Quand et comment demander l'ouverture d'un régime de protection ?

Le nombre sans cesse croissant de demandes d'ouverture de mesures de protection, conduit la pratique judiciaire à conférer à ces régimes un **caractère** subsidiaire.

Bien souvent, l'affection d'une famille fournit au majeur la

protection que sa vie personnelle requiert sans qu'il soit nécessaire de recourir à une mesure de protection.

Il importe en effet de limiter l'intervention du *juge des tutelles*

dans le fonctionnement familial aux situations qui rendent indispensable l'atteinte à la *capacité*

civiledu majeur concerné, comme par exemple la prévision d'un *acte* notarié, la

perception d'un capital, la vulnérabilité de la personne ou

encore un conflit familial...

Par ailleurs,

si le conjoint peut suffisamment pourvoir aux intérêts de la

personne protégée, il n'y a pas lieu d'instituer une mesure de

protection.

Outre le jeu des *mandats* ou *pr*

ocurations,

un

e

procédure

d'

habilitation

devant le tribunal

de

grande

instance

permet à

l'

un des

époux

de

représen
ter d'une
manière
générale

ou pour certains *actes* particuli

ers son

conjoint

,

durable

ment

inapte à

gérer ses *biens*

ou hors d'état de

manifester sa volonté

La

deman de de protecti

on doit être présen

tée au *juge des*

tutelles du tribuna

l

d'insta

nce

dans

le

ressor

t

duquel

se

trouve

le

domic

ile ou

le lieu

d'hos

pitalis

ation

de la

perso

nne

conce

rnée.

Cette

démar

che

peut

éman

er de

l'intér

essé

lui-m

êmé ,

son

conjo

int

(sauf si la

com

muna

uté

de

vie a

cessé

), ses

asce

ndan

ts

ou

desc

enda

nts

,

ses

frère

s

et

soe

urs

,

son

curateur

(lorsqu'il

considèr

e

opp

ortu

n de

subs

titue

r

une

mes

ure

de

tutel

le

à

cell

e de

cura

telle

) ou

du

pro

cur

eur

de

la

Républic

que

.

Ce

sont

les

seul

s

don

t la

req

uêt

e

entr

aîn

e

obli

gat

oire

me

nt

l'ou

vert

ure

d'un

e

pro

céd

ure.

Tou

tefo

is,

les

aut

res

par

ent

S

,

les

alli

és

,

les

am

IS

,

le

mé

de

cin

trai

tan

t

le

dir

ect

eur

d'u

n

éta

bli

ss

em

ent

de

soi

ns

pe

uv

ent

inf

or

me

r le

jug

e

d'u

ne

situ

ati

on

just

ifia

nt

l'in

stit

uti

on

d'u

ne

pro

tec

tio

n.

Uni

qu

em

ent

s'il

l'es

tim

e

op

por

tun

jug

e

po

urr

a

ou

vrir

d'o

ffic

e

un

e

pro

cé

dur

e

en

Vis

ag

ea

nt

le

pla

ce

me

nt

SO

us

tut

ell

e

ou

SO

us

cur

ate

lle

de

la

per

SO

nn

e

Vis

ée.

Po

ur

êtr

ec

ev

ab

le

la

re

qu

êt

e

doi

t

dé

sig

ne

r

la

pe

rs

on

ne

à

pr

ot

ég

er,

én

on

ce

r

pr

éci

sé

m

en

t

les

cir

CO

nst

an

ce

S

qui

ap

pel

len

t

cet

te

pr

ot

ect

ion

,

én

U

m

er

les

pr

OC

he

S

pa

re

nts

do

nt

l'e

XIS

te

nc

e

est

CO

nn

ue

,

ind

iqu

er

leu

r

no

m

et

leu

r

ad

re

SS

e

ain

Si

qu

e

ce

ux

du

m

éd

eci

n

tra

ita

nt.

Po

ur

ét

ab

lir

l'al

tér

ati

on

de

S

fa

cul

té

S

m

en

tal

es

ou

CO

rp

or

es

et

éc

art

er

les

de

m

an

de

S

fa

nt

ais

ist

es

ou

m

alv

an

te

S,

la

de

m

an

de

do

it

êtr

e

ac

CO

m

pa

gn

ée

d'u

n

ce

rti

fic

at

m

al

dé

livr

é

pa

r

un

ec

sp

ial

ist

ch

Si

su

r

un

e

list

e,

à

di

sp

OS

on

au

gr

eff

e,

ét

ab

pa

r

le

pr

OC

ur

eu

r

de

la

R

ue

D

an

S

la

pr

ati

qu

e,

le

S

jur

on

S

ad

re

SS

en

t

fré

qu

e

m

m

en

t

au

re

qu

ér

an

t

un

pri

m

pe

rm

ett

an

t

de

CO

ns

ne

r

no

m

br

e

de

re

ns

gn

e

m

en

ts

fa

lia

ux

,

SO

au

X

ou

en

CO

re

pa

tri

m

on

ux

,

le

sq

ue

pe

uv

en

t

al

ert

er

le

ge

su

r

un

e

sit

ua

tio

n

d'

ur

ge

nc

e

et

re

nd

re

né

ce

SS

air

e

la

dé

Si

gn

ati

on

d'

un

m

an

da

tai

re

sp

éc

ial

P

ou

r

ac

cé

lér

er

le

tra

ite

m

en

t

de

la

de

m

an

de

pe

ut

ég

al

e

m

en

t

êtr

e

de

m

an

dé

au

re

qu

ér

an

t

de

pr

uir

a

CO

e

int

ral

e

de

ac

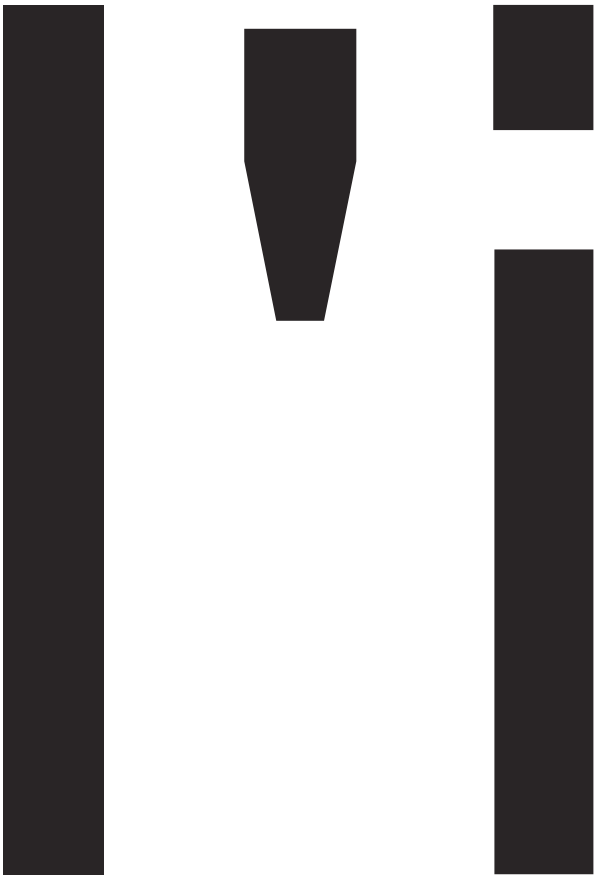
te

d

SS

ce

de



nt

es

sé

au

X

fin

S

de

vé

rifi

er

l'a

bs

en

ce

de

la

m

en

n

er

toi

re

Ci

ré

vè

le

u'

u

n

e

m

es

ur

e

d

e

pr

ot

tio

n

es

t

d'

or

es

et

d

éj

à

sti

tu

e,

[redacted]

et

u

C

er

tif

at

m

a

n

a

nt

d

e

SO

tr

ta

nt

p

O

ur

CO

n

n

tr

e

SO

n

av

su

r

le

C

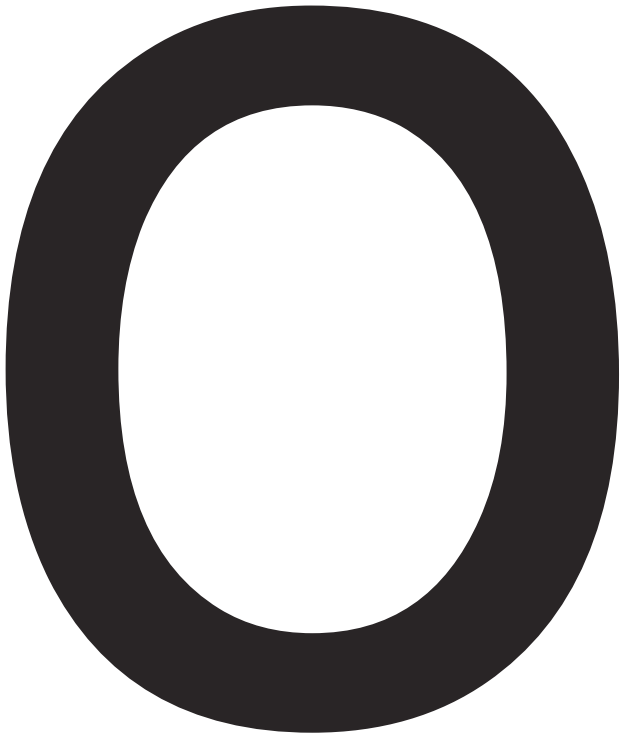
X

O

u

le

d



S

a

g

e

d

ré

m

e

à

m

et

tr

e

e

n

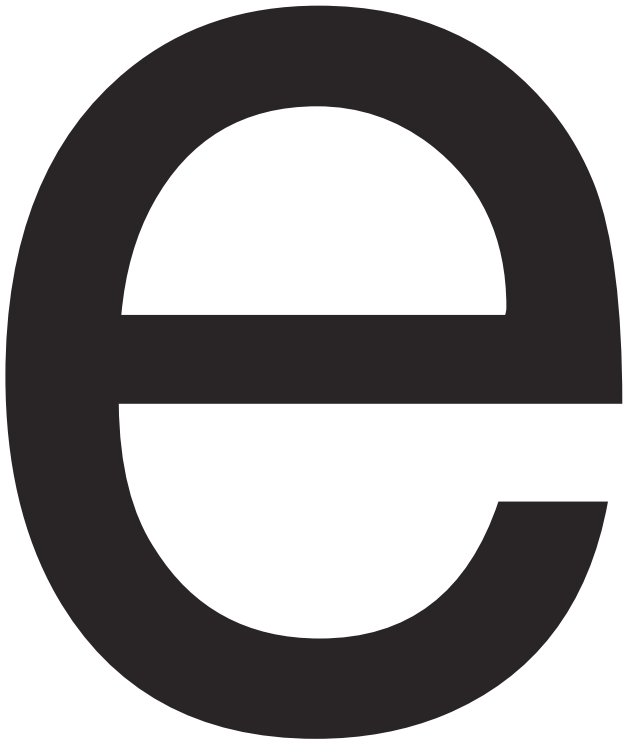
a

C

or

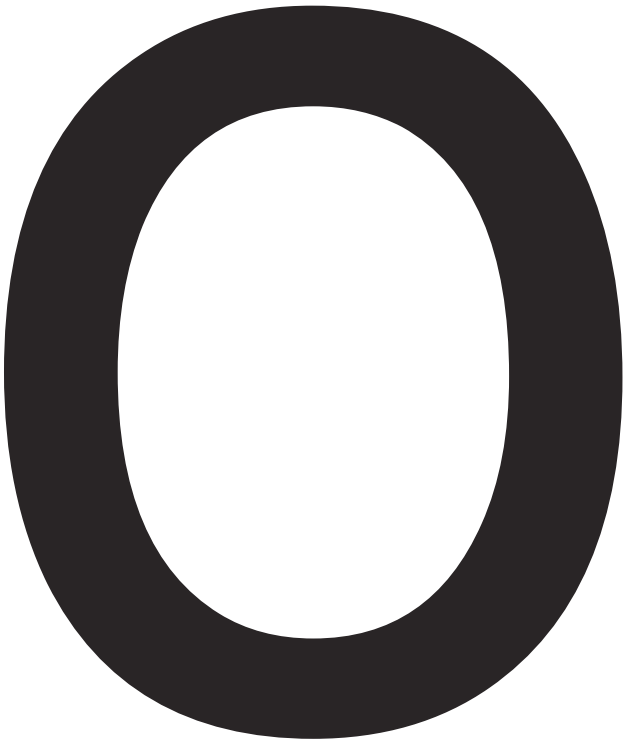
S

q



la

pr



C

é

d

e

e

st

O

V

er

te

S

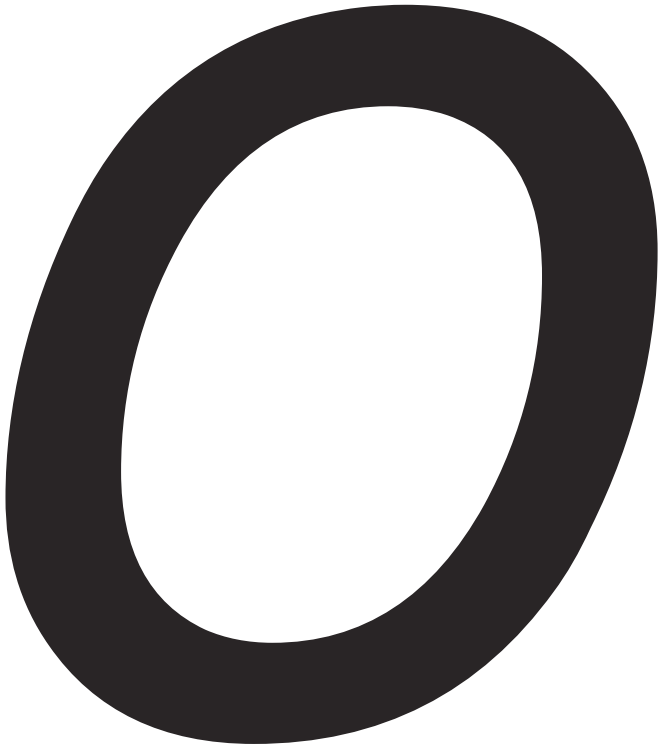
re

U

êt

e

pr



C

ur

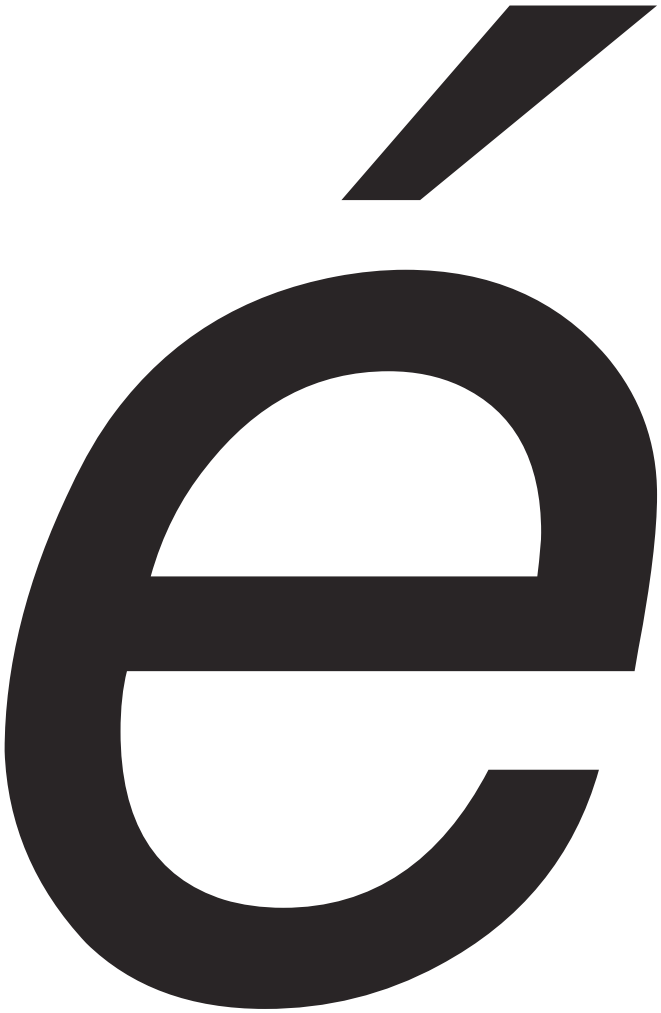
e

ur

d

e

la



bli

U

e

O

d'

