1. Can assets be charged, liened and/or encumbered in your jurisdiction? Please insert any exemptions, if any.

A security interest can be established on all property capable of being transferred. Ownership, limited rights and claims are transferable, unless this is precluded by law or the nature of the right. Transferability of claims can also be excluded by agreement between obligor and obligee. Other rights are only transferable where the law so provides. An example of a right in respect of which the transferability is - although not entirely - precluded (but limited) by law is the right to a tradename. An example of a right which is precluded by the nature of that right is a security right (a security right, being a dependant right, can not be transferred separtely from the right it is depended of). In general, however, Dutch law provides for a creditor friendly security regime to the effect that security on customary assets can be establised.

2. In your jurisdiction, under what circumstances may security arrangements be subjected to choice of law and/or choice of forum clauses (does it matter, whether the security itself is located abroad and/or governed by foreign law [e.g. a pledged claim])? What is the market practice in your jurisdiction? Is there a treaty on this in your jurisdiction, whether bilateral or multi-lateral? Are there any requirements for enforcement in your jurisdiction?

Security arrangements in respect of rights which can be exercised against one or more specific persons (e.g. security on bank accounts, receivables and rights under contracts), intellectual property and securities (other than shares) may be subjected to laws other
than Dutch law and/or courts other than Dutch courts. In respect of the security arrangements referred to above (other than security on intellectual property), market practice in The Netherlands tends to choose as governing law of the relevant security document the same law that is governing the contract under which the relevant rights arise or have arisen (e.g. a Dutch law governed right of pledge over a bank account with a Dutch bank and a German law governed security agreement over a bank account with a German bank).

3. In your jurisdiction, are floating charges or security over the overall assets of an entity accepted, and if so in what terms?

No, Dutch law does not provide for a floating charge or for one security right over the overall assets of an entity. In general each type of property / assets requires its own mechanism for creating security over such property / assets (see paragraph 4 below).

4. In relation to the following types of assets, please explain in your jurisdiction the types of security that can be created or granted, if the security requires any type of registration or perfection requirements, an estimate of cost (including applicable taxes and any other duties/ costs) and timing for granting such security, and any special considerations regarding the asset type:

   (a) Aircraft;
   (b) Bank Accounts;
   (c) Animals, Crops (in ground and severed) and Timber;
   (d) Equipment;
   (e) Intellectual Property;
   (f) Inventory;
   (g) Leases;
   (h) Mineral Interests, including Hydrocarbons;
   (i) Promissory Notes and Chattel Paper;
   (j) Real Estate;
   (k) Receivables (credit rights under contracts or invoices);
   (l) Rights under Contracts (excluding Receivables);
   (m) Shares (in book-entry and certificate form and other securities);
   (n) Vessels;
   (o) Vehicles;
   (p) Business as an ongoing concern.

Rights which can be exercised against one or more specific persons (bank accounts, leases, promissory notes, receivables and rights under contracts): (a) if disclosed to the debtor (which for instance is customary in the case of bank accounts): a right of pledge is established by a private deed and notice thereof to the relevant debtor or (b) if undisclosed to the debtor (which for instance is customary in the case of receivables): a right of pledge is established by an authentic deed or a registered private deed without notification thereof to the relevant debtor. Moveable property / assets (animals, equipment, inventory, unregistered vessels and aircraft, vehicles and harvested crop): (a) if the relevant asset is brought outside the control of the pledgor: a right of pledge is established by bringing the relevant asset under the control of the pledgee or of a third person agreed upon by the parties or (b) if the relevant asset remains under the control of the pledgor: a right of pledge is established by an authentic deed or a registered private
deed without the relevant asset being brought under the control of the pledgee or of a third person. Registered property / assets (real estate (including unextracted minerals, plants, crop and timber growing on land) and registered vessels and aircraft: a mortgage is established by a notarial deed followed by the entry of that deed in the appropriate public registers provided for that purpose. Intellectual property: a right of pledge is established by a private deed (in order to have force and effect towards third persons that deed must be registered with the appropriate public registers provided for that purpose). Securities (the below is - due to the complexity of the matter - not comprehensive): - shares in registered form: a right of pledge is established by a notarial deed (any rights attached to the shares may be exercised only if the company has acknowledged the right of pledge or if the deed has been served on the company), but if those shares are listed on a regulated securities exchange a right of pledge is established by an instrument intended for that purpose and the written acknowledgement by the company of the pledgee or by an authentic deed or a registered private deed without the acknowledgement by or service on the company). -securities (including shares) in bearer form: (a) if the relevant securities are brought outside the control of the pledgor: a right of pledge is established by bringing the relevant securities under the control of the pledgee or of a third person agreed upon by the parties or (b) if the relevant securities remain under the control of the pledgor: a right of pledge is established by an authentic deed or a registered private deed without the relevant securities being brought under the control of the pledgee or of a third person.

