



**In the Name of the Father and of the Son and of the Holy Ghost. Amen.**

### **Preamble**

In the book of Amos, the Lord confronted Israel with the question: "Can two walk together, unless they are agreed?" (3:3) Too often men have attempted to accomplish unity through their own works, and apart from unity in the Word of God. Thus we rejoice in the doctrinal unity which the Holy Spirit creates and sustains within the Bride of Christ, and endeavoring "to keep the unity of the Spirit in the bond of peace. There is one body and one Spirit, just as you were called in one hope of your calling; one Lord, one faith, one baptism; one God and Father of all, who is above all, and through all, and in you all." (Eph. 4:3-6)

Therefore, it is our intention to give expression to the unity which the Holy Spirit has accomplished among us, and to stand together against all the snares of the evil one, and remember our brethren who are suffering in the world. (1 Pet. 5:9) As those whom Christ Jesus has called to serve Him through service to His Bride as "stewards of the mysteries of God," (1 Cor. 4:1), we expressed our unity in service by establishing *The Evangelical Lutheran Diocese of North America* on 6 June A. D. 2006. We take this step because it is our desire to "Let all things be done decently and in order." (1 Cor. 14:40) We also called the Rev. James D. Heiser on this date to serve in the Office of Superintendent/Bishop and he accepted this call on 7 June 2006.

### **Holy Scripture and our Confessional Subscription**

As Evangelical Lutherans, "We believe, teach and confess that the only rule and standard according to which at once all dogmas and teachers should be esteemed and judged are nothing else than the prophetic and apostolic Scriptures of the Old and of the New Testament..." (FC Ep. Introduction:1) Therefore we gladly reaffirm and confess "that the Unaltered Augsburg Confession is a true exposition of the Word of God and a correct exhibition of the doctrine of the Evangelical Lutheran Church" and that the entirety of the Book of Concord (1580) is "in agreement with this one Scriptural faith." (Agenda, p. 106-7) According to the intention of the formulators of Concord, we also affirm concerning the Book of Concord: "we have a unanimously received, definite, common form of doctrine, which our Evangelical churches together and in common confess; from and according to which, because it has been derived from God's Word, all other writings should be judged and adjusted as to how far they are to be approved and accepted." (FC SD Summary:10)

In keeping with this common confession, we subscribe the Niles Theses (revised 6 June A.D. 2006) and the Malone Theses (6 June A.D. 2006) not as confessional documents in themselves, but with the understanding that they are faithful to the teaching of Holy Scripture and our Lutheran Confession and address matters of concern to us as we seek to faithfully uphold our common confession in the face of the issues which trouble the Church in this generation. It is our intention that we will further address such matters in the future, and we remain open to review of these Theses where they might be stated more clearly, but in all things we seek to remain faithful to Holy Scripture and the Lutheran Confessions.

## **The Superintendency and the Diocese**

As Evangelical Lutherans, we believe, teach and confess: “it is our greatest wish to maintain Church polity and the grades in the Church, even though they have been made by human authority” (AP XIV:24).

Therefore we have affirmed in the Malone Theses: “We recognize that a truly Evangelical Episcopacy is set forth as the preferred polity of the Evangelical Lutheran Church as taught in the Augsburg Confession (XXVIII), the Apology (XXVIII), and the Treatise on the Power and Primacy of the Pope,” and “We seek the restoration of the historic, preferred polity—that is, the office of Bishop, Presbyter, and Deacon—within the one divinely-established office of the ministry as local circumstances warrant.”