of

fiC

e

p

ar

le

g

e,

C

e

d

er

er

C

O

m

m

et

n

m

d

e

n

S

p

st

e

pt

e

à

C

O

n

st

at

er

l'a

at

n

d

e

S

fa

C

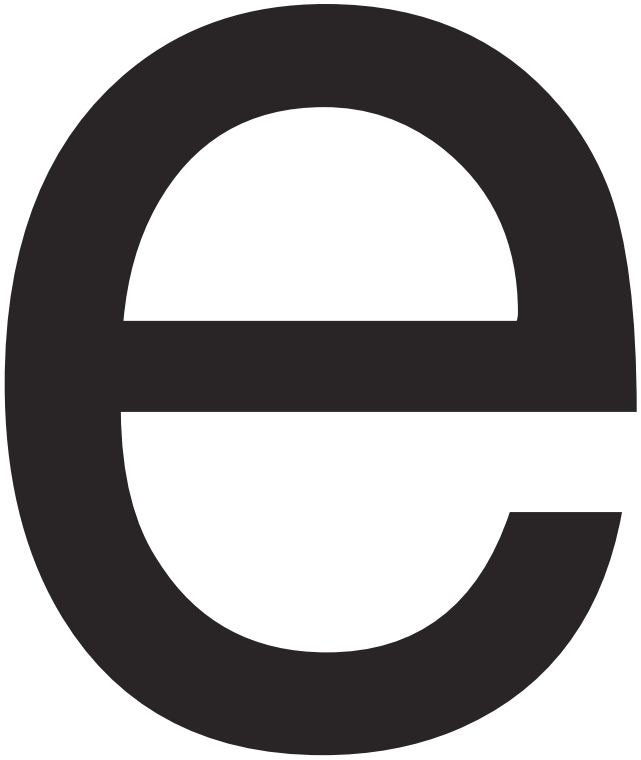
té

S

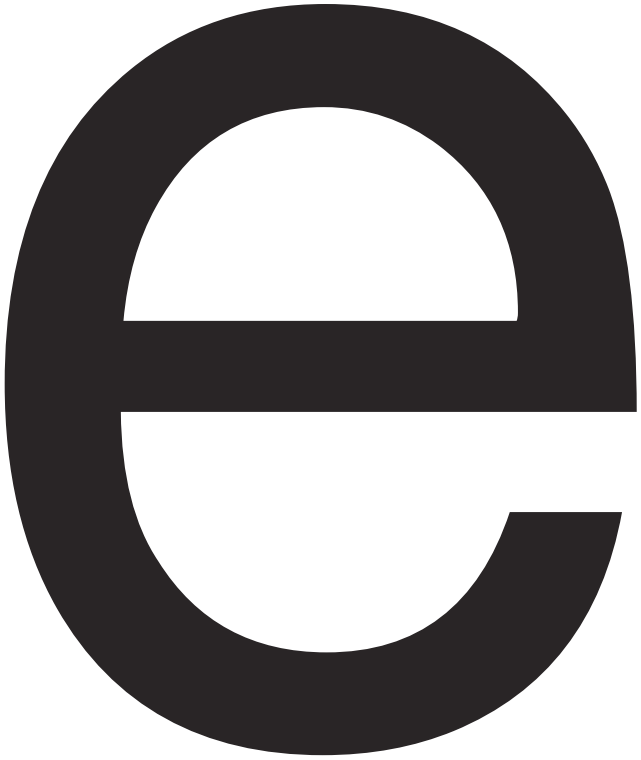
d

e

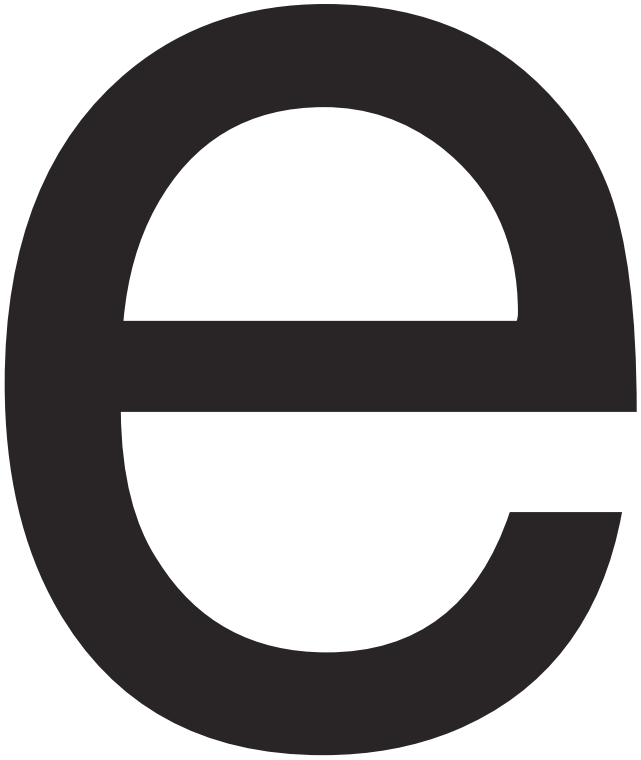
nt



SS



g



d

tri

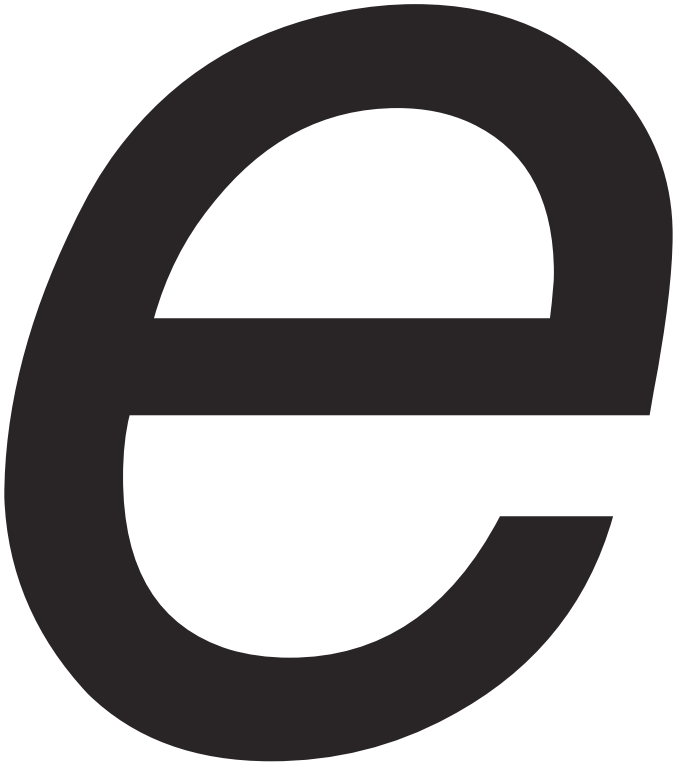
b

u

al

st

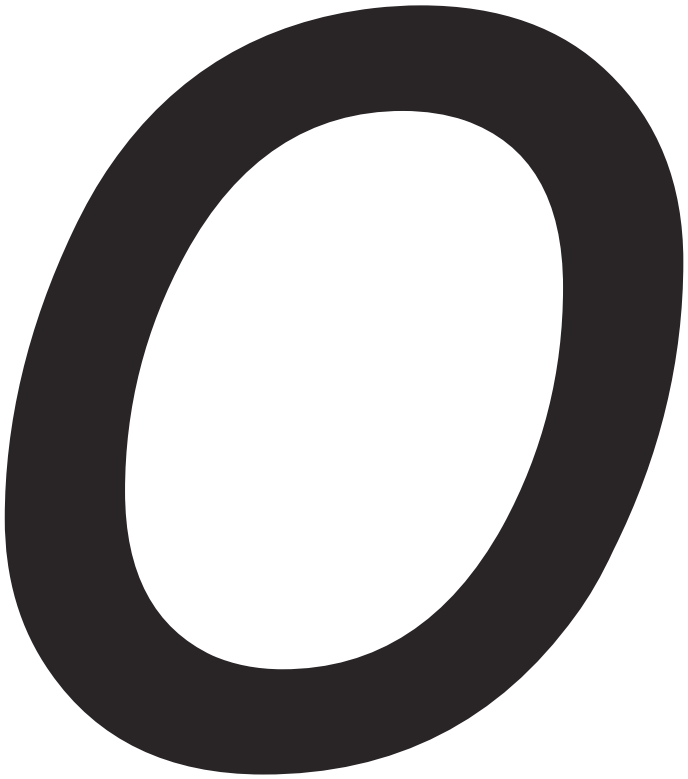
C



et

le

pr



C

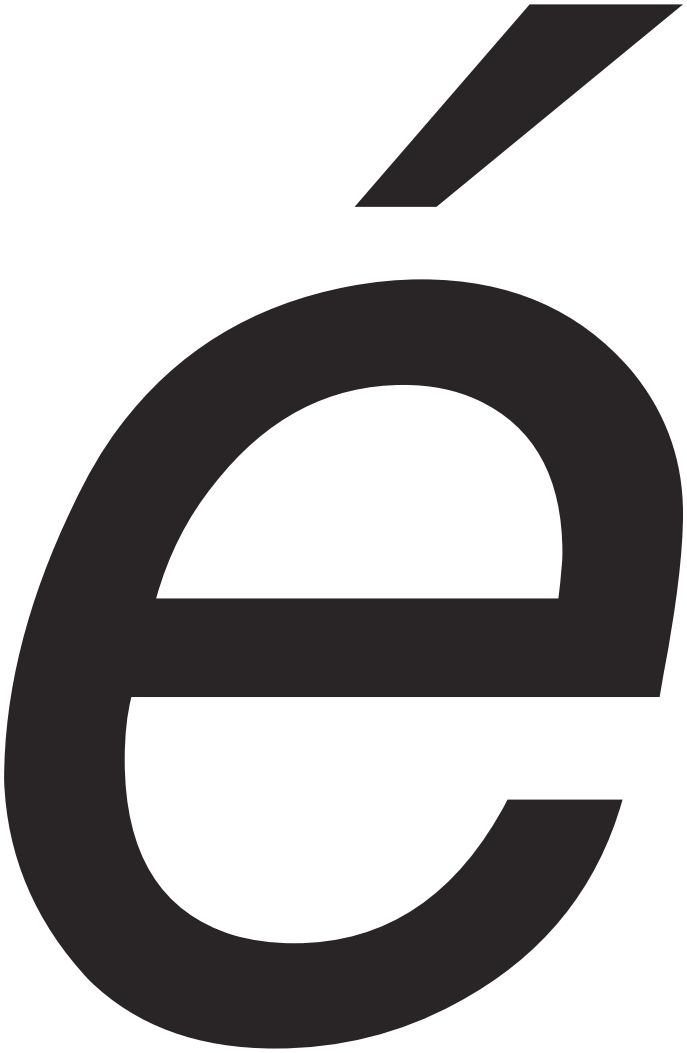
ur

e

ur

d

la



u

e

e

V

e

nt

g

al

e

m

e

nt

pr

O

V

O

er

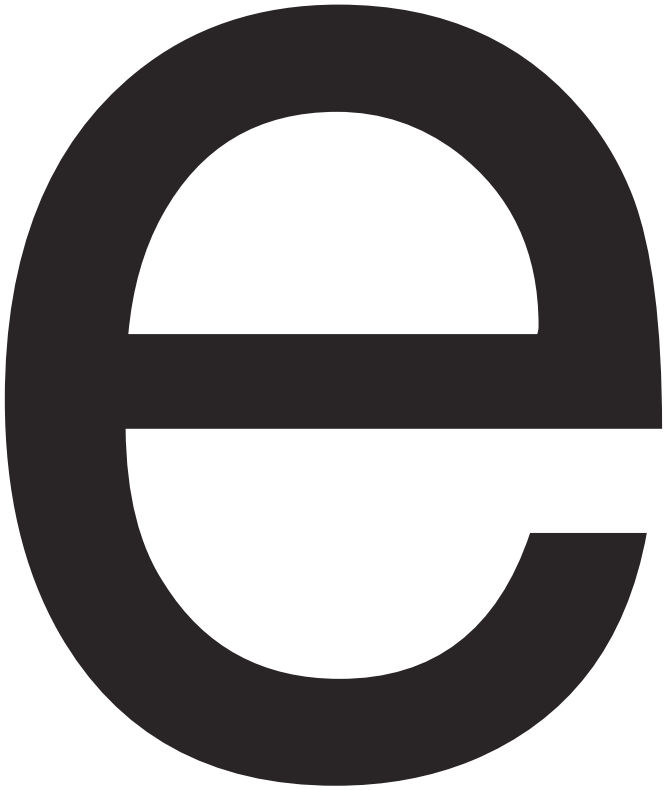
d'

