A contract is composed of terms, the number of which depends upon the importance of the transaction. The terms of the contract are of great significance to the parties because they define their rights and liabilities. This chapter examines two preliminary issues, the first of which relates to the identification of the terms of the contract. How do the courts decide what is and what is not a term of the contract? The second issue concerns the entitlement of the parties to lead evidence of terms not to be found in their written contract. Where the parties take the time, trouble, and expense of reducing their agreement to writing, are they still entitled to adduce evidence of terms other than those found in the written document, or is the written document the sole source of the terms of their contract?
8. The Terms of the Contract