAL FACILITIES BUILDING
 - 37. CHILD CARE CENTER
 - 38. MATERIALS HANDLING FACILITY
 - 39. ROZSA CENTER
 - 40. KANANASKIS CENTER
 - 41. PRESIDENT'S RESIDENCE
 - 42. MCEMORN STAIRS
 - 43. MACEVAN STUDENT CENTER
 - 44. PETRO-CANADA

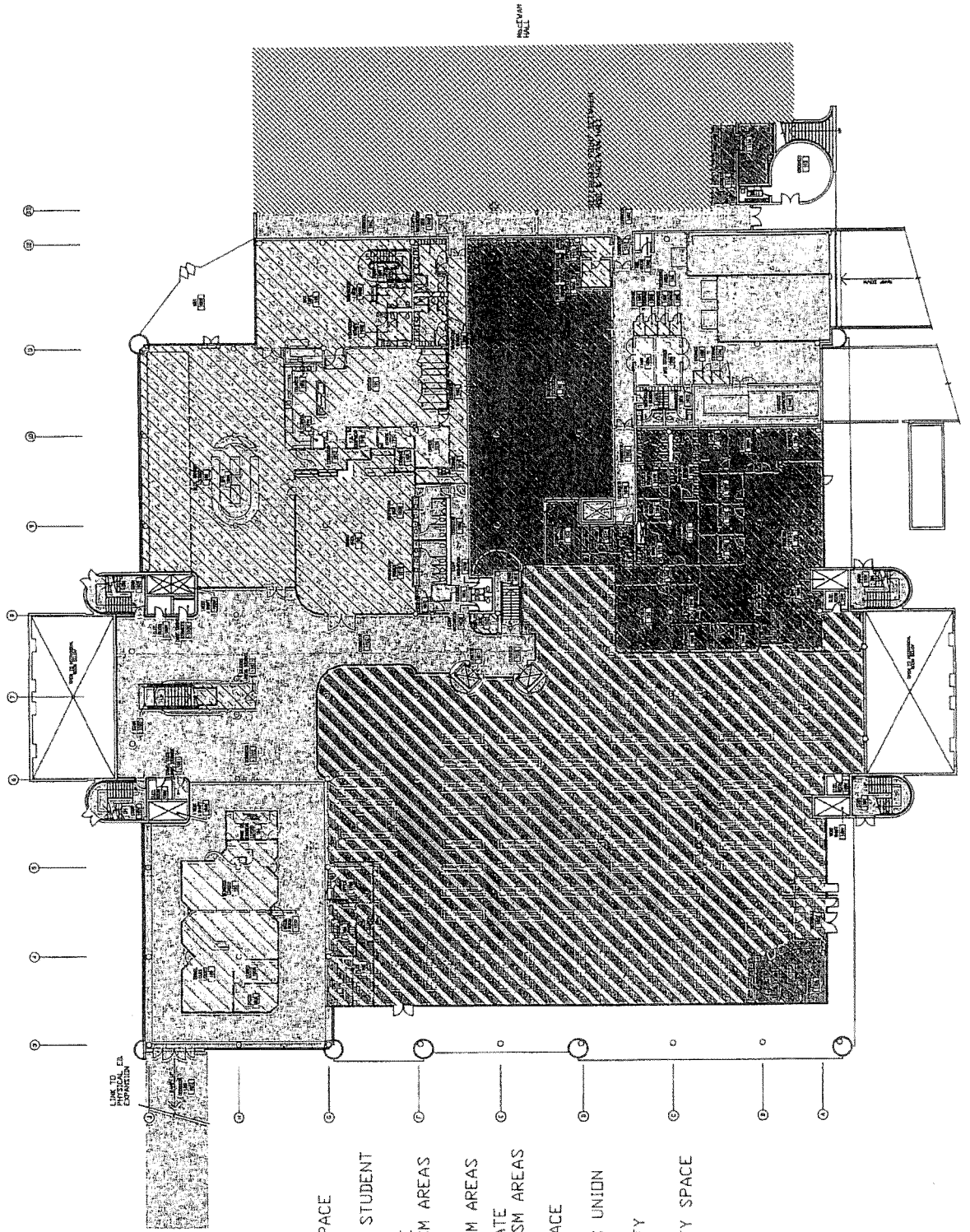


- COMMON SPACE
- GRADUATE STUDENT
- HIGH RATE \$112.20/ASM AREAS
- LOW RATE \$43.34/ASM AREAS
- MEDIUM RATE \$74.80/ ASM AREAS
- OTHER SPACE
- STUDENT'S UNION
- UNIVERSITY
- UNIVERSITY SPACE