g

e

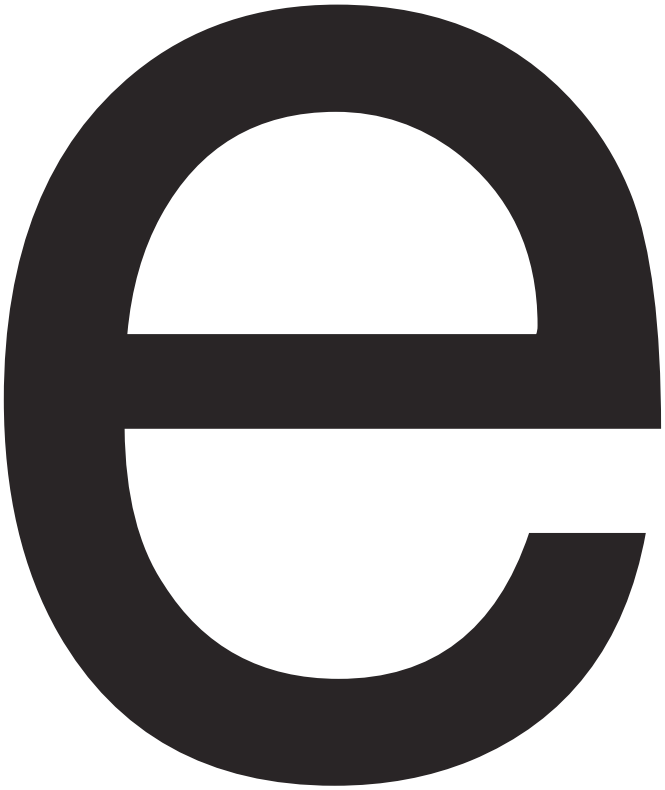
n

C



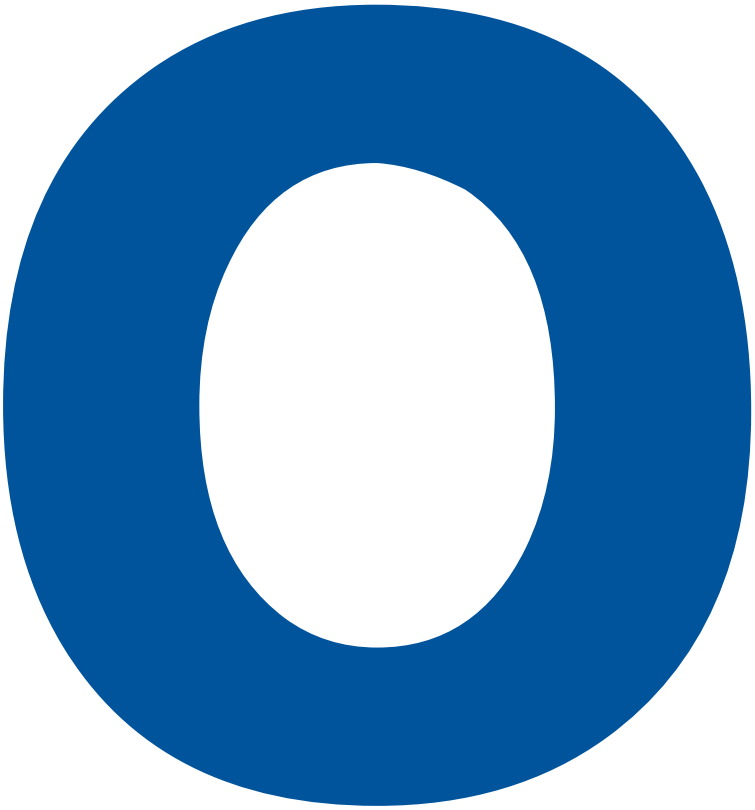
to

ut



S

C



S

er

V

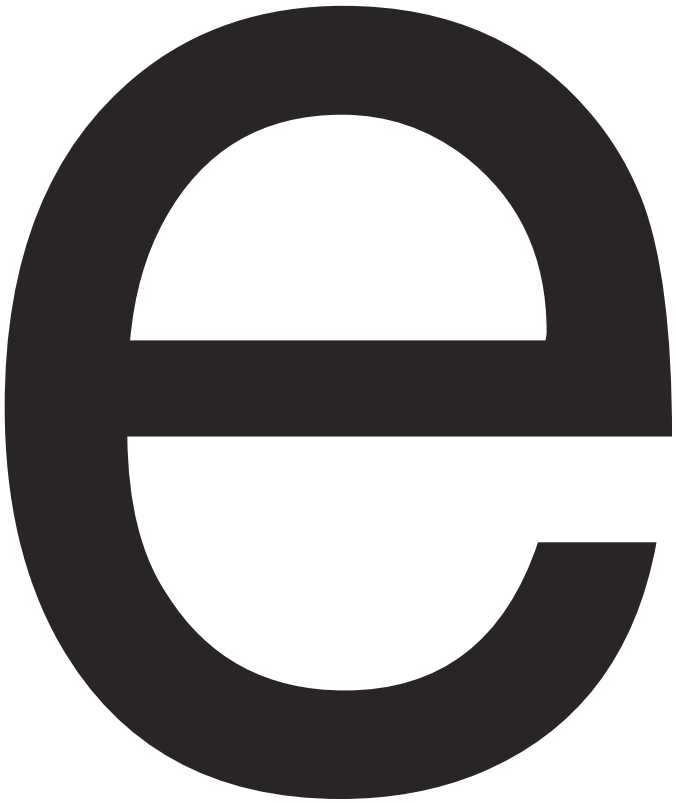
at

n

ot

m

m



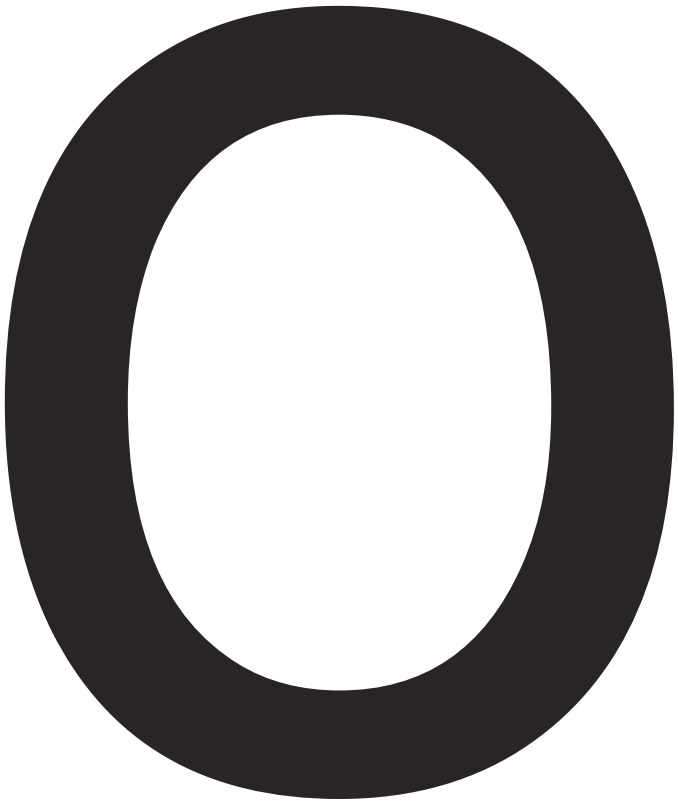
nt

p

p

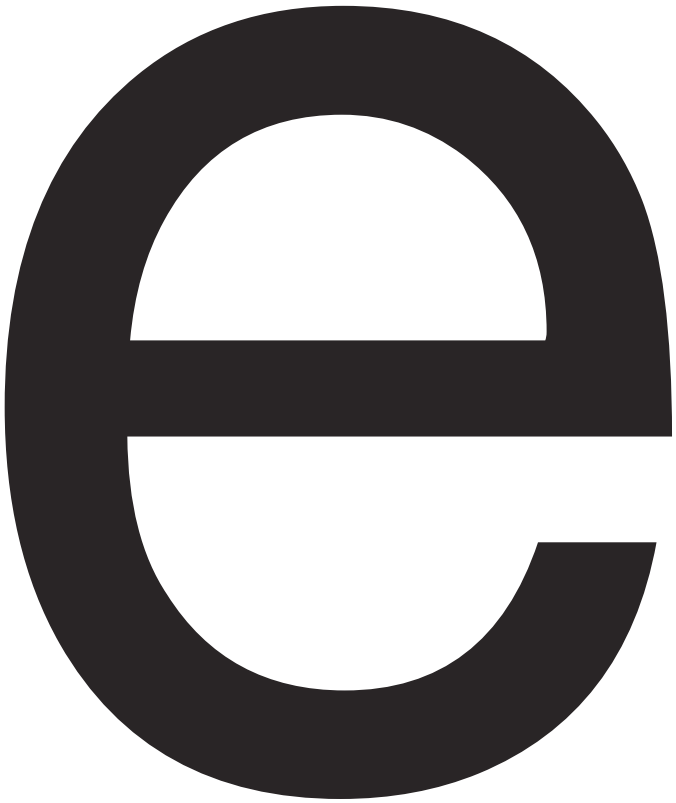
O

Si



n

d



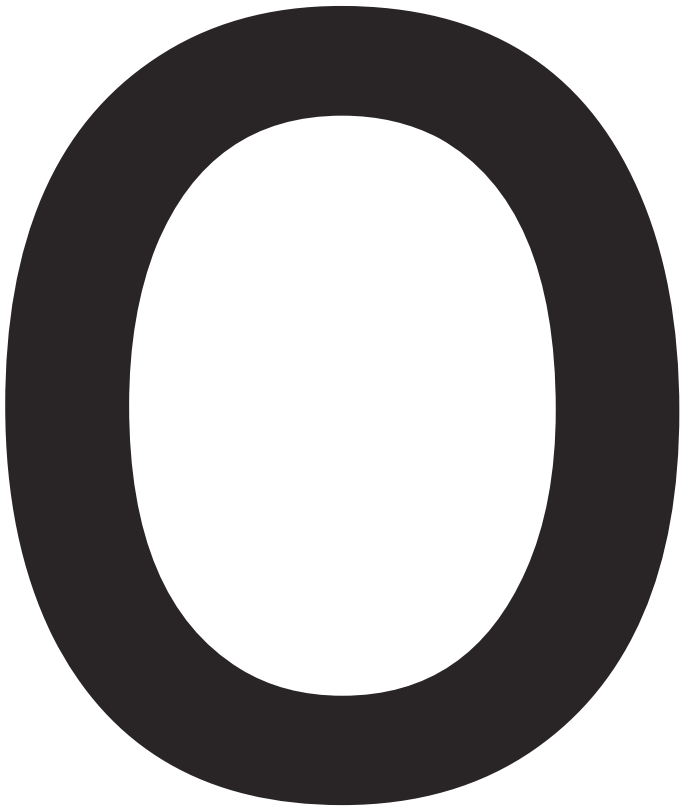
S

C

lé

S,

p



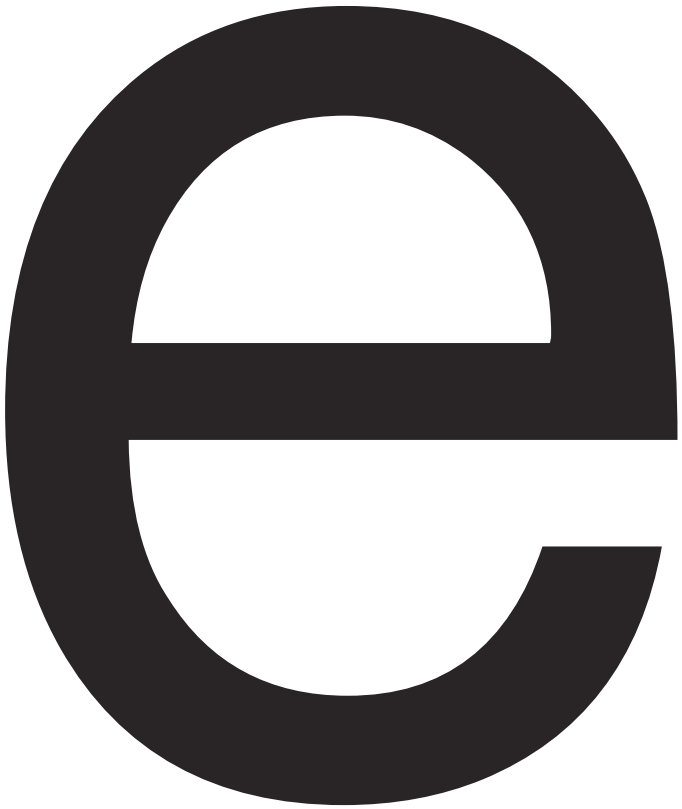
S

S

er

la

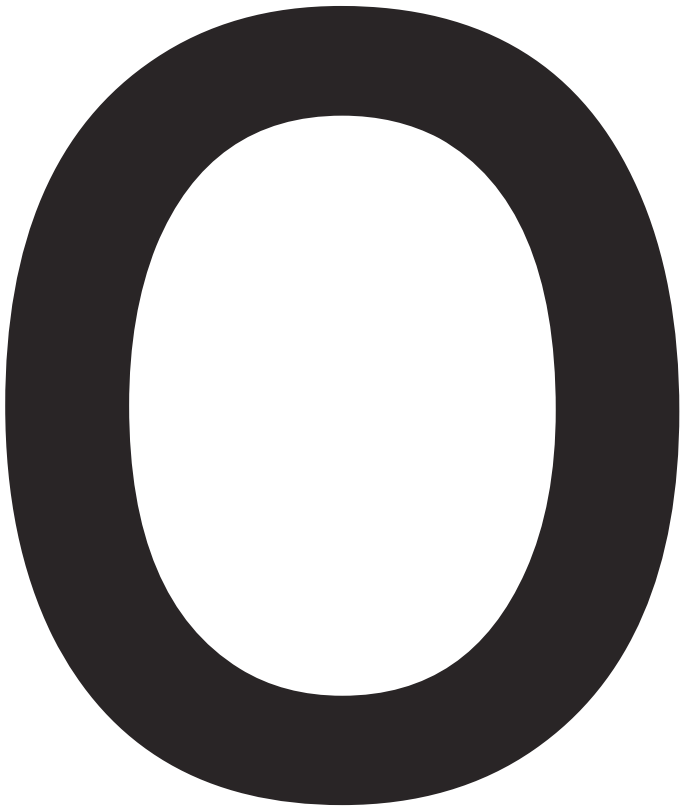
ot



ct

d

d



m

ICI

le

et

C

ar

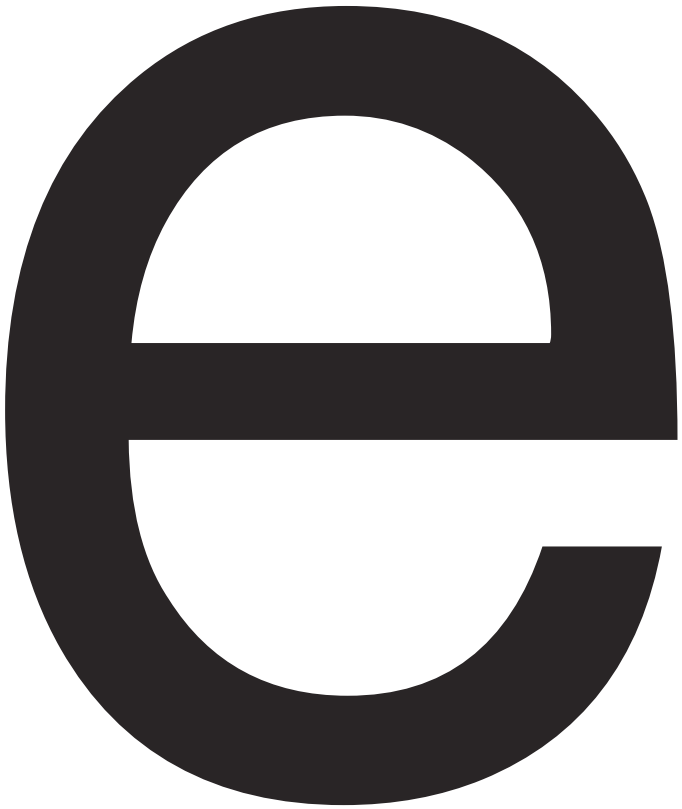
te

r

le

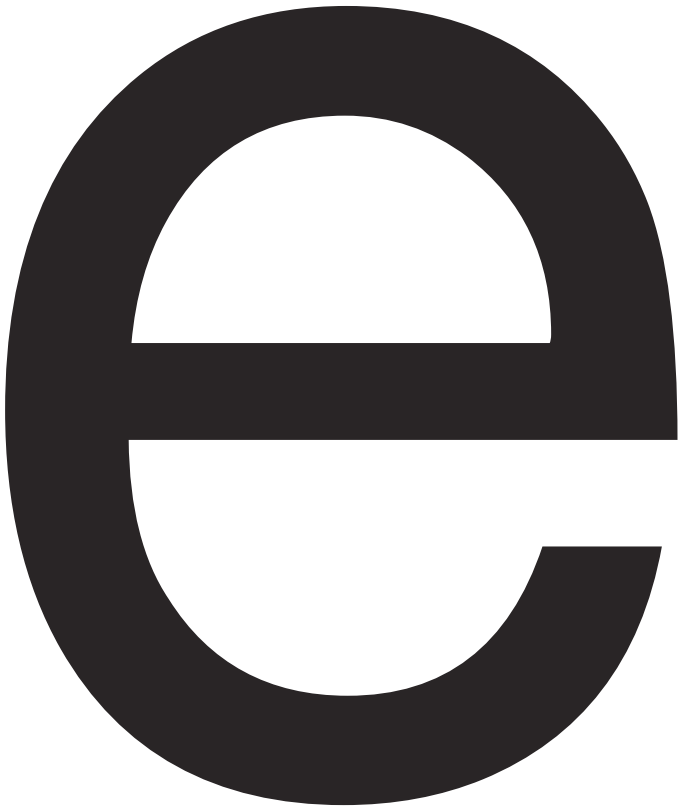
S

S