It is thus our intention in establishing this diocese to reestablish a position of oversight among us. As the term ‘diocese’ refers to an administrative area, so we desire that one would conduct such administration among us, for the sake of good order. We acknowledge that the titles “Superintendent” and “Bishop” were utilized throughout the Evangelical Lutheran Church from the time of the Reformation to designation one who had been called to the responsibility of oversight within the Church. Beginning with the Saxon Visitation of 1528, the Superintendent/Bishop was charged with the responsibility of conducting “visitations” so that “in these parishes there is correct Christian teaching, that the Word of God and the holy gospel are truly and purely proclaimed, and that the holy sacraments according to the institution of Christ are provided to the blessing of the people.” (AE 40:313)

When Dr. Martin Chemnitz was called to the Superintendency of Braunschweig, he set forth several points regarding the office of superintendent which are pleasing to us: First, “just as we preach and teach the positive points in the one Spirit, so we will all fight on the same side in necessary controversies and stand together against errors, and when new conflicts arise, we will not each follow his own judgment and personal opinion but rather will deliberate together in conference over the points under controversy”; Second, “Likewise, we must all stick together, as we have in the past, and retain the practice that each does not build up himself or act as lord in his congregation and do what he pleases in preaching, administration of the sacraments, liturgical practices, discipline and other aspects of his office”; Third, “there must be no belittling or speaking evil of one another, but rather when some complaint arises, the matter must be put before the conference and settled while the meeting is still in session”; and Fourth, “If [the Superintendent] notices something pertaining to the office or life in a brother, [he] must speak about it either privately or before the whole conference, gently and with brotherly seriousness, and the brethren must not treat this with disdain or anger but accept it in humility. Likewise, if a brother finds some fault or failure in [the Superintendent] or the conduct of his office or life, he shall treat him in the same way.” (Adapted from *The Second Martin*, p. 134–5)

Therefore, we pledge ourselves to the work together in the diocese as follows:

- 1) We shall stand together to uphold those principles which Dr. Chemnitz affirmed regarding the Superintendency.
- 2) We will welcome the Superintendent/Bishop to conduct Visitations on a regular basis—preferably annually. During such Visitations, we will give sufficient opportunity for the Superintendent/Bishop to examine our doctrine and practice, and for conversation between the Superintendent and the congregations we serve. We will encourage the congregations entrusted to our care to defray the Superintendent/Bishop’s expenses connected with such Visitations.
- 3) We acknowledge that although each pastor does possess “by divine law” (Treatise 65) the authority to ordain ministers in his own parish, for the sake of good order we will not henceforth so ordain without the agreement of the Superintendent/Bishop, and we shall endeavor to express our unity by having the Superintendent/Bishop perform all ordinations and installations within the diocese, except as he shall otherwise authorize.
- 4) Admission to membership in the diocese:
  - a) The Superintendent/Bishop shall have the responsibility of examining the doctrine and life of all ordained applicant for membership in the diocese.

b) Upon completion of such examination, the Superintendent/Bishop shall decline such candidates as are unsuitable on the basis of doctrine or life (e.g., were previously removed from the ministry for sufficient cause).

c) The Superintendent/Bishop shall forward to the diocese the name and pertinent information regarding suitable candidates. (Such notification may occur by e-mail, or by surface mail.) If the Superintendent/Bishop does not receive any written objections to the candidate within thirty (30) days of such notification of the diocese, the candidate shall be admitted to the diocese.

d) If a member of the diocese objects in writing to the application of a candidate, the member shall state the ground for his objection in terms of the candidate's doctrine and/or life. Such objections shall be investigated by the Superintendent/Bishop and two (2) other pastors or ordained deacons (whose names shall be drawn by lot). If the objections are found to be lacking merit, the candidate shall be admitted to the diocese. If the objections are substantiated, and found substantial enough to preclude the candidate's service in the diocese, the candidate shall be declined membership.