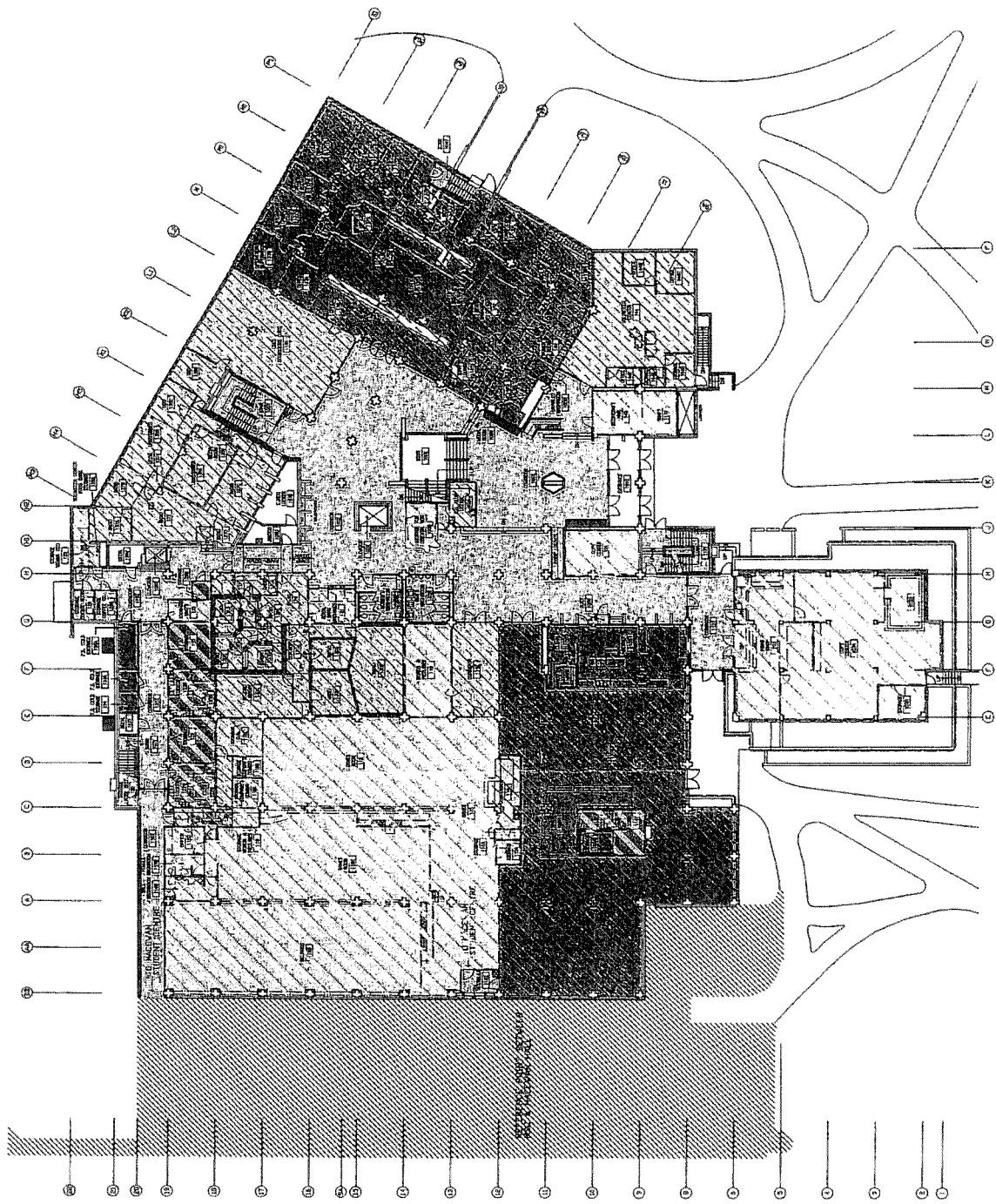
REFERENCE POINT BETWEEN
ACE & INCEPANT HALL