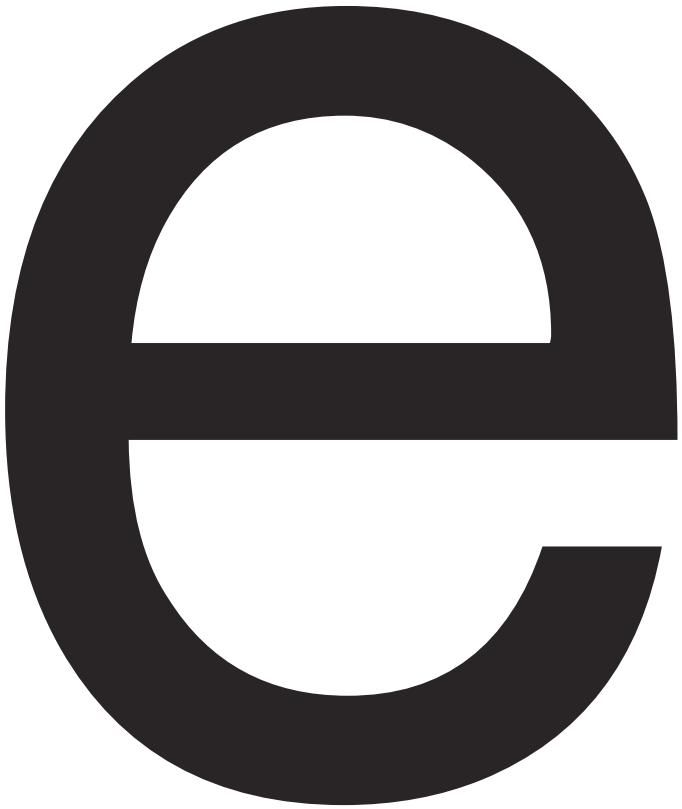
S

d



V

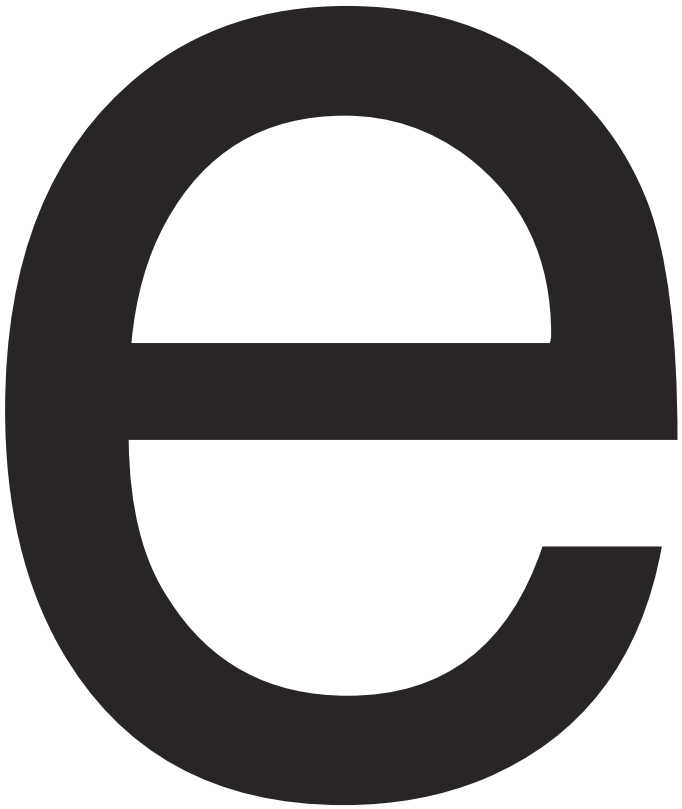
d



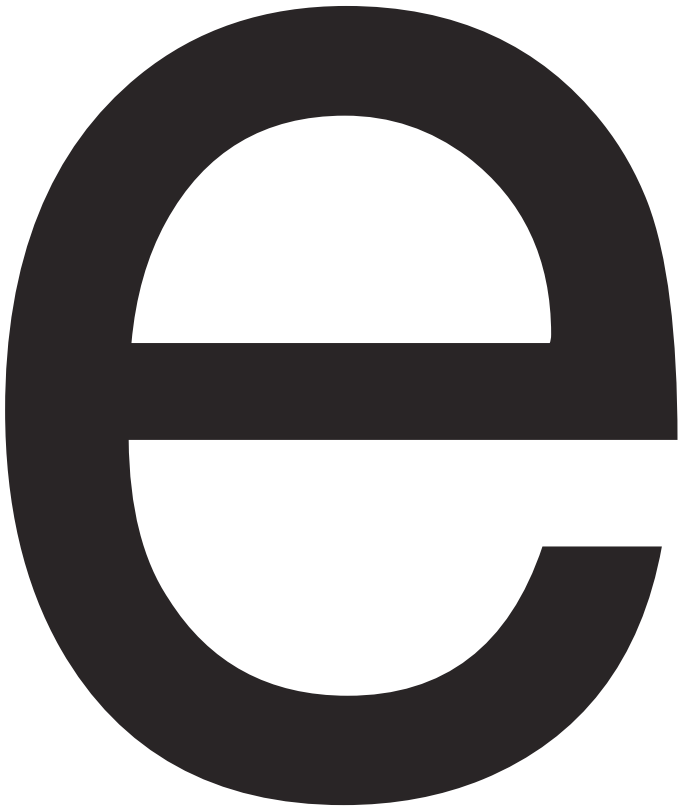
d

ét

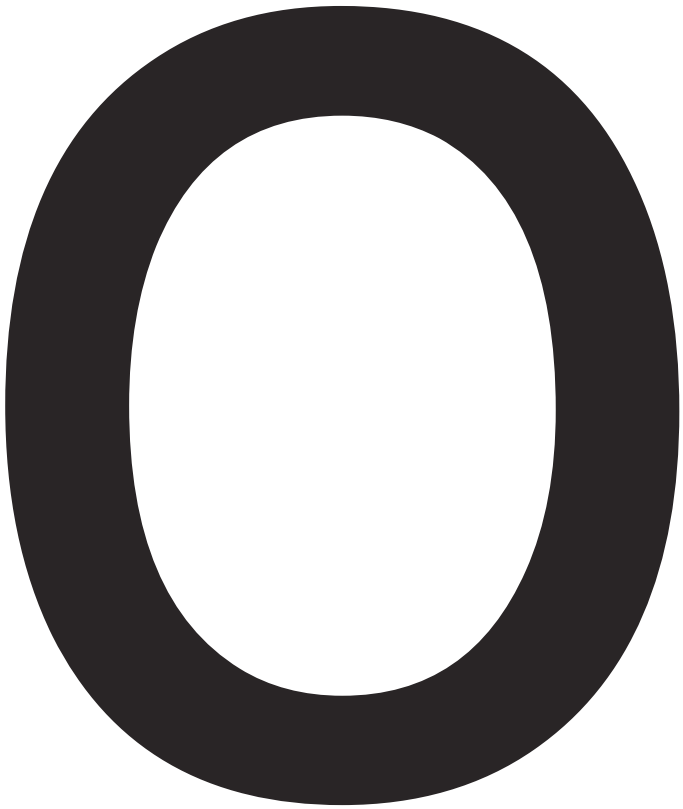
O



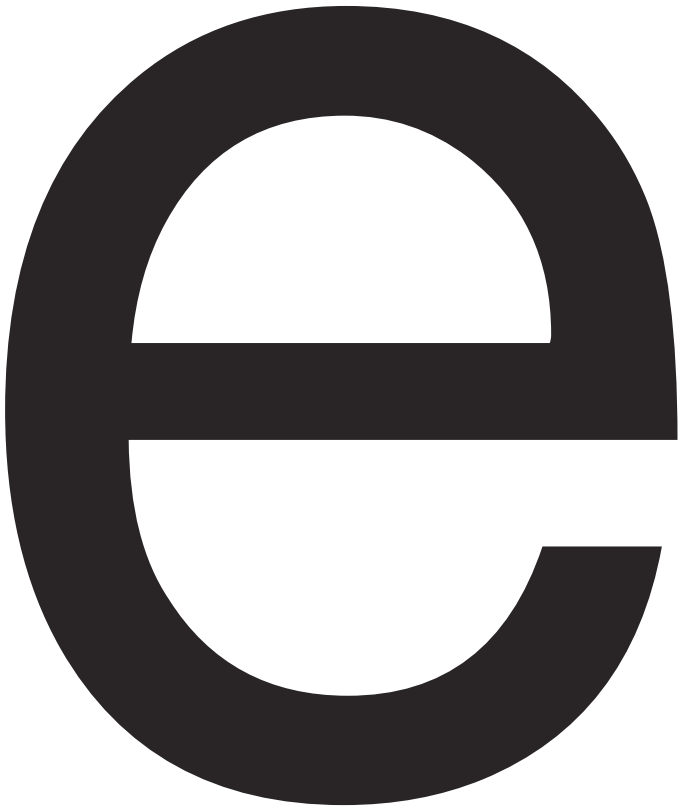
m



nt



d



la

d

at

d

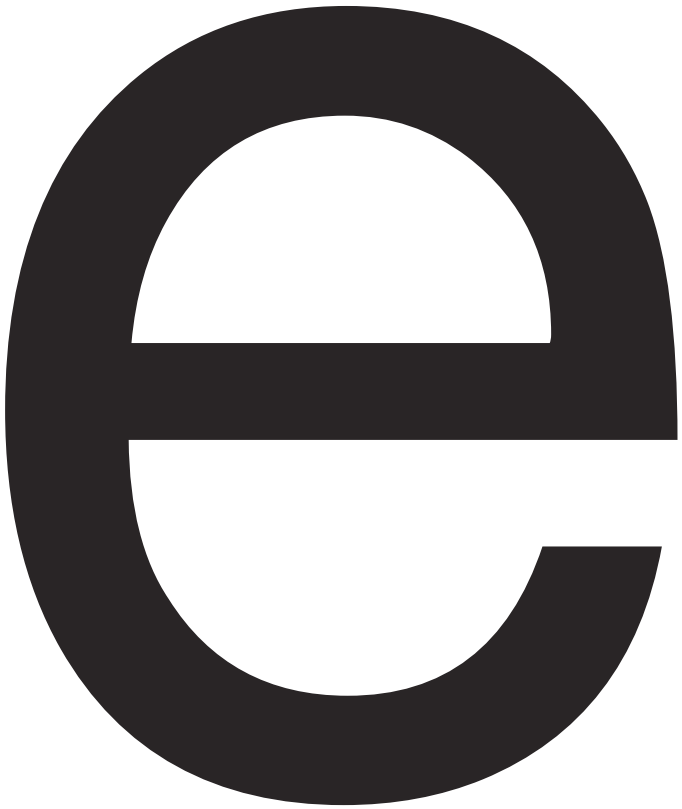
m

O

er

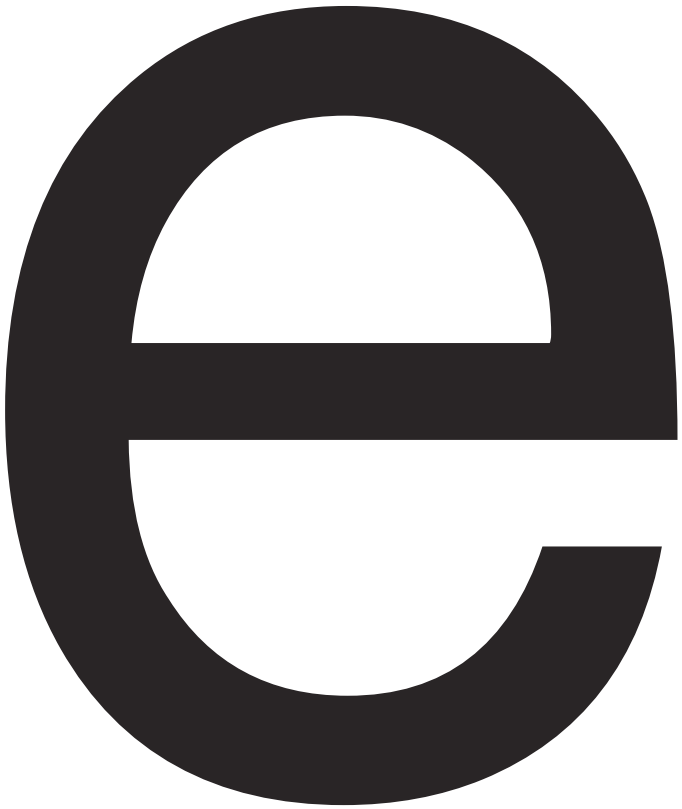
10

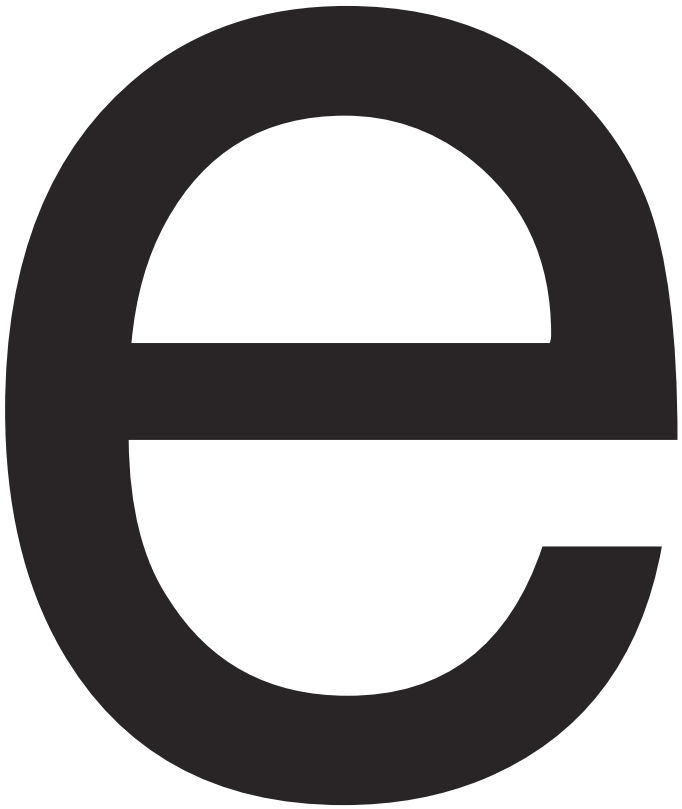
rs



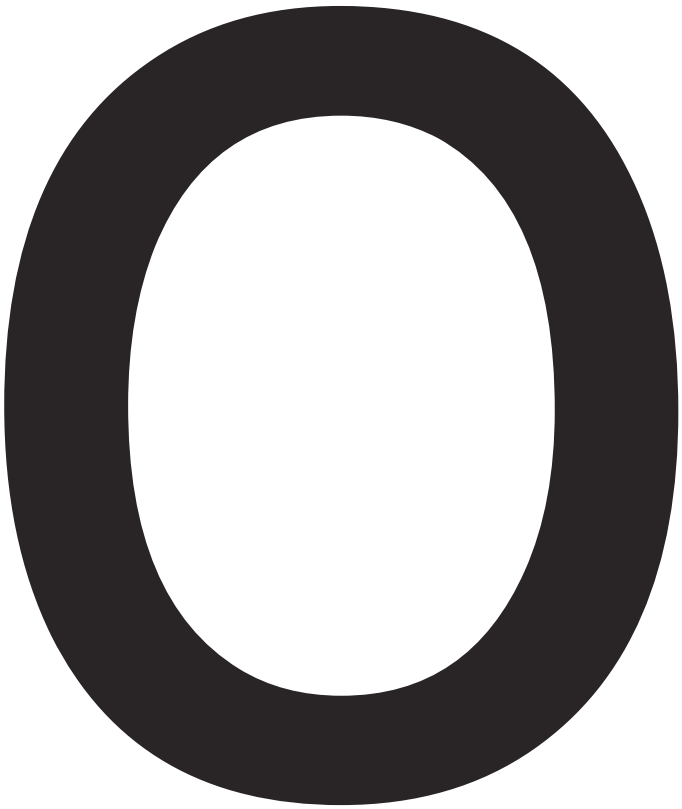
le

m





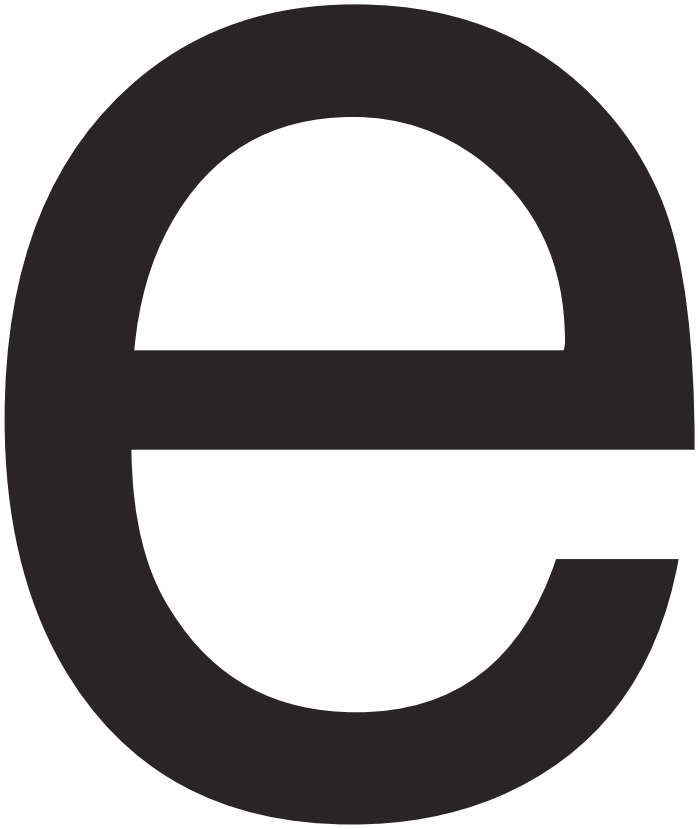
st



S

ta

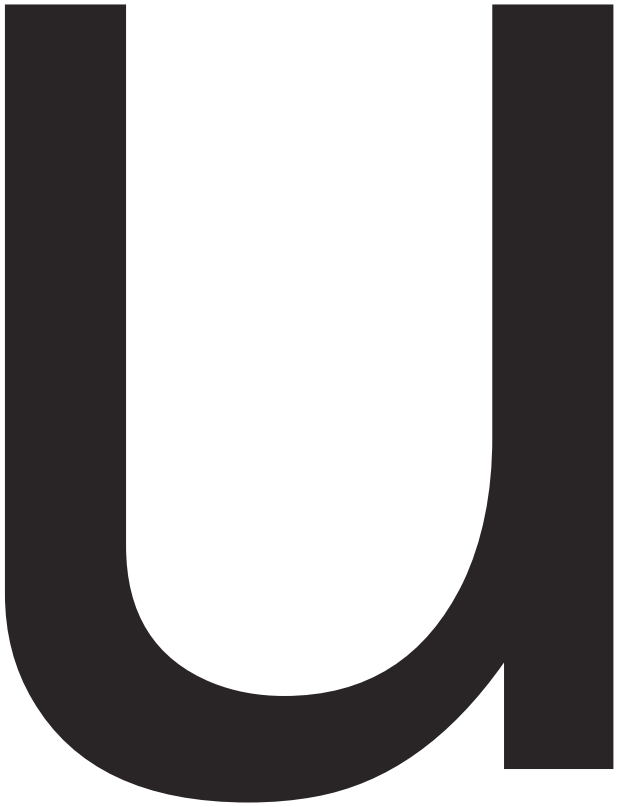
lis



g

e

d



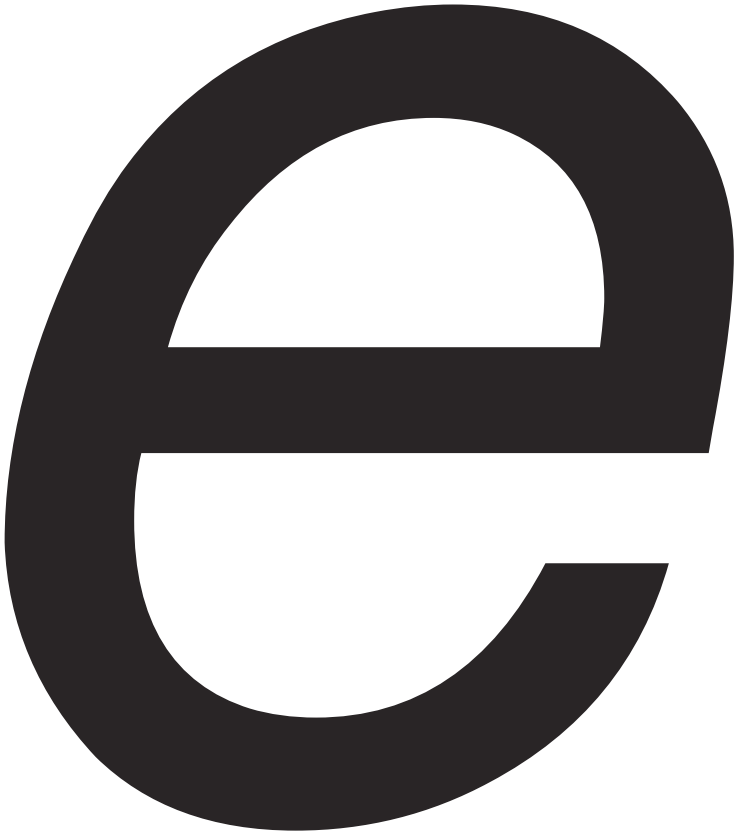
tri

b

d'