5) Discipline of members of the diocese:

a) We acknowledge that the Superintendent/Bishop has the responsibility of oversight among us, and has the responsibility to investigate charges of false doctrine or immoral life where such doctrine and life are either public or manifest, or when they are affirmed by the testimony of two or more witnesses.

b) We acknowledge that upon such investigation, if the Superintendent/Bishop determines that the charges are accurate, he will admonish the member of the diocese to repent and amend.

c) We acknowledge that the Superintendent/Bishop has the authority to suspend the membership of any pastor or ordained deacon of the diocese if the charges are substantiated, and that he will give a report to the diocese of any such suspension. If the suspended pastor does not challenge his suspension in writing to the Superintendent within thirty (30) days of written notification, he shall be considered removed from the diocese.

d) If the suspended member appeals his suspension, a review panel shall be formed consisting of the Superintendent/Bishop and two (2) other pastors or ordained deacons of the diocese, whose names shall be drawn by lot, and shall not include the suspended member. If, upon review of the charges, the review panel determines that the substance of the charges is accurate, and that removal of the suspended member from the membership of the diocese is warranted, the suspended member shall be removed from the diocese.

e) We acknowledge and affirm that such a removal from the diocese does not remove a man from his call; congregations shall be encouraged to follow their congregational constitutions and bylaws in all such matters.

6) We acknowledged that the office of Superintendent is a called office, and a 'grade' within the one office of the holy ministry. As such, there is no 'term' of office; rather, a Superintendent/Bishop shall serve until such time as he resigns, is called to glory, or is removed from office for cause, on the basis of false doctrine or immoral life.

7) In the event that a charge of false doctrine or immoral life is brought against the Superintendent/Bishop on the basis of the testimony of two or more members of the diocese, the matter shall be examined by a panel of three pastors of the diocese, whose names shall be drawn by lot. In the event that the panel substantiates the charges, and determines that they are sufficient for removal from office, the Superintendent shall be removed from office, but not from membership in the diocese. Rather, such action will follow the procedure set forth in 5), after election of a new Superintendent/Bishop.

8) It is the responsibility of the Superintendent to serve as chairman of all meetings or synods of the diocese. We pledge ourselves the intention to meet in synod annually, at a time and location determined by the Superintendent/Bishop, who shall make such determinations after seeking the advice and counsel of the pastors of the diocese.

9) We request that the Superintendent/Bishop would offer counsel to us—individually and as a diocese—so that we would work toward a greater unity of practice. Such counsel shall be considered fraternal encouragement.

We affirm that these points set forth above may be amended, or added to, by agreement of the Superintendent/Bishop and two-thirds of the members of the diocese during a regular synod of the diocese.

As an applicant for membership in *The Evangelical Lutheran Diocese of North America*, I pledge myself to abide by this charter, and to conduct myself in my relationship to the diocese and its members according to it.

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Name

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Date

Points of Agreement on Controverted issues of the Day  
Agreed in Niles, Michigan  
21 July A.D. 2005  
Amended: 6 June A.D. 2006

We all agree:

**Office of the Ministry**

- 1) The office of the ministry is not merely a function in the church but the divinely established office in the church. Its holders represent Christ to the church and give God's gifts to God's people.
- 2) The office of the ministry is not derived from baptism; rather it is conferred through call and ordination within the church.
- 3) Women cannot hold the office of the ministry, nor presume to function in it, in the church catholic.
- 4) Ordination is not an adiaphoron. It is part of a right understanding of a proper call.

**Pulpit and Altar Fellowship**

- 5) The practice of closed communion is biblical and confessional, and the true practice of Christian love.
- 6) Worship together with non-Christians is a violation of the Christian faith and a gross sin against the triune God.
- 7) Participation in an event of joint public prayer, that is, taking part in a religious service in which many different gods are invoked is participation in universalistic worship and is clear violation of scripture.
- 8) Calling such participation acceptable because it is "serial" is deceptive and a violation of scripture.
- 9) Being in pulpit and altar fellowship with any particular member of the Lutheran World Federation, or any other such organization, puts one in fellowship with all members of the LWF or any other such organization.

**The Lord's Supper**

- 10) The use of grape juice or any other element but natural wine for the blood of Christ in the Lord's Supper is a violation of Christ's institution, as is the use of anything other than natural bread for the body of Christ.
- 11) We recognize that it is preferable from the Scriptures, Confessions, and catholic practice that pastors offer the Lord's Supper to the flock each Lord's day, and that the divine service of word and sacrament is the normal service for the Lord's day.