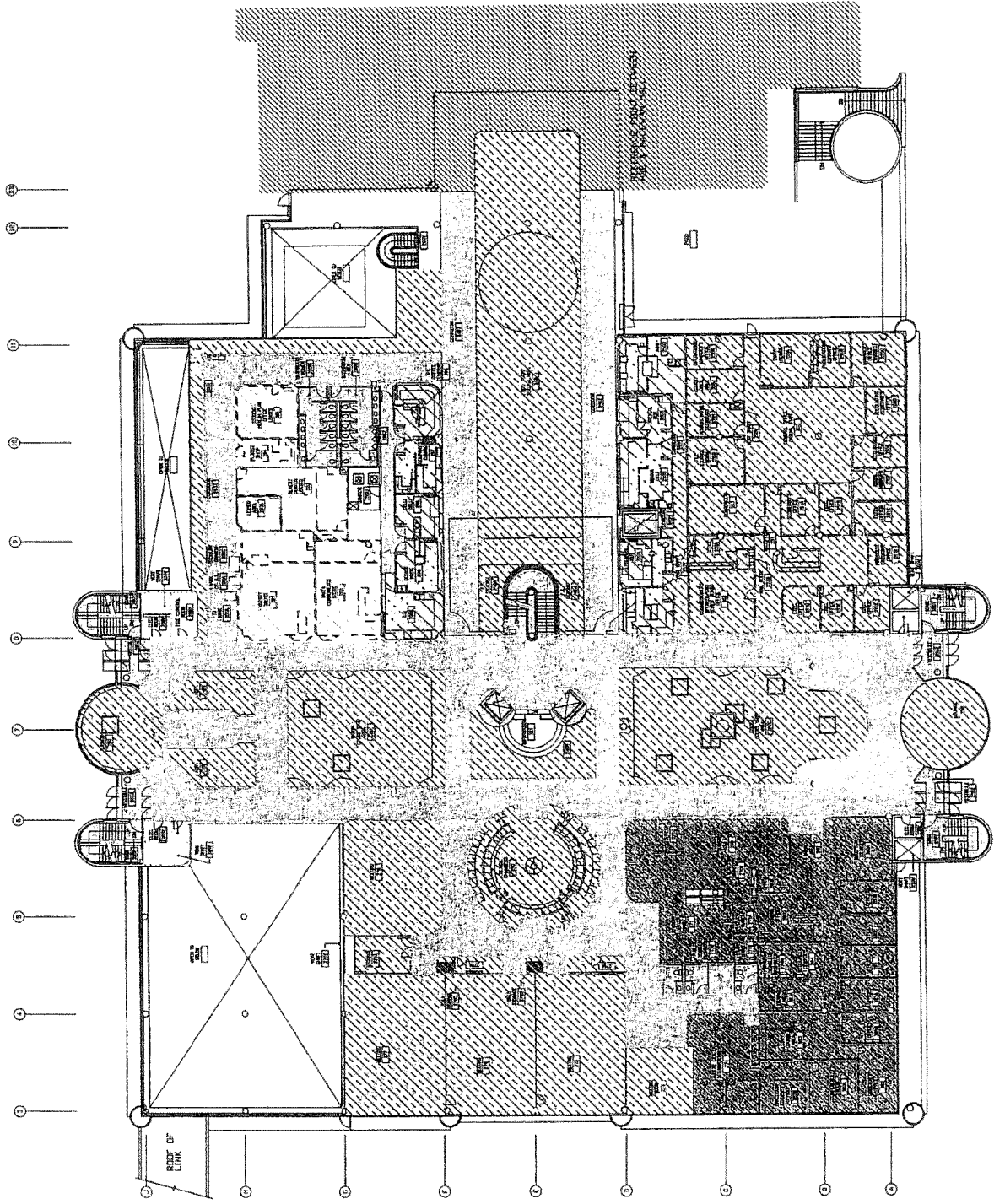
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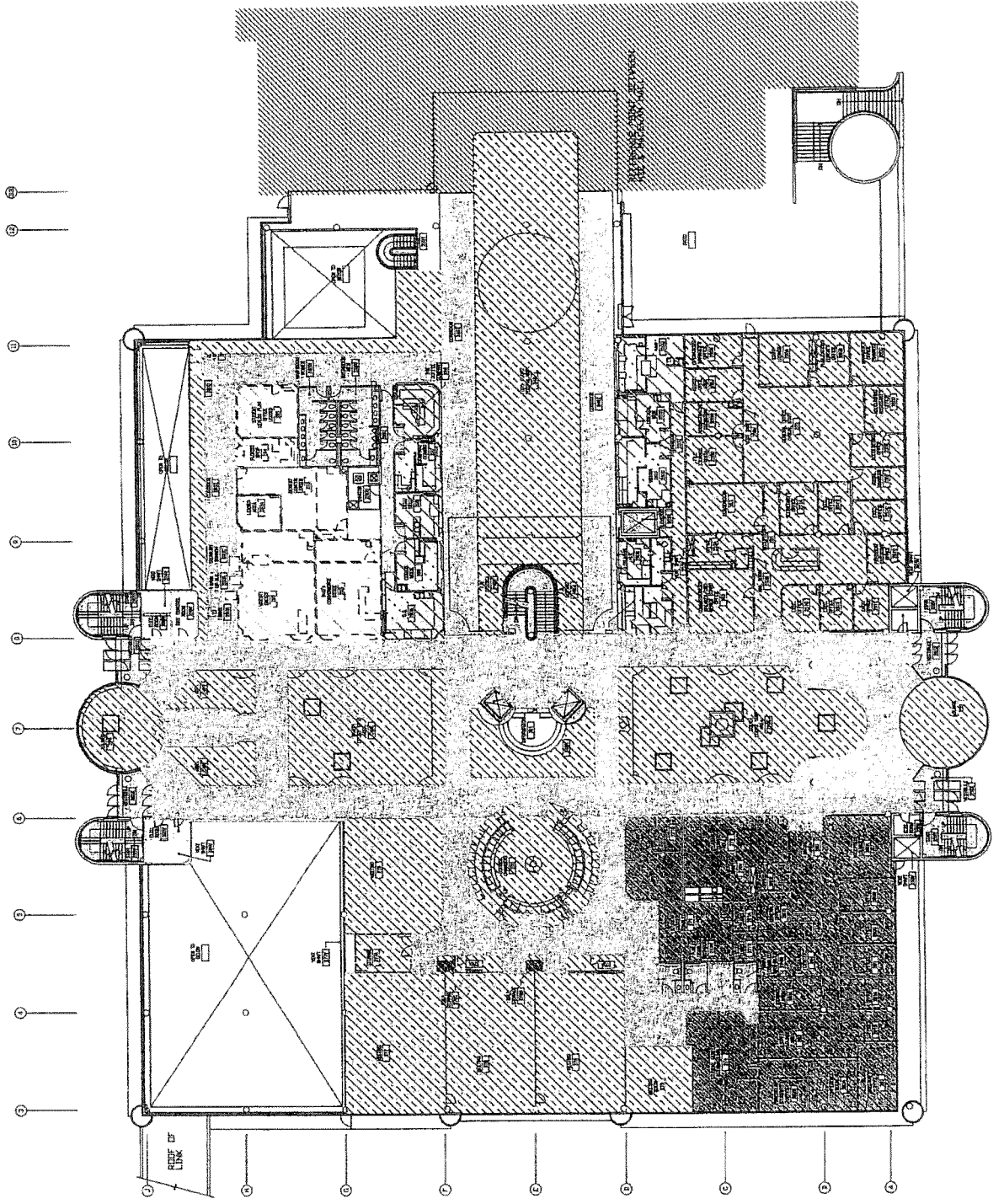
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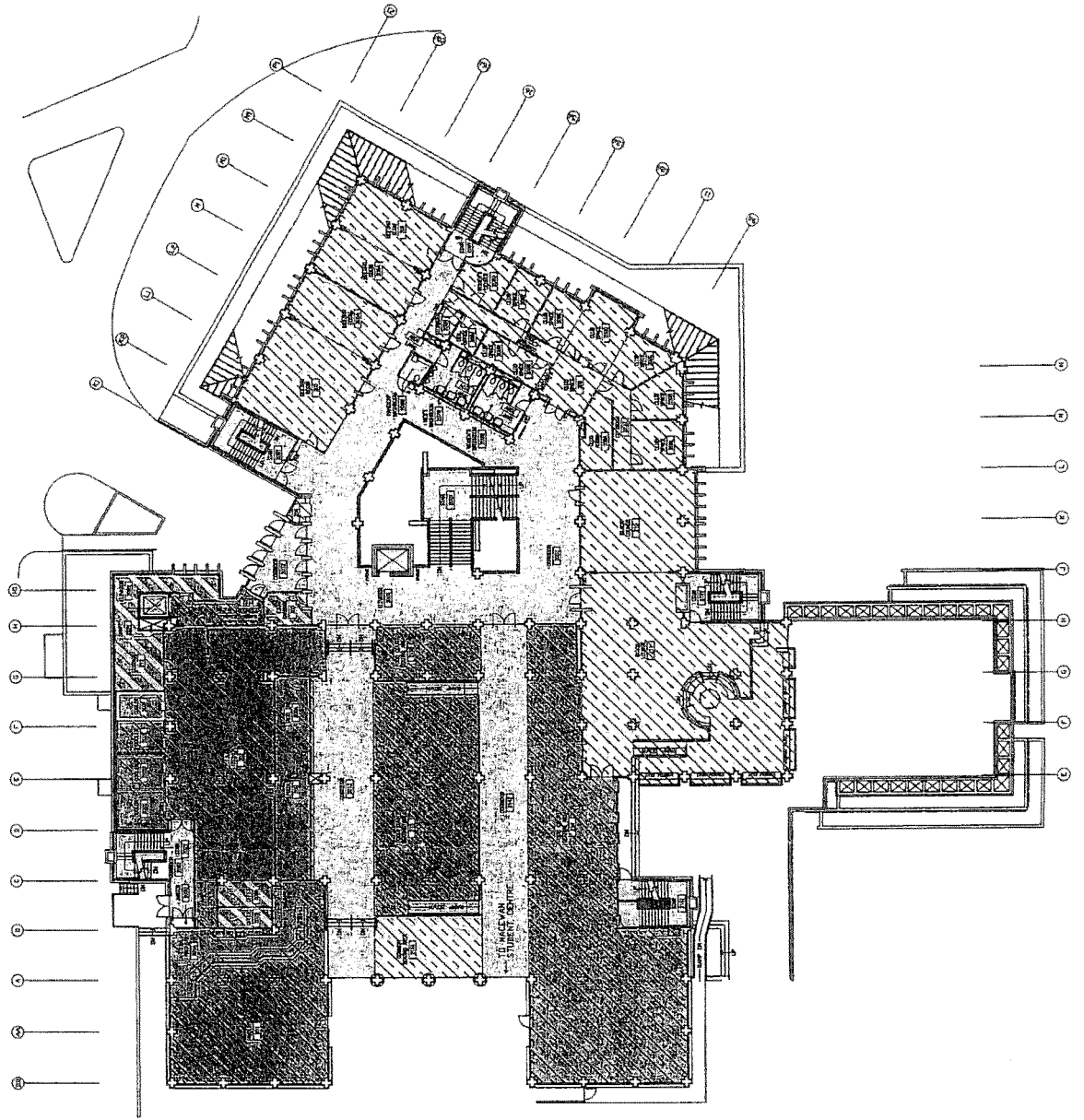
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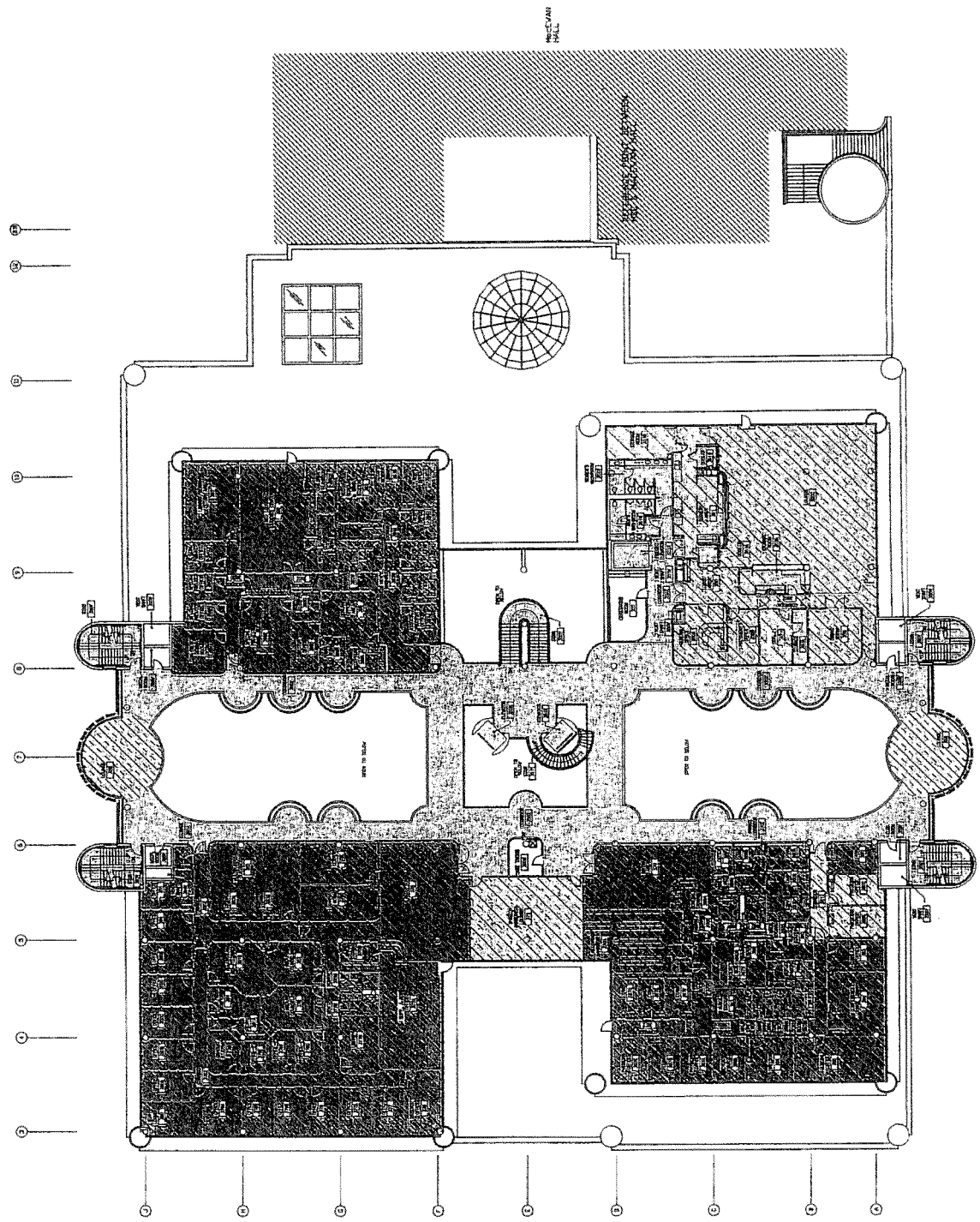