st

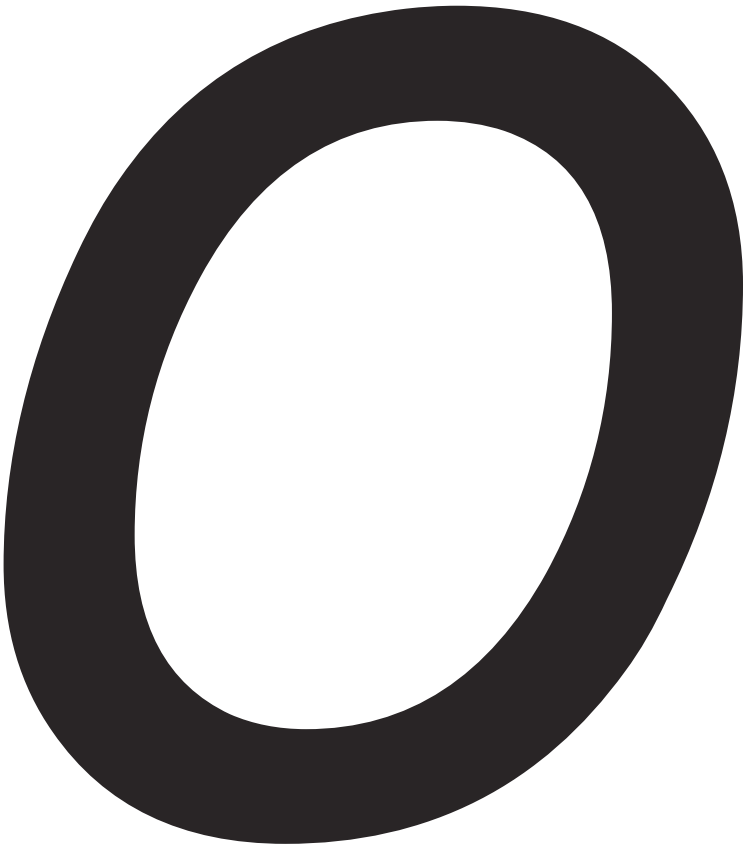
C



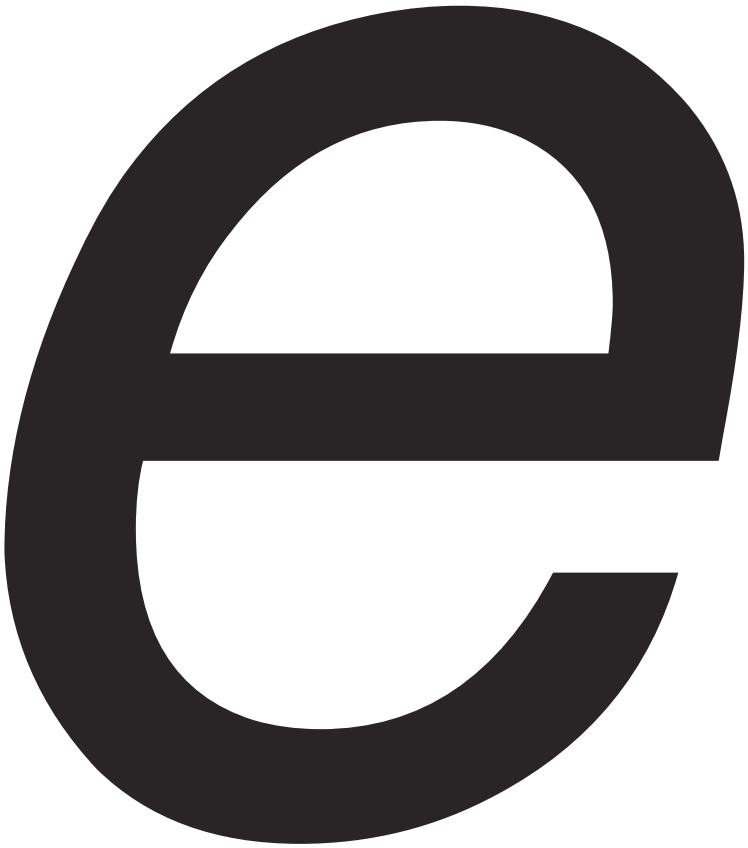
et

le

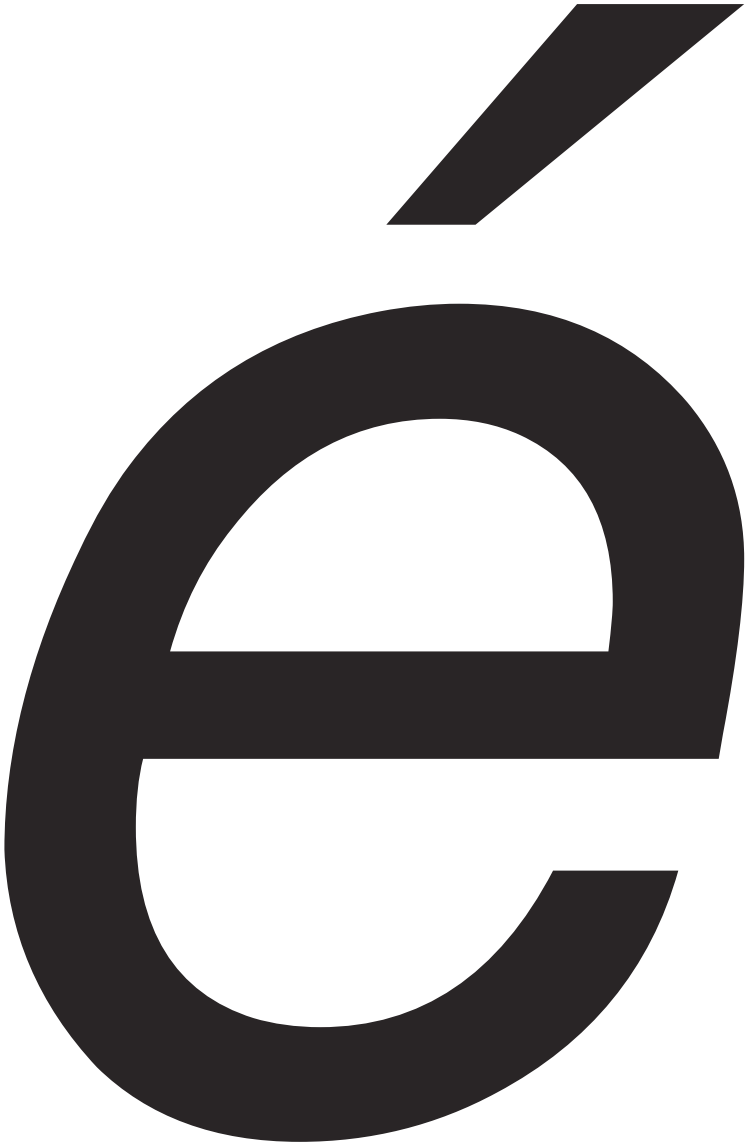
pr



C

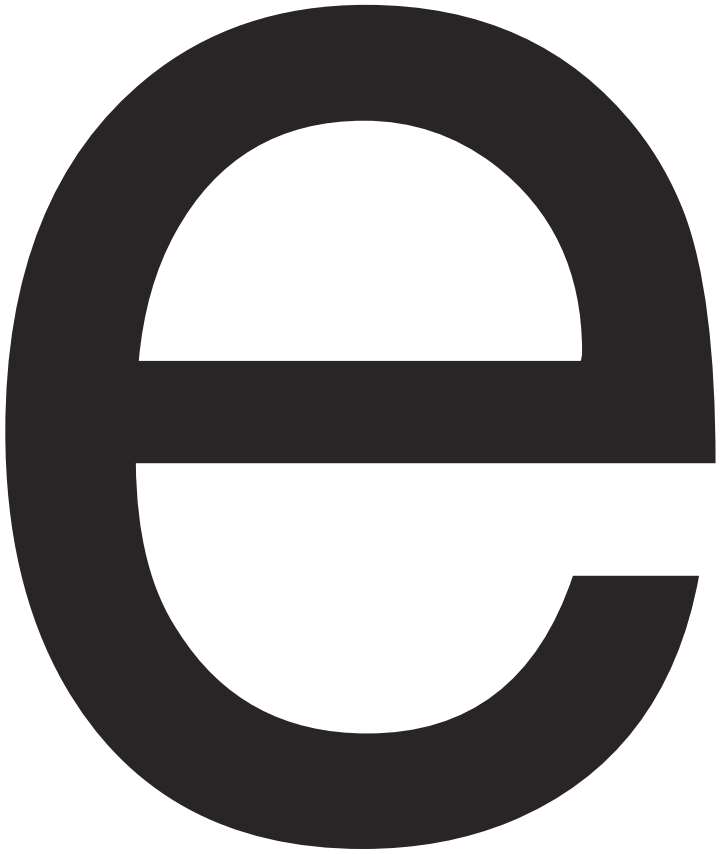


la

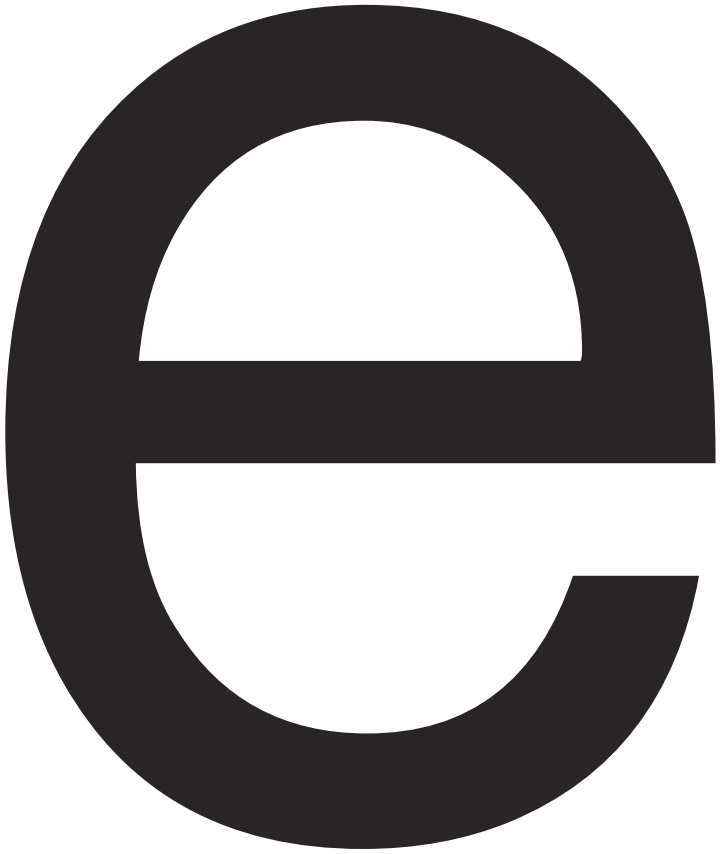


U

p



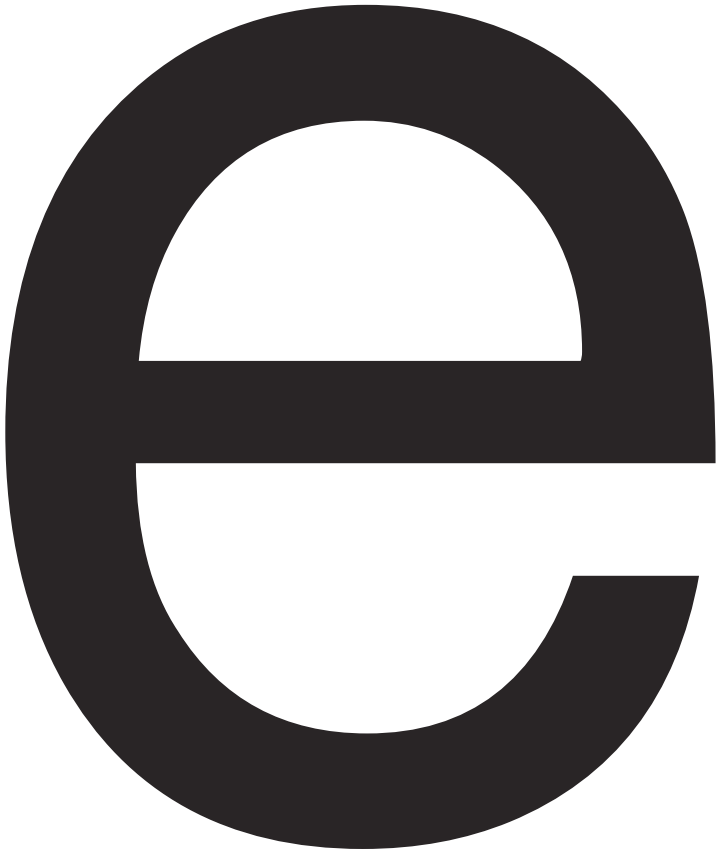
V

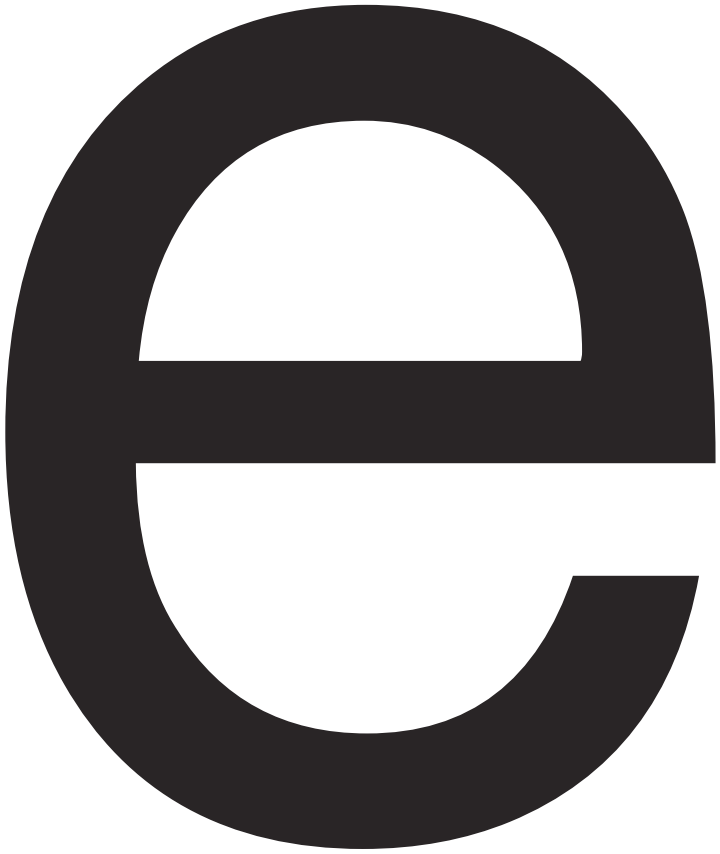


nt

g

al



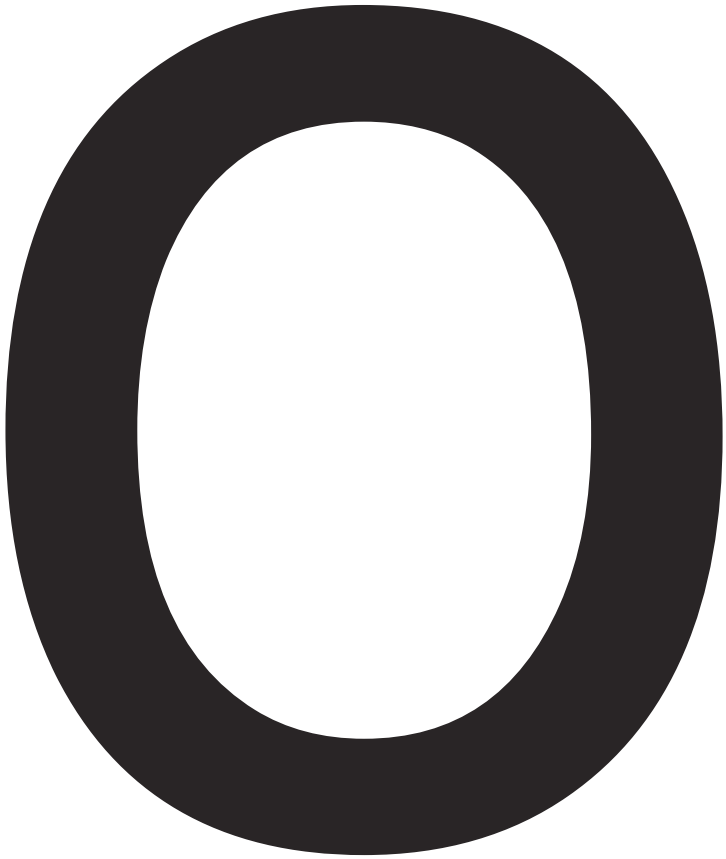


nt

pr

O

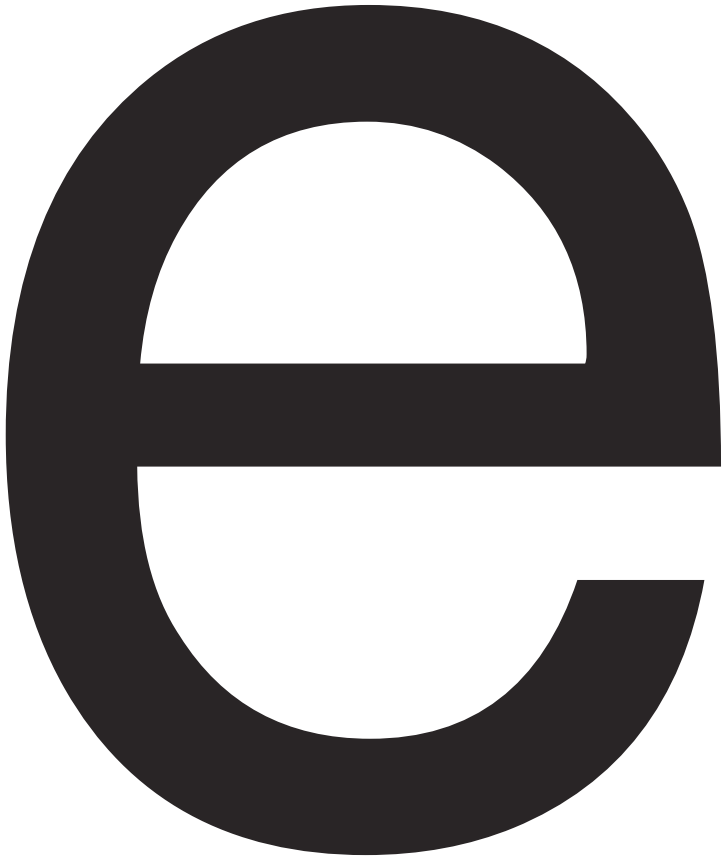
V



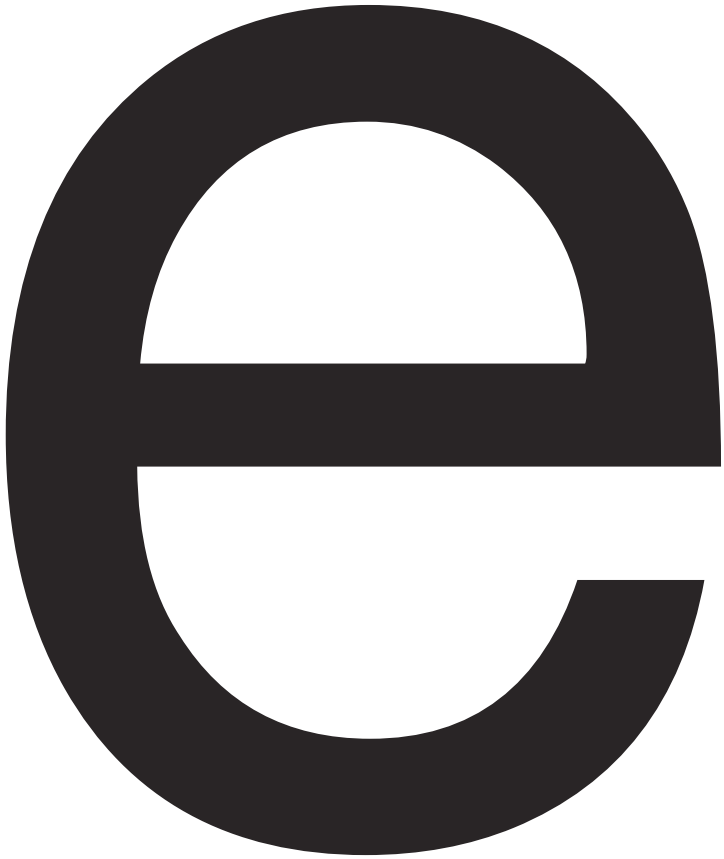
er

d'