### Catholicity

12) The term “catholic” is not the possession of any particular church body, including the Church of Rome. To say that the church is “catholic” is to confess that it is the one true and universal church, which teaches the Word of God in its truth and purity and administers the Sacraments according to Christ’s institution. Therefore any church body which teaches false doctrines and/or corrupts the sacraments, even if it claims catholicity, is not catholic.

13) The teaching of the Unaltered Augsburg Confession (i.e. that of all the Concordia [1580]) is the true catholic doctrine. The church that faithfully adheres to and confesses this historic, apostolic faith, drawn from the unchanging Holy Scriptures, is a truly catholic church. To be truly Lutheran is to be truly catholic.

14) The Lutheran Church continues to express its catholicity through our use of the liturgy of the ancient and undivided Church, as it was purified at the time of the Reformation, traditional vestments for the divine service and various prayer offices, and retention of the historic church year.

15) The Bible is the inspired and inerrant Word of God.

Malone Theses  
Agreed to:  
06 June A. D. 2006

*In the Name of the Father, and of the Son, and of the Holy Ghost. Amen.*

Building upon the Niles Theses of A.D. 2005, we, the undersigned, wish to further clarify our common beliefs concerning controverted issues facing the Evangelical Lutheran Church in our day. We all agree that these stated positions are our firmly held convictions, and in conformity with Holy Scripture and the Lutheran Confessions, and we wish to have fellowship with all others who teach and confess the same.

Liturgy

It is our desire to see Lutherans adopt a more fully liturgical, sacramental, and historic divine service. We wish to promote a more truly catholic practice among the saints entrusted to our care, and clearly distinguish ourselves from the 'Protestantizing' practices which dominate so much of the American Lutheran church. Therefore, we all agree that:

- 1) We seek to achieve a high degree of uniformity in the liturgical expression of our theological agreement among the parishes of our signators. Significant deviation in liturgical practice between parishes is confusing to the members of the Church. Therefore, we commit ourselves to endeavor over time, by common consensus, to minimize local deviations from common practice.
- 2) We recognize that Lutherans in other countries observe different elements in the rite of the divine service. Lutherans in traditionally Eastern Orthodox lands may have different liturgical traditions from Lutherans in the West. However, we reject any effort to institute Eastern elements which would violate Formula of Concord article 10, that is, which give the appearance of doctrinal unity where no such unity exists.

Office of the Ministry

It is our desire to fully re-establish the confessional understanding of the office of the ministry within the Lutheran Church. Therefore, we reject all 'functionalist' misconceptions of the office of the ministry. Therefore, we all agree that:

- 3) Laymen ought not preach or read sermons at the divine service. Laymen are not to administer the sacraments of the Church. Emergency baptism is the only exception to this rule. (AC 14)
- 4) The Church, corporately, possesses the office of the ministry. Our Lord Jesus Christ gave the office of the keys to the whole Church. That office is conferred upon men by the Church through call and ordination.

### Episcopacy

It is our desire to conform ourselves to the dominant practice of the Church throughout all time on the issue of polity. We wish to distinguish ourselves from the democratic mind-set that is dominant in the Lutheran churches in America. It is the overwhelming witness of the church catholic that Episcopacy has been the accepted polity in the Church. Therefore, we all agree that:

5) We recognized that a truly Evangelical Episcopacy is set forth as the preferred polity of the Evangelical Lutheran Church as taught in the Augsburg Confession (XXVIII), the Apology (XXVIII), and the Treatise on the Power and Primacy of the Pope.

6) We seek the restoration of the historic, preferred polity—that is, the offices of Bishop, Presbyter, and Deacon—within the one divinely-established office of the ministry as local circumstances warrant.

