**The founding affidavit:**

1. The founding affidavit is attached to the notice of motion and sets out the Applicant’s arguments as to why they seek the specified form of intervention of the Court.
2. This affidavit is further used to set out the entirety of the dispute from the Applicant’s perspective. As such, it must be thorough and, even if drafted by a legal representative, must be from their viewpoint and must be signed by them.
3. The founding affidavit both seeks to give the Court a clear picture of the issue at hand as well as to give the Respondent a chance to respond to the various allegations. Therefore, clarity is of utmost importance.
4. Use different headings for your separate arguments and set out each averment on a separate line.
5. While the template below is a useful starting point, ensure that the document that eventually reaches the Court and your opponents is your own. If some headings do not apply (“urgency”, for example) ensure they are deleted and replaced with relevant ones.

**IN THE STUDENT COURT OF STELLENBOSCH UNIVERSITY**

**REPUBLIC OF SOUTH AFRICA**

In the matter:

**[NAME(S) OF THE APPLICANT(S)]** First Applicant

**[NAME(S) OF THE APPLICANT(S)]** Second Applicant

And

**[NAME(S) OF THE RESPONDENT(S)]** First Respondent

**[NAME(S) OF THE RESPONDENT(S)]** Second Respondent

**FOUNDING AFFIDAVIT**

I, the undersigned,

**[APPLICANT’S FULL NAME]**

do hereby make oath and state that:

**INTRODUCTION**

1. Give a general overview of what has happened that you now approach the court.
   1. This overview both includes the remedies (type of legal intervention) you seek, and a summation of the arguments you will be relying on to support said remedies.
2. I am currently a registered student at Stellenbosch University with student number [student number].
3. The respondents are cited here in their [personal capacity or capacity as a member of a student body].

***LOCUS STANDI***

1. *Locus standi* refers to the applicant’s standing before the court, or their entitlement to approach the court based both on their status as a student and their interest in the dispute.
2. The Student Constitution confers standing to certain person in section 86:

*“(1) All students and student bodies can bring cases before the Student Court, and only students and student bodies can bring cases, unless –*

*(a) this Constitution gives standing to another person or body; or*

*(b) all the parties before the Court consent to giving another person or body standing.”*

1. Include the quote above and state that you are a student currently registered at Stellenbosch University.
2. Note that staff members of the University do not have standing before the court. Do not cite them as respondents, they will be removed from the matter.
3. Not all persons who are implicated in the matter need to be cited as respondents. Respondents are those persons against whom an order is sought and who will be legally bound by the order.

**JURISDICTION**

1. Jurisdiction refers to the court’s authority to decide the matter. This is primarily based on the subject matter of the dispute and the Court’s ability to grant the kind of intervention the parties seek.
2. Jurisdiction is conferred to the Student Court in section 84 of the Student Constitution:

*“The Student Court has the power to –*

*(a) give an interpretation, or to confirm the interpretation of a party before the Court, regarding –*

*(i) this Constitution; or*

*(ii) any empowering provision in terms of which a student body or a member of a student body exercises power;*

*(b) decide on the constitutionality of any action or omission of a student body or a member thereof;*

*(c) review any decision of a student body or a member thereof whereby the rights or legitimate expectations of a student or group of students are materially and adversely affected;*

*(d) make a final decision regarding any matter where the parties consent to the jurisdiction of the Court; and*

*(e) decide on all other matters which this Constitution places under the jurisdiction of the Student Court.”*

1. Include the part of the section that is relevant to your case and state that this matter is within the Student Court’s jurisdiction.

**URGENCY**

1. Urgency relates to a set of conditions that necessitate immediate court intervention, which would justify you from deviating from the ordinary Rules of Procedure in order to speed up the proceedings.
2. If your matter is urgent then you must include the reasons, with direct reference to relevant dates, why a matter is urgent. It is also useful to set out why the urgent need for intervention outweighs the inconvenience to the Court and unfairness to your opponent.
3. The more urgent the Court accepts a dispute to be, the more inclined it will be to deviate from the ordinary Rules of Procedure.

**FACTUAL BACKGROUND**

1. This is where you set out everything that has happened relevant to this case. This will be a large part of your affidavit. Make sure that everything you need to allege, is alleged. Use paragraphs to separate the points that you make and ensure that your averments flow logically.
2. An affidavit is a form of admissible evidence, in which all statements set out therein are understood to be true on the face of it, from the perspective of the Applicant. As such:
   1. Do not misconstrue anything. Do not make any allegations that are abusive or defamatory, harass or annoy, or irrelevant.
   2. Do not include any hearsay evidence (evidence that you cannot personally attest to) as your own. If you are relying something that someone else said, then it must expressly be indicated and the grounds upon which you believe this person’s statement to be trustworthy must also be included.
   3. Such evidence will carry little weight. It is therefore recommended that that person files a supporting affidavit (sworn statement) themselves.

**APPROPRIATE REMEDY**

1. The Student Court can make orders as set out in section 85 of the Student Constitution:

*“The Student Court can –*

*(a) grant an interdict or any other interim relief if material injustice would otherwise result;*

*(b) grant a declaratory order;*

*(c) set aside any decision or action that is inconsistent with this Constitution, or a constitution, policy, regulation or any empowering provision of a student body, in so far as it is inconsistent with it, provided that in case of setting aside –*

*(i) the retroactive effect of the order must be limited as far as possible; and*

*(ii) the order can be suspended for a fixed time or on any conditions so as to allow the person or body in question to rectify the fault; or*

*(d) grant any order, including a combination of the abovementioned remedies, that is fair and equitable.”*

1. State in clearly the remedy that you seek. It is well-advised to include the following phrase: “or such further or alternative remedy the Court deems fit” to indicate you accept any other remedy fashioned by the Court that will vindicate your rights.
2. Again, note that no order can be made against staff of the University.

**I HEREBY OATH** that I have read and understood the contents of this affidavit, that every averment made is within my personal knowledge unless where expressly indicated otherwise, and that it is submitted in good faith.

**DATED AT STELLENBOSCH ON THIS [DAY] DAY OF [MONTH] 2022.**

[APPLICANT]