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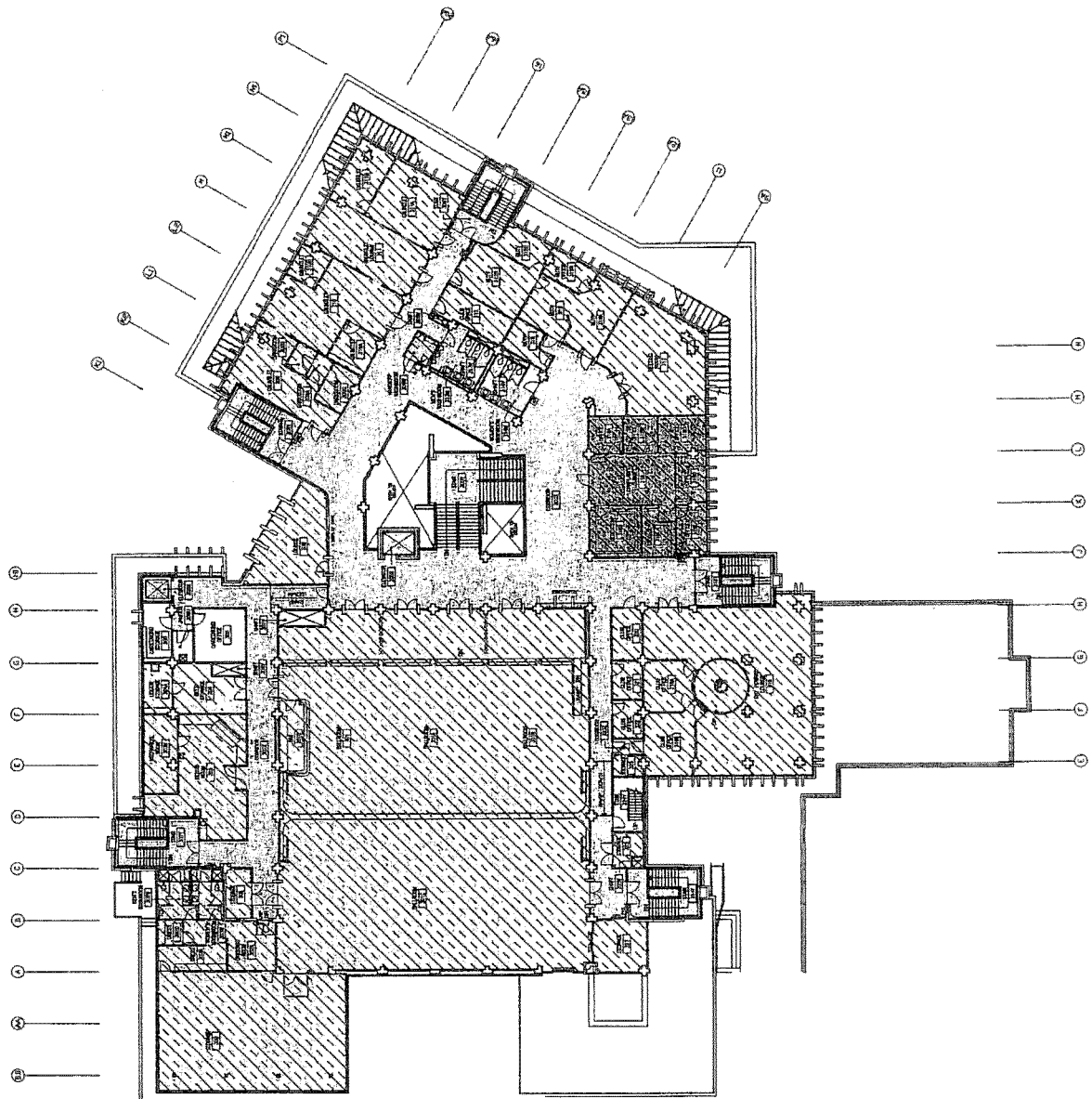