### Nomenclature

The variations in terminology used to refer to occupants of the ministry and various lay officers in congregations has led to increasing confusion on the Church. While there is no law to be made regarding the terminology by which we reference offices and officeholders not established by God's Word, uniformity of usage would contribute to the teaching and preservation of correct doctrine throughout the Church. Therefore, we agree that:

7) We will endeavor to use terminology/nomenclature in the same way both in our teaching and in our parish structure.

### Infant Communion

As pastors, we take seriously our responsibility to serve as "stewards of the mysteries of God." No matter how 'interesting' and 'clever' new theories may be, we reject and avoid practices that are completely unknown to the history and practice of the Church of the Augsburg Confession. Therefore, we all agree that:

8) We reject the practice of infant communion. We reject the practice of the Eastern churches which commune infants at the time of baptism. We also reject the practice of communing small children who have not been examined and absolved. We hold to article 25 of the Augsburg Confession, which says, "The custom has been retained among us of not administering the sacrament to those who have not previously been examined and absolved."

9) We reject infant communion because it undermines the pastoral responsibility to examine those who present themselves for communion. It also does not help the communicant learn the practice of self-examination. We further reject it because it has no Lutheran precedent. And finally, the erosion of pastoral examination of communicants involved in infant communion is the same as that erosion caused by the practice of open communion.

10) We also encourage the maintenance of, or restoration into our parishes of, private confession and absolution (AC XI) as a helpful practice in preparation for reception of the sacrament.



## Images

It has become sadly evident that there is a need to make a clear distinction between the doctrine and practices of the Evangelical Lutheran Church and the churches of Eastern Orthodoxy . Our fellowship eschews any appearance of "Easternizing." Therefore, we all agree that:

- 11) We reject the teaching that icons or statues or any sort of image are means of grace.
- 12) We, as Lutherans, embrace images as tools for piety and aids in the honoring and worship of our Lord Jesus Christ. They are also valuable tools in honoring of the saints. Images—especially the crucifix—have always been an important part of the life of the Church.
- 13) We recognize that in the Western Church, statuary and paintings have been an important part of the life of the Church. We encourage the use of statuary and paintings in the Church in order that they may help draw the Christian's mind to our Lord and His grace.
- 14) We recognize the recent use of Eastern style icons in the worship life of the Lutheran Church as an alien element in Western Lutheran churches. We reject the veneration of icons or images in the Lutheran Church.
- 15) We agree with the conclusions of the Blessed Martin Chemnitz regarding the Seventh Ecumenical Council and its advocacy of adoring images. He condemned this council's decree on adoration of images, whether icons or other types of images: "The chief point is that at this synod it was decreed, contrary to the clear statement of Scripture, and contrary to the unanimous testimony of all antiquity, that sacred images are to be honored, venerated, saluted, embraced, kissed, worshiped, and adored." (Ex. pp. 115-116.)

These theses, and those agreed to in Niles, Michigan are not seen by us as additions to our vows to the Scriptures and the Lutheran Confessions, which vows are unconditional. These theses may change as the issues are further clarified. However, we do see them as defining the limits of our fellowship with regard to these issues until such time as we are convinced otherwise from the Scriptures and Lutheran Confessions, or until further clarification is needed. We are keenly aware of the fluid nature of such statements. We are also keenly aware of the clear lines of distinction they draw among those who call themselves Lutherans, and we intend to draw such lines.

Many of the matters addressed by these theses are not matters that are divisive of fellowship (episcopacy, liturgy, etc.). We, in our fellowship, voluntarily agree to abide by these theses for the well being of our parishes. These theses are not a declaration of fellowship. Those inside our fellowship voluntarily agree with these theses and support them. But we also wish to have these theses function as a marker of agreement between Christians who are not yet necessarily in fellowship. Therefore, we invite all who agree with these theses to express their agreement without necessarily committing themselves to fellowship.

We hope and pray that these theses will be yet another building block in establishing a more healthy and orthodox Lutheran Church in our time, and in this country. With this hope, we with joy and profound thanks to our triune God, accept and confess these theses.