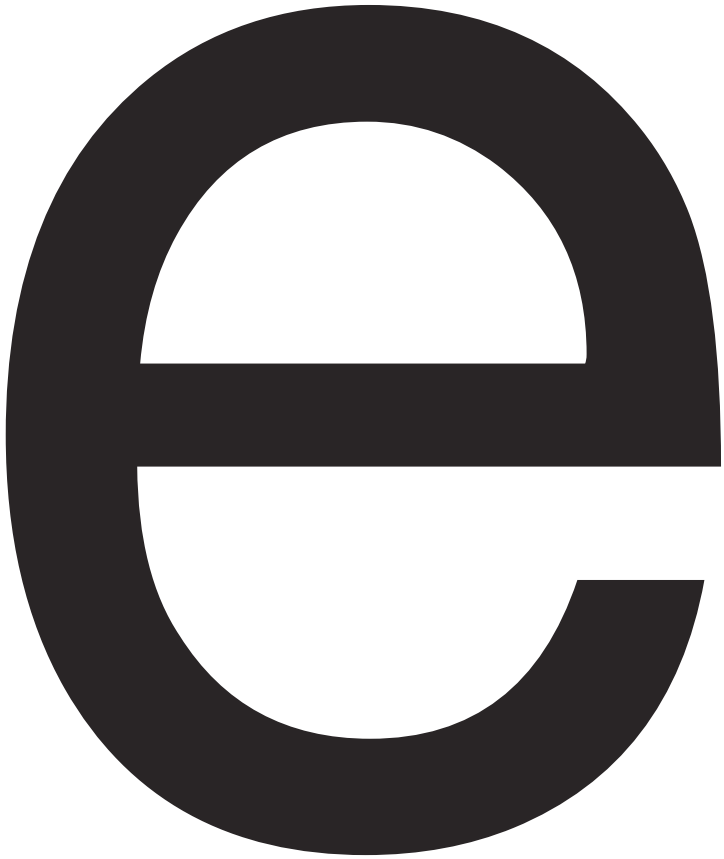
g



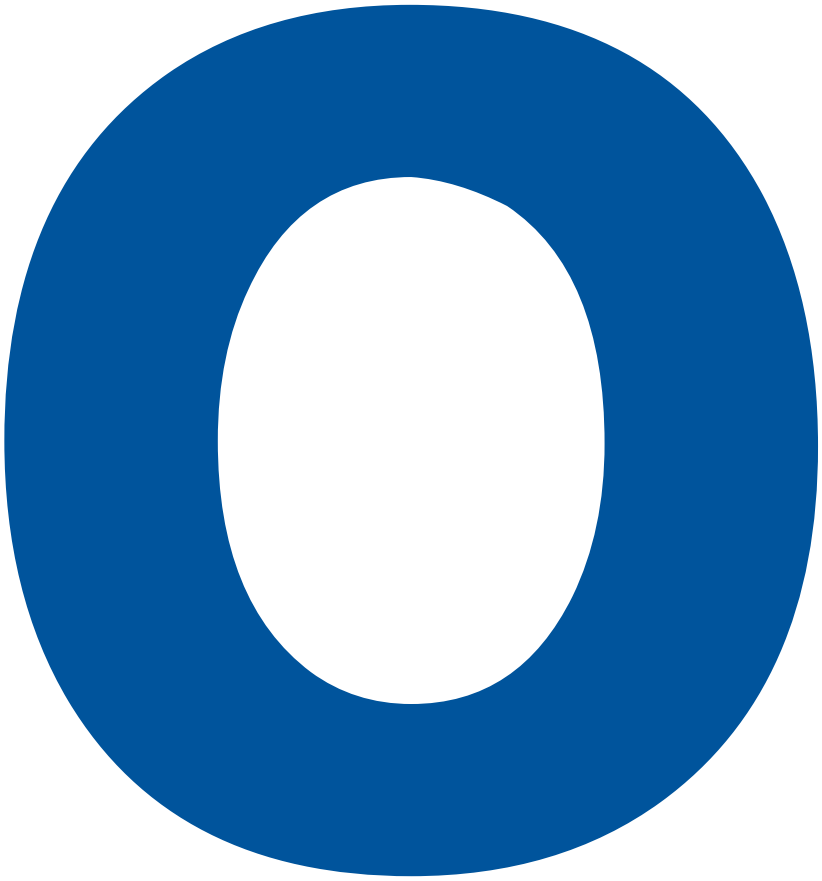
C



ut



C



S

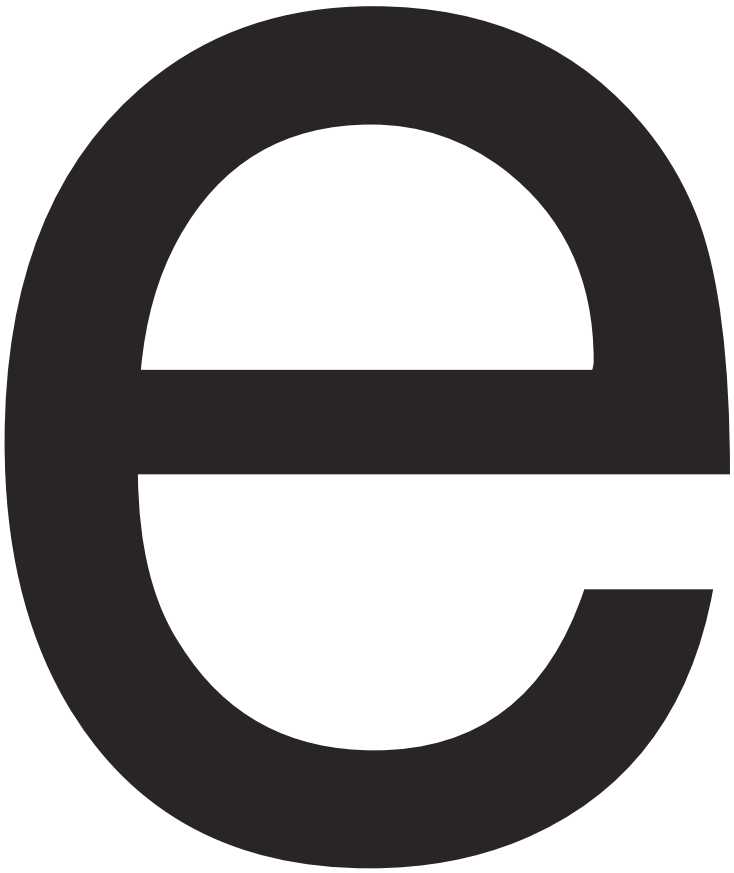
V

at

e,

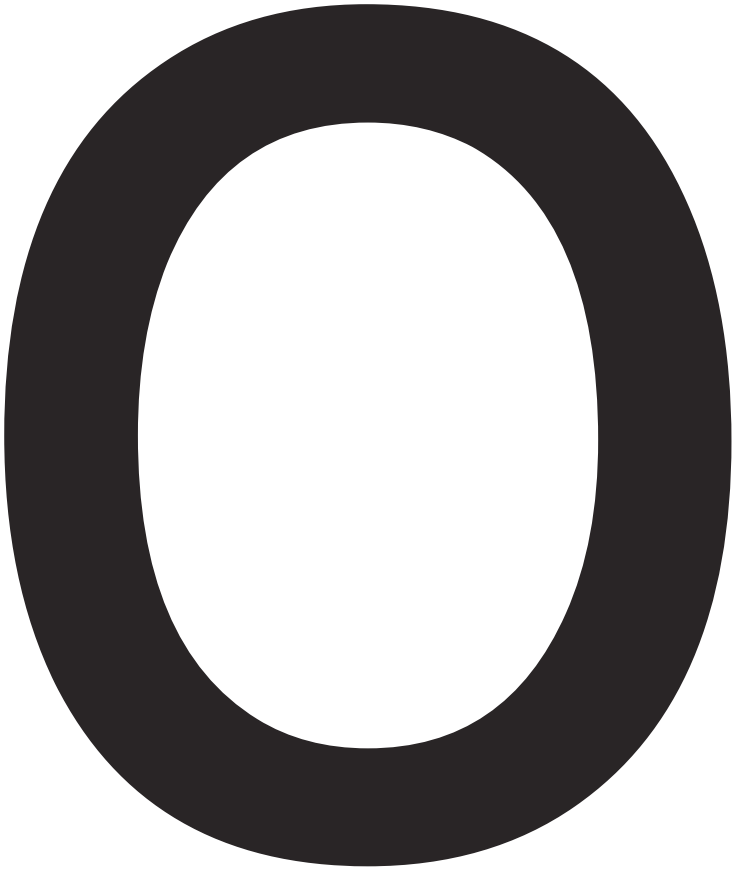
m

m

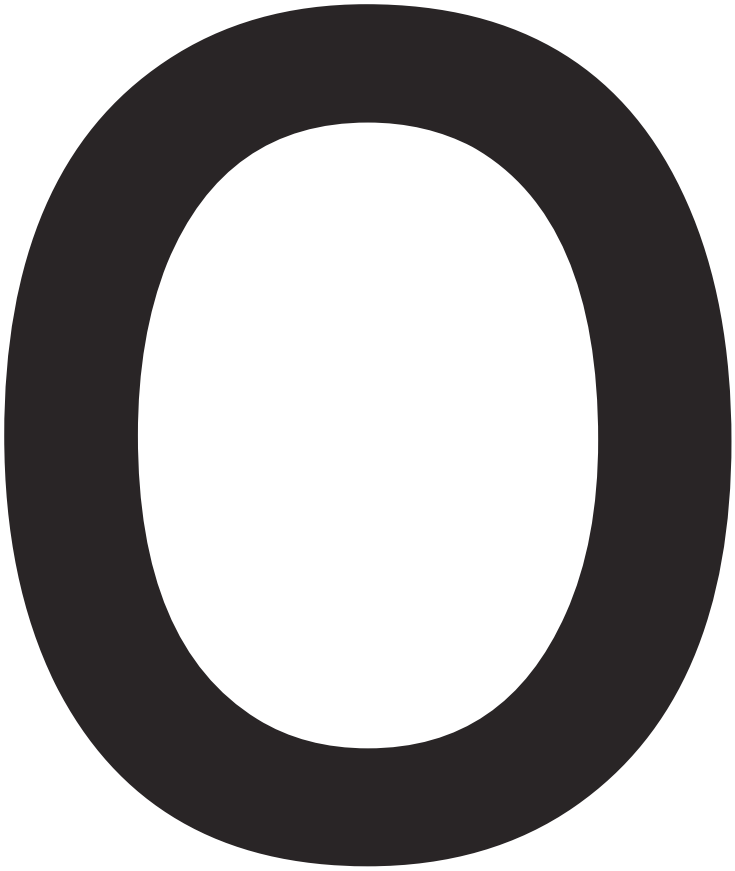


nt

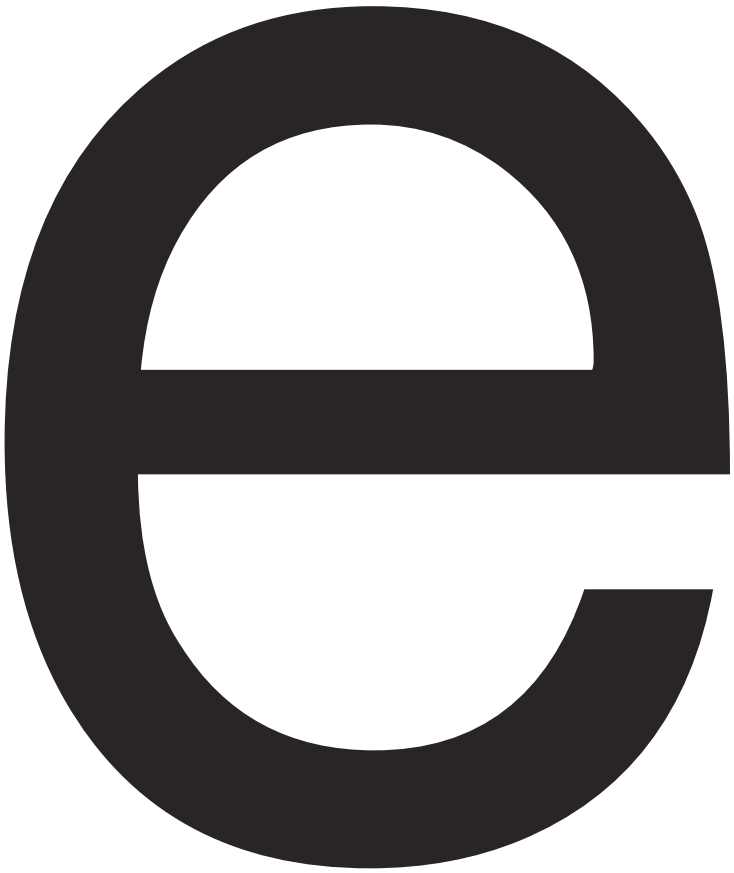
p



si



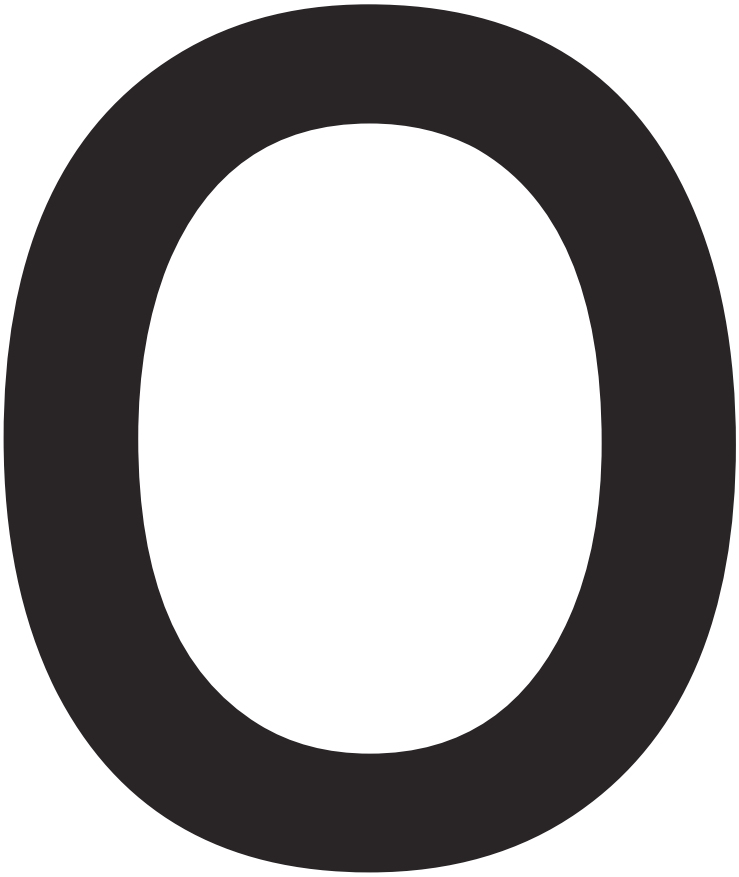
d

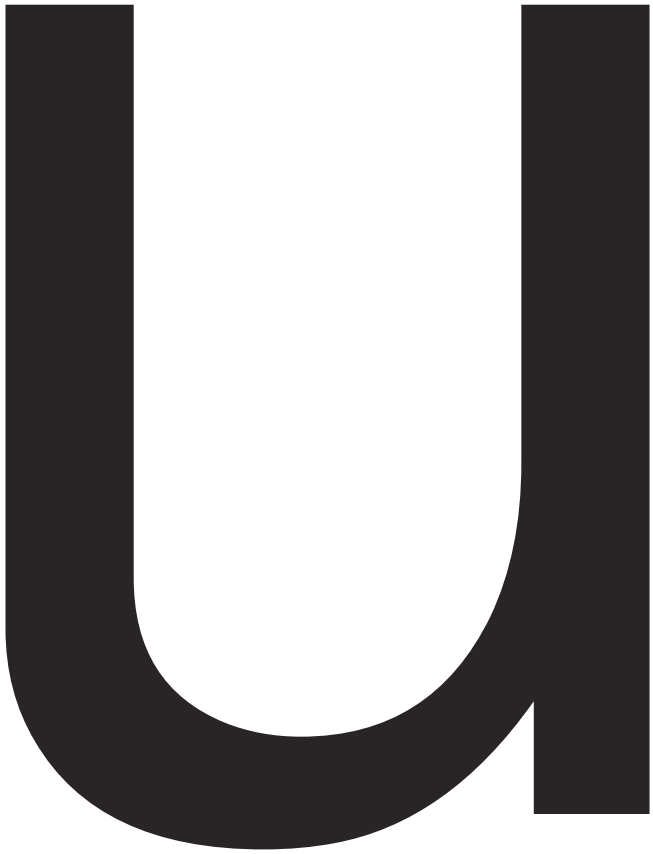


S

C

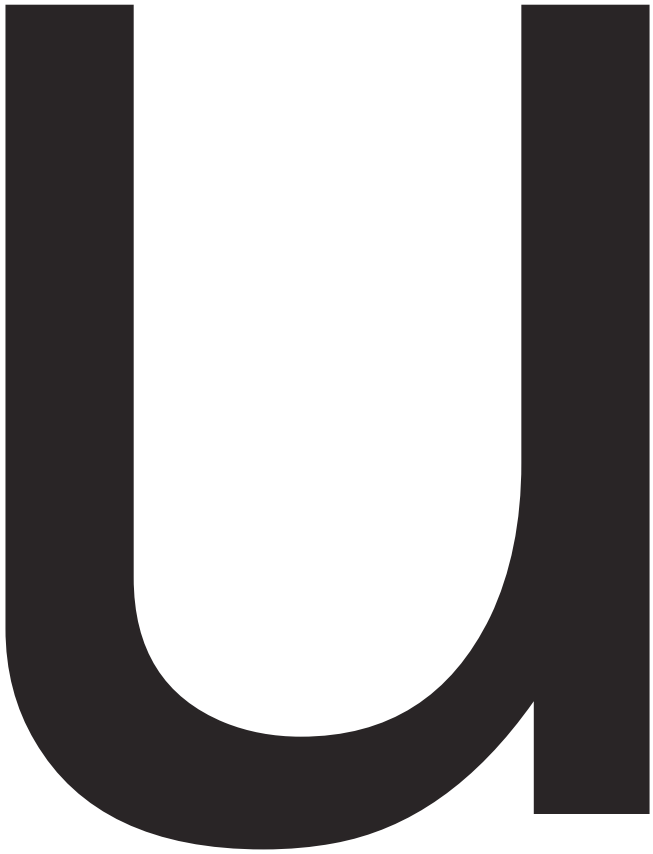
S,

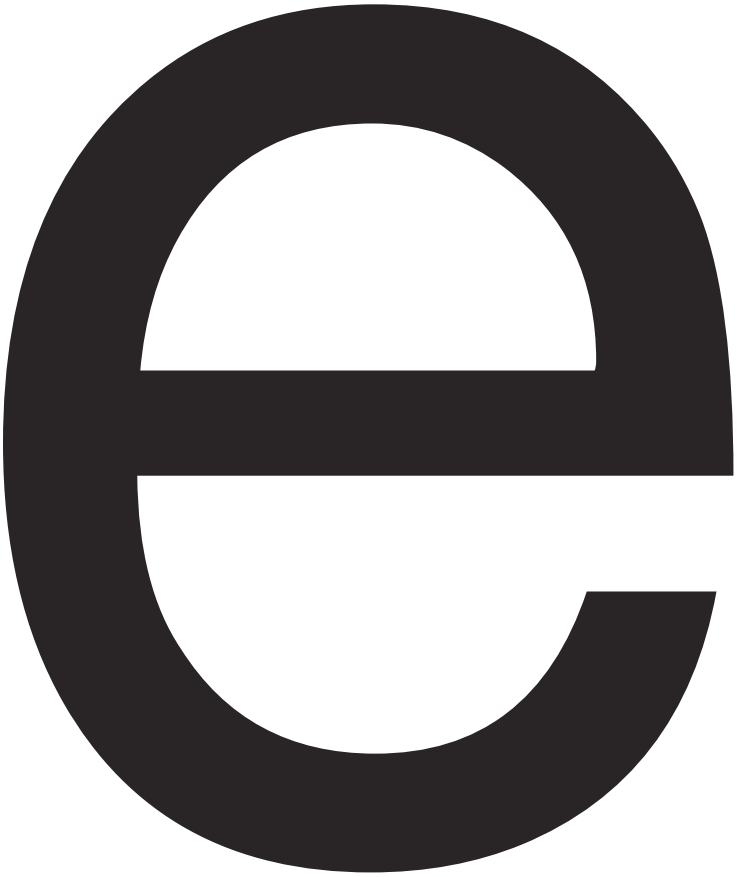




S

S

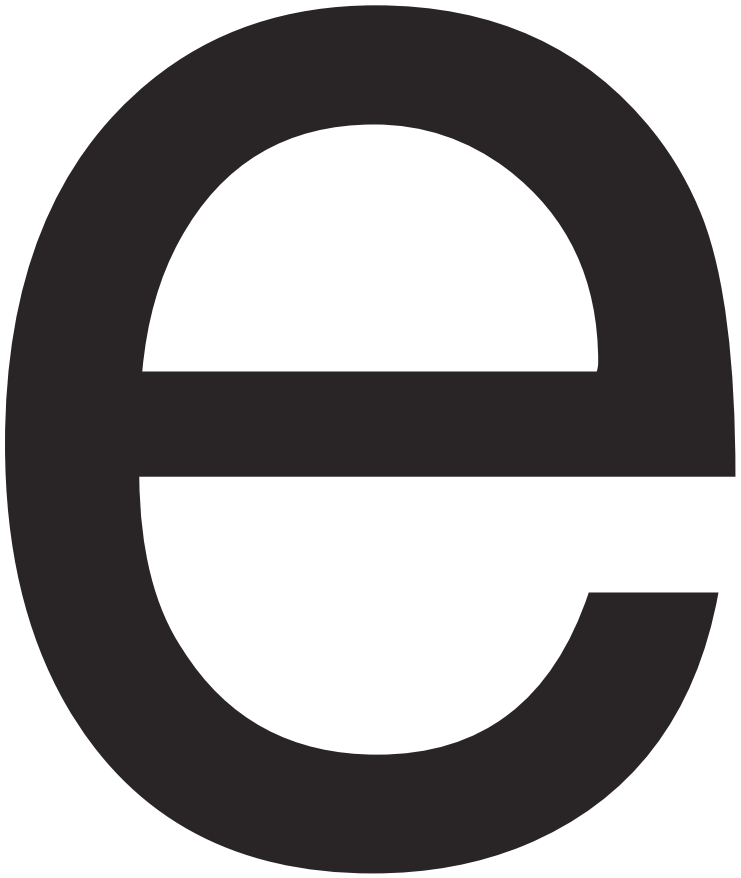




la

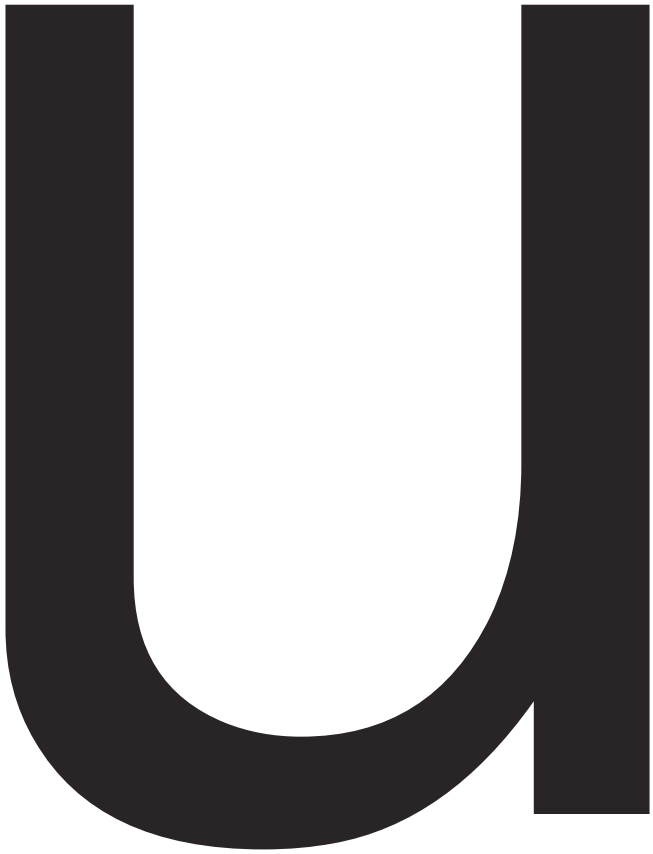
r

ot