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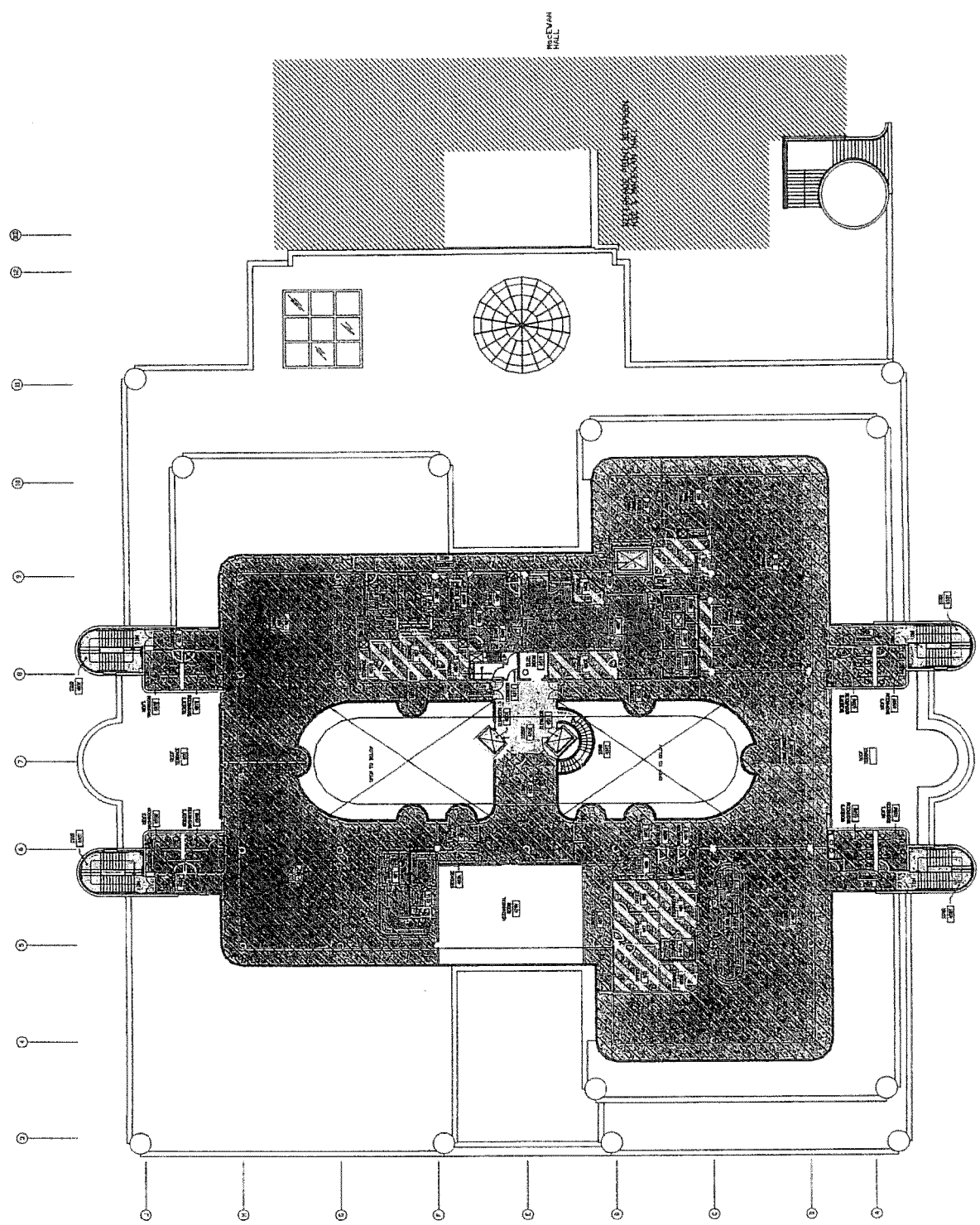


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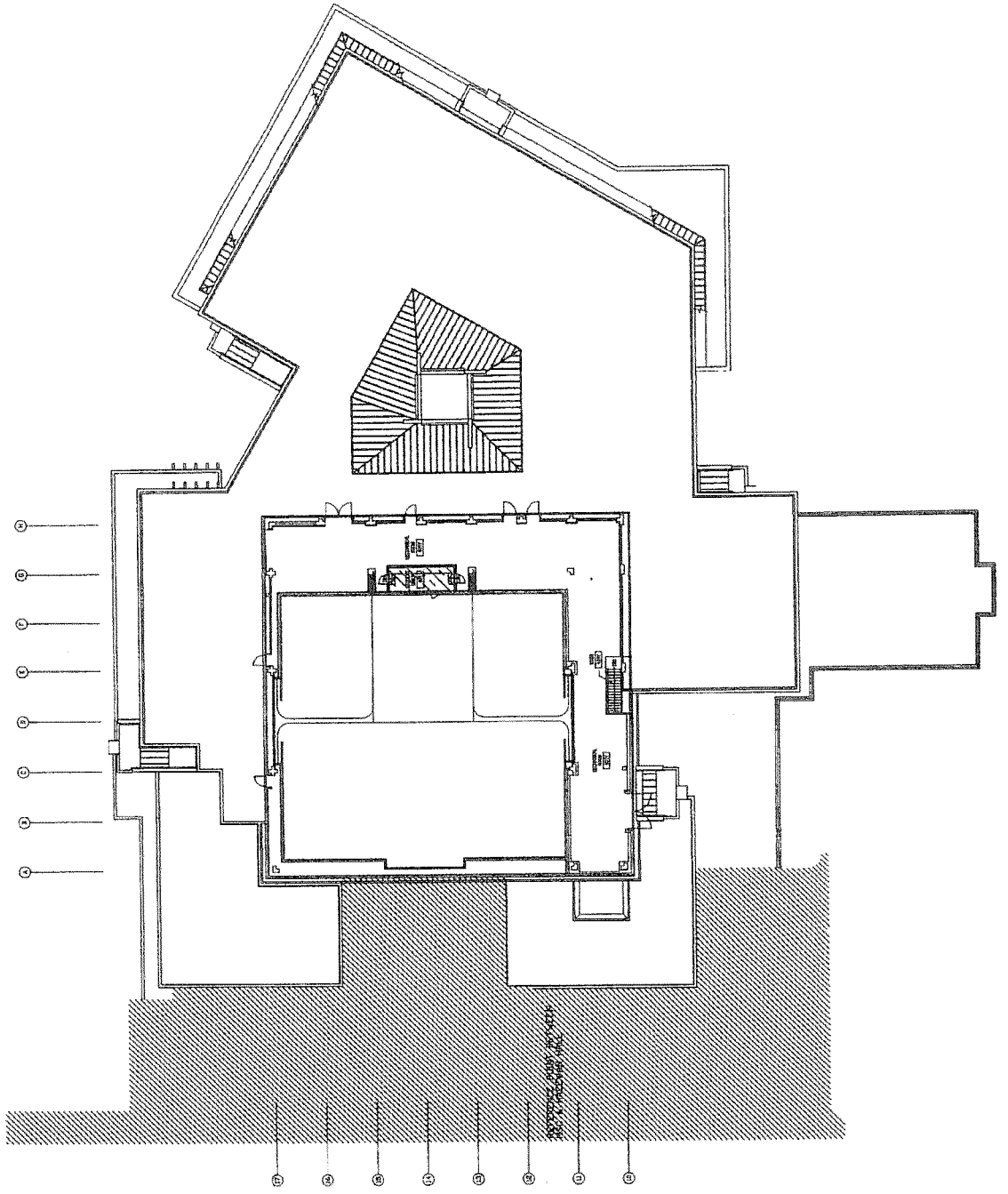


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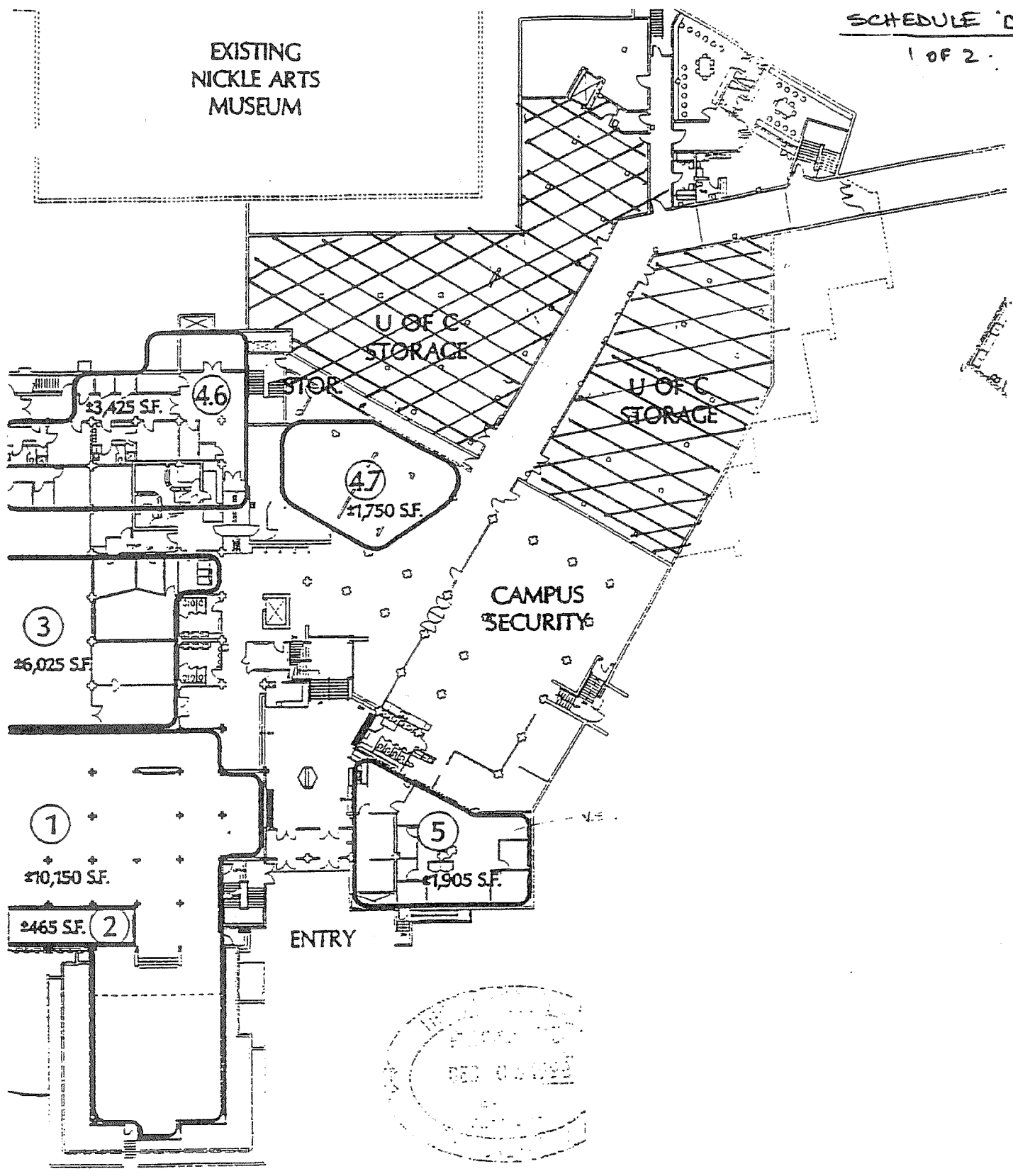


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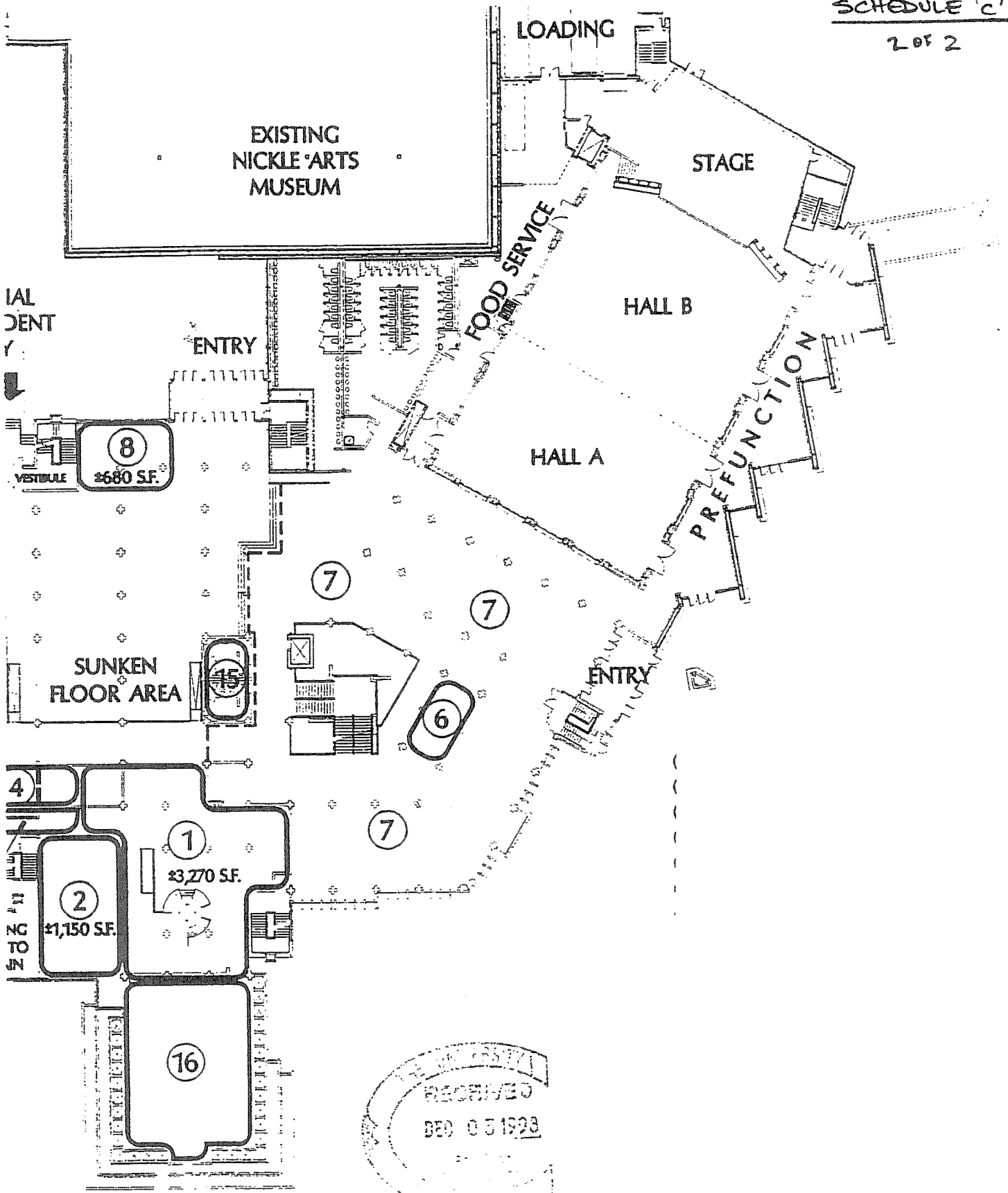
EXISTING
NICKLE ARTS
MUSEUM



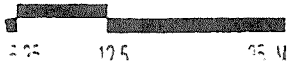
REVISED NOV 27 1998



Gibbs Gage
ARCHITECTS



REVISED DEC 2/98



Gibbs | Gage

SCHEDULE 'D'

LOW RATE: Minimal utility use with the rate equal to the campus wide GSM rate as calculated by Facilities Management

MEDIUM RATE: base rate for all commercial space with normal utility consumption and use.

HIGH RATE: 1.5 times the **MEDIUM RATE** (base) for allocation to space with high utility and service demands.

OTHER SPACE: Unassigned space under University control to provide facility infrastructure and building services which space is inaccessible to the public, excluding all Common Area.

COMMON AREA: That portion of the Buildings, which is comprised of neither Governors Allocated Space or Union Allocated Space. Normally this space is publicly accessible and useable space not specifically assigned and allocated the **LOW RATE** for occupancy charges

SCHEDULE 'E'

All revenues paid to the Union from the following sources shall not be considered Commercial Leases or Commercial Activity.

Table bookings
Washroom Advertising
Condom Dispensers
Sticker Machines
Massage Chairs