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 Exhibit 3 to Amendment No. 1 to Schedule 13D  
  
 FORM OF XXXXX AFFILIATE AGREEMENT  
  
 July 13, 2000  
  
  
Xxxxx Pharma Incorporated  
0000 Xxxxx Xxxx  
Xx. Xxxxx, Xxxxxxxx 00000  
  
King Pharmaceuticals, Inc.  
000 Xxxxx Xxxxxx  
Xxxxxxx, Xxxxxxxxx 00000  
  
  
 RE: AFFILIATE AGREEMENT  
  
Ladies and Gentlemen:  
  
 The undersigned is a stockholder of Xxxxx Pharma Incorporated, a  
Delaware corporation ("Xxxxx"), and will become a stockholder of King  
Pharmaceuticals, Inc., a Tennessee corporation ("King"), pursuant to the  
transactions described in the Agreement and Plan of Merger, dated as of July 13,  
2000 (the "Merger Agreement"), by and among King, Spirit Acquisition Corp., a  
Delaware corporation and a wholly-owned subsidiary of King ("Merger Sub") and  
Xxxxx. Under the terms of the Merger Agreement, the Merger Sub will be merged  
with and into Xxxxx and the shares of common stock of Xxxxx, par value $.04 per  
share (the "Xxxxx Common Stock"), will be converted into and exchanged for  
shares of common stock of King, no par value per share (the "King Common  
Stock"). This Affiliate Agreement represents an agreement by and among the  
undersigned, Xxxxx and Xxxx regarding certain rights and obligations of the  
undersigned in connection with the (a) shares of Xxxxx Common Stock beneficially  
owned by the undersigned and (b) shares of King Common Stock into which such  
shares of Xxxxx Common Stock are to be converted as a result of the merger (the  
"Merger") of the Merger Sub with and into Xxxxx. In consideration of the Merger  
and the mutual covenants contained herein, the undersigned, Xxxxx and Xxxx  
hereby agree as follows:  
  
 1. Affiliate Status. The undersigned understands and agrees that as to  
Xxxxx he or she may be deemed to be an "affiliate" as that term is used in SEC  
Accounting Series Release ("ASR") Nos. 130 and 135 and Rule 145 of the rules and  
regulations of the Securities and Exchange Commission ("SEC") under the  
Securities Act of 1933, as amended (the "1933 Act"), and the undersigned  
anticipates that the undersigned will be deemed to be such an "affiliate" at the  
time of the Merger and, as such, the undersigned agrees that all shares of Xxxxx  
Common Stock beneficially owned by the undersigned, and all shares of King  
Common Stock into which such shares are converted in the Merger, shall be  
subject to the terms and conditions of this Affiliate Agreement.  
  
 2. Restriction on Disposition. The undersigned agrees that during the  
Pooling Period (as defined below) he or she will not sell, transfer, or  
otherwise dispose of his or her interests in, or reduce his or her risk relative  
to, any of the (a) shares of Xxxxx Common Stock over which the undersigned has  
or shares voting or dispositive power with respect thereto or (b) shares of King  
Common Stock into which such shares of Xxxxx Common Stock are converted upon  
consummation of the Merger or upon the exercise of any King options. For  
purposes of this Affiliate Agreement, "Pooling Period" shall mean the period  
commencing thirty-five (35) days prior to the Effective Time (as defined in the  
Merger Agreement) and ending on the date which is two (2) business days after  
publication by King of its results of post-Merger operations for the period  
which includes at least thirty (30) days of post-Merger combined operations of  
King and Xxxxx whether by issuance of an earnings report on Form 10-K, 10-Q, 8-K  
or other public issuance (such as a press release) that includes such  
information. The undersigned understands that reducing his or her risk relative  
to such shares of Xxxxx Common Stock or King Common Stock includes, but is not  
limited to, using such shares to secure a non-recourse loan, purchasing a put  
option to sell such shares or otherwise entering into a put agreement with  
respect to such shares.  
  
  
  
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 3. Covenants and Warranties of Undersigned. The undersigned represents,  
warrants and agrees that King has advised the undersigned that, within thirty  
(30) days of execution hereof, the undersigned will, and will cause each of the  
other parties whose shares are deemed to be beneficially owned by the  
undersigned pursuant to Section 7 hereof to, have all of Xxxxx Common Stock  
beneficially owned by the undersigned registered in the name of the undersigned  
or such parties as applicable, prior to the effective date of the Merger and not  
in the name of any bank, broker-dealer, nominee or clearinghouse.  
  
 4. Restrictions on Transfer. The undersigned understands and agrees  
that stop transfer instructions with respect to the shares of King Common Stock  
received by the undersigned pursuant to the Merger will be given to the King  
transfer agent and that there will be placed on the certificates for such  
shares, or shares issued in substitution thereof, a legend stating substantially  
as follows:  
  
 "The shares represented by this certificate were issued  
 pursuant to a business combination which is accounted for as a  
 "pooling of interests" and may not be sold, nor may the owner  
 thereof reduce his risks relative thereto in any way, until  
 such time as ("King") has published the financial results  
 covering at least thirty (30) days of combined operations  
 after the effective date of the merger through which the  
 business combination was effected."  
  