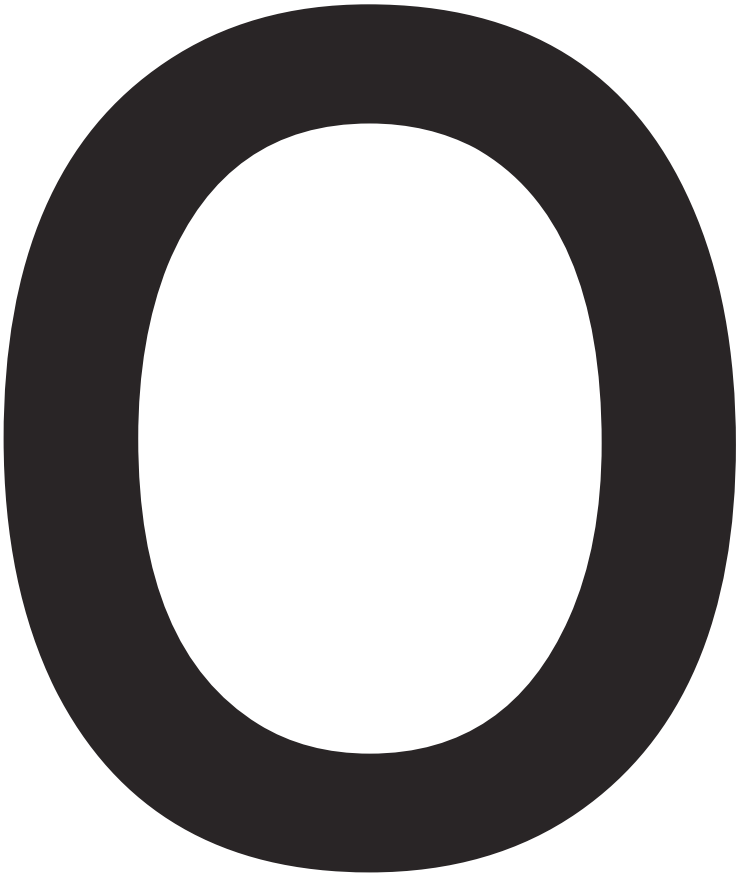


ct

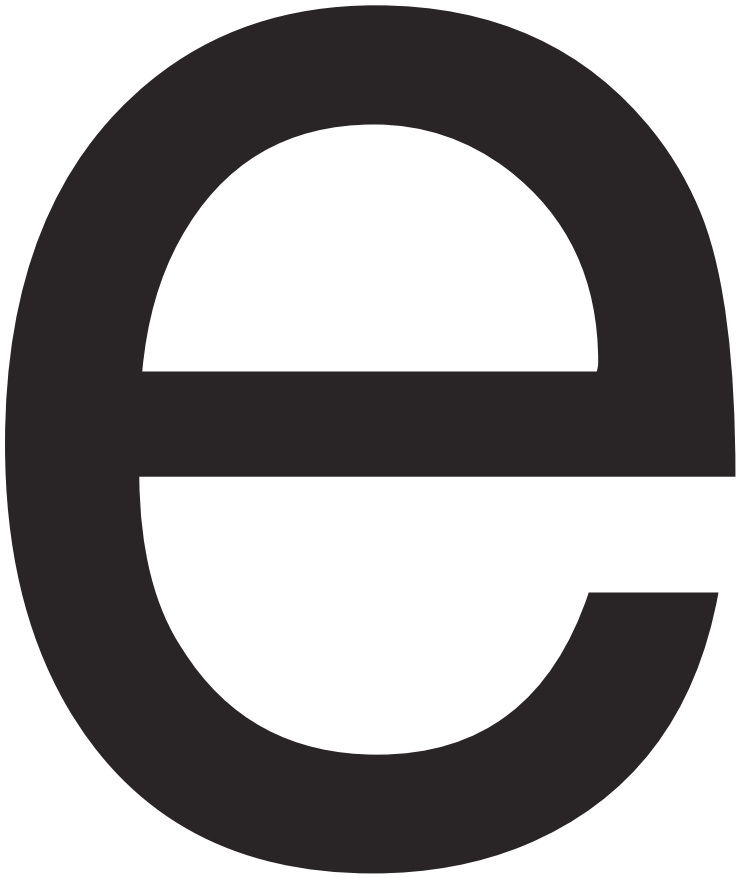
d



d

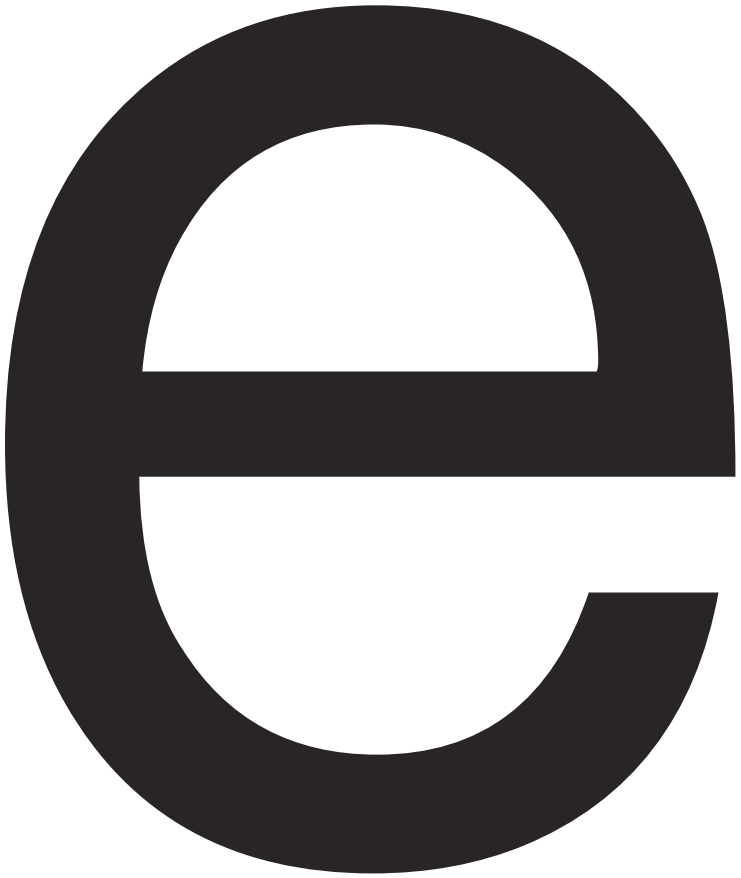


m



et

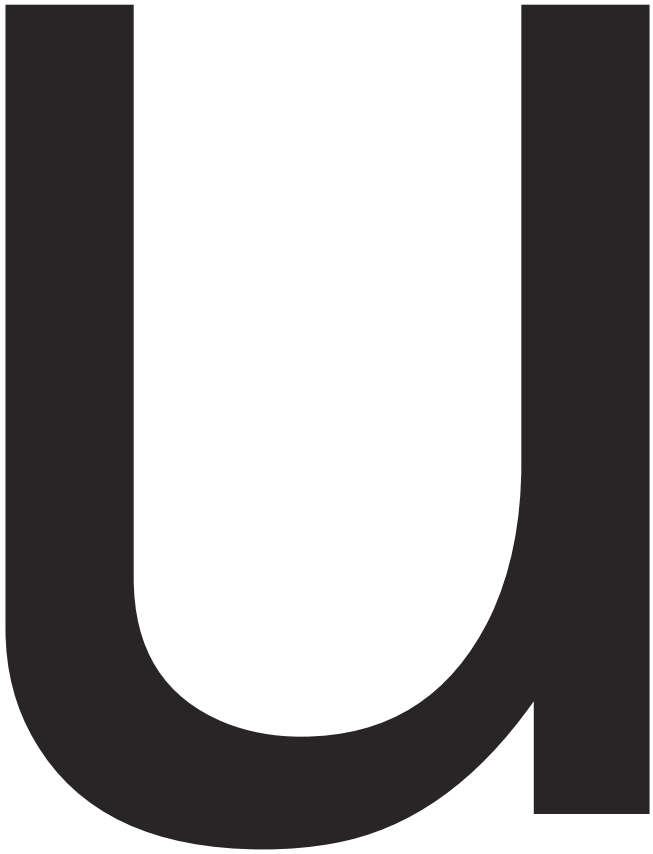
C

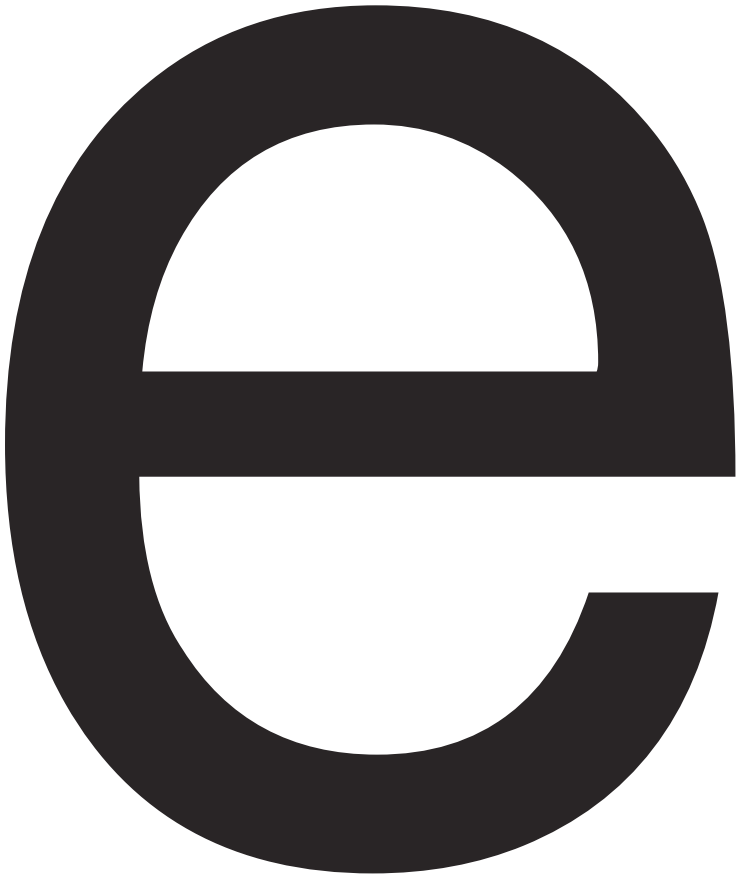


le

S

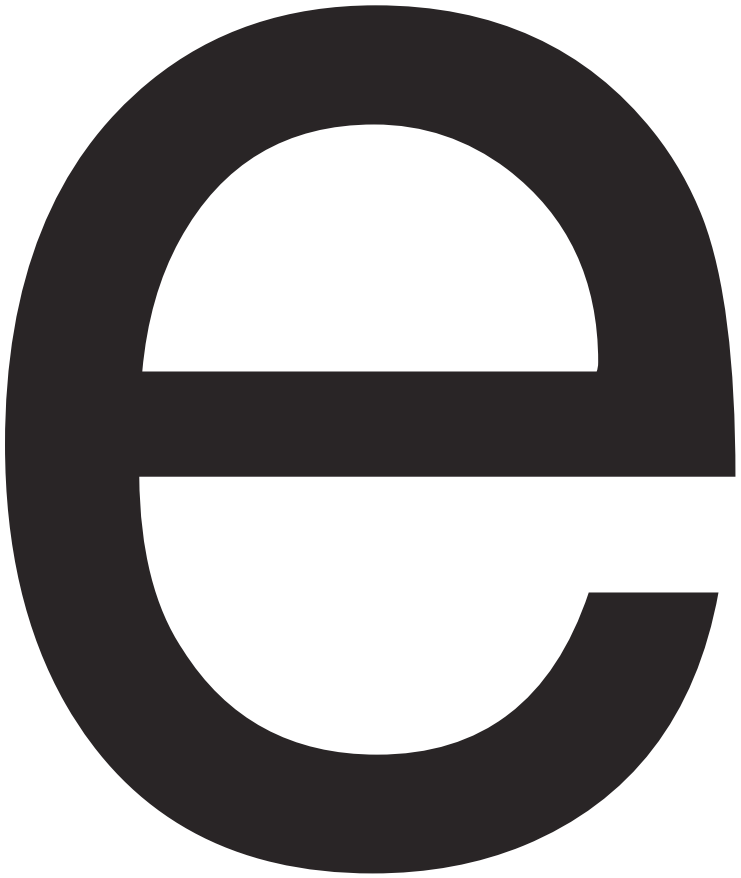
S





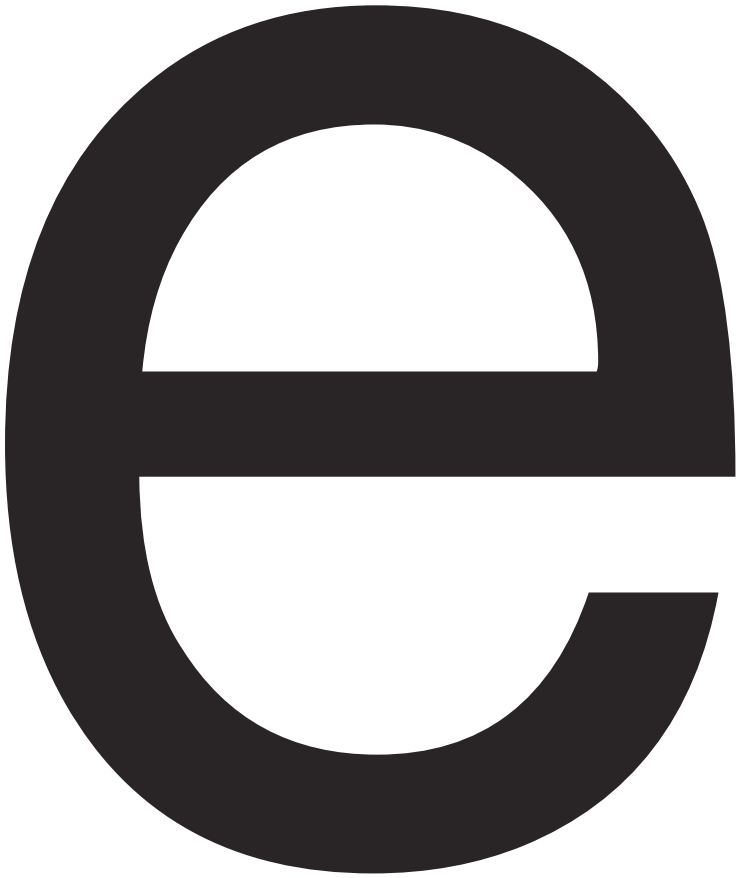
S

d

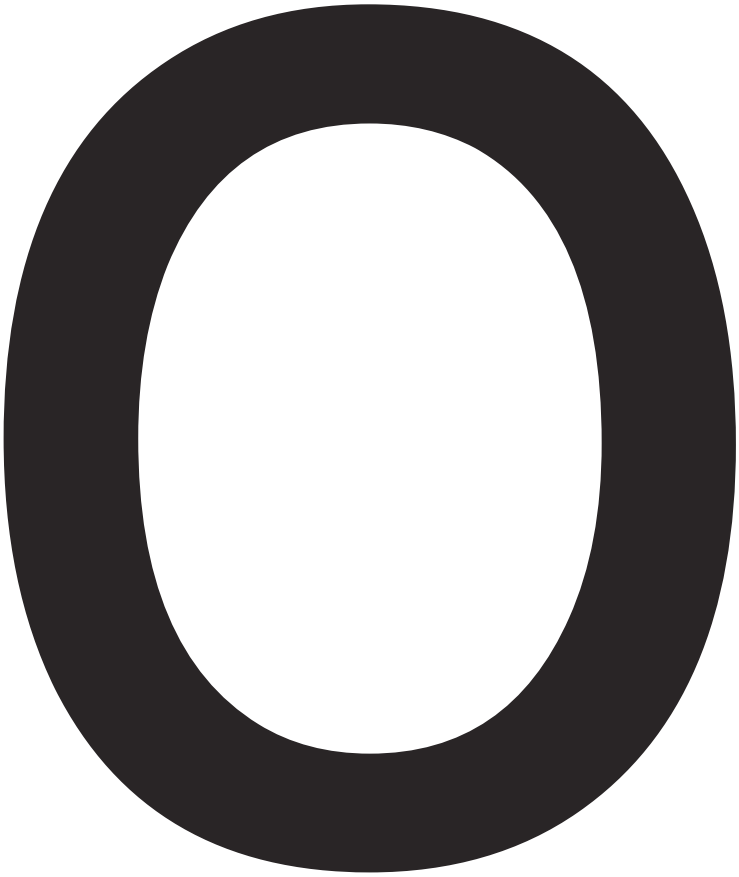


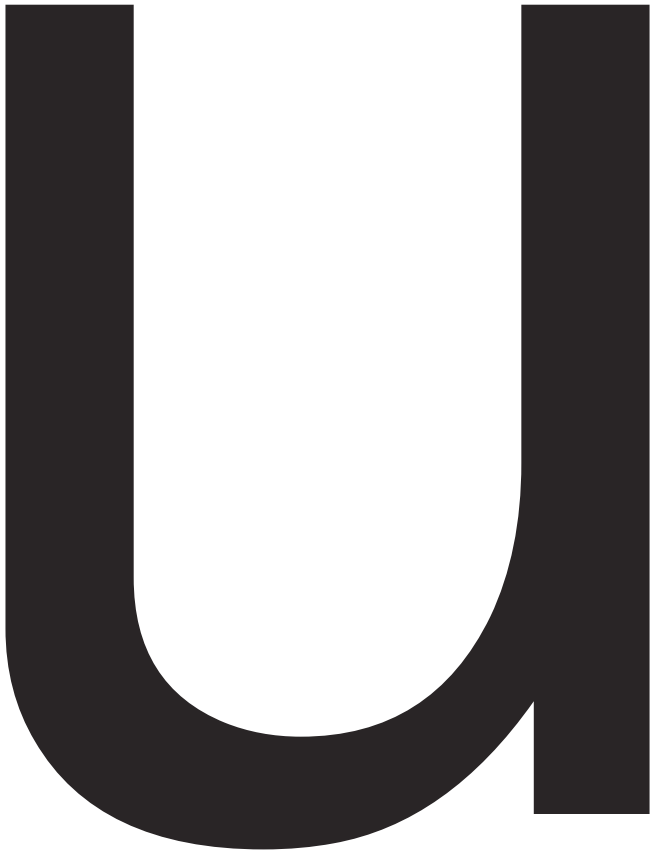
V

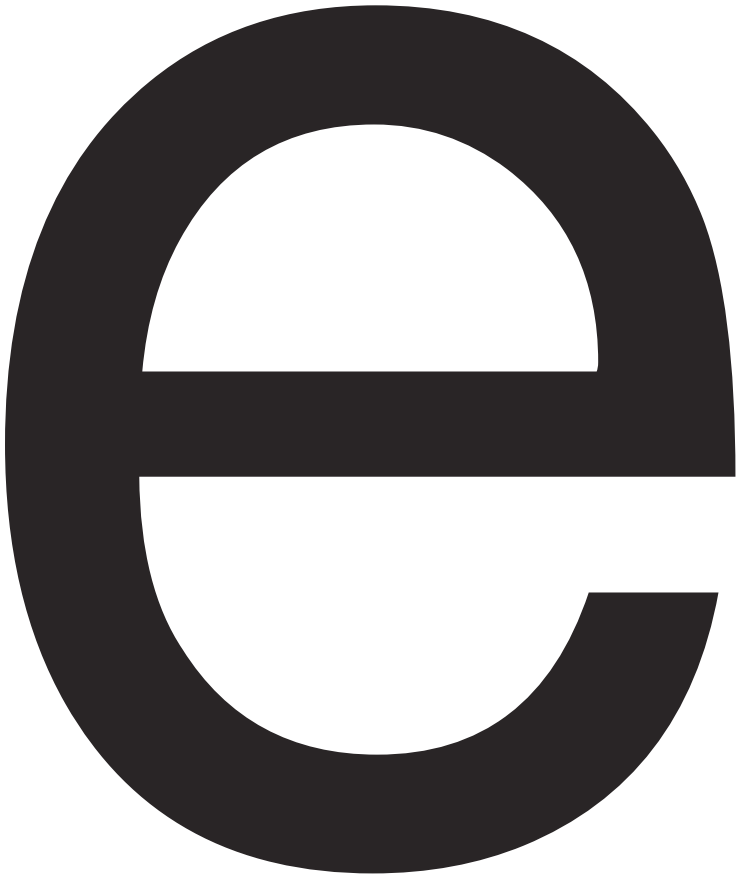
d

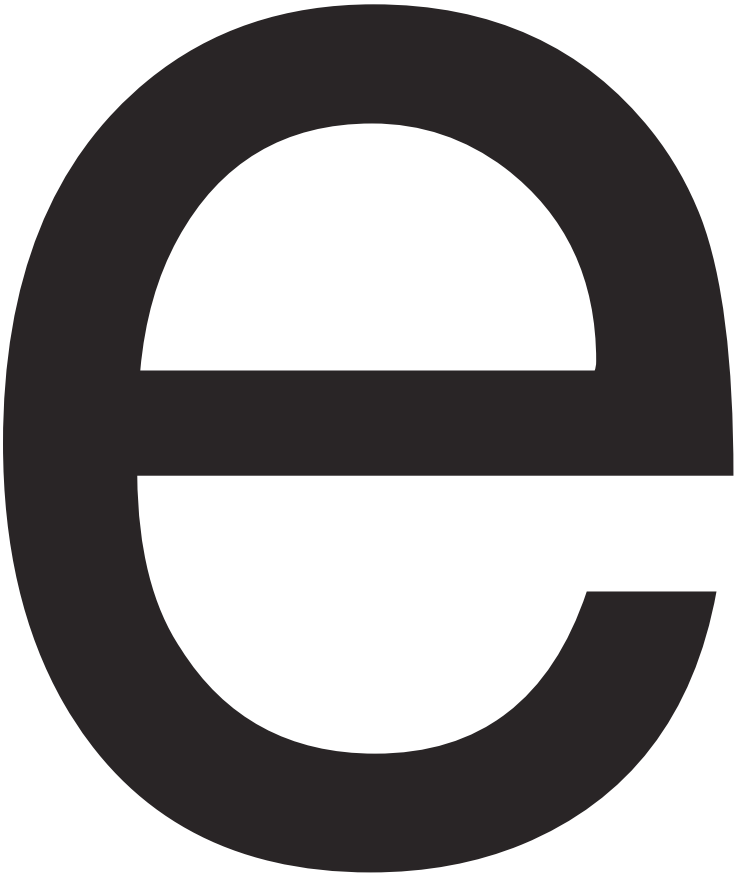


d

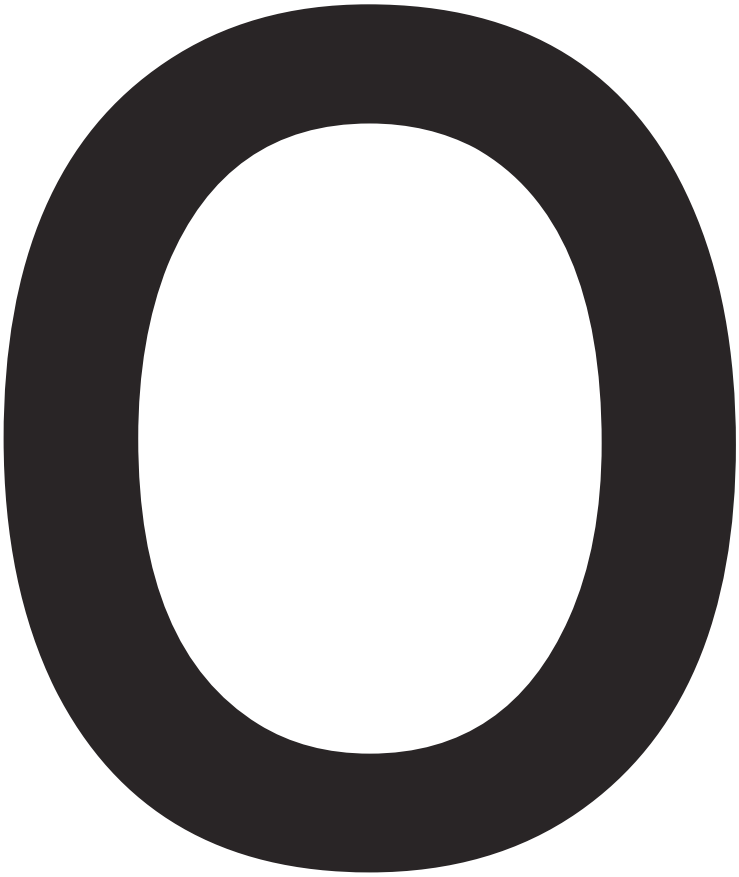


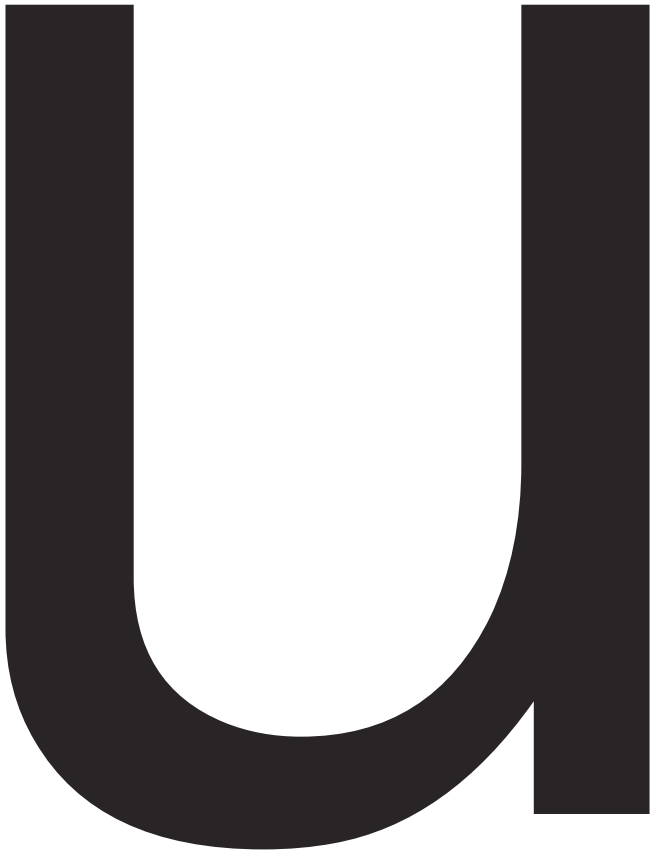