5. Please explain briefly for each type of assets the procedure for enforcement (judicial and extra-judicial). Is it possible to enforce security governed by another jurisdiction? If yes, what is the procedure?

The type of security (rather than the type of assets) determines the procedure for enforcement. Mortgage: if the obligor is in default of performing that for which the mortgage serves as security, the mortgagee is entitled to have the secured property sold in public before a notary with authority to do so (but, at the request of the mortgagee or mortgagor, the court may determine that there be a private sale by contract submitted to the court for approval together with the request). Pledge: if the obligor is in default of performing that for which the pledge serves as security, the pledgee is entitled to sell the pledged property in public (but, at the request of the pledgee or pledgor, the court may determine that the pledged property will be sold in another manner (e.g. by means of a private sale) and, at the request of the pledgee, the court may also determine that the pledged property will remain with the pledgee as buyer for an amount to be determined by the court).

6. Can a trustee or security agent be used in your jurisdiction, or must security be granted in favour of all lenders?

In principle security must be granted in favour of all lenders, as under Dutch law security can only be vested in favour of a person if that person itself has a claim against the debtor (Dutch law does not provide for the concept of trust). In practice, however, a security agent is indeed used in syndicated lending: parallel to the debt owed to all lenders, a debt is 'artificially' created in favour of the security agent (hence the name 'parallel debt') which is equal to the sum of the aggregate debt owed to the lenders (at any time the outstanding amount of the parallel debt mirrors that of the debt owed to the lenders: if the borrower repays part of the debt to the lenders, the outstanding amount of
the parallel debt decreases with an amount equal to the part of the debt paid to the
lenders). Security is created in favour of the security agent to secure the parallel debt
and any enforcement proceeds will be applied in repayment of the debt owed to the
lenders.

7. In bankruptcy or insolvency scenarios, what are the suspect periods, is claw-
back possible, and what other types of rights (tax debts, employees, etc.) have
preference over security granted?

The bankruptcy receiver may avoid each juridical (legal) act which the debtor
performed without obligation prior to the bankruptcy order when the debtor and the
person, with or in respect of whom the debtor performed the legal act, knew or ought to
have known when performing the same that it would result in prejudice to the debtor's
creditors ("fraudulent conveyance"). In relation to certain legal acts (among which for
instance providing security for a debt not yet payable) there is a suspect period: if the
legal act which prejudices creditors was performed within one year prior to the
bankruptcy order the knowledge referred to above is presumed to exist on both sides, in
the absence of evidence to the contrary. Security rights rank before privileges (like, for
instance, the privileges for tax debts and employees claims). There is only a very
limited number of exceptions to this rule (and for the finance practice those exceptions
hardly play any role).

8. In your jurisdiction, can borrowers or guarantors subordinate their claims and
if so in what terms?

Yes. Under Dutch law there are no restrictions as to the terms of the subordination (the
principle of freedom of contract allows any kind of subordination).

9. What are the consequences of a transfer, assignment or novation of an
underlying credit in your jurisdiction (is new security necessary, is the security
automatically transferred, etc.)

Security rights are accessory to the secured claim, hence on the transfer or assignment
of a claim the transferee or assignee also 'automatically' acquires the security rights
created to secure that claim (however this may be different if the security is not only
created as security for a specific debt, but also is created to serve as security for other
claims than the assigned or transferred debt: in practice, however, there are ways to
work around this).

10. Can you have on top of a security in your jurisdiction, another layer consisting
of an assignment of the collateral concerned conditional upon default by the
debtor?

No.

11. Are step-in rights lawful in your jurisdiction or does any action to take control
require the creditors to go through a court process?

As explained in paragraph 5 above enforcement of security does not require the security
holder to go through a court process (even if the security provider has been declared
bankrupt or a moratorium is declared in respect of the security provider, the security holder can enforce the security as if no bankruptcy or moratorium has been declared). Step-in rights in relation to pledged contracts in the sense that a secured creditor takes the place of the security provider as party to the contract are not provided for in Dutch law (on the other hand, there are no restrictions in agreeing to such rights upfront in the relevant contract). Finally, as a kind of step-in right, the pledgee of a pledged claim is entitled to demand its performance and to receive / collect payment of the claim. Upon collection of a pledged claim by the pledgee the right of pledge encumbering the claim attach to the proceeds collected.