Such legend will also be placed on any certificate representing King securities  
issued subsequent to the original issuance of King Common Stock pursuant to the  
Merger as a result of any stock dividend, stock split, or other recapitalization  
as long as King Common Stock issued to the undersigned pursuant to the Merger  
has not been transferred in such manner to justify the removal of the legend  
therefrom. Upon the request of the undersigned, King shall cause the  
certificates representing the shares of King Common Stock issued to the  
undersigned in connection with the Merger to be reissued free of any legend  
relating to restrictions on transfer by virtue of ASR Nos. 130 and 135 promptly  
after the requirements of ASR Nos. 130 and 135 have been met upon receipt of an  
opinion reasonably acceptable to King to the effect that such legend may be  
removed (King may waive, in King's sole and absolute discretion, the King's  
right to receive such opinion). In connection therewith, King agrees to notify  
the undersigned of the last day of the Pooling Period at least five (5) business  
days in advance thereof. The undersigned shall deliver to King's transfer agent  
within three (3) business days after receipt of such notice all certificates  
representing King Common Stock held beneficially or of record by the  
undersigned, together with such representation letters and certificates as  
King's transfer agent shall reasonably request. King agrees to cause its  
transfer agent to reissue to or as directed by the undersigned, in exchange for  
the certificate(s) provided to the transfer agent, certificates free of any  
legend relating to restrictions on transfer by virtue of ASR Nos. 130 and 135 on  
or prior to the first business day after the expiration of the Pooling Period.  
  
 5. Certain Understandings and Acknowledgments. The undersigned  
acknowledges and understands that the representations, warranties and covenants  
of the undersigned set forth herein will be relied upon by King and Xxxxx, and  
their respective affiliates, counsel and accounting firms, and that substantial  
losses and damages may be incurred by these persons if the undersigned's  
representations, warranties or covenants are breached. The undersigned has  
reviewed the applicable provisions of the Merger Agreement and this Affiliate  
Agreement and discussed their requirements and impact upon the undersigned's  
ability to sell, transfer, or otherwise dispose of the shares of King Common  
Stock to be received by the undersigned, to the extent he or she believes  
necessary, with his or her counsel or counsel for Xxxxx.  
  
 6. Transfer Under Rule 145(d). If the undersigned desires to sell or  
otherwise transfer the shares of King Common Stock received by the undersigned  
in connection with the Merger pursuant to Rule 145(d) of the 1933 Act at any  
time during the restrictive period set forth in Rule 145(d), the undersigned  
will comply with the provisions of Rule 145(d) in connection with such sale or  
transfer and will provide such representation letters, certificates and opinions  
as King or its transfer agent shall reasonably request.  
  
  
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 7. Acknowledgments. The undersigned recognizes and agrees that the  
foregoing provisions also may apply to (a) the undersigned's spouse, if that  
spouse has the same home as the undersigned, (b) any relative of the undersigned  
who has the same home as the undersigned, (c) any trust or estate in which the  
undersigned, such spouse, and any such relative collectively own at least a ten  
percent (10%) beneficial interest or of which any of the foregoing serves as  
trustee, executor, or in any similar capacity, and (d) any corporation or other  
organization in which the undersigned, such spouse, and any such relative  
collectively own at least ten percent (10%) of any class of equity securities or  
of the equity interest. The undersigned further recognizes that, in the event  
that the undersigned is a director or an executive officer of King or becomes a  
director or executive officer of King upon consummation of the Merger, among  
other things, any sale of King Common Stock by the undersigned within a period  
of less than six months following the effective time of the Merger may subject  
the undersigned to liability pursuant to Section 16(b) of the Securities  
Exchange Act of 1934, as amended.  
  
 8. Miscellaneous. This Affiliate Agreement is the complete agreement  
between Xxxxx, Xxxx and the undersigned concerning the subject matter hereof.  
Nothing set forth herein, however, shall be construed to limit in any way any of  
the undersigned's other rights incident to ownership of the shares of Xxxxx  
Common Stock or King Common Stock. Any notice required to be sent to any party  
hereunder shall be sent by registered or certified mail, return receipt  
requested, using the addresses set forth herein or such other address as shall  
be furnished in writing by the parties. This Affiliate Agreement shall be  
governed by the laws of the State of Delaware.  
  
 [THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]  
  
  
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This Affiliate Agreement is executed as of the 13th day of July, 2000.  
  
 Very truly yours,  
  
  
  
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 Signature  
 Name:  
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 Address:  
  
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AGREED TO AND ACCEPTED as of  
July 13, 2000  
  
Xxxxx Pharma Incorporated  
  
  
  
By:  
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 Xxxxxx X. Xxxxx  
 Chairman of the Board,  
 President and  
 Chief Executive Officer  
  
  
King Pharmaceuticals, Inc.  
  
  
By:  
 -----------------------------------  
 Xxxx X. Xxxxxxx  
 Chairman of the Board and  
 Chief Executive Officer