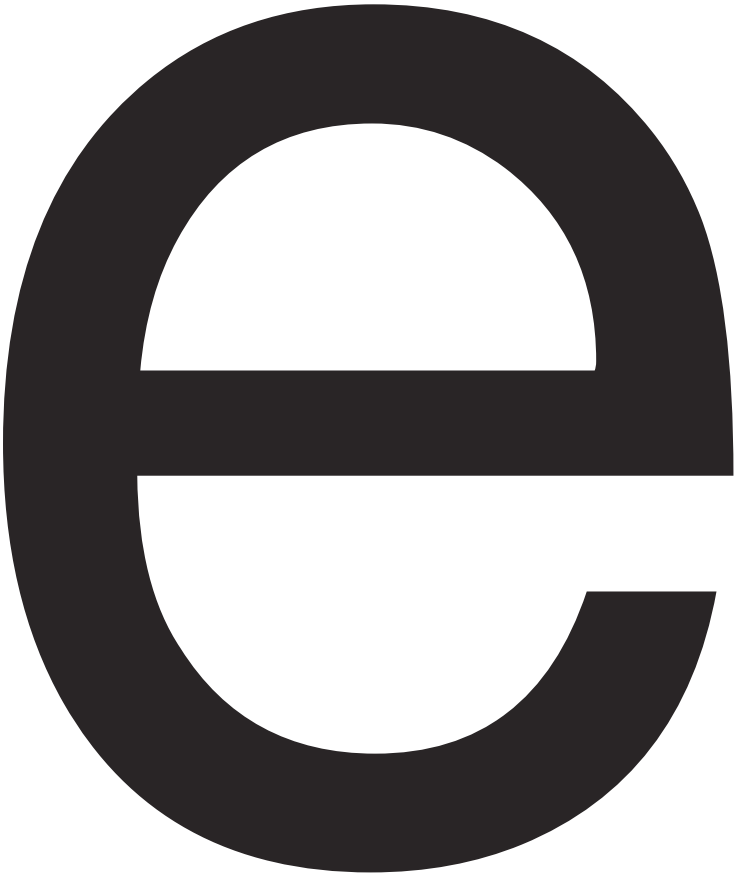


nt





d

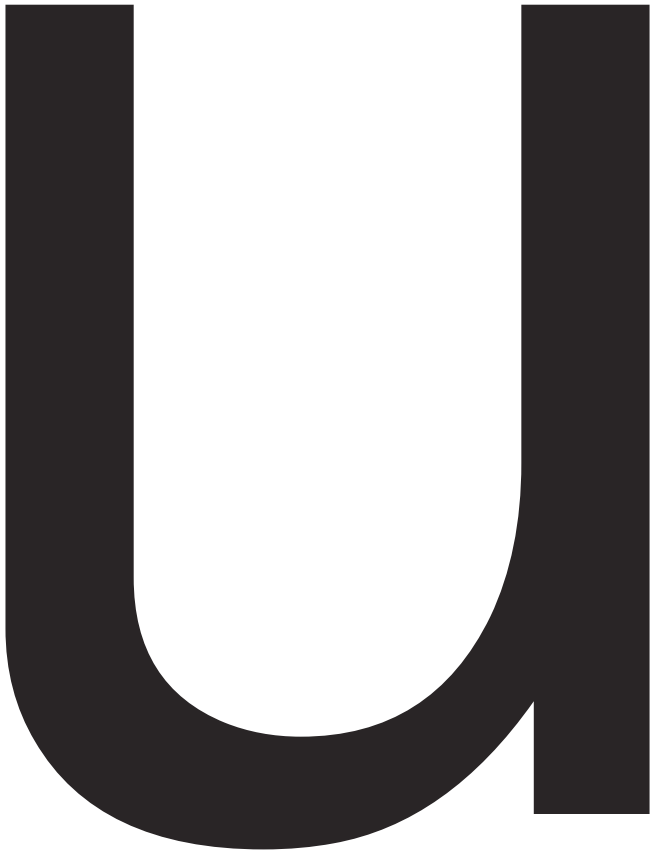


la

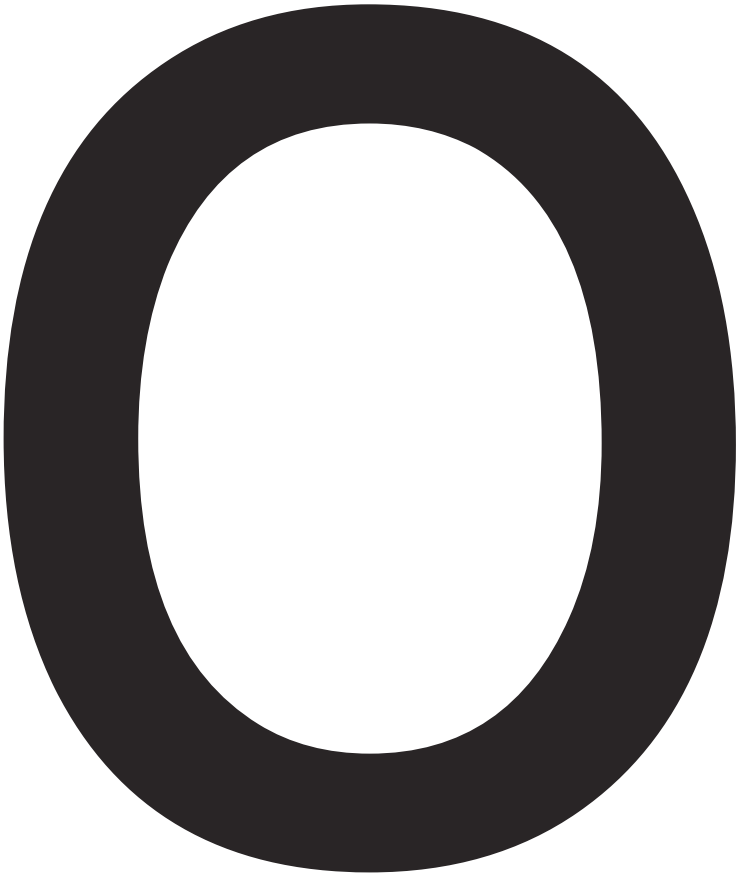
d

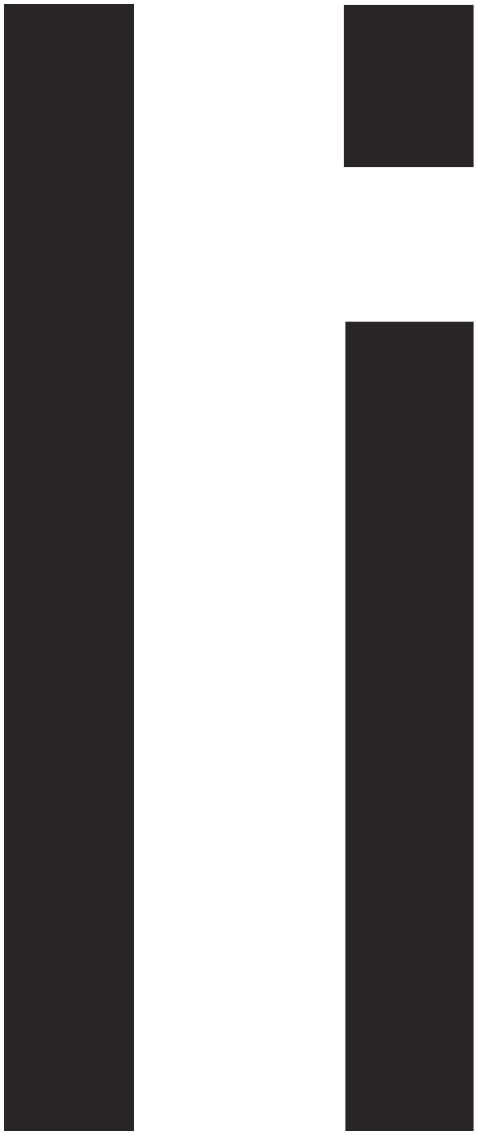
at

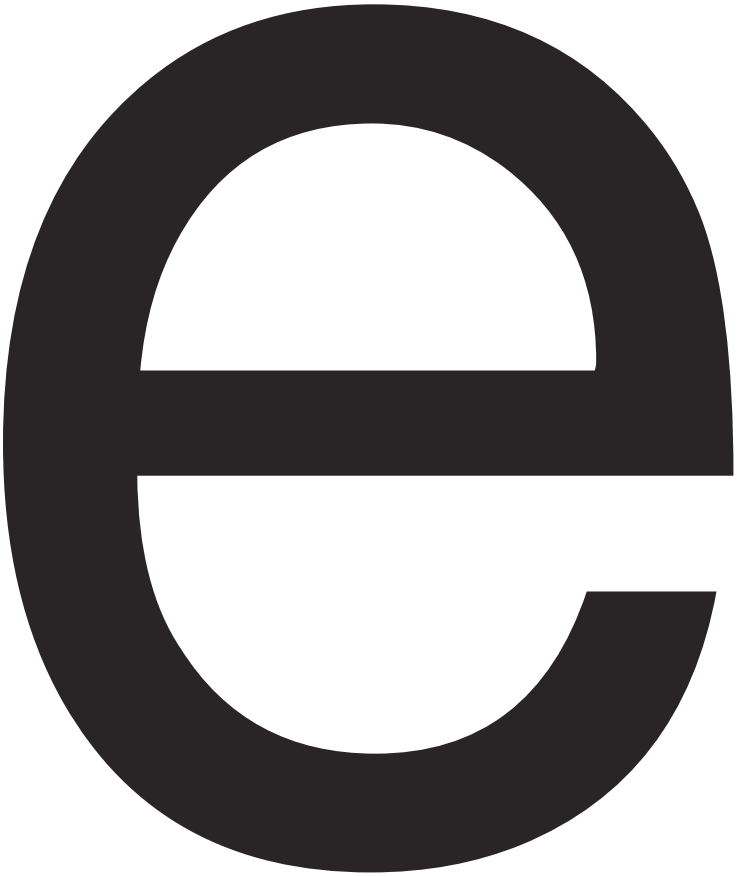
d



m



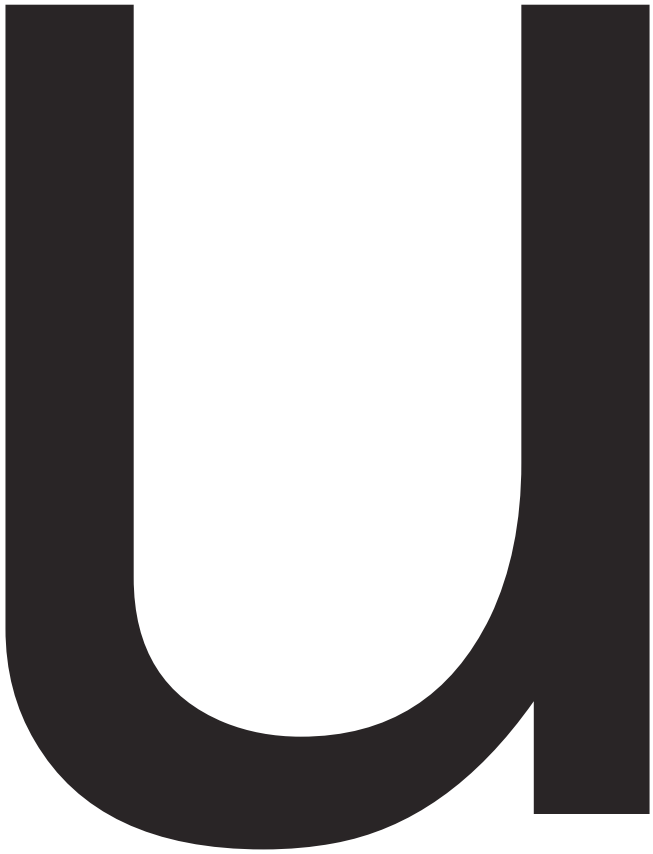


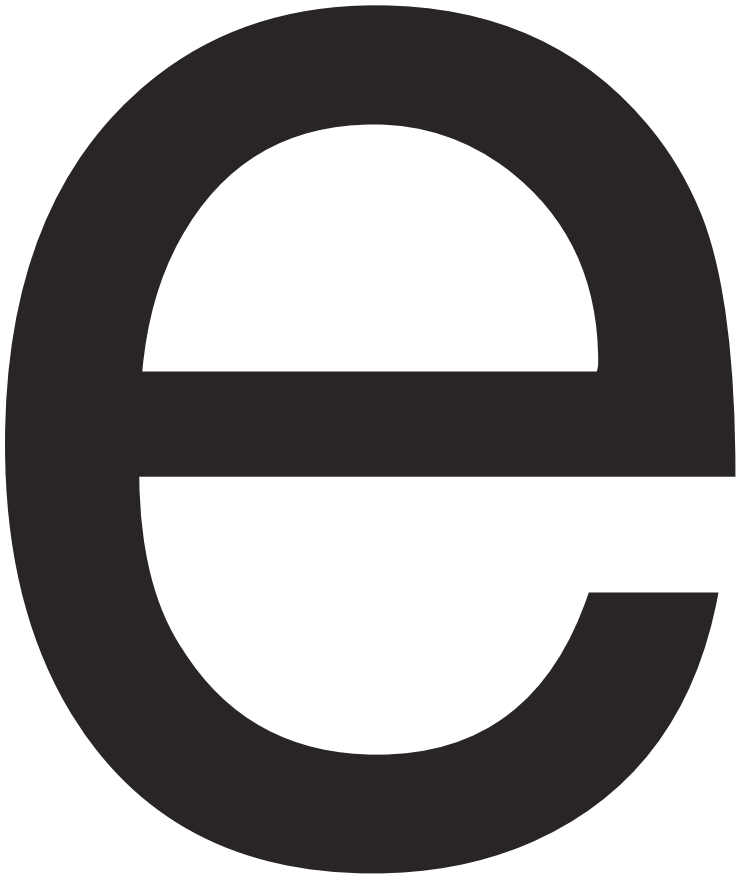


r

10

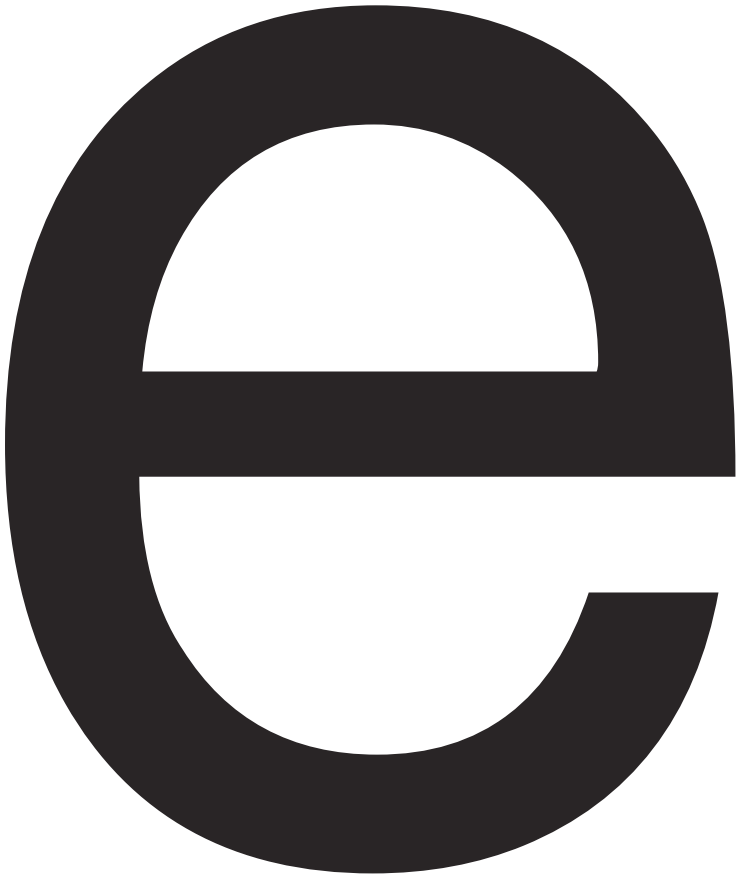
rs

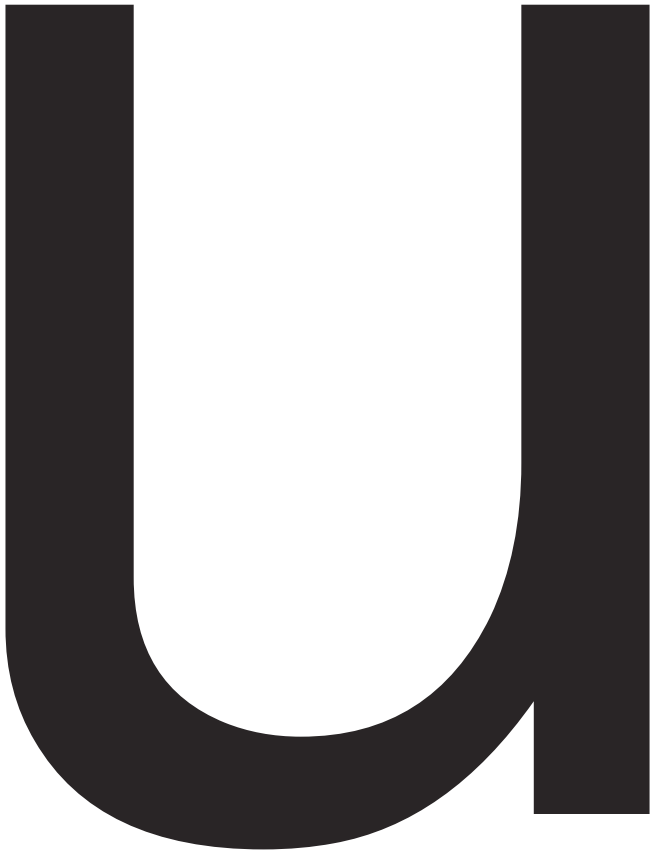


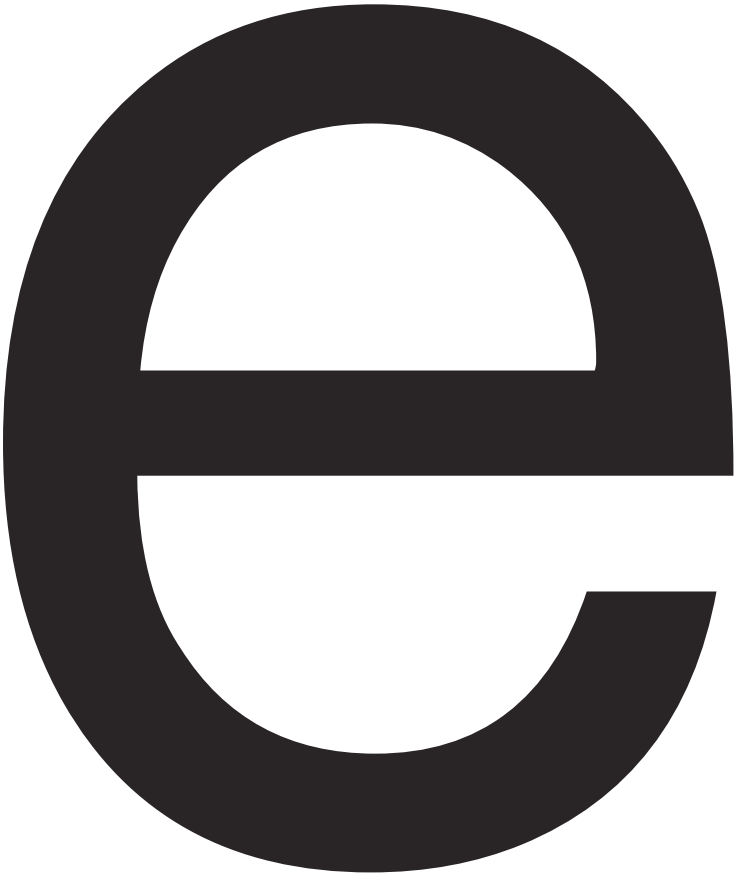


le

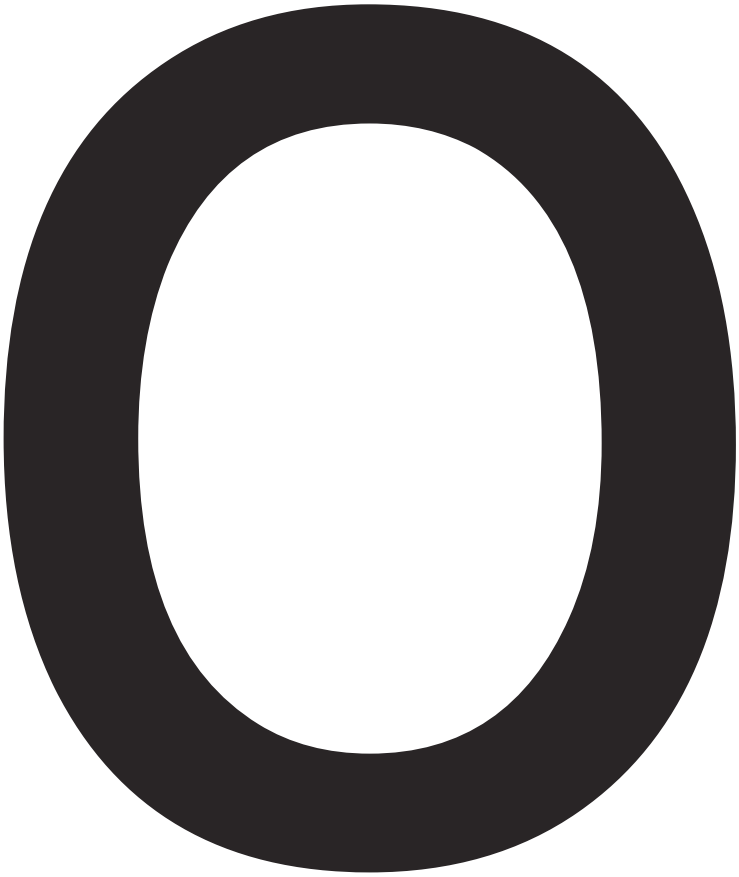
m





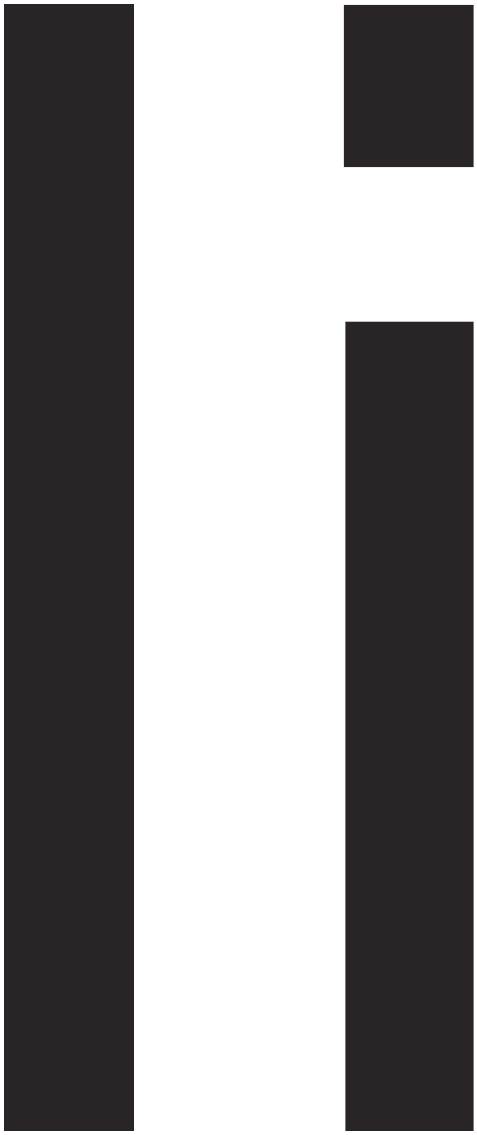


st



S

